

Amendment
of the
*Ambulance
Act 1959.*

48 Section thirty-seven of the *Ambulance Act 1959* is amended by omitting from subsection (8A) the words "section seventy-six of the *Hospitals Act 1918*" and substituting therefor the words "section twenty-nine of the *Public Health Act 1962*".

STATUTORY AUTHORITIES.

No. 69 of 1962.

AN ACT to consolidate the law relating to statutory authorities and to repeal the *Statutory Authorities' Borrowing Act 1929* and the *Statutory Authorities Administration Act 1937*. [14 February 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.

Short title
and com-
mencement.

1—(1) This Act may be cited as the *Statutory Authorities Act 1962*.

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

Interpreta-
tion.

Cf. 25 Geo. V
No. 75, s. 3,
20 Geo. V No.
5, s. 2, 45
Vict. No. 16,
s. 2, & 1 Geo.
VI No. 75,
s. 2.

2 In this Act, unless the contrary intention appears—

"authority" means any corporation, aggregate or sole, of a public or semi-public nature constituted under statutory authority, other than a county council, municipality, or local committee of a municipal council;

“elective authority” means an authority consisting wholly or partly of elected members.

3 The *Statutory Authorities' Borrowing Act 1929* and the *Statutory Authorities Administration Act 1937* are repealed. Repeal.

PART II.

SUPERSESSION BY COMMISSION.

- 4**—(1) Where the Auditor-General is of opinion that— Auditor-General's report.
Cf. 1 Geo. VI
No. 75, s. 3
(1), (2).
- (a) the financial affairs of an elective authority having the management and control of a public utility or jurisdiction over a defined district or locality are in a seriously unsatisfactory or unsafe condition; or
- (b) such an authority has—
- (i) been guilty of grave default, neglect, or mismanagement; or
- (ii) shown gross incompetence,

in any matter properly the subject of examination and report by the Auditor-General, he may give that authority a notice to be called for the purposes of this Part a “warning notice”.

- (2) In a warning notice the Auditor-General shall—
- (a) state that he intends to make a report to the Governor under this section;
- (b) set forth the allegations he intends to make in the report; and
- (c) request the authority to furnish him, within one month of the date of the notice, with a reply to the intended allegations.

(3) After the expiry of the period mentioned in paragraph (c) of subsection (2) of this section, the Auditor-General may make a report to the Governor setting forth—

- (a) the allegations set forth in the warning notice;
- (b) that the warning notice was duly given; and
- (c) the authority's reply to the warning notice or that no reply has been furnished, as the case may be.

(4) If the authority has furnished a reply to the warning notice and the Governor does not consider it satisfactory, the Minister administering the Act under which the authority is constituted shall notify the authority accordingly unless it has in its reply requested a review of the report.

5—(1) If an authority the subject of a report under section four— Review of report.
Ibid., s. 3
(3) to (6).

- (a) in its reply to the warning notice thereunder; or

- (b) by written notice to the Minister referred to in that section within twenty-one days after receiving a notification from him under subsection (4) of that section,

requests a review of the report, the Governor shall refer the report to a committee, to be called for the purposes of this Part a "committee of review", to be appointed by him.

(2) A committee of review shall consist of—

- (a) the Solicitor-General;
 (b) a person not employed in the public service of the State; and
 (c) a person nominated by the authority.

(3) The committee of review for the report shall review the allegations contained therein and report to the Governor thereon and for that purpose—

- (a) the committee of review shall be deemed to be a commission appointed by the Governor under the seal of the State to make an inquiry; and
 (b) the members of it shall be paid such fees as may be prescribed.

Appointment
of commis-
sion.

Ibid., s. 3
(7) to (9).

6—(1) If upon consideration of—

- (a) a report under section four;
 (b) the authority's reply, if any, to the allegations therein; and
 (c) the report of the committee of review thereon, if any,

the Governor is of opinion that it is in the interest of the State or of the public that the powers and functions of the authority should be vested in a commission, he may by proclamation appoint a commission of three persons for the purpose and assign a name to the commission.

(2) No commission appointed under this section shall hold office for any period exceeding twelve months unless both Houses of Parliament have agreed to a resolution extending the period for a further term specified in the resolution.

Powers and
duties of
commission.
Ibid., s. 4.

7 Upon and after the date of the proclamation appointing a commission under section six or such later date as may be specified therein for that purpose—

- (a) all property, powers, rights, privileges, duties, obligations, and liabilities vested in, belonging to, or imposed upon the authority in whose place the commission is appointed, shall by virtue of the proclamation vest in, belong to, and be imposed upon the commission;

- (b) for the purposes of any Act relating to the authority the commission shall be deemed to be the authority;
- (c) the commission shall have the like rights and obligations in respect of any then subsisting contract made and entered into by the authority as if that contract had been made and entered into by the commission, and all proceedings in respect of any such contract may be had and taken by or against the commission in its own name;
- (d) where the authority is a body corporate the commission, by force of its appointment, shall become a body corporate and may use the common seal of the authority for any purpose for which it could have been used by the authority;
- (e) any two members of the commission shall constitute a quorum and may exercise any of the powers or functions of the commission notwithstanding any vacancy on the commission; and
- (f) the several members constituting the authority shall forthwith cease to hold office, and all and every of their rights, powers, and functions as such members shall thereupon cease and determine.

8 The several persons constituting a commission under this Part shall— Members of commission.
Ibid., s. 5.

- (a) be paid out of the funds to be administered by it such remuneration, if any, as the Governor may determine; and
- (b) not be subject, as such members, to the provisions of the *Public Service Act 1923*.

9—(1) The Governor by proclamation at any time may revoke the appointment of a commission under this Part and by the same or earlier proclamation give directions for the election, or provide for the appointment and election (as the case may require), of members to reconstitute the authority in place of which the commission was appointed, in accordance with the Act under which that authority was constituted, and it shall give effect to any such directions. Revocation of appointment.
Ibid., s. 6.

(2) Upon the revocation of the appointment of a commission under this section, the authority reconstituted as provided in the proclamation shall take the place of the commission in the same manner as the commission took the place of the former authority and with the like consequences in all respects.

Minister to report to Parliament.
Ibid., s. 7.

10 Where the Governor has appointed a commission under this Part the Minister administering the Act under which the authority concerned was constituted shall lay upon the table of each House of Parliament a copy of the proclamation appointing the commission together with a full statement of the reasons for the appointment.

PART III.

BORROWING.

Method of borrowing by certain authorities.
45 Vict. No. 16, s. 3.

11 Every elective authority having power by law to raise money on the mortgage of any rate or special rate may for any purpose for which it may raise loans raise money by the issue of debentures as if it were a municipality and subject to all the provisions of Part XIII of the *Local Government Act* 1962 which can be applied to or in respect of loans raised by the issue of debentures.

Control by Treasurer of all authorities.
20 Geo. V No. 5, ss. 3, 4.

12—(1) No authority may issue a debenture or give a mortgage, charge, or security over the whole or any part of its property or assets, without the consent in writing of the Treasurer.

(2) An application for the consent of the Treasurer under this Act shall be in writing, and shall be accompanied by particulars of the purpose and terms of the proposed issue, mortgage, charge, or security, and such other information as the Treasurer may require.

(3) Nothing in this section prevents or affects in any way any transaction in relation to an advance made in good faith by a bank in the ordinary course of business, on such security as the bank usually requires, if the advance is repayable on demand.

(4) A loan or advance made to an authority by the Governor under the provisions of the *State Loans to Local Bodies Act* 1929 or any other Act is not subject to the provisions of this section, and the amount thereof shall not be included in the calculations for the purposes of this section of the loan requirements of an authority.

PART IV.

RATES EXEMPTION.

Application of *Local Government Act* 1962.
Cf. 25 Geo. V No. 75.

13—(1) An authority should not make or levy any rate or tax upon land on which under section two hundred and forty-three of the *Local Government Act* 1962 municipal rates may not be made, except as provided in subsection (2) of that section.

(2) Where land has been exempted, wholly or in part, from rating under subsection (3) of that section it shall be exempt to the same extent from rates and taxes of an authority.

(3) Where the basis of municipal rating is one of the bases provided in paragraph (b) of subsection (1) of section two hundred and thirty-four of the *Local Government Act 1962* and land might be exempt, wholly or in part, under subsection (3) of section two hundred and forty-three if the basis used were that provided in paragraph (a) of subsection (1) of section two hundred and thirty-four an authority may create such an exemption from its own rates or taxes as the council might if section two hundred and forty-three were applicable.

(4) This section does not apply to a rate or tax for a service actually rendered or supplied by the rating or taxing authority.

PART V.

RECOVERY OF RATES AND CHARGES.

14—(1) Where by any Act an authority is authorized or empowered in respect of any land—

- (a) to make and levy a rate;
- (b) to execute or perform any work at the cost of the owner or occupier;
- (c) to render a service and demand payment therefor, which payment is charged on the land; or
- (d) to recover from the owner or occupier any expenses incurred by the authority,

Use by other
authorities
of municipal
procedure.
1 Edw. VIII
& 1 Geo. VI
No. 46, s. 4.

upon, in relation to, or for the benefit of, the land, such rates, costs, payments, and expenses are subject to the provisions of subsection (2) of this section.

(2) Rates, costs, payments, and expenses to which this subsection applies—

- (a) shall be, by virtue of this Part if not otherwise, charged on the land in respect of which they become due;
- (b) shall rank *pari passu* among themselves and with charges on the land under the *Local Government Act 1962* in priority to all mortgages, charges, liens, and encumbrances whatsoever; and
- (c) may be recovered by the authority as provided in Division V of Part XII and Division II of Part XIX of the *Local Government Act 1962* as if it were the municipality.

(3) Except as provided in subsection (4) of this section all proceedings instituted or commenced after the commencement of this Act for the recovery of any rates, costs, payments, or expenses recoverable under this section shall be taken and had in accordance with the provisions of this Act and not otherwise.

(4) This section does not affect the operation of any enactment empowering an authority to sell any materials in relation to which any work has been done by it at the cost of the owner of the materials.

PART VI.

OUSTER OF OFFICE.

Application
of municipal
procedure.
1 Geo. VI
No. 75.

15—(1) The provisions of section eight hundred and one of the *Local Government Act 1962* apply with the necessary changes to an *ex officio* information in the nature of *quo warranto* with respect to—

- (a) any election of a member of an authority alleged to have been made unduly or contrary to the Act regulating the conduct of the election; or
- (b) the unlawful holding or exercise by any persons of office as president, chairman, or similar officer or ordinary member of an authority.

(2) Where judgment of ouster has been given in the Supreme Court against a member of an authority, the Governor, if in his opinion it is in the public interest so to do, may appoint some qualified person to take the place of that member until a successor can be elected or appointed in accordance with the provisions of the Act under which the authority is constituted.

PART VII.

REGULATIONS.

Regulations.

16 The Governor may make regulations for the purposes of this Act.

 LAW OF ANIMALS.

No. 70 of 1962.

AN ACT to consolidate certain enactments relating to trespass by animals. [14 February 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.

Short title
and com-
mencement.

1 This Act may be cited as the *Law of Animals Act 1962* and shall commence on the day on which the *Local Government Act 1962* commences.