

TASMANIA.



1937.

ANNO PRIMO

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No. 75.

ANALYSIS.

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AN ACT to provide for the Administration by Commission of certain Statutory Authorities in certain cases and for the Removal of Members of such Authorities where necessary.

[20 December, 1937.]

A.D.
1937.

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

1 This Act may be cited as the *Statutory Authorities Administration Act 1937.* Short title.

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Interpretation

2 In this Act, unless the contrary intention appears—

“ Authority ” means any body of persons consisting wholly or partly of elective members and constituted under the authority of any Act for the management and control of any public utility or for the exercise of jurisdiction over a defined district or locality, and includes a municipal council and a marine board :

“ Commission ” means a commission appointed by the Governor under this Act.

Power to
Governor to
appoint com-
mission in
certain cases.

3—(1) Where the Auditor-General, acting expressly in pursuance of the provisions of this section, reports to the Governor that—

- i. The financial affairs of any authority are in a seriously unsatisfactory and unsafe condition : or
- ii. The authority has—
 - (a) Been guilty of grave default, neglect, or mismanagement : or
 - b) Shown gross incompetence—
in any matter properly the subject of examination and report by the Auditor-General :
- iii. He has given to such authority notice in writing setting forth the allegations intended to be made in such report, and requested the authority to furnish to him within one month from the date of such notice, its reply thereto : and
- iv. A copy of the reply, if any, so furnished by the authority, or a statement of the fact that the authority has failed to furnish any such reply, is appended to such report—

the Governor, subject to the provisions of this section, may appoint a Commission as hereinafter provided to replace such authority.

(2) If the authority has furnished any such reply as aforesaid which the Governor does not consider satisfactory, the Minister shall notify the authority accordingly unless the authority has in such reply requested that the Auditor-General's report be reviewed as hereinafter provided.

(3) The authority in such reply, or by notice in writing to the Minister within twenty-one days after receiving such notification as aforesaid from the Minister, may request that the Auditor-General's report be reviewed as hereinafter provided.

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(4) Upon receipt of such request the Governor shall refer the Auditor-General's report to a Committee for review. A.D. 1937.

(5) Such Committee shall consist of three members, one of whom shall be the Solicitor-General, another of whom shall be nominated by the Governor and shall not be a member of the Public Service, and the third shall be a person nominated by the body affected.

(6) For the purposes of such review the Committee shall be deemed to be a Commission appointed by the Governor to make an inquiry, and the provisions of Division II. of Part I¹. of the *Evidence Act* 1910, shall apply thereto accordingly, and the members of such Committee shall be paid such fees as may be prescribed.

(7) If upon consideration of such report and of the reply, if any, of the authority thereto, and of the report of the Committee, if any, the Governor is of opinion that it is in the interests of the State, or of the public, that the powers and functions of such authority should be vested in a Commission the Governor by proclamation may appoint a Commission of three persons for the purposes aforesaid.

(8) A commission so appointed shall bear the name of the authority in place of which it is appointed with the addition of the word "commission" at the end thereof

(9) 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 such period for a further term specified in such resolution.

4 Upon and after the date of a proclamation appointing a commission under this Act or such later date as may be specified therein for that purpose—

Powers and duties of commission.

- i. 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 such proclamation vest in, belong to, and be imposed upon the commission :
- ii. For the purposes of any Act relating to such authority the commission shall be deemed to be the authority :

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iii. 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 such 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 :

iv. 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 the same could have been used by the authority :

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

vi. The several members constituting the authority shall forthwith cease to hold office, and all and every their rights, powers, and functions as such members shall thereupon cease and determine.

Members of
commission.

5—(1) The several persons constituting a commission shall be paid out of the funds to be administered by it such remuneration, if any, as the Governor may determine.

(2) The members of a commission shall not be subject, as such members, to the provisions of the *Public Service Act* 1923.

13 Geo. V.
No. 25.Revocation of
appointment.

6—(1) The Governor by proclamation at any time may revoke the appointment of a commission and by the same or an 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 such commission was appointed, in accordance with the Act under which such authority was constituted, and it shall be the duty of such commission to give effect to any such directions.

(2) Upon the revocation of the appointment of a commission, the authority reconstituted as aforesaid 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.

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7 Where the Governor has appointed a commission 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 such commission together with a full statement of the reasons for such appointment.

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Minister to
report to Par-
liament.

8—(1) Where the Solicitor-General is satisfied, upon a report from the Auditor-General or otherwise that a member of an authority has been unduly or improperly elected as such member, or being such member has acted in contravention of any of the provisions of the Act under which such authority was constituted, and has thereby become disqualified, the Solicitor-General may institute proceedings in the name of the Attorney-General for the ouster of such member from his said office.

Power to
Solicitor-
General to
take proceed-
ings for
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(2) Such proceedings shall be taken as prescribed by section forty-three of the *Local Government Act 1906*; and where such authority was not constituted under that Act the provisions of that section, with such alteration in terms as may be required, shall apply to proceedings under this section in the same manner as if such member were a councillor; but it shall not be necessary in any case for the Solicitor-General to give the security for costs prescribed by the said section.

(3) Where a member of an authority has been removed from office under this section, the Governor if in his opinion it is in the public interest so to do may appoint some person to take the place of such member until a successor can be elected in accordance with the provisions of the Act under which the authority is constituted.

