

“ 96H Where a building lease under this Part is determined by forfeiture or surrender— Lots forfeited, &c.

- (a) before completion of the building to be built thereunder, the Commissioner may let the lot again so that the new lessee is as nearly as possible in the same position as if he were assignee of the original lease, financial obligations to the Crown excepted; and
- (b) after completion of the building and before purchase, the land comprised in the lease shall be sold by auction in accordance with Part V.

“ 96J In respect of building leases the Crown is bound by sections one hundred and eighty-three, one hundred and eighty-four, and one hundred and eighty-five of the *Common Law Procedure Act 1854*, section fifteen of the *Conveyancing and Law of Property Act 1884*, and subsection (14) of section eleven of the *Supreme Court Civil Procedure Act 1932*.” Equitable relief against forfeiture.

LOCAL GOVERNMENT.

No. 80 of 1963.

AN ACT to amend the *Local Government Act 1962*. [17 December 1963.]

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:—

1—(1) This Act may be cited as the *Local Government Act 1963*. Short title and citation.

(2) The *Local Government Act 1962*, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section fourteen of the Principal Act is amended—

- (a) by inserting in paragraph (a) of subsection (1), after sub-paragraph (iii), the following sub-paragraph:—

Functions and powers of the Municipal Commission.

“(iii) on the division of the State into municipalities and whether any and, if so, what changes in that division by the enlargement and contraction of municipal boundaries and the creation and abolition of municipalities should be made by reason of changes in population, industry, primary and secondary, means of communication and transport, and urban development;”; and

(b) by adding at the end of that paragraph, before the word “; and”, the words “or sub-paragraph (iii) and, if so, what special powers it should have in what municipalities and whether any of those municipalities should be reduced in status”.

Qualifications.

3 Section forty-eight of the Principal Act is amended by adding the following subsection at the end thereof:—

“(3) In a subdivided municipality it is not necessary that the place of residence or business required by paragraph (a) of subsection (2) be in the ward for which that person is nominated or elected.”.

Ordinary elections.

4 Section sixty-four of the Principal Act is amended—

(a) by omitting from subsection (1) the words “, other than the municipality of Flinders,”; and

(b) by omitting subsection (3).

Electoral index.

5 Section sixty-six of the Principal Act is amended by adding the following subsections at the end thereof:—

“(5) In compiling or altering an electoral index, the clerk—

(a) may rely on information contained in the valuation list of the municipality and in claim cards received and allowed under section sixty-nine; and

(b) is not bound to make any inquiry or use information known to members of the council or other officers or the servants of the corporation except what has been obtained by officers for the purposes of Part XII.

“(6) No action lies against the corporation or the clerk for the omission of any person from an electoral index except where that person is entitled to have therein a card made out by the corporation.”.

Occupier-electors and their substitute voters.

6 Section sixty-eight of the Principal Act is amended—

(a) by inserting in subsection (6), after the word “one,” the words “the council or, if it so appoints,”; and

(b) by inserting in that subsection, after the word "as", the words "it or".

7 Section seventy-two of the Principal Act is amended—

Rules for
plural voting.

(a) by omitting paragraphs (b) to (g) of subsection (2) and substituting therefor the following paragraphs:—

“(b) Owners and occupiers of land as tenants in common in undivided shares shall have votes as if the land were divided between them in portions of annual value proportionate to their shares;

“(c) Subject to paragraph (e), where two or more electors own or occupy land as joint tenants such one or more of them, not exceeding the number of votes assigned to the land shall have votes as provided in paragraph (d);

“(d) For the purposes of paragraph (c) where the electors are trustees, such one or more of them shall have the vote or all, or so many of, the votes assigned to the land as they may appoint and in any other case—

(i) where their votes can be equally divided between them they shall have votes in accordance with that division;

(ii) where their votes cannot be equally divided between them and are more than they, they shall have one vote each and the remaining vote shall be given as they may appoint; and

(iii) where their votes cannot be equally divided between them and are fewer than they, one of them appointed by the other or others shall have the vote or both or all the votes assigned to the land,

subject, however, to paragraph (g);

“(e) Where one or more of the electors owning or occupying land as joint tenants owns or occupies other land to be taken into account for the purpose of paragraph (a), paragraph (c) does not apply to the former land and each of the owners or occupiers of the former land up to the number of votes assigned to the former land, determined in accordance

with paragraph (f), shall be deemed severally to own or occupy land of annual value equal to the annual value of the former land divided by their number and the interests of any others shall be left out of account for the purposes of paragraph (a);

“(f) For the purposes of paragraph (e) the owners or occupiers of the land concerned—

- (i) if they are trustees, may appoint one or more of themselves to be;
- (ii) if they are not trustees and exceed the number of votes assigned to the land, may appoint as many of themselves to be; and
- (iii) if they are not trustees and do not exceed the number of votes assigned to the land, shall all be,

the voters in respect of the land either in accordance with paragraph (a) or in accordance only with their putative ownership or occupation under paragraph (e), as the case may be;

“(g) Where electors entitled to appoint under paragraph (d) or paragraph (f)—

- (i) are an organized association, the appointment may be made on their behalf by two of their office-bearers on a resolution of a meeting of all members or of a local branch or of a committee of the association or a local branch having control of the land; or
- (ii) fail to appoint, they shall be deemed to have appointed the first of them, to the least number required, in alphabetical order of surnames, or where there is the same surname, of names, to have the vote or both or all of the votes;

“(h) Subject to paragraph (i), where an elector both owns and occupies land his votes as owner shall be reckoned first without regard to occupation, and if it does not appear that he has four votes, his votes as occupier shall be reckoned as if he owned no land and, subject to paragraph (j), added to his votes as owner;

“(i) Where an elector is both owner and occupier of the same land and—

(i) neither owns nor occupies other land in the same ward or unsubdivided municipality, his occupation shall be disregarded unless he would have more votes as occupier, in which case his ownership shall be disregarded; or

(ii) owns or occupies other land in the same ward or unsubdivided municipality, his occupation of the land he both owns and occupies shall be disregarded unless it would give him more votes as occupier, in which case his ownership shall be disregarded; and

“(j) An elector shall not have more than four votes in any municipal election, not counting votes which he is empowered to give under section seventy-three, section seventy-five, or section seventy-six.”; and

(b) by omitting subsection (3) and substituting therefor the following subsections:—

“(3) A church and churchyard or a similar building and its grounds shall be deemed to be occupied by such priest, minister, officer, rulers, or other person or persons as the trustees in writing notify the clerk.

“(4) A church hall or similar building shall be deemed to be occupied by such churchwardens, church committee, or other persons as the trustees in writing notify the clerk.

“(5) A school and a hospital shall be deemed to be occupied by the proprietor or governors thereof.

“(6) An owner-electore who claims votes as an occupier shall notify the clerk in writing of the occupation in respect of which he claims.”.

8 Section seventy-three of the Principal Act is amended by inserting at the end of subsection (1) the words “, except as provided in section seventy-six A”. Voting by corporations.

9 Section seventy-five of the Principal Act is amended— Votes of electors under legal disability.

(a) by adding at the end of subsection (1) the words “without prejudice to any right of voting he may otherwise have”; and

(b) by inserting in subsection (3), after the words "that British subject shall", the words "without prejudice to any right of voting he may otherwise have,".

Attorney
voting for
absentee
owner.

10 Section seventy-six of the Principal Act is amended by inserting at the end of subsection (3) the words "except as provided in section seventy-six A".

11 After section seventy-six of the Principal Act the following section is inserted:—

Maximum
number of
votes.

"76A No person may have more than twelve votes in a municipal election."

Clerk to
conduct
municipal
elections.

12 Section seventy-eight of the Principal Act is amended by adding at the end thereof the following subsection:—

"(3) If the council appoints a person to act as clerk under subsection (2) the appointment is of itself conclusive that the election for which he is appointed cannot be held as provided in subsection (1)."

Appointment
of polling-
places.

13 Section eighty-two of the Principal Act is amended by omitting from subsection (1) the words "a municipal election" and substituting therefor the words "municipal elections".

Preparations
for polling.

14 Section eighty-nine of the Principal Act is amended by omitting from paragraph (a) of subsection (1) the words "and 9" and substituting therefor the words "9, and 10".

Time for
taking poll.

15 Section ninety-one of the Principal Act is amended by omitting from subsection (2) the words "by special resolution,".

Cases where
persons not
on list of
voters may
vote.

16 Section ninety-six of the Principal Act is amended by omitting from subsection (1) the words "electoral index whose name does not appear in the list of voters" and substituting therefor the words "list of voters whose name does not appear therein".

Informal
ballot-papers.

17 Section one hundred of the Principal Act is amended—

(a) by transposing, in subsection (1), the word "or" from the end of paragraph (d) to the end of paragraph (c); and

(b) by omitting paragraph (e) of that subsection.

Appointment
and suspen-
sion of
officers and
servants.

18 Section one hundred and forty of the Principal Act is amended—

(a) by inserting in subsection (1), after paragraph (k), the following paragraph:—

"(ka) meat inspector, subject to section one hundred and forty-two;" and

(b) by inserting in subsection (2), after the word "not", the words "except in a city".

19 Section one hundred and forty-two of the Principal Act is amended by inserting in subsection (1), after the word "practitioner", the words "and every such medical officer of health" and, after the word "inspector", the words "and meat inspector". Health officers and inspectors.

20 Section one hundred and sixty-five of the Principal Act is amended by inserting in subsection (2), after the words "subsection (1)", the words "or a report under paragraph (a) of subsection (1) of section fourteen". Establishment of county councils.

21 Section one hundred and eighty-nine of the Principal Act is amended by inserting, after subsection (7), the following subsection:— Procedure for making by-laws.

"(7A) The Minister may at the request of the corporation shorten the period of one month mentioned in subsection (3) to three weeks, in which case the notice under subsection (2) shall be varied accordingly."

22 Section two hundred and two of the Principal Act is repealed. Application.

23 After section two hundred and ten of the Principal Act the following section is inserted:—

"210A Except as otherwise expressly provided, the corporation may accept payment of moneys due to it by such instalments, at such times, and upon such terms and conditions as it thinks proper." Payment by instalments. 11 Geo. VI No. 78, s. 358.

24 Section two hundred and fourteen of the Principal Act is amended by omitting paragraph (a) of subsection (2) and substituting therefor the following paragraph:— Dog tax.

"(a) may differ in amount in respect of the kind and sex of dog but shall not in the case of—

- (i) a sheep dog or cattle dog owned by a farmer, shepherd, drover, or similar person;
- (ii) a dog owned by a blind man and used to guide him;
- (iii) a pure-bred dog kept for breeding purposes by a *bona fide* commercial breeder of dogs; or
- (iv) a greyhound registered with the National Coursing Club of Tasmania,

be more than one pound."

25 Section two hundred and sixteen of the Principal Act is amended by omitting subsection (4) and substituting therefor the following subsection:— Service charges.

“(4) Where a charge is imposed under subsection (1), the liability of persons to pay it may be entered in the rate book like a rate, but where this is done the provisions of this Act with respect to rate books do not apply to the charge and any person from whom the charge is demanded may on a summons under section two hundred and seventy-five or in an action for the charge dispute his liability in any respect of which he has given the corporation notice according to the practice of the court.”.

26 After section two hundred and twenty-five of the Principal Act the following section is inserted:—

Insurance of
members of
the council.
No. 41 of 1919
(N.S.W.),
s. 28A.

“225A—(1) The corporation may insure or may itself provide for the insurance of members of the council against personal injury, whether fatal or not, arising out of or in the course of their attendance at a meeting of the council or a committee thereof which they are authorized or required to attend or arising out of or in the course of a journey undertaken by them for which the corporation is authorized by section two hundred and twenty-five to recoup them their expenses.

“(2) In respect of any such contract of insurance the corporation shall be deemed to have an insurable interest.

“(3) Any sum appropriated by the corporation for the insurance of the members of its council, or any sum received by the corporation under any such contract, after deducting therefrom any expenses incurred in the recovery thereof, shall be paid by it to, or to the personal representatives of, the member in respect of whom the sum was appropriated or received.

“(4) Notwithstanding anything contained in this Act, a member of the council shall not by reason of his being insured under this section be disqualified for a municipal office nor from taking part, at any meeting of the council, in the discussion of or voting on any matter relating to the insurance of members of the council under this section, not being a claim made by him or on his behalf.”.

Persons liable
for rates.

27 Section two hundred and forty of the Principal Act is amended by adding the following subsection at the end thereof:—

“(9) Notwithstanding anything contained in subsection (2) rates on lands of the corporation within its municipal district shall be paid by the occupier or borne by the corporation at its discretion, but if it bears the rates itself it shall take that into account in determining rents.”.

28 After section two hundred and seventy-nine of the Principal Act the following section is inserted in Part XII:—

Rates to
be a debt.

“279A Notwithstanding any other provisions of this Part, rates are recoverable by action.”.

29 Section three hundred and thirty-two of the Principal Act is amended by inserting in sub-paragraph (ii) of paragraph (b) of subsection (2), after the word "authority", the words "at its own cost".

Municipal duty to repair highways.

30 Section three hundred and thirty-eight of the Principal Act is amended by omitting the words "as provided in Divisions VII, X, and XI" and substituting therefor the words "—

When new urban highways repairable by the corporation.

- (a) as provided in subsection (9) of section three hundred and sixty-one;
- (b) as provided in section three hundred and sixty-four;
- (c) where section three hundred and eighty-five has been used to bring a highway into a state of being made good in all respects; and
- (d) where and so far as a street has been constructed under Division XI."

31 Section three hundred and forty of the Principal Act is amended by inserting in paragraph (b) of subsection (2), before the word "culverts", the words "(subject to Division XII)".

Continued default of corporation to maintain works executed by the Crown.

32 Section three hundred and forty-four of the Principal Act is amended by omitting the words "any" and "not less than ten chains long".

Interpretation.

33 Section three hundred and forty-nine of the Principal Act is amended by adding at the end of subsection (2) the words "or partly in money and partly in other works giving access to the same or another highway".

Alteration of fixed level.

34 Section three hundred and sixty-one of the Principal Act is amended—

Roads in building estates.
25 Geo. V No. 47, s. 48 (5)-(7).

- (a) by omitting from subsection (1) the words "council's approval" and substituting therefor the words "delivery of the sealed copy under subsection (18) of that section,";
- (b) by inserting after that subsection the following subsections:—

"(1A) On the delivery of the sealed copy the owner shall forthwith—

- (a) request the corporation to quote as provided in subsection (5) for the construction of those roads or any of them; or
- (b) submit for the corporation's approval plans and specifications in duplicate for the construction of those roads, except those for which the owner has accepted the corporation's price so quoted, and

their drainage, which have been prepared by a civil engineer, registered surveyor, or a person approved by the corporation.

“(1B) The corporation shall without delay approve, with or without alterations, plans and specifications submitted under subsection (1A) or reject them and require fresh plans and specifications, at the same time indicating its reasons for rejection and anything that it will require in the fresh plans and specifications.

“(1C) When the corporation has approved plans and specifications under subsection (1B) it shall seal one copy, altered in accordance with its approval, if that be the case, and return it to the owner.”; and

(c) by omitting subsections (7) and (8) and substituting therefor the following subsections:—

“(7) No road made under this section shall be deemed to be a highway until—

(a) where it has been made by the corporation, the corporation’s engineer has certified that it has been made substantially in accordance with subsection (2), either as set forth or as modified under subsection (3) or subsection (4); or

(b) where it has been made by the owner, the the corporation’s engineer or the engineer, if any, employed by the owner under paragraph (c) of subsection (6) has certified that it has been made substantially in accordance with the plans and specifications therefor sealed under subsection (1C).

“(8) The owner of the building estate on which a road is made under this section shall keep it in repair to the satisfaction of the council—

(a) for three months after the date on which it is opened as a highway or the date of the certificate under subsection (7), whichever is the later; and

(b) thereafter until the corporation’s engineer has certified that the road is in proper repair, for which purpose he shall inspect it at the owner’s request without delay, except when he knows it is being put in repair for the sake of his certificate.

“(9) Upon the giving of a certificate under subsection (8) the road becomes repairable by the corporation.”.

35 Section three hundred and seventy-four of the Principal Act is amended by adding at the end of subsection (4) the words “, but the corporation may serve an order on the person given notice under subsection (1) to cut off the electrical current, gas, water, oil, or sewage from the work to be shifted between such times as are specified in the order, and that person shall comply with it”.

Works under or over roads.

36 Section three hundred and eighty-seven of the Principal Act is amended by inserting, after subsection (4), the following subsection:—

Rounding of corners and widening of streets.

“(4A) Where land is taken under subsection (4) from adjoining owners the corporation may pay on the basis of the unimproved value per square foot of the part of the land most recently valued under the *Land Valuation Act 1950*.”.

37 Section three hundred and ninety-four of the Principal Act is amended by inserting in subsection (2), after the word “section”, the words “the carriage way of”.

Power of corporation to construct streets under this Division.

38 Section four hundred and ten of the Principal Act is amended by omitting from subsection (2) the word “ten” and substituting therefor the word “fifteen”.

State contribution.

39 Section four hundred and sixty-two of the Principal Act is amended by omitting subsection (2) and substituting therefor the following subsection:—

Interpretation.

“(2) A plan of subdivision shall be deemed not to be a previously approved plan if it is not registered within two years after the commencement of this Act.”.

40 Section four hundred and sixty-four of the Principal Act is amended—

Approval of schemes for building estates.

- (a) by omitting paragraph (f) of subsection (4);
- (b) by inserting, after subsection (4), the following subsection:—

“(4A) For the purposes of subsection (4) it is not necessary to show existing tunnels, pipes, conduits, wires, or other things which are underground or within or beneath existing buildings otherwise than by indicating the parcel in which they lie and referring to the existing work.”;

- (c) by inserting in subsection (5), after the word “schedule” (last occurring) the words “shall be signed by a person who can, or such persons as between them can, create the interests set forth therein that the purchasers of land comprised in the plan are to acquire and”;
- (d) by inserting in subsection (7), after the word “showing—”, the following paragraph:—

(aa) all such levels as may be necessary to satisfy the corporation that all statutory requirements have been fulfilled;”;

(e) by omitting from subsection (11) the word "search" and substituting therefor the word "investigate";

(f) by inserting, after subsection (14), the following subsection:—

"(14A) Where an amendment is notified under subsection (12) the corporation and the owner may put forward other proposals and the Recorder or the Registrar, as the case may be, may amend, or vary his requirement, or withdraw it and substitute another."; and

(g) by inserting, after subsection (16), the following subsection:—

"(16A) Upon notice to the corporation and the owner the Recorder of Titles or the Registrar of Deeds, as the case may be, may correct any clerical, unimportant, or insubstantial error in a plan lodged in his office, unless within seven days of being given notice one of them objects to the correction."

Minimum requirements for roads and lots.

41 Section four hundred and sixty-five of the Principal Act is amended by inserting, after subsection (2), the following subsection:—

"(2A) Where the final plan of a building estate shows a boundary between part of the land subject to the *Real Property Act* 1862 and part not so subject running through a lot, the corporation shall not seal the plan but shall return the plan to the owner notifying him that he must take such action as will enable the amendment of the plan so that the boundary does not run through a lot."

General requirements.

42 Section four hundred and sixty-seven of the Principal Act is amended by inserting in subsection (3), after paragraph (b), the following paragraphs:—

"(ba) where the land is not in an urban land drainage district, payment for a common stormwater drain by, from, or from within the land as determined by the corporation so that all lots may have connecting drains thereto and the concentrated natural water therefrom, as defined in the *Sewers and Drains Act* 1954, may be lawfully disposed of and for the laying and connection of drains from a place on the boundary of each lot to the common drain in accordance with the by-laws of the corporation and to the satisfaction of its engineer;

"(bb) the making and draining of footways that are not part of a road and of private roads and similar footways serving three lots or more;"

43 Section four hundred and sixty-eight of the Principal Act is amended—

Convey-
ancing
provisions.

(a) by inserting, after subsection (1), the following subsection:—

“(1A) When a sealed plan takes effect—

(a) the easements to be created thereby in favour of the Crown or of any public or local authority constituted by or under any Act or appurtenant to a highway vest accordingly without further assurance, except in the case of an easement to be appurtenant to a highway to be created, which easement shall vest upon the creation of the highway;

(b) the other easements and the profits a prender and covenants to be created thereby come into being and continue as if created by the most effectual instruments made between proper parties, and are not affected by—

(i) the unity of seisin of the lands having the burden and benefit of the easement or profit a prender; or

(ii) identity of the parties to the covenant,

except that during such unity or identity they are in abeyance, to revive by force of this Act when it is broken or destroyed; and

(c) when issuing a certificate of title under the *Real Property Act* 1862 for land—

(i) benefited by any such easement or profit a prender; or

(ii) burdened with any such easement, profit a prender, or covenant,

the Recorder of Titles may notify the existence of the easement, profit a prender, or covenant on the certificate of title, disregarding the fact, if it be a fact, that it is in abeyance.”;

(b) by omitting from subsection (8) the words “either” and “or by deed”; and

(c) by inserting the following subsections at the end thereof:—

“(16) Where the registered proprietor named in a qualified certificate of title issued under section eleven of the *Real Property Act* 1863, suffers judgment for the recovery of the land by a person with a better title and in consequence a lot in a building estate will cease to have the qualities of a minimum lot, the corporation may purchase or take the land recoverable or recovered under the judgment and re-establish the title of the registered proprietor as provided in subsection (17).

“(17) The corporation shall purchase or take the estate of the successful plaintiff and any other estate or interest required by the Recorder of Titles to be gotten in before he will issue an ordinary certificate of title in place of the qualified certificate, and shall lodge with the Recorder all muniments of title to the estate and interest so purchased or taken by it together with a request under its common seal that he re-establish the title of the registered proprietor, and thereupon the Recorder, being satisfied that his requests have been complied with, shall issue an ordinary certificate of title to the registered proprietor.

“(18) The corporation’s costs and expenses of and incidental to acquisition and the other matters referred to in subsection (17) shall be a charge on the whole of the lot concerned.”.

Building
subdivisions.

44 Section four hundred and sixty-nine of the Principal Act is amended—

- (a) by omitting paragraph (d) of subsection (4); and
- (b) by inserting, after that subsection, the following subsection:—

“(4A) For the purposes of subsection (4) it is not necessary to show existing tunnels, pipes, conduits, wires, or other things which are underground or within or beneath existing buildings otherwise than by indicating the parcel in which they lie and referring to the existing work.”.

Subdivisions
not for
building.

45 Section four hundred and seventy of the Principal Act is amended—

- (a) by inserting in subsection (1), after the word “corporation” (first occurring), the words “two months’”; and
- (b) by adding the following subsections at the end thereof:—

“(3) In the case mentioned in paragraph (e) of subsection (1) where the proposed subdivision is, or appears to the council to be, for building purposes, the corporation may by order forbid the proposed subdivision for six months from the date of the order, and during that period the proposed subdivision shall be unlawful.

“(4) If during that period a building area is created or extended to include the block concerned, all previous proceedings under this section shall lapse.”.

Minimum
lots.

46 Section four hundred and seventy-two of the Principal Act is amended by omitting from sub-paragraph (i) of paragraph (d) of subsection (3) the words “public street, as defined in the *Launceston Corporation Act 1941*,” and substituting therefor the words “street repairable by the corporation”.

47 Section four hundred and seventy-four of the Principal Act is amended by adding the following subsection at the end thereof:—

Road-widening or subdivision.

“(4) For the purposes of subsection (3), where the highway varies in width because in parts lands have already been acquired or dedications made for the purpose of widening it, its middle line shall be determined as if no such acquisitions or dedications have been made.”.

48 After section four hundred and seventy-seven of the Principal Act the following section is inserted:—

“477A—(1) Except as provided in subsection (2), where a block—

Adhesion orders.

- (a) has the qualities of a minimum lot; and
- (b) comprises two parcels or more that may, without the approval of any plan by the corporation, lawfully be sold separately so as to create a block which—
 - (i) would not have the qualities of a minimum lot; and
 - (ii) is, or in the opinion of the council is likely to be, built on or bought for building,

the corporation may make an adhesion order in respect of those parcels.

“(2) Subsection (1) does not apply to a block the parcels in which—

- (a) are the sites and grounds of buildings designed for separate occupation; or
- (b) have at any time been owned separately by persons who did not then own adjoining land.

“(3) For the purposes of this section an adhesion order is an order of the corporation that the parcels comprised in the block subject to the order shall not be dealt with so that they come or may come into the possession of different persons for an estate of freehold at law or in equity or for a term at law or in equity of three years or more.

“(4) An adhesion order made under subsection (1)—

- (a) shall be served by the corporation on all persons appearing from the records in the Registry of Deeds or the Lands' Titles Office, as the case may be, to have a legal estate in or power of sale over the land subject to the order or any part thereof; and
- (b) shall be registered—
 - (i) under the *Real Property Act* 1862; and
 - (ii) if any land subject to the order is not under that Act in the Registry of Deeds as if it were a judgment.

“(5) A contravention of paragraph (a) of subsection (4) may give rise to an action for damages but does not alter the effect of the order.

“(6) When an adhesion order is made under subsection (1)—

(a) the Recorder of Titles shall—

- (i) where none of the land subject to the order is under the *Real Property Act 1862*, bring it all under that Act by issuing therefor a single qualified certificate of title or, if the owner applies for it and is entitled to it, a single ordinary certificate of title;
- (ii) where all of that land is under that Act issue a consolidated certificate of title therefor and for that purpose may call in and cancel in accordance with section one hundred and thirty-six of the *Real Property Act 1862* certificates of title to parts of the land; and
- (iii) where some of that land is under that Act and some not, bring under that Act so much as is not by issuing a single certificate of title to the whole, qualified as to part, except as provided in sub-paragraph (i), and in the ordinary form as to part, as the case requires, with the powers mentioned in sub-paragraph (ii),

and shall note the adhesion order thereon; and

(b) until land subject to that order and not under the *Real Property Act 1862* has been brought under that Act, the registration of the order in the Registry of Deeds operates to deprive of all effect any subsequent agreement or assurance except as provided in subsection (7).

“(7) An adhesion order does not affect rights under an instrument registered before the adhesion order, even though by the exercise of a power of sale or right of purchase, or otherwise, the lands subject to the order may be separated in ownership.

“(8) Where an owner wishes to subdivide his land into one or more blocks which have not the qualities of a minimum lot and are to be sold to one or more adjoining owners, with or without—

(a) a single lot that has the qualities of a minimum lot; or

(b) a block that has not those qualities and is to be retained by him as part of his adjoining land,

he shall submit to the corporation a plan of subdivision comprising the land to be subdivided and the adjoining land to be added to.

“(9) If the corporation approves a plan of subdivision submitted in accordance with subsection (8) it shall—

- (a) express its approval to be for the purpose only of enabling the owners of specified adjoining land to acquire specified blocks; and
- (b) make adhesion orders in respect of the blocks other than the single lot, if any, and the lands to which they are added.

“(10) A plan of subdivision approved in accordance with subsection (9)—

- (a) shall in all cases be dealt with as if some land comprised in it were under the *Real Property Act* 1862, even if none is;
- (b) does not take effect until a conveyance or transfer is lodged for registration pursuant to it, and then only so far as it enables that conveyance or transfer; and
- (c) if no such instrument is so lodged within three years of the date on which but for this subsection it would have taken effect, is void and shall be cancelled by the Recorder of Titles, and by the Registrar of Deeds if he is concerned.

“(11) An adhesion order made under subsection (9) takes effect when a conveyance or transfer is lodged as provided in subsection (13).

“(12) Before a conveyance or transfer is so lodged either the block conveyed or transferred or the land to which it is to be added shall be free from incumbrances, and on the registration of the conveyance or transfer any incumbrance on the land that is not free from incumbrances extends to the land so free.

“(13) Effect may be given to a sale for the purpose of which a plan is approved under this section—

- (a) where the land of the vendor is under the *Real Property Act* 1862, by a transfer registered in the ordinary way; or
- (b) where the land of the vendor is not under that Act, by a conveyance registered in the Registry of Deeds and lodged in the office of the Recorder of Titles.

“(14) Upon the lodgment in his office for the purposes of subsection (13) of—

- (a) a transfer to a purchaser whose own land is not under the *Real Property Act* 1862; or
- (b) a conveyance,

the Recorder of Titles shall bring under that Act, if not already thereunder, both the land conveyed or transferred and the land to which it is to be added by issuing a single certificate of title to the whole, qualified as to so much as was not previously under that Act, unless the owner applies for and is entitled to an ordinary certificate to the whole, and upon the registration of a transfer where the land of both parties is under that Act issue a consolidated certificate of title to the whole, and shall in all cases note the relevant adhesion order on the certificate of title.

“(15) Notwithstanding any other provision of this section, a block subject to an adhesion order may be subdivided in accordance with a subsequent scheme of a building estate approved and lodged or registered under section four hundred and sixty-four or a subsequent plan of subdivision approved and lodged or registered under section four hundred and sixty-nine and for that purpose the corporation shall discharge or modify the adhesion order, if subsisting, accordingly, by an order registered under the *Real Property Act 1862*.

“(16) A plan of subdivision may be submitted under subsection (8) by two owners wishing to sell blocks off their land to a third party to give him a lot composed of two or more blocks and in similar cases, and this section applies to the plan and its consequences with any necessary modifications.

“(17) An adhesion order may be registered as if it were an instrument in a form prescribed by the *Real Property Act 1862*.

“(18) If a person wishes to subdivide land as provided in subsection (8) except that he wishes to create additional lots that have the qualities of a minimum lot he may proceed simultaneously under this section and under section four hundred and sixty-four or section four hundred and sixty-nine, if he makes clear to the corporation that the former proceedings depend on the latter, but the former shall be concluded first.”.

Amendment
of approved
plans.

49 Section four hundred and eighty-one of the Principal Act is amended—

(a) by inserting, after subsection (6), the following subsection:—

“(6A) Notwithstanding anything elsewhere contained in this section, the corporation may with the consent of all persons concerned act as provided in subsection (6).”; and

(b) by adding the following subsection at the end thereof:—

“(15) The Recorder of Titles may in accordance with section one hundred and thirty-six of the *Real Property Act 1862* call in under and cancel or correct certificates of title affected by amendments made under this section.”.

Suppression
of straying
dogs.

50 Section five hundred and thirty-seven of the Principal Act is amended by inserting in subsection (5), after the word “may”, the words “, not less than forty-eight hours after its seizure,”.

51 After section five hundred and fifty-eight of the Principal Act the following section is inserted:—

“558A—(1) The corporation may order the owner of a dwelling in which—

(a) there is not a bath at least five feet long to install one; and

Power to
require
baths, &c.

- (b) no bath which is within two hundred feet of a common sewer into which it is capable in law and in fact of being drained is connected to such a sewer so to connect it,

to the satisfaction of its engineer or building surveyor within such time as is specified in the order, and the owner shall comply.

“(2) Where if an order under paragraph (a) of subsection (1) were complied with an order under paragraph (b) of that subsection might be made, the two orders may be made together.

“(3) Where under the *Building Regulations* if the building were about to be built there might be a substitute for a bath at least five feet long—

- (a) installation of the substitute shall be a sufficient compliance with an order under paragraph (a) of subsection (1); and
 (b) an order may be made under paragraph (b) of that subsection as if the word ‘bath’ in that paragraph included such a substitute.”.

52 Section five hundred and ninety-nine of the Principal Act is amended by inserting in subsection (1), after paragraph (d), the following paragraph:—

Statutory nuisances.

“(da) Water or drainage from premises flowing or dropping over or onto the footway of a road;”.

53 Section six hundred of the Principal Act is amended by adding the following subsection at the end thereof:—

Service of abatement notice.

“(3) The council may appoint an officer to act on behalf of the corporation for the purposes of this section who when he is satisfied of the existence of a statutory nuisance may issue an abatement notice and cause it to be served.”.

54 Section six hundred and twelve of the Principal Act is amended by adding the following subsection at the end thereof:—

Establishment of offensive trades.

“(6) The granting of a slaughter-house licence under Division XX of this Part shall be deemed to be consent to the establishment of the trade of slaughtering under this section in the licensed premises, and is subject to appeal under paragraph (b) of subsection (4).”.

55 Section six hundred and thirteen of the Principal Act is amended by adding the following subsection at the end thereof:—

Offensive trade premises to be licensed.

“(6) Premises licensed as a slaughter-house under Division XX of this Part shall be deemed to be registered under this section.”.

56 Section six hundred and forty-three of the Principal Act is amended—

Sale of meat.

- (a) by inserting, after paragraph (a), the following paragraph:—

- “(ab) by a person who sells as provided in subsection (2) of section six hundred and thirty-nine;” and
- (b) by adding, at the end thereof, the following subsections:—

“(2) The whole carcase of an animal which is cattle and which has died or been killed in or as a result of an accident may be sold as meat or dog’s meat by a person having a certificate for the carcase from—

- (a) the meat inspector;
 (b) the corporation’s health inspector; or
 (c) a veterinary surgeon,

that the carcase is fit to be the food of man or, as the case may be, unfit to be the food of man and not unfit to be the food of dogs and cats.

“(3) The whole carcase of an animal which is cattle and which has died of natural causes may be sold as dog’s meat by a person having a certificate for the carcase from—

- (a) the meat inspector;
 (b) the corporation’s health inspector; or
 (c) a veterinary surgeon,

that the carcase is unfit to be the food of man and not unfit to be the food of dogs and cats.

“(4) Whether an animal has died or been killed as mentioned in subsection (2) or died as mentioned in subsection (3) may be determined by the inspector or surgeon giving the certificate for its carcase.”.

Inspection of meat slaughtered or sold in abattoir districts.

57 Section six hundred and forty-four of the Principal Act is amended—

- (a) by inserting in subsection (1), after the word “inspected”, the word “alive”; and
- (b) by omitting subsection (2) and substituting therefor the following subsection:—

“(2) In an abattoir district, the city of Hobart, and the municipality of Glenorchy meat and dog’s meat from cattle that have been slaughtered outside the district concerned shall not be sold therein unless—

- (a) marked or branded as meat or dog’s meat for foreign consumption as provided in section six hundred and forty-five; or
 (b) under a licence under Division V of Part VIII of the *Public Health Act 1962*.”.

Trading undertakings defined.

58 Section six hundred and fifty-five of the Principal Act is amended—

- (a) by inserting in subsection (1), after paragraph (f), the following paragraphs:—

“(fa) Kiosks and refreshment rooms at swimming baths and in parks, gardens, and other municipal institutions;

“(fb) Multistorey carparks with facilities for the supply of goods and services convenient to such carparks;

“(fc) Bus terminals with facilities for the supply of goods and services convenient to such terminals;”;

(b) by transposing in that subsection the word “and” from the end of paragraph (h) to the end of paragraph (i); and

(c) by inserting in that subsection, at the end, the following paragraph:—

“(j) The sale of by-products of sewage treatment works.”.

59 Section six hundred and fifty-eight of the Principal Act is amended— Franchise of slaughtering.

(a) by omitting from subsection (3) the words “slaughter an animal subject to the franchise” and substituting therefor the words “have an animal subject to the franchise slaughtered”;

(b) by omitting subsections (5) and (6); and

(c) by omitting subsection (8) and substituting therefor the following subsection:—

“(8) A franchise under this section shall be deemed to have been granted to the Mayor, Aldermen and Citizens of the city of Launceston in respect of that city.”.

60 Section six hundred and eighty-five of the Principal Act is repealed and the following section is substituted therefor:—

“685 Subject to any resolution of the council, the mayor or warden may on behalf of the corporation forbid or allow lawful games, matches, spectacles, performances, and entertainments to be played or given on Sundays on public parks and recreation grounds under the control of the corporation.”. Games on Sundays.

61 Section six hundred and ninety-seven of the Principal Act is amended by inserting in subsection (1) the following paragraph:— Special urban powers.

“(ba) by notice signed by the mayor, warden, or clerk, and delivered to the occupier concerned, require the occupier of land on which stands a tree the roots of which interfere with the pavement of or anything in a highway or with anything built or laid on or in land in other ownership—

(i) to cut off those roots inside his boundary; or

(ii) to kill or remove the tree, within the time specified therefor in the notice, and if the occupier fails to comply with the notice the corporation may do the work required by the notice and its costs and expenses of so doing shall be paid by the occupier;”.

Zoning.

62 Section six hundred and ninety-eight of the Principal Act is amended by adding, at the end thereof, the following subsection:—

“(4) A by-law made under this section may provide that a specified part of any zone shall be used only as a shopping centre, a carpark, or otherwise for the service of persons inhabiting or coming to the zone or adjacent parts.”.

Power to purchase or take land.

63 Section seven hundred and sixty-two of the Principal Act is amended by adding the following subsection:—

“(3) Where the corporation is otherwise entitled to take part of a block of land it may take the whole, but if the block is capable of being subdivided for building, the corporation may take no more than if it had already been subdivided into the maximum number of blocks into which it might reasonably be subdivided in accordance with Division II of Part XVI.”.

64 Section seven hundred and sixty-three of the Principal Act is repealed and the following section is substituted therefor:—

“763 A municipality may purchase any land by agreement.”.

Power to purchase land by agreement.**Land not required may be sold or appropriated.**

65 Section seven hundred and sixty-four of the Principal Act is amended—

- (a) by omitting from subsection (1), at the end of paragraph (a), the word “or”;
- (b) by inserting, after that paragraph, the following paragraph:—

“(ab) exchanged for other land that the corporation might take, with or without money for equality of exchange; or”; and

- (c) by inserting in subsection (2), after the word “sale”, the word “, exchange,”.

Charge of debts on land.

66 Section seven hundred and sixty-five of the Principal Act is amended by inserting in subsection (5), after the word “land”, the words “and the corporation’s costs of collecting such moneys”.

Forms of joint action.

67 Section seven hundred and seventy-six of the Principal Act is amended by omitting from subsection (2) the word “adjoining” (twice occurring) and substituting therefor in both cases the word “other”.

68 Section seven hundred and ninety of the Principal Act is amended— Power to use average costs.

- (a) by omitting the words “ the relative portions of ”; and
- (b) by adding at the end thereof the words “ or during the preceding financial year or such other period as it thinks just ”.

69 Section seven hundred and ninety-five of the Principal Act is amended by omitting subsection (1) and substituting therefor the following subsection:— Municipality's name, &c., need not be proved.

“(1) In any proceeding instituted by or against a municipality it is not necessary for the plaintiff to prove—

- (a) the corporate name of the municipality or its constitution or limits;
- (b) the persons who are or have been members of its council;
- (c) the election or appointment of its mayor, warden, clerk, treasurer or other officer;
- (d) the presence of a quorum of the council for any act thereof; or
- (e) the limits of any district.”.

70 After section seven hundred and ninety-eight of the Principal Act the following section is inserted:—

“ 798A In proceedings by or on behalf of the corporation an averment in a complaint— Proof of certain matters.

(a) that— 4 & 5 Geo. VI No. 91, s. 334.

- (i) a person is, or is not, the holder of a subsisting licence or document of authority under this Act;
- (ii) premises are, or are not, registered as provided by this Act; or
- (iii) a person is, or at any relevant time was, the owner or occupier of any specified premises; or

(b) of an offence in respect of highways, waterworks, or sewers and drains or the associated works of any of them that any fact is as averred,

shall be *prima facie* evidence of the fact so averred.”.

71 After section eight hundred of the Principal Act the following section is inserted:—

“ 800A If the person who has on behalf of the corporation served or given an order, notice, or other document required or authorized under this Act endorses on a true copy thereof a statutory declaration that he has so done specifying the document and the person on or to whom, and how, when, and where, it was served or given, that statutory declaration shall, until evidence is given to the contrary, be received as proof of the service or giving of that document.”. Proof of service or giving of documents. 11 Geo. VI No. 78, s. 272.

Appearance
by clerk or
authorized
officer.

72 Section eight hundred and two of the Principal Act is amended by adding the following subsection at the end thereof:—

“(2) It is not necessary to prove that—

- (a) a person appearing as an officer or member of the corporation by virtue of subsection (1) is so; or
- (b) a person who purports to have instituted or to be carrying on proceedings by virtue of authorization under subsection (1) is so authorized,

but this subsection does not affect the right of any defendant to disprove such matters.”.

73 After section eight hundred and eleven of the Principal Act the following section is inserted:—

Validation
of mention
of former
owner.

“811A—(1) In determining the person to be named in any resolution, order, or notice as, or because he is, the owner of land the corporation and its officers are entitled to assume the person who must in accordance with section two hundred and fifty-two be rated as owner of the land is the owner thereof, and the resolution, order, or notice shall be as valid as if he were that owner.

“(2) If—

- (a) when a resolution or order is made or a notice is given in which a person is named as, or because he is, the owner of land, whether or not he is therein said to be the owner and whether or not he is the owner or may be named under subsection (1); and
- (b) before the resolution is carried out, the order is served, or the notice is given, another person has become the owner of that land,

the consequences set forth in subsections (3) and (4) shall follow.

“(3) In the case of a resolution, it may be carried out as if the true owner were named therein.

“(4) In the case of an order or notice, the person named therein shall be subject thereto as if he were the owner until he notifies the clerk or the officer of the corporation who made the order or signed the notice that he is not the owner and shows by a statutory declaration or otherwise to the satisfaction of the clerk or officer—

- (a) who is the owner; or
- (b) that and why he does not know who is the owner.

“(5) No such order or notice is invalid merely because the name of a former owner of land has been struck out and the name of a later owner inserted in its place.”.

Offences
relating
to meat.

74 Section eight hundred and forty-four of the Principal Act is amended by adding the following subsections at the end thereof:—

“(5) A person who slaughters an animal in breach of a franchise under section six hundred and fifty-eight is liable to a penalty of fifty pounds.

“(6) A conviction under subsection (5) is a bar to civil proceedings for the same breach.”.

75 After section eight hundred and fifty-six of the Principal Act the following section is inserted:—

“856A Where a fund which has been established for indemnifying municipalities against loss caused by the dishonesty of servants has reached an amount certified by the Auditor-General to be sufficient for the purpose of the fund, the Association may, notwithstanding the provisions of section three hundred and fifty-six, apply any surplus of income over expenditure of the fund appearing on a yearly balance to any other purpose of the Association.”.

Surplus of fidelity fund.

76 Part VII of the second schedule to the Principal Act is amended by omitting from the reference in the heading the numerals “812” and substituting therefor the numerals “877”.

The second schedule.

77 The fourth schedule to the Principal Act is amended—

The fourth schedule.

(a) by adding at the end of paragraph 1 of Part II the words “and requiring plumbers to give notices and lodge plans in respect of such drainage and plumbing to be done by them”;

(b) by adding, at the end of that Part, the following paragraph:—

“10. Regulating or prohibiting the erection of flagpoles and similar structures and of transmission towers, masts, antennae, and similar structures and apparatus used in connection with wireless transmission and reception.”;

4 & 5 Geo. VI
No. 91, s. 346
(2) VIII (a),
(b).

(c) by inserting in paragraph 2 of Part VI, after the word “bakehouses”, the words “and bakers’ shops”;

(d) by inserting in Part VI, after paragraph 24, the following paragraph:—

“24A. Regulating or prohibiting the use of roofs of balconies, verandahs, and porticoes to view processions or sights in public places.”;

4 & 5 Geo. VI
No. 91, s. 346
(2) VIII (e).

(e) by inserting in paragraph 9 of Part VIII, after the word “stones”, the words “clay, earth,”;

(f) by adding at the end of that paragraph the words “and requiring the cleaning of vehicles’ wheels of such things before they go into or over any such place”;

(g) by inserting in Part IX, after paragraph 2, the following paragraph:—

“2A. Prohibiting the sale on premises in respect of which there is a butcher’s licence under Division XX of Part XVI of dogs’ meat within the meaning of that Division.”.

The sixth
schedule.

78 The sixth schedule to the Principal Act is amended—

- (a) by omitting from paragraph 2 the words “before such submission and approval evidence shall be required of compliance with the provisions of other Acts, and that officers administering those Acts shall supply such evidence, upon payment of the prescribed fee (if any)” and substituting therefor the following words “, where under another Act any person’s licence or approval is required for the proposed building operations or of plans, specifications, or drawings therefor, the corporation shall, on receiving security for its reimbursement of any fees payable by it for or in the course of obtaining such licences and approvals, act as the building owner’s agent to obtain such licences and approvals, and that the council shall not approve the plans, specifications, drawings, and other prescribed information until the corporation has obtained all such licences and approvals”;
- (b) by omitting from paragraph 3 the word “council” and substituting therefor the word “corporation”;
- (c) by omitting from paragraph 10 the word “therewith” and substituting therefor the words “with buildings and structures”;
- (d) by inserting in paragraph 13, after sub-paragraph (a), the following sub-paragraph:—
“(ab) the site will not in the opinion of the corporation bear buildings or the proposed building;”;
- (e) by inserting at the end of paragraph 22 the words “and to finish off what is left of the building or structure in a workmanlike manner or where it is taken down to the ground to restore the site and leave it clean and tidy”.

The eighth
schedule.

79 The eighth schedule to the Principal Act is amended—

- (a) by inserting in Part I, after the reference to the *Deloraine Water Act 1952*, the following item:—
“*Devonport Water Act 1889/53 Vict. No. 32*”;
- (b) by omitting from that Part the reference to the *Formby Water Act 1889*;
- (c) by omitting from the reference in that Part to the *Glenorchy Water Act Amendment Act 1898* the word “Act” (first occurring);
- (d) by omitting from the reference in that Part to the *Longford Water Act Amendment Act 1901* the word “Act” (first occurring);
- (e) by omitting from the reference in that Part to the *Sorell Water Act 1914* the numerals “1914”; and

(f) by omitting from the reference in Part III to the *Burnie Abattoirs Act 1932* the word "Abattoirs" and substituting therefor the word "Abattoir".

80 The ninth schedule to the Principal Act is amended— The ninth schedule.

(a) by omitting from the reference to the *Formby Water Act 1889* the word "Formby" and substituting therefor the word "Devonport" and by transposing that reference to follow the reference to the *Deloraine Water Act 1902*; and

(b) by omitting the reference to the *Macquarie Water Act 1892*.

81 The sections of the Principal Act mentioned in the schedule are amended as therein set out. The schedule.

THE SCHEDULE.

(Section 81.)

Section.	How amended.
425	By omitting from paragraph (c) of subsection (8) the symbol "(m)" and substituting therefor the symbol "(l)".
637	By inserting in paragraph (a) of subsection (2), after the word "family", the word "guests".
695	By omitting from sub-paragraph (iv) of paragraph (a) of subsection (1) the words "section five hundred and fifty-five, or" and substituting therefor the words "or section five hundred and fifty-five or a notice under".
792	By omitting from subsection (15) the symbol "III" and substituting therefor the symbol "IV".

HOBART CORPORATION.

No. 81 of 1963.

AN ACT to consolidate and amend the law relating to the incorporation of the citizens of the city of Hobart and to the municipal government of that city. [17 December 1963.]

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 *Hobart Corporation Act 1963*. Short title and commencement.

(2) This Act, other than Parts VII and VIII, shall commence on the day on which the *Local Government Act 1962* commences.