

(3) The enactments mentioned in paragraph (a) of subsection (1) of this section shall be deemed to be incorporated in the *Local Government Act 1906*, the *Towns Act 1934*, the *Launceston Corporation Act 1941*, the *Town and Country Planning Act 1944*, and the *Hobart Corporation Act 1947*, respectively, in place of the corresponding provisions thereof, which shall be deemed to have been repealed, and all the other provisions thereof shall be read and construed with any modifications necessary for the operation of the first-mentioned enactments.

(4) Section four hundred and sixty of the *Local Government Act 1962* shall have effect as if for the words "this Division" (wherever occurring) were substituted in each case the words "the relevant present enactments corresponding with this Division and the relevant regulations and by-laws thereunder".

(5) Section seventy-one of the *Conveyancing and Law of Property Act 1884*, as inserted by section four of the *Conveyancing and Law of Property Act 1962*, shall have effect as if in subsection (3) for the words "the *Local Government Act 1962*" were substituted the words "section three of the *Local Government (Advanced Amendments) Act 1962*".

(6) The incorporation deemed to be effected by subsection (3) of this section does not affect the interpretation of the enactments first-mentioned in that subsection.

(7) The Governor may make such regulations and the corporations of the cities of Hobart and Launceston and of the municipalities may make such by-laws as are necessary or convenient for the purposes of the enactments brought into force by this section.

(8) This section shall commence on a day to be fixed by proclamation.

METROPOLITAN WATER (No. 2).

No. 52 of 1962.

AN ACT to amend the *Metropolitan Water Act 1961*. [20 November 1962.]

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 *Metropolitan Water Act (No. 2) 1962*. Short title and citation.

(2) The *Metropolitan Water Act 1961* is in this Act referred to as the Principal Act.

2 Section thirty-five of the Principal Act is repealed and the following sections are substituted therefor:—

Cost of
extension
of main.

“35—(1) Before a metropolitan municipality extends a main to serve lands in a metropolitan water district it shall determine how the cost of the extension is to be defrayed as provided in this section.

“(2) The cost of such an extension—

(a) is payable in the first instance—

(i) wholly by the corporation;

(ii) partly by the corporation and partly by the owners of lands to be served thereby, in such proportion as the corporation determines; or

(iii) wholly by such owners; and

(b) so far as it is payable by the corporation in the first instance may be payable ultimately wholly or partly by the owners of lands benefited thereby as provided in subsection (14) of this section.

“(3) In determining how the cost is to be defrayed the corporation—

(a) shall if more owners than one are concerned determine how the total amount to be paid by them (whether in the first instance or ultimately) shall be divided between them; and

(b) may, where the full benefit to land to be served by the extension is not received at once, determine whether to impose on it only a liability in the first instance, only an ultimate liability, or two separate liabilities.

“(4) Where a determination is made under paragraph (a) of subsection (3) of this section it shall be in proportion to the benefits to each piece of land expected from the extension and where a piece of land is capable in law of subdivision into building blocks regard shall be had—

(a) to the maximum number of blocks into which the land can reasonably be subdivided having regard to its position and physical characteristics; and

(b) to when subdivision might take place supposing that the owner were a trustee for foreign beneficiaries holding the land on trust to sell and convert into money with power in his absolute discretion to postpone conversion, retain wasting assets, and carry on any business or trade at the time being carried on on the land.

“(5) When the corporation has determined that the cost shall be paid wholly or partly by an owner of land to be served or benefited by the extension, it shall give him thirty days' notice of his liability, stating—

- (a) whether his liability is—
 - (i) in the first instance, or ultimate, or partly one and partly the other; and
 - (ii) for the whole cost or what proportion of it;
- (b) if his liability is partly in the first instance and partly ultimate, the ratio between the parts;
- (c) if more owners than one are liable, the ratio between the corporation's liability and that of the owners as a whole and the ratio between that of the owners as a whole and his individual liability; and
- (d) the amount claimed, which may be—
 - (i) a sum certain, based on the average cost of laying new mains within the relevant water district during the preceding twelve months, or such other period as the council thinks just; or
 - (ii) a sum to be notified on the completion of the work, being the notified proportion of the amount certified by the city or municipal engineer as the total cost of the extension, including an amount for preliminary and administrative expenses determined by him,

as the corporation thinks fit.

“(6) A landowner who receives a notice under subsection (5) of this section may, within thirty days or such further time as the corporation may allow, object by writing delivered to the corporation—

- (a) to the proportion of the cost to be borne by him on the ground that it is excessive or unreasonable;
- (b) to liability in the first instance, on the ground that, where there is also an ultimate liability, the proportion between them is unreasonable or where there is not also an ultimate liability it is unfair not so to postpone part of the liability; and
- (c) to the amount claimed, if any.

“(7) On receipt of an objection under subsection (6) of this section, the corporation shall—

- (a) accept it and give effect to it by withdrawing the notice and any others for the same extension and making a fresh determination and giving fresh notice;
- (b) agree with the landowner on his liability; or
- (c) refer the objection to the nearest or most convenient court of summary jurisdiction consisting of a police magistrate sitting alone.

“(8) The court, on hearing an objection referred to it under subsection (7) of this section, may—

- (a) where the objection is under paragraph (a) or paragraph (b) of subsection (6) quash the determination of the corporation, upon which the corporation may make a fresh determination; or
- (b) where a sum certain is claimed which the court considers based on wrong costing, reduce the amount of the claim.

“(9) A decision of a court under subsection (8) of this section is final and without appeal, and no defence which might have been raised by way of objection under this section is admissible in proceedings by the corporation for the recovery of moneys due under this section.

“(10) At the expiry of a notice, or of all related notices, if more than one, under subsection (5) of this section the amount claimed therein, or the amounts claimed therein respectively, becomes or become a charge on the land affected and recoverable, subject to subsection (12) of this section, under the *Rates and Charges Recovery Act 1936*.

“(11) Where a landowner objects under subsection (6) of this section the operation of subsection (10) hereof is wholly suspended until proceedings on the objection are determined.

“(12) When the city or municipal engineer certifies that an extension to which a notice under subsection (3) of this section relates has been laid, and the total cost thereof, where relevant, the corporation shall serve a notice on the landowners liable to pay informing them of the sums respectively payable, if that has not already been done, and if they are liable in the first instance requiring them to pay within thirty days.

“(13) Upon default of payment as required by a notice under subsection (12) of this section the amount payable may be recovered as a debt.

“(14) Where under subsection (5) of this section a landowner has been notified of an ultimate liability, the corporation shall act as if no such liability existed but if at any future time the council resolves that the benefit in respect of which the liability was created has been or is about to be realized and that by reason thereof payment thereunder should be presently made it shall so notify the owner, requiring him to pay within ninety days or such further time as the council specifies.

“(15) On the expiry of a notice under subsection (14) of this section and upon default of payment as thereby required the amount may be recovered as a debt and the charge on the land under subsection (10) becomes enforceable.

“(16) The corporation may agree with any landowner required to pay under subsection (12) or subsection (14) of this section to accept payment by forty quarterly instalments (or if the amount payable is less than fifty pounds by twenty

quarterly instalments) and the amount payable or such portion thereof as remains unpaid from time to time shall bear interest at such rate as the board may determine.

“(17) An agreement for the purposes of subsection (16) shall be made in writing, signed by an officer of the corporation appointed for the purpose and the owner, and the first quarterly instalment thereunder shall be payable within one month of the execution of the agreement and subsequent instalments on the first days of January, April, July, and October in each year.

“(18) An owner paying by instalments may pay to the corporation at any time any one or more instalments before the due date thereof and interest on any instalment so paid shall cease from the date of the payment.

“(19) If an owner fails to pay the amount of any instalment under this section within one month after it has been demanded, the whole or portion of the amount so determined and remaining unpaid, together with all unpaid interest, shall thereupon become payable.

“(20) All amounts paid by owners under this section shall be paid over to the Board which may treat them—

(a) as repayments of moneys provided under paragraph (e) of subsection (1) of section twenty-six;

(b) as advances on the next payment under paragraph (c) of subsection (1) of section twenty-nine; or

(c) partly as one or partly as the other, at its own discretion.

“(21) The powers of the Board under paragraph (b) of subsection (1) of section seventeen extend to the metropolitan municipalities' powers of determination under this section.

“(22) Where a person who intends to subdivide land must, if he is to effect his purpose lawfully, have a new water main constructed up to the boundary of any parcel into which he intends to subdivide that land, he shall, unless the council otherwise thinks fit, whether pursuant to an order under section seventeen or not, and unless the necessary extension of the main will confer a substantial benefit on another landowner, be caused to pay the whole cost of the requisite extension.

“(23) In this section, ‘main’ includes any branches, service pipes, and fittings deemed necessary by the council.

“35A—(1) Where a person who intends to subdivide land must, if he is to effect his purpose lawfully, have a new water main, or a new service pipe approved by the council and connected to a water main, constructed up to the boundary of any parcel into which he intends to subdivide that land, he shall apply to the corporation to do or permit him to do such works as are needed to qualify that parcel in that regard.

Extension
of mains
to permit
subdivision.

“(2) On such an application the corporation may—

- (a) do the necessary works on receiving security for payment as provided in subsection (3) of this section; or
- (b) permit the owner to do them, subject in the case of mains to the requirements, and in the case of other pipes to the by-laws, of the corporation and the satisfaction of its engineer.

“(3) For the purposes of subsection (2) of this section security consists of—

- (a) a bond by the owner of an amount clearly in excess of any possible demand thereon to secure due payment of whatever demand may be made under subsection (12) of section thirty-five in respect of the works; and
- (b) a guarantee by—
 - (i) a bank; or
 - (ii) a guarantee, money-lending, insurance, or trading corporation approved by the council,
 guaranteeing all moneys payable under the bond.

“(4) Works may be split for the purposes of this section and part done under paragraph (a) and part under paragraph (b) of subsection (2).”.

Validation
of require-
ments.

3 Notwithstanding anything contained in section thirty-five of the Principal Act as originally enacted, metropolitan municipalities shall be deemed to have had from the first day of July 1962 to the commencement of this Act the right and power to require and demand that persons seeking their approval of plans of subdivision of land shall pay for mains and service pipes which the council requires allotments in the subdivision to have up to their boundaries.

Amendments
on com-
mencement
of *Local
Government
Act 1962.*

4—(1) Sections of the Principal Act are amended and repealed and a new section is substituted for one of those repealed as set forth in the schedule.

(2) This section commences on the day on which the *Local Government Act 1962* commences.

THE SCHEDULE.

(Section 4.)

| Section. | How affected. |
|------------------------------|---|
| 2 | Amended— (a) by omitting the words “The <i>Hobart Corporation Act 1947</i> , the <i>Glenorchy Water Act 1890</i> , the <i>Clarence Water Act 1941</i> , and the <i>Kingborough Water Act 1941</i> ” and substituting therefor the words “The <i>Local Government Act 1962</i> and the <i>Hobart Corporation Act 1963</i> ”; and (b) by omitting subsection (4). |
| 35 (as inserted by this Act) | Amended— (a) by omitting from subsection (10) the words “the <i>Rates and Charges Recovery Act 1936</i> ” and substituting therefor the words “Division II of Part XIX of the <i>Local Government Act 1962</i> ”; and (b) by omitting subsection (22). |
| 35A | Repealed. |
| 36 | Repealed and the following section substituted therefor:— “36—(1) Nothing contained in section thirty-five affects the power of a metropolitan municipality to obtain payment for extensions of water mains and the laying of such mains and other pipes as provided in section four hundred and sixty-seven of the <i>Local Government Act 1962</i> . “(2) The powers of the Board under paragraph (b) of subsection (1) of section seventeen extend to the metropolitan municipalities’ power referred to in this section.” |

MINERS’ PENSIONS.

No. 53 of 1962.

AN ACT to amend the *Miners’ Pensions Act 1956*.
 [20 November 1962.]

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 *Miners’ Pensions Act 1962*.

(2) The *Miners’ Pensions Act 1956*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) Sections three and four of, and the schedule to, this Act shall be deemed to have commenced on the fifth day of October 1961, and the remaining provisions of this Act shall commence on the date on which the Governor gives his assent to this Act.

Short title, citation, and commencement.