

- (c) any association, club, or other body carried on wholly or partly for the benefit of, or to provide benefits for, any such kindergarten, pre-school, or school.

Confirmation
of resolutions.

5 Notwithstanding any order or other determination of a court to the contrary made before the passing of this Act, the said resolutions shall be deemed to be of the like force and effect as if this Act had been in force before those resolutions were passed, and without prejudice to the making of any further determination for the purposes of section four those resolutions (except in so far as they relate to the Anglesea Street land and the Bathurst Street land) shall be deemed to be a determination made for the purposes of that section.

Savings.

6 Except as otherwise expressly provided in this Act, nothing in this Act prejudices or affects the rights, duties, liabilities, or obligations of the Union or the liquidator thereof.

SCAFFOLDING.

No. 52 of 1960.

AN ACT to regulate the erection, installation, setting up, and use of scaffolding, amusement devices, and public stands, and to provide for matters incidental thereto, and to amend the *Building Act* 1937. [5 December 1960.]

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:—

Short title
and com-
mencement.

- 1**—(1) This Act may be cited as the *Scaffolding Act* 1960.
(2) This Act shall commence on a date to be fixed by proclamation.

Amendments
of the
Building Act
1937.

- 2**—(1) Section fifty-nine of the *Building Act* 1937 is amended—
(a) by omitting paragraph VII of subsection (4) thereof; and
(b) by omitting subsection (5) thereof.

(2) Notwithstanding the amendments effected by subsection (1) of this section, the regulations made under the provisions of the *Building Act* 1937 that are referred to in that subsection, until rescinded by regulations under this Act, continue in force as if they were regulations under this Act.

- 3**—(1) In this Act, unless the contrary intention appears—
- “amusement device” means a structure that is used, or designed or intended for use, or capable of being used, for amusement, games, recreation, sight-seeing, or entertainment—
- (a) whereon persons are or may be carried, raised, lowered, or supported—
- (i) by the structure while it is or may be in motion; or
- (ii) by any part thereof or by any car, carriage, platform, cage, boat, plank, chair, seat, device, or thing while that part, car, carriage, platform, cage, boat, plank, chair, seat, device, or thing is or may be in motion; and
- (b) for or in connection with the operation of which power other than manual power is or may be used,

Interpretation.

Cf. No. 38, 1912

(N.S.W.), s. 3.

No. 6299 (Vic.), s. 825.

6 Geo. V No. 25 (Qld.), s. 3.

No. 2161 of 1934 (S.A.), s. 4.

No. 39 of 1924 (W.A.), s. 2.

1922, No. 49 (N.Z.), s. 2.

and includes the supporting structure and the access structures and machinery, equipment, and gear used, or designed or intended to be used, or capable of being used, in connection with an amusement device, but does not include anything that is machinery within the meaning of the *Inspection of Machinery Act* 1902;

“Assistant Secretary” means the Assistant Secretary for Labour;

“excavation” means—

- (a) tunnelling;
- (b) the construction, sinking, alteration, or repair of a shaft or well; and
- (c) any work in connection with—
- (i) preparing or excavating foundations for buildings or structures; or
- (ii) excavating for the purposes of water, sewerage, gas, or electricity supply,

in the carrying out of which workmen are employed or are intended to be employed, but does not include any excavation that is less than five

feet in depth measured from the highest point of the excavation or that is made or carried out for the purposes of, or in connection with, the construction or erection of a standard;

“gear” means any chain, rope, fastening, hoist, crane, conveyor, stay, block, plank, pulley, hanger, sling, brace, or other like thing or contrivance that forms part of, or is used in connection with—

- (a) scaffolding;
- (b) an amusement device;
- (c) a public stand; or
- (d) an excavation;

“inspector” means a person who is appointed as an inspector of scaffolding under this Act, and includes the Secretary and the Assistant Secretary;

“owner”, used in relation to any scaffolding, gear, amusement device, or public stand, includes—

- (a) a lessee, hirer, or borrower thereof;
- (b) any overseer or foreman employed by the owner thereof;
- (c) any agent of the owner thereof; and
- (d) any other person who, for the time being, has the control, charge, or management thereof;

“place” includes any building, structure, or area, whether enclosed or otherwise and whether above or below ground, wherein or whereon any scaffolding or gear is erected or used or wherein or whereon there is an excavation;

“public stand” means a stand that is temporarily erected or temporarily set up to support members of the public viewing or listening to a procession, concert, meeting, reception, performance, exhibition, carnival, gymkhana, rodeo, sporting contest, sporting display, or athletic display, or a cinematographic, radio, or television display or performance, or any other like thing, and includes the supporting structure and access structures;

“qualified person” means a person who is a practising civil engineer or practising architect;

“scaffolder” means a person who is in charge of the erection or dismantling of scaffolding or gear;

“scaffolder’s licence” means a licence under section thirteen;

“scaffolding” means—

- (a) a temporary erection that exceeds twelve feet in height from the horizontal base; and

(b) a stage or swinging stage, that is used, or is intended to be or capable of being used, for the support or protection of workmen employed on or in connection with any works, or for the support of materials used in connection with the carrying out of any works;

“Secretary” means the Secretary for Labour;

“serious bodily injury” means an injury that is likely to incapacitate a person from work for at least seven days;

“standard” means any pole, pillar, tower, erection, or other contrivance above the ground constructed for the purpose of carrying, supporting, or suspending any cable, wire, or conductor, used for or in connection with the transmitting, distributing, or supplying of electrical energy;

“structure” means—

(a) any building, bridge, silo, wharf, reservoir, tank, tower, wireless mast, television mast, or chimney stack; and

(b) any other thing (whether similar to any of the foregoing things or not) that is declared by the Minister, by order, to be a structure for the purposes of this Act;

“supporting structure” means any structure, structural member, or foundation (including any part of a building or its foundations) that is subject in any manner to direct or indirect loading as the result of the erection, installation, setting up, or use of scaffolding, or of any amusement device or public stand;

“workman” means a person, not being the owner of any scaffolding, gear, amusement device, or public stand, who is employed or engaged on works for the owner, and includes an overseer or a foreman who is employed by the owner, but does not include—

(a) a person, being the occupier of any premises, who, without the assistance of a workman, carries out any works in connection with those premises; or

(b) a person who, otherwise than as a servant, agent, or contractor, voluntarily and without remuneration assists the occupier of any premises to carry out any works in connection with the premises;

“works” means—

(a) the construction, erection, demolition, alteration, repair, cleaning, or painting of—

- (i) a building or structure; or
- (ii) a ship or boat while the ship or boat is in a shipyard or dock, or on a slip; and

(b) an excavation,

but does not include mine tunnelling or mine timbering.

(2) For the purposes of this Act, the expression "horizontal base", used in relation to scaffolding, means ground level, except—

- (a) where scaffolding is erected on a permanent floor with walls on all sides not less than three feet higher than the working platform, in which case that permanent floor shall be deemed to be the horizontal base;
- (b) where scaffolding is erected or used below ground level, in which case the base of the scaffolding shall be deemed to be the horizontal base;
- (c) where scaffolding is erected or used above an area of water, in which case the bed of the water-way immediately below that area of water shall be deemed to be the horizontal base; or
- (d) where scaffolding is erected or used on sloping ground, in which case the lowest point of the ground on which any part of the scaffolding is erected shall be deemed to be the horizontal base.

Savings.

4 Nothing in this Act—

- (a) affects the provisions of the *Inspection of Machinery Act 1902*;
- (b) applies to, or in relation to, anything that is machinery within the meaning of that Act; or
- (c) applies to, or in relation to—
 - (i) a colliery or any other mine, or a place in which machinery is used about a mine; or
 - (ii) works within the meaning of the *Mines and Works Regulation Act 1915*.

5 This Act binds the Crown.

6—(1) Subject to this section, the Governor may, under and in accordance with the provisions of the *Public Service Act 1923*, appoint such inspectors of scaffolding as he may think necessary for the purposes of this Act.

(2) Subject to this section, the Governor may, on the recommendation of a local authority, appoint an officer of that authority to be an inspector of scaffolding for the purposes of this Act.

(3) Notwithstanding anything in section twenty-one of the *Acts Interpretation Act 1931*, the Governor may, otherwise than on the recommendation of the local authority, remove or

Application
of Act to
the Crown.
Inspectors.
W.A., s. 4.

suspend from the office of inspector any person appointed to that office under subsection (2) of this section.

(4) A person appointed as an inspector of scaffolding under subsection (2) of this section shall not exercise any of the powers, functions, or duties of an inspector under this Act in respect of any place, scaffolding, gear, amusement device, public stand, or excavation that is situated outside the city or municipality on the recommendation of the local authority for which he was so appointed.

(5) The Governor shall not appoint a person as an inspector unless the Secretary has certified in writing that that person possesses the qualifications specified in the schedule to this Act.

(6) The Secretary and the Assistant Secretary, by virtue of their offices and without further appointment, are inspectors of scaffolding for the purposes of this Act.

(7) In the exercise and performance of their powers, functions, and duties under this Act, inspectors are subject to the supervision and control of the Secretary.

(8) The Secretary shall furnish each person who is appointed as an inspector with a certificate of his appointment.

(9) On applying for admission to a place for the purpose of exercising or performing his powers or duties under this Act, an inspector shall, if required by the occupier of that place, produce to the occupier the certificate furnished to the inspector pursuant to subsection (8) of this section.

7 An inspector—

- (a) may at any reasonable time by day or by night, enter any place wherein or whereon there is, or where he has reasonable ground for suspecting that there is, any scaffolding, gear, amusement device, public stand, or excavation, whether erected, installed, set up, used, or made, or in course of erection, installation, setting up, or use, or in course of being made, and inspect and examine any scaffolding, gear, amusement device, public stand, or excavation therein or thereon;
- (b) may examine the owner, occupier, or person in charge of the place or any other person whom he finds therein, or the owner of the scaffolding, gear, amusement device, or public stand therein or thereon, with respect to matters under this Act;
- (c) may take a police officer with him into any place where he has reasonable ground to apprehend an obstruction in the execution of his duty;
- (d) shall keep full minutes of all his proceedings, in such manner as the Secretary may direct, and at such times as the Secretary may direct, either

Powers and
duties of
inspectors.
W.A., ss.
6, 7.

generally or in a particular case, make to the Secretary such reports as may be prescribed or as the Secretary may require; and

- (e) generally, may exercise such other powers and functions as are conferred, and shall perform such other duties as are imposed, on him by or under this Act.

Persons to allow entry and inspection.

W.A., s. 8.

8 Every—

- (a) owner of any scaffolding, gear, amusement device, or public stand; and
- (b) owner, occupier, or person in charge of a place, shall afford to an inspector all such reasonable facilities, and all such information as may reasonably be required by the inspector, for the exercise or performance of the powers, functions, or duties of the inspector under this Act.

Scaffolding, gear, &c., to comply with this Act.

W.A., s. 10.

9—(1) All scaffolding and gear, and every amusement device and public stand, shall be of the prescribed description, standard, and specifications, and shall be erected and used in accordance with the prescribed conditions.

(2) If any scaffolding, gear, amusement device, or public stand—

- (a) that is not of the prescribed description, standard, and specifications, is erected, installed, set up, or used; or
- (b) is erected, installed, set up, or used in contravention of the prescribed conditions,

that scaffolding, gear, amusement device, or public stand shall be deemed to be scaffolding or gear, or an amusement device or a public stand, as the case may be, that is not kept in conformity with this Act.

Notice of intention to erect scaffolding or to commence an excavation.

N.S.W., s. 9.

N.Z., s. 5.

10—(1) Except as provided by subsection (3) of this section, no person shall—

- (a) erect any scaffolding; or
- (b) commence any excavation,

without having first given notice to the Secretary of his intention to erect the scaffolding or commence the excavation, unless that person is the holder of a subsisting certificate of exemption under this section.

(2) A person who contravenes any of the provisions of subsection (1) of this section is guilty of an offence against this Act.

Penalty: Fifty pounds.

(3) Notwithstanding the foregoing provisions of this section, in the case of—

- (a) an emergency arising from or likely to arise from damage caused by lightning, explosion, fire, earthquake, rain, accident, or storm, or by a blockage or breakdown of a sewer or a breakdown of electricity, gas, or water supply; or

- (b) scaffolding proposed to be erected in connection with work relating to a ship in a shipyard or dock or on a slip,

the erection of the scaffolding or, as the case may be, the work of excavating, may be commenced without the notice referred to in subsection (1) of this section having been given.

(4) Nothing in this section requires the giving of more than one notice under subsection (1) of this section in any case where, in the course of the carrying out of any particular works, it is necessary for any scaffolding used in connection therewith to be altered, or to be dismantled and re-erected, either in the same position or in a different position, on the site on which those works are being carried out.

(5) If it appears to the Minister to be reasonable so to do, having regard to the type of scaffolding or gear ordinarily used by a person, and to the precautions ordinarily observed by that person, in the course of works carried out by him, the Minister may exempt that person from the operation of this section, either unconditionally or subject to such conditions as the Minister may determine, and may grant to that person a certificate of exemption accordingly.

(6) A certificate of exemption under this section may be revoked by the Minister, by notice in writing to the holder thereof, if the holder thereof is convicted of any offence against this Act or fails to observe any of the conditions determined by the Minister pursuant to subsection (5) of this section.

11—(1) Where it appears to an inspector that—

- (a) the use of any scaffolding, gear, amusement device, or public stand would be dangerous to human life or limb, or to any workman, whether or not he is using, or is required in the course of his work to use, the scaffolding, gear, amusement device, or public stand; or

- (b) any scaffolding, gear, amusement device, or public stand erected, installed, set up, or used or in the course of erection, installation, setting up, or use is scaffolding or gear, or, as the case may be, is an amusement device or a public stand, that is not kept in conformity with this Act,

Power of
inspector to
give direc-
tions as to
scaffolding,
&c.
N.S.W., s.
15.
W.A., s. 12.
Vic., s. 828.

the inspector may, by notice in writing in the prescribed form served on the owner of the scaffolding, gear, amusement device, or public stand, give such directions as the inspector thinks necessary or desirable in order to prevent accidents or to ensure compliance with this Act in relation to the scaffolding, gear, amusement device, or public stand, and, unless notice of appeal is given by the owner, he shall forthwith carry out those directions or cause them to be carried out.

(2) When it appears to an inspector that—

- (a) the employment of a person on a building or structure without the use of scaffolding would be dangerous to human life or limb; or

- (b) the employment of a person on or in connection with the making of an excavation without the use of scaffolding, shoring, tonging, and timbering, or any one or more of them, would be dangerous to human life or limb,

he may—

- (c) in a case to which paragraph (a) of this subsection relates, by notice in writing served on the owner of the building or structure or any person employed thereon, give directions for scaffolding to be used to the inspector's satisfaction; or
- (d) in a case to which paragraph (b) of this subsection relates, by notice in writing to the person undertaking, or in charge of the work for, the making of the excavation, or his agent or contractor, direct that scaffolding, shoring, tonging, and timbering, or any one or more of them, as specified in the notice, shall be erected or carried out, and used, to the inspector's satisfaction.

(3) A person to whom a direction is given pursuant to subsection (2) of this section shall, unless notice of appeal therefrom is given, forthwith carry out that direction or cause it to be carried out.

(4) Where an inspector gives a direction under the foregoing provisions of this section, he may at the same time or subsequently order any persons to cease to use or operate, or to work in connection with or near, the scaffolding, gear, amusement device, public stand, building, structure, or excavation, as the case may be, until the direction, or any order made on appeal therefrom, has been complied with.

(5) A person to whom a direction is given pursuant to this section may, on giving notice to an inspector within seventy-two hours after the giving of the direction, lodge with the Minister a notice of appeal from that direction.

(6) Where an appeal is made to the Minister pursuant to subsection (5) of this section, the Minister shall appoint a qualified person to hear and determine the appeal, and the person so appointed shall hear and determine the appeal with all reasonable despatch, and on determining the appeal shall, by order in writing served on the appellant, affirm, vary, or rescind the direction appealed against.

(7) On the hearing of an appeal under this section the person to whom the direction appealed against was given and the inspector by whom it was given—

- (a) are entitled to appear and to tender evidence and examine and cross-examine witnesses; and
- (b) subject to subsection (8) of this section, are entitled to be represented at the hearing of the appeal.

(8) With the approval of the qualified person hearing an appeal under this section, a party to the appeal may be represented by an agent, a barrister or solicitor.

(9) The decision of a qualified person on an appeal under this section is final.

(10) On the determination of an appeal under this section, the qualified person by whom the appeal is heard may award the payment of such witnesses' expenses and costs as he thinks just, but so that the amount of any such expenses or costs does not exceed such amount as may be prescribed.

(11) An order made on the determination of an appeal under this section shall, unless the appeal is upheld—

- (a) give such directions as the qualified person thinks desirable in order to secure compliance with this Act; and
- (b) specify a time within which those directions are to be complied with.

(12) A qualified person by whom an appeal under this section is heard is entitled to be paid such fees as may be prescribed.

(13) Where the Minister is satisfied that no qualified person is available and willing to hear an appeal under this section, the Minister may appoint some person who appears to the Minister to have had experience, and to be qualified, in building or scaffolding work to hear the appeal, and in a case where an appeal is heard by a person appointed under this subsection, any reference in the foregoing provisions of this section to a qualified person shall be construed as a reference to the person so appointed.

(14) A person who fails to comply with a direction given by an inspector pursuant to this section, or if an appeal is made therefrom, fails to comply with any order made or directions given on the determination of the appeal, is guilty of an offence against this Act.

Penalty: Fifty pounds.

(15) Subject to this section, an appeal under this section shall be instituted, heard, and determined as prescribed.

12—(1) Where it appears to an inspector that any scaffolding, gear, amusement device, or public stand—

- (a) is dangerous to human life or limb; or
- (b) is not kept in conformity with this Act,

Power of
inspector to
condemn
scaffolding,
&c.

he may, by order in writing served on the owner thereof, condemn that scaffolding, gear, amusement device, or public stand.

(2) Where an order under subsection (1) of this section is made, the owner of the scaffolding, gear, amusement device, or public stand to which the order relates shall not use or deal with it otherwise than by—

- (a) destroying it;
- (b) using or operating it for such purposes (if any) as an inspector may approve in writing; or

(c) selling it, with the approval of an inspector, to a person who has first been warned, in writing, by the owner that the scaffolding, gear, amusement device, or public stand has been condemned.

(3) Where an order is made under subsection (1) of this section in relation to any scaffolding, gear, amusement device, or public stand, no person shall, unless and until the order has been set aside on an appeal under this section, use or operate that scaffolding, gear, amusement device, or public stand for any purpose or in any manner other than a purpose or manner approved, in writing, by an inspector.

(4) If the owner of any scaffolding, gear, amusement device, or public stand to which an order under subsection (1) of this section relates is aggrieved by the making of the order he may, on giving notice to an inspector within seventy-two hours after the service of the order on the owner, lodge with the Minister a notice of appeal against the order.

(5) Where a notice of appeal is lodged with the Minister under subsection (4) of this section, the Minister shall appoint a qualified person to hear and determine the appeal.

(6) An appeal under this section shall be heard and determined as if it were an appeal under section eleven and the provisions of subsections (6) to (15) of that section, so far as they are applicable and with the necessary modifications, apply accordingly to and in respect of an appeal under this section.

(7) In the application to an appeal under this section of the provisions mentioned in subsection (6) of this section, any reference in those provisions to a direction shall be construed as a reference to an order under subsection (1) of this section.

(8) Where an order is in force under this section and an inspector finds that any scaffolding, gear, amusement device, or public stand to which the order relates is being used or operated, either by the person who was the owner thereof at the time of the making of the order or by any other person, in contravention of any of the provisions of this section or of the order, the inspector may apply to a police magistrate for an order for the forfeiture of that scaffolding, gear, amusement device, or public stand, and, on the hearing of the application, the police magistrate may, by order, declare the scaffolding, gear, amusement device, or public stand, to be forfeited to Her Majesty.

(9) Any scaffolding, gear, amusement device, or public stand that is declared, pursuant to subsection (8) of this section, to be forfeited to Her Majesty shall be destroyed or otherwise disposed of in such manner as the Minister may direct.

(10) A person who contravenes any of the provisions of this section is guilty of an offence against this Act.

Penalty: One hundred pounds.

13—(1) On or after the appointed day, no person shall—

(a) being the owner of any scaffolding or gear, employ any person as a scaffolder, or permit any person

to be employed as a scaffolder, in relation to that scaffolding or gear; or

(b) be employed or act in the capacity of a scaffolder in relation to any scaffolding or gear,

unless the person so employed or acting is the holder of a subsisting scaffolder's licence.

(2) A person who contravenes any of the provisions of subsection (1) of this section is guilty of an offence against this Act.

Daily penalty: Five pounds.

(3) Nothing in subsection (1) of this section applies in relation to scaffolding or gear used on a building that does not exceed one storey in height.

(4) An application for a scaffolder's licence shall be made to the Secretary in writing in the prescribed form and shall be accompanied by the prescribed fee.

(5) If the Secretary, after due inquiry and examination, is satisfied that a person by whom an application under subsection (4) of this section is made—

(a) has passed the prescribed examination or possesses qualifications that, in the opinion of the Secretary, are equivalent to those that he would possess if he had passed that examination; and

(b) is competent to act as a scaffolder,

the Secretary may grant to that person a scaffolder's licence.

(6) Where the holder of a scaffolder's licence has been convicted of an offence against this Act of such a nature that, in the opinion of the Secretary, it is undesirable in the public interest that he should continue to hold a scaffolder's licence the Secretary may revoke the scaffolder's licence held by that person or may suspend the licence for such period as the Secretary thinks fit.

(7) A person who is aggrieved by—

(a) the refusal of the Secretary to grant him a scaffolder's licence; or

(b) the revocation or suspension by the Secretary of a scaffolder's licence held by that person,

may appeal, as prescribed, from that refusal, revocation, or suspension.

(8) An appeal under this section shall be instituted, heard, and determined as if it were an appeal under section eleven, and the provisions of subsections (6) to (15) of that section, with the necessary modifications and adaptations, apply to and in respect of an appeal under this section accordingly.

(9) For the purposes of subsection (8) of this section, any reference in the provisions of section eleven to a direction shall be construed as a reference to the refusal, revocation, or suspension in respect of which the appeal is made, and any reference to an inspector shall be construed as a reference to the Secretary.

(10) In this section, "appointed day" means such day as is declared by the Minister, by order, to be the appointed day for the purposes of this section.

Penalty for not keeping scaffolding, &c., in conformity with this Act.

W.A., s. 13.

14—(1) If—

- (a) any scaffolding, gear, amusement device, or public stand is not kept in conformity with this Act; or
- (b) with respect to any scaffolding, gear, amusement device, or public stand there is a breach of this Act,

the owner of the scaffolding, gear, amusement device, or public stand is guilty of an offence against this Act.

Penalty: Fifty pounds.

(2) Where the owner of any scaffolding, gear, amusement device, or public stand is convicted of an offence under this section, the justices before whom he is convicted may, either in addition to or in lieu of imposing a penalty in respect of the offence, order the owner, within the time specified in that behalf in the order, to take specified means for bringing his scaffolding, gear, amusement device, or public stand into conformity with this Act, and may also order that the use of that scaffolding, gear, amusement device, or public stand be discontinued until the means so specified are adopted.

(3) The time specified in an order under subsection (2) of this section may, on application, be enlarged by the justices who made the order or by any police magistrate, and if within the time originally specified or as so enlarged the owner does not comply with the order, he is liable to a penalty of five pounds for every day during which the non-compliance continues.

Power of inspector to suspend incompetent operators of amusement devices.

N.S.W., s. 14 (2).

15—(1) Where it appears to an inspector that a person who is operating an amusement device is not taking sufficient care to ensure the safety of persons using that device, the inspector may direct that person to cease to operate that device and thereupon that person shall forthwith cease to operate that device and shall thereafter refrain from operating any amusement device except with the prior approval of an inspector.

(2) A person who is aggrieved by any direction of an inspector under subsection (1) of this section may, on giving notice to an inspector within seventy-two hours after the giving of the direction, lodge with the Minister a notice of appeal from that direction.

(3) An appeal under this section shall be heard and determined as if it were an appeal against a direction under section eleven and the provisions of that section relating to the appointment of persons to hear, and to the hearing and determination of, appeals under that section apply accordingly to and in relation to appeals under this section.

(4) Where an appeal is made against a direction under subsection (1) of this section, the person by whom the appeal is made shall not, until the appeal has been determined, operate the amusement device to which the direction appealed against relates.

(5) A person who contravenes or fails to comply with the provisions of subsection (1) or subsection (4) of this section is guilty of an offence against this Act.

Penalty: Twenty pounds.

(6) If the owner of an amusement device who has notice of any direction under subsection (1) of this section employs, instructs, or permits the person to whom the direction relates to operate any amusement device without the prior approval of an inspector, the owner is guilty of an offence against this Act.

Penalty: Twenty pounds.

16—(1) No person shall, in the course of or in connection with the carrying out of any works on or in connection with which workmen are employed—

Regulation
of use of
ladders.

(a) use, or cause or permit any other person to use, a ladder that does not comply, in all respects, with the prescribed description, standards, and specifications; or

(b) contravene or fail to comply with any provision of the regulations relating to the safe use of ladders, being provisions that are applicable to him.

Penalty: One hundred pounds.

(2) The provisions of sections seven, eight, and seventeen apply to and in relation to any ladder used in the course of or in connection with the carrying out of any works to which subsection (1) of this section relates as if that ladder were scaffolding, and the provisions of those sections shall be construed accordingly.

17—(1) Subject to this section, where—

(a) loss of life; or

(b) serious bodily injury to a person,

Notice and
investigation
of accidents.
W.A., s. 15.

occurs as the result of an accident arising out of the use of any scaffolding, gear, amusement device, or public stand, the owner shall, forthwith after the happening of the accident, send notice thereof to the Secretary.

(2) A notice under this section shall specify—

(a) the cause of the accident; and

(b) the name and address of every person who is killed or injured as the result of the accident.

(3) Upon receiving a notice under this section, the Secretary shall forthwith—

(a) make or cause to be made such inquiry and investigations as he may consider necessary to determine the cause of the accident; and

(b) take such steps and give such directions as he may consider necessary or desirable for preventing the recurrence of a like accident.

(4) A person need not give notice as required by this section in relation to any accident in respect of which he or some person on his behalf has given, or gives, notice to the Secretary in pursuance of section thirty-four of the *Factories, Shops, and Offices Act 1958*.

Provisions
as to giving
of notices,
&c.

W.A., s. 20.
Vic., s. 831.

18—(1) Any notice, order, or other document required or authorized by or under this Act to be served on, sent, or given to, or lodged with, a person may be so served, sent, given, or lodged—

- (a) by delivering it to that person; or
- (b) by forwarding it to that person at his usual or last known place of abode or business, by registered post or by certified mail.

(2) In this section, “certified mail” means certified mail within the meaning of the postal regulations for the time being in force.

Abstract of
this Act, &c.,
to be kept
posted up.

W.A., s. 19.

19 The owner of any scaffolding, gear, amusement device, or public stand shall cause to be affixed and maintained in such place as an inspector may approve or direct the prescribed abstracts of this Act and the regulations, in default whereof he is liable to a penalty of twenty pounds.

Offences and
penalties.

W.A., ss. 14,
15 (2), 18,
21.

20—(1) No person shall—

- (a) fail to give or send to an inspector any notice or other document that he is required by or under this Act to give or send to an inspector;
- (b) being the owner of any scaffolding, gear, amusement device, or public stand, enter into any contract or arrangement, whether orally or in writing, with any workman indemnifying or purporting to indemnify the owner against any liability to which he may be subject under this Act;
- (c) wilfully make in any prescribed book, register, notice, certificate, list, record, or document an entry that is false in a material particular, or wilfully make use of an entry or a report that is false in a material particular; or
- (d) contravene or fail to comply with—
 - (i) any provision of this Act that is applicable to him; or
 - (ii) any notice, direction, or order given or made by an inspector or by the Secretary under this Act that is applicable to him.

(2) A person who is convicted of an offence under—

- (a) paragraph (c) of subsection (1) of this section, is liable to a penalty of fifty pounds; or

(b) any other provision of that subsection for which no penalty is prescribed elsewhere in this Act, is liable to a penalty of twenty pounds.

(3) Where a body corporate is convicted of an offence against this Act, by reason of any contravention by the body corporate of, or failure by the body corporate to comply with, any of the provisions of this Act, every director or member of the governing authority of the body corporate who authorized, directed, or consented to, the contravention or failure shall be deemed to be guilty of an offence against this Act.

21—(1) Where proceedings are taken against a person for or in respect of a contravention of, or a failure to comply with, any provision of this Act, it is no defence for that person to prove that he was the agent or employee of another person or was acting in pursuance of any order or direction given by that other person.

Provisions
as to legal
proceedings.
W.A., ss. 22,
23, 25 (3).
Q'ld., ss.
22, 23.

(2) Where a person is charged with an offence against this Act, he is entitled, on complaint laid by him, to have any other person whom he claims to be the actual offender brought before the justices at the time appointed for the hearing of the charge, and if after the commission of the offence has been proved the first-mentioned person proves to the satisfaction of the justices that he used all due diligence to secure compliance with this Act and that the other person committed the offence without his knowledge, consent, or connivance, the other person shall be convicted of the offence and no penalty shall be imposed on the first-mentioned person.

(3) A person who institutes proceedings in respect of an offence against this Act shall proceed against the person whom he believes to be the actual offender in the first instance without proceeding against the owner, occupier, or person in charge of a place, or the owner of scaffolding or gear or of an amusement device or a public stand, as the case may be, if it is made to appear to his satisfaction at the time of discovering the offence—

- (a) that the owner, occupier, or person in charge has used all due diligence to secure compliance with the provisions of this Act;
- (b) by whom the offence has been committed; and
- (c) that the offence has been committed without the knowledge, consent, or connivance of the owner, occupier, or person in charge and in contravention of his orders.

(4) No proceedings in respect of an offence against this Act shall be instituted without the consent, in writing, of the Minister.

22—(1) A person is not liable to a penalty under this Act—

- (a) as the owner of any scaffolding, gear, amusement device, or public stand unless it is under his immediate power or control; or

When owner,
&c., not
liable.
W.A., s 24.

(b) as the lessee, hirer, or borrower of any scaffolding, gear, amusement device, or public stand unless he is in actual possession thereof or has it under his immediate power or control.

(2) Nothing in subsection (1) of this section exempts a body corporate from liability by reason only that any scaffolding, gear, amusement device, or public stand is under the control of any directors, secretary, manager, or other person elected, appointed, or employed by that body for the benefit of or on behalf of that body.

(3) For the purposes of this section, any scaffolding, gear, amusement device, or public stand shall be deemed to be under the immediate power or control of a person if it is used by him personally, or by his agents, servants, or other persons under his orders or directions and for his benefit or profit.

Persons excused from answering incriminating questions.

23 Nothing in this Act requires a person to answer any question or to furnish any information to an inspector if the answer or information would tend to incriminate that person.

Regulations.
W.A., s. 27.
Vic., s. 833.

24—(1) The Governor may make regulations under this Act.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the Governor may make regulations for or with respect to all or any of the following matters, namely:—

- (a) The duties of inspectors and other officers;
- (b) The form and manner of giving, furnishing, granting, or keeping orders, notices, applications, plans, records, and other documents in pursuance of this Act;
- (c) The manner in which scaffolding, gear, amusement devices, and public stands, or any class or kind thereof, shall be installed, set up, erected, maintained, operated, and used, and the construction and placing of swinging stages or scaffolds, gantries, and gear so as to ensure safety;
- (d) The maximum weights and loads that scaffolding, gear, amusement devices, and public stands, or any class or kind thereof, may be required to carry or bear or be made subject to, and the materials, size, and specifications generally of scaffolding, gear, amusement devices, and public stands; and
- (e) The protection of workmen from electric wires so near scaffolding, gear, amusement devices, or public stands as to be, or to likely to be, a source of danger.

(3) Without prejudice to the generality of the provisions of subsection (1) of this section, the regulations may—

- (a) provide that inspectors and other officers, in the exercise and discharge of their powers and duties

- under this Act, shall not unreasonably or unduly interfere with the work or process being carried on in or on any place;
- (b) provide that gear shall be used and scaffolding shall be constructed in such manner as, in the opinion of an inspector, is necessary to render it safe;
 - (c) prescribe the dimensions of and manner of use of foot planks;
 - (d) permit or require the use of specified kinds of timber as putlogs and prohibit the use of other kinds of timber as putlogs and regulate how and where putlogs may be placed and how and where bracing may be placed;
 - (e) prescribe the cases in which the use of brick blocking or casks is permitted and the manner in which they may be used in or for any part of scaffolding;
 - (f) permit or require the use of specified kinds of timber for planking for large stages upon ships in shipyards or docks or on slips, and prohibit the use of other kinds of timber therefor;
 - (g) empower an inspector, either generally or in prescribed cases, to direct the use of scaffolding or gear other than that specifically provided for in the regulations;
 - (h) permit or require specified kinds of fittings and devices to be used in connecting the various members of scaffolding constructed of metal tubes;
 - (i) permit or require specified kinds of timber to be used for platform planks used in connection with scaffolding constructed of metal tubes;
 - (j) prohibit the use of anything as gear or in or for any part of scaffolding, or of any amusement device or public stand, either absolutely or otherwise than in the prescribed manner, where, in the opinion of an inspector, that use would, notwithstanding compliance with the requirements of other regulations made pursuant to this section, render the scaffolding, amusement device, or public stand unsafe;
 - (k) prohibit the erection of a gantry until plans and specifications for its erection have first been approved by an inspector;
 - (l) require notices and other documents to be verified by statutory declaration in prescribed cases; and
 - (m) impose penalties, not exceeding fifty pounds, for offences against the regulations.

(4) The regulations may adopt, either wholly or in part and either specifically or by reference, any of the standard rules, codes, or specifications of the body known as the Standards Association of Australia or of any other like body specified in the regulations.

THE SCHEDULE.

(Section 6.)

QUALIFICATIONS FOR INSPECTORS.

1. Ten years' experience in the building industry or in some trade or industry in which scaffolding, gear, or similar equipment or apparatus is commonly used.
2. Four years' experience, in a supervisory capacity, in such a trade or industry as is referred to in paragraph 1 of this schedule.
3. A sound knowledge of mathematics to the standard required in the examinations conducted by the Schools Board of Tasmania.
4. A thorough knowledge of the strengths of building materials and gear, and of the loads that those materials and gear may safely carry.
5. Ability to make good freehand sketches and working drawings.
6. Absence of any infirmity or disability that is likely to interfere with the efficient discharge of his duties or his ability to work at heights.

HOBART PUBLIC CEMETERY.

No. 53 of 1960.

AN ACT to provide for municipal control of the Hobart Public Cemetery and the adjacent crematory, to amend the *Cemeteries Act* 1865, and the *Hobart Corporation Act* 1947, and to repeal the *Cemeteries Act* 1947.

[5 December 1960.]

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.

Short title and commencement.

1—(1) This Act may be cited as the *Hobart Public Cemetery Act* 1960.