

Indemnity.

7 No act or thing done by a member of the committee or by a person acting under the direction of the committee shall, if the act or thing is done in good faith in the execution or purported execution of this Act, subject him personally to any liability, action, claim, or demand.

By-laws.

8 The council may make by-laws for the purposes of this Act and the committee may, with the consent of the warden, make rules (not inconsistent with the by-laws so made by the council) regulating its own procedure and business.

CLARENCE SEWERAGE.

No. 83 of 1952.

AN ACT to authorise the council of the municipality of Clarence to borrow an amount not exceeding five hundred thousand pounds, for the provision of sewerage facilities within the municipality of Clarence, and to confer on the council powers needed for the construction of sewerage works therefor.

[12 December, 1952.]

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 *Clarence Sewerage Act 1952*.

(2) This Act is incorporated and shall be read as one with the *Local Government Act 1906*.

2 In this Act, unless the contrary intention appears—

Interpreta-
tion.

- “council” means the council of the municipality;
- “drain” means any sullage drain, not being a sewer or part of a sewer, used for the drainage of one building only or of premises within the same curtilage, and includes any sullage drain for draining any group or block of houses by a combined operation under the order of the council;
- “municipality” means the municipality of Clarence;
- “proper officer” means any officer of the council generally or specially authorised by the council in respect of, or whose duty it is to deal with or act in regard to, any acts, matters, or things in connection with which the expression is used;
- “sewer” means any sewer or underground gutter or channel for sullage which is not a drain within the meaning of this Act, and any sullage drain or portion of a sullage drain laid between a sewer and the boundary line of any allotment or curtilage;
- “sewered property” means any sewered land or premises, and includes any land or premises that may conveniently be served by any sewer constructed by the council for the conveyance of sewage or drainage, being a sewer that is ready to receive connections from the land or premises;
- “street”, includes any public or common highway, road, or thoroughfare, and any public bridge, and any road, land, right-of-way, passage, alley, or court which the owners or occupiers of two or more houses or buildings adjoining thereto, or properties abutting thereon, have the right to use, or do commonly use, as a means of access to or drainage from those houses or buildings or properties.

3—(1) That part of the municipality described in the first schedule is hereby declared to be the sewerage area for the purposes of this Act and is in this Act referred to as “the area”.

Sewerage
area.

(2) The council, after passing a special resolution for that purpose, may, by notice in the *Gazette*, at any time, alter the boundaries of the area and may extend, enlarge, or decrease the area as it thinks fit, and may declare any other portion or portions of the municipality to be a sewerage area or areas and thereupon the land described in the notice shall become and be the area for the purposes of this Act.

(3) The council may exercise in relation to the area all powers and authorities conferred upon it in respect of sewerage by any Act.

Power to
council to
borrow
£500,000.

4—(1) The council, on behalf of the corporation, may borrow on the securities of its revenues in accordance with the provisions of the *Local Government Act 1906* and the *Local Bodies' Loans Act 1881* any sums of money not exceeding in the whole the sum of five hundred thousand pounds for the purposes of this Act.

(2) Any sums borrowed prior to the commencement of this Act in respect of the matters authorised by this Act shall be deemed to have been borrowed under and for the purposes of this Act.

Power to
make and levy
sewerage and
service rate.

5—(1) The council may, once in every year—

(a) make and levy, for the purposes of this Act, a separate local rate (to be called a sewerage rate), subject to adjustment as is provided in subsection (2) of this section, not exceeding one shilling in the pound upon the annual values of all property in the area, as shown by the assessment roll in force and upon which a service rate is not levied under the provisions of paragraph (b) of this subsection;

(b) make and levy a rate (to be called a service rate), not exceeding four shillings in the pound, upon the annual value of every sewered property within the area shown in the assessment roll in force for the time being and may, at the same time, declare that the minimum amount payable as a result of the service rate being struck shall be a sum not exceeding four pounds in respect of every sewered property within the area on which there is a building and a sum not exceeding two pounds in respect of every sewered property within the area on which there is no building.

(2) Where a property becomes a sewered property for the first time, the rate for the then current year shall be a proportion of the sewerage rate payable up to the time the property becomes a sewered property, and thereafter a proportion of the service rate shall be payable for the remainder of that year.

(3) No person shall be liable to the payment of the special sewerage rate in a greater proportion than upon one-half part only of the annual value of any property occupied by that person, unless that property is actually a sewered property.

(4) Every rate made and levied by the council under this Act shall be made, recoverable, and payable by the like persons, and in the like manner, as any other rate made by the council.

(5) In default of payment on demand of any rate made and levied by the council under this Act, it shall, until payment thereof, be a charge on the land in respect of which it is levied.

6—(1) Except as provided by or under any Act, every property upon which any building is erected, belonging to or used by or on behalf of the Crown, or any person or body of persons, corporate or unincorporate, notwithstanding that the property may be otherwise exempt from any tax or rate which may be imposed or levied by the council, shall be subject to the sewerage rate and service rate made and levied in pursuance of this Act, and in that case the Crown or the person or body of persons, as the case may be, shall be deemed to be the owner of the property for the purposes of this Act.

Property used by Crown, &c., to be subject to rates under this Act.

(2) The Crown or any person or body of persons, corporate or unincorporate, may, in any case referred to in subsection (1) of this section, commute its liability to pay any rate by contribution of an annual sum to be agreed upon between the council and the Treasurer of the State or of the Commonwealth, as the case may be, or the relevant person or body of persons.

Power of Crown and others to pay annual sum in lieu of rate.

(3) Notwithstanding anything elsewhere contained in this section, the Crown shall be liable for rates only in respect of services actually rendered by the council.

7—(1) The council may, at the request of the Minister for Lands and Works or of any public authority, provide water-closets or drains, appliances, apparatus, and connections, and perform any works, matters, or things necessary to be provided or performed for any premises belonging to Her Majesty or the public authority, as the case may be, and the cost and expenses thereof shall be a debt due by and recoverable from Her Majesty or that public authority, as the case may be.

Power of council to supply Crown premises, &c., with closets, &c., and make charges.

(2) The council may enter into any contract or arrangement with the Commonwealth for sanitary works or sanitary services, and may receive payment in pursuance thereof.

8—(1) The council may—

- (a) construct, repair, maintain, and have charge of, and supervision and control over, all such sewers, drains, and other works as the council may think necessary for the purpose of this Act;
- (b) make, perform, construct, and establish such drains, connections, and other things connecting all or any private premises and other premises within the area with those sewers, and to erect and construct on those premises all necessary conveniences, and equip them with such fittings, as the council may think fit;
- (c) within or without the area, for any of the purposes mentioned in this section, by its officers, surveyors, engineers, agents, contractors, or servants—

Power to construct sewers, &c.

- (i) enter, at all reasonable hours in the day time, into or upon any lands, and make surveys, take levels, and sink bores and shafts, without becoming liable to any legal proceedings in respect thereof;
- (ii) open and break up any street;
- (iii) blast any rock;
- (iv) carry any sewers or works constructed or executed for the purposes of this Act through, across, over, or under the shores, bed, and waters of the sea, or the bed, waters, banks, and shores of any river, creek, stream, or watercourse, or any road or any street or place laid out as, or intended for, a street, or through or under any cellar or vault under the carriage-way or pavement of any street, and into, through, or under any lands;
- (v) subject to subsection (2) of this section, construct ventilating shafts, pipes, tubes, or other apparatus, and carry them up the exterior wall of any building, whether a public building or a private building, and make use of the chimney of any public building or of any factory or of any tramway building as a ventilating shaft or tube;
- (vi) cause the drainage from sewerage construction works to flow along any drain or watercourse during the course of the construction;
- (vii) contract to supply any person, for any period not exceeding twenty-one years, with dried sewage, sludge, or other treated sewage on such terms as to the council may seem fit; and
- (viii) contract to take from any person, within or without the area, for treatment at any sewage depots or similar works established by the council, any refuse, offal, abattoir waste, or other matter.

(2) Every ventilating shaft, pipe, or tube constructed in pursuance of sub-paragraph (v) of paragraph (c) of subsection (3) of this section shall be so constructed that the mouth thereof is at least six feet higher than any window or door situated within a distance of thirty feet from the shaft, pipe, or tube.

Power to
drain
through or
under
premises.

9—(1) Where, in the opinion of the council or its proper officer, it is necessary or expedient for the proper drainage of any land, street, lane, right-of-way, yard, passage, premises, or other place within the area that drains or sewers should be made through or under any number of premises,

whether the premises are occupied or not, the council may, in default of agreement between the council and owner of the premises, or any of them, serve a notice on the owner or owners of the premises requiring every one of those owners to permit the formation of the drains or sewers through or under the premises, and, after the expiration of fourteen days from the service of the notice, the council may form or make through or under the premises such drains or sewers as may, in the opinion of the council, be necessary for the proper drainage of the land, street, lane, right-of-way, yard, passage, premises, or other place; but so that the drains or sewers are made and maintained in good order so as not to be a nuisance or injurious to health.

(2) Where the council has, under the powers conferred by this section, formed or made any drain or sewer through or under premises, the council shall not be required to pay any compensation therefor to the parties interested, except in reference to any buildings, paths, wall, or fence that may be injured or interfered with by the drain or sewer, or by the making thereof, and which the council has not reinstated or repaired.

(3) Where any entry is made upon any private land, the council shall pay to each owner and occupier thereof, such equitable compensation for any damage or inconvenience suffered by the owner and occupier respectively as is agreed upon between the owner and occupier and the council, and in case of dispute the compensation shall be recoverable from the council by action in any court of competent jurisdiction.

10—(1) The council may, by notice in writing, require any person to whom any water-pipes, gas-pipes, or tramways, or any electric conductors or other works, belong, to raise, sink, or otherwise alter the situation thereof in such manner and within such time as is specified in the notice, and, if the notice is not complied with, the council may make such alterations as it may think necessary.

Alterations
of gas-pipes,
water-pipes,
&c.

(2) The expenses attendant upon or connected with any alterations so made by the council shall be borne by the council.

(3) All or any of the powers conferred by this section may be exercised by the council outside the boundaries of the municipality for the purposes of outfall or distribution of sewage, subject to the following provisions, namely:—

(a) One month before commencing the construction of the work outside those boundaries, the council shall—

(i) Give notice of the intended work, by advertisement in a newspaper, describing the nature of the intended work, and stating the streets and lands, if any, through, across, under, or on which the work is to be carried out, and naming a place where a plan of the intended

work may be seen at all reasonable hours; and

- (ii) Send a copy of the notice to the owners and occupiers, or reputed owners and occupiers, of the lands through, across, under, or on which, and to the local authority having control of the area in which, the work is intended to be carried out; and

- (b) If the owner, occupier, or local authority, or any person who would be affected by the work, gives to the council notice, in writing, of any objection to the work, the council shall not commence the work without the sanction of the Governor, who may direct an enquiry to be made into the matter of the objection, and may appoint such person as he thinks fit to make the enquiry.

Power to enlarge or discontinue any sewer or drain.

11—(1) Subject to this section, the council may enlarge, lessen, alter the course of levels of, cover in, or otherwise improve any sewer or drain belonging to it, or may discontinue, close up, or destroy any sewer or drain belonging to it that has, in its opinion, become unnecessary, on condition that it provides a sewer or drain as effectual for the use of any person who may be deprived in pursuance of this section of the lawful use of any sewer or drain.

(2) The council shall ensure that the discontinuance, closing up, or destruction of any sewer or drain pursuant to this section is done so as not to create any permanent nuisance.

Power to construct works for disposing of sewage, &c.

12—(1) Subject to this section, the council may, for the purpose of collecting, receiving, storing, disinfecting, purifying, distributing, or otherwise disposing of sewage, street refuse, and house refuse, and of cleansing and flushing sewers and drains—

- (a) construct any works, and erect and establish any machinery and plant, that the council may deem necessary, either within or without the area;
- (b) contract for the use of, and purchase, exchange, or take on lease, any buildings, engines, materials, or apparatus, either within or without the area; and
- (c) enter into an agreement with the owners of properties outside the area to sewer those properties on such terms and conditions as the council may think fit.

(2) The council shall ensure that no nuisance is created in the exercise of any of the powers conferred on it by this section.

13—(1) Subject to this Act, the council may, for the purposes of this Act, purchase or take, and may sell, lease, or exchange any land situated within or without the area.

Power to purchase, take, lease, sell, or exchange lands.

(2) Any land so purchased or taken that is no longer required for the purpose for which it was purchased or taken may be sold by the council at the best price that can be obtained for it.

14—(1) The council shall cause all sewers and drains within the area to be constructed and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied, and, for the purpose of clearing, cleansing, and emptying them, may construct and erect such works as appear to it to be necessary, and may cause all or any of those sewers and drains to communicate with, and be emptied into, such places as it may think necessary or desirable.

All sewers, &c., constructed so as not to be a nuisance.

(2) The council may not, under this section, cause or suffer a nuisance to exist or contravene the *Rivers Pollution Act 1881*.

15 No person shall—

- (a) take up, remove, demolish, or otherwise interfere with, or cause any private sewer or drain to be emptied or to flow into, any sewer or drain under the control of the council, or any part of a sewer or drain under the control of the council, without having previously obtained the permission, in writing, of the council;
- (b) wilfully or negligently damage any sewer, bank, defence-wall, penstock, grating, gully, side entrance, tide-valve, flap, work, or thing vested in the council;
- (c) cause or permit to be discharged into any sewer any solids or liquids (other than ordinary domestic sewage) liable to cause the generation of gases injurious to human life or health, or to cause injury to the council's sewers or purification works, or to lessen the carrying capacity of the sewers, or to interfere with the treatment of the sewage;
- (d) cause or permit to flow or pass, or to be carried from any manufactory or business or other premises of any person any—
 - (i) benzine, naphtha, ether, or carbon bisulphide;
 - (ii) inflammable or explosive materials; or
 - (iii) other material which, separately or in conjunction or in combination with water or sewage or other materials, is liable to form inflammable or explosive compounds,

Penalties on persons interfering with sewers.

into any sewer or drain or any pipe communicating therewith; or

- (e) do any act by which the sewage or drainage of the area or any part of the area may be obstructed or injured.

Penalty: Twenty pounds and a daily penalty of five pounds.

Buildings, &c.,
not to be
erected in,
over, or under
sewers.

16—(1) If any person erects, constructs, or makes any building, wall, fence, bridge, mound, embankment, excavation, tunnel, or work in, upon, over, or under any sewer or drain, without the previous consent, in writing, of the council—

- (a) the council may demolish and remove the building, wall, fence, bridge, mound, embankment, excavation, tunnel, or work and perform any works necessary for restoring or reinstating the sewer or drain; and
- (b) that person, and any person who has directed the building, wall, fence, bridge, mound, embankment, excavation, tunnel, or work to be erected or constructed, shall be guilty of an offence against this Act, and shall be jointly and severally liable for the expenses incurred by the council, and those expenses may be recovered by the council by action in any court of competent jurisdiction.

(2) No person shall—

- (a) erect or place any obstruction or encroachment in, upon, over, or under any sewer or drain; or
- (b) obstruct, fill in, or divert any sewer or drain vested in the council without the previous consent, in writing, of the council.

Penalty: Twenty pounds and a daily penalty of five pounds.

(3) Nothing in this section shall operate to prevent or impede the maintenance, repair, or renewal of any building, wall, bridge, fence, or other structure under which a sewer or drain has been constructed, but the maintenance, repair, or renewal thereof shall be effected so as not to injure or obstruct the sewer or drain.

Penalty on
person
placing
refuse, &c.,
in sewers.

17 No person shall, except as prescribed, sweep, rake, or place any house refuse, soil, rubbish, or filth or any other thing, into or in any sewer or drain, or over or contiguous to any grate communicating with any sewer or drain, or into any dock or inlet communicating with the mouth of any sewer or drain, or into which any sewer or drain discharges its contents, or into any river contiguous thereto.

Penalty: Ten pounds.

18—(1) No person shall, within the area, without the written consent of the council, cause any building to be erected over any sewer or drain. No building to be erected over sewer.

Penalty: Five pounds and a daily penalty of two pounds after written notice in that behalf from the council.

(2) The council may cause any building erected in contravention of this section to be altered, pulled down, or otherwise dealt with as it thinks fit, and may recover from the offender in any court of competent jurisdiction any expenses incurred by it in so doing.

19 Except as prescribed, no person shall wilfully or negligently throw or cast, or allow to be thrown or cast, or to flow or fall into any of the stormwater channels, drains, or sewers within the area any refuse, filth, dirt, grease, or decomposed substance, or any substance liable to decompose, or any poisonous, noxious, offensive, or unwholesome matter. Refuse, &c., in channels, drains, and sewers.

Penalty: For the first offence, twenty pounds and a daily penalty of five pounds; for every subsequent offence, fifty pounds.

20—(1) The council may, after sewers have been laid in any part of the area, cause a general notice to be given that the council has made provision for carrying such sewage as is specified in the notice, from every property situated in the area which, or any part of which, may, in the opinion of the council be conveniently served by any sewer; and, after such time as is fixed by the council in the notice, every property so situated shall be deemed to be a sewered property within the meaning of this Act. All properties in the area shall be deemed to be sewered properties after general notice given by council.

(2) In addition to the powers conferred on it by subsection (1) of this section, the council may, by a general notice (in this Act referred to as a "further general notice"), order that the owner of every property mentioned in subsection (1) of this section shall, within such time as is specified in the notice, or within such further time as the council may allow, provide such proper water-closet or water-closets, drains, appliances, apparatus, and connections with the sewer or sewers as are prescribed or directed by the council.

(3) The general notice referred to in subsection (1) of this section shall be—

- (a) in accordance with form I. in the second schedule; and
- (b) advertised once in the *Gazette* and once in a newspaper.

(4) The further general notice referred to in subsection (2) of this section shall be—

- (a) in accordance with form II. in the second schedule; and

- (b) given by serving it on the owner of any property which, or any part of which, may, in the opinion of the council, be conveniently served by any sewer.

Owners to submit plans for providing water-closets and connections and to comply with certain requirements.

21—(1) Within one month after a date to be specified in a further general notice, or within such further time as the council (either before or after the expiration of that month) may allow, the owner of every property which, or any part of which, may be conveniently served by any sewer shall, if there are any houses or buildings on the property—

- (a) submit for the approval of the council a plan (including a plan drawn to scale) and specification for providing the property with such water-closet or water-closets, and such drains, appliances, apparatus, and connections, fitted and laid in such manner as may be prescribed in any by-law, or specified in any direction, of the council, and the owner shall, in writing, undertake to carry out the work described in the plan and specification within one month after receipt of notification of the approval of the council, or within such further time as the council may allow; or
- (b) submit for the approval of the council a plan and specification and, in writing, request the council, if it does not approve thereof, to make such alterations and amendments therein as the council considers necessary.

(2) Upon receipt of a plan and specification under this section the council shall give its approval to the plan and specification or specify what alterations it requires, and, if any alterations are required, the owner shall forthwith make them to the satisfaction and approval of the council.

(3) As soon as the council notifies the owner of its approval, the owner shall, in writing, undertake to carry out the work described in the plan and specification within one month or within such further time as the council may allow, or shall, in writing, request the council to carry out the work at the cost and expense of the owner, and thereupon the council shall carry out the work accordingly, and any expenses connected with the preparation of plans and estimates by the council for an owner shall be paid by the owner.

(4) If, within the period of one month referred to in subsection (2) of this section, or such further time as may be allowed by the council in that behalf, any owner has not complied with any of the foregoing requirements of this section, or if, after undertaking so to do any owner has not, within the time limited, provided such water-closet or water-closets and such drains, appliances, apparatus, and connections as are required by or under this section, the council

may order the owner to comply with such of the requirements of the further general notice or the undertaking referred to in subsection (3) of this section as it deems necessary, and, in default of compliance therewith, may itself, at the expense in all things of the owner, carry out such work as it may deem necessary or carry out the undertaking.

(5) The council, by its proper officer, may, at any reasonable time in the daytime after twenty-four hours' notice, in writing, has been given to the occupier or left upon the premises with some person residing thereon, or, if there is no person residing thereon, without notice, enter any premises and ascertain and determine whether any further general notice has or has not been complied with.

(6) The council may cause the works mentioned in this section to be inspected while in progress, and, from time to time during their execution, the proper officer may, in writing, order such reasonable alterations therein or additions thereto as he thinks necessary.

22—(1) At any time before the council has given a general notice under section twenty, the owner of any sewered property may make application in writing to the council for permission to connect a water-closet or water-closets to a sewer and the council may grant the application if in its opinion the owner has sufficient water storage to operate the water-closet efficiently.

Power for owners to apply for permission to connect water-closets.

(2) Upon the council approving of his application under this section, the owner of the sewered property shall submit for the approval of the council a plan (including a plan drawn to scale) and specification for providing the property with such water-closet or water-closets and such drains, appliances, apparatus, and connections fitted and laid in such manner, as may be prescribed in any by-law, or specified in any direction, of the council.

(3) The council shall give its approval to the plan and specification or specify what alterations it requires and the owner may then proceed with the work described in the plan and specification or, in writing, request the council to carry out the work at the cost and expense of the owner, and thereupon the council shall carry out the work accordingly, and any expenses connected with the preparation of plans and estimates for an owner shall be paid by the owner.

(4) The council may cause the works mentioned in this section to be inspected while in progress, and from time to time during their execution the proper officer may, in writing, order such reasonable alterations therein and alterations thereto as he thinks necessary.

Work to be of such materials and as directed by council and carried out by qualified and licensed persons only.

23—(1) All works carried out for the purposes of section twenty-one or section twenty-two shall be of such materials and shall be carried out within such time and in such manner as is directed or approved, in any particular case, by the council or the proper officer, or by any person authorised in that behalf by the council.

(2) Every owner shall, at his own cost, maintain the water-closet and other apparatus, including the fittings thereof, in such condition and repair as the council may require.

(3) All works carried out for the purposes of section twenty-one or section twenty-two shall be carried out only by persons qualified as prescribed and authorised, in writing, by the council to carry out the work, and the authority may be specially limited to a particular installation or to particular classes of work or otherwise, or may be general.

(4) No person shall—

(a) unless he is registered in respect of sanitary plumbing under the *Plumbers Registration Act 1951*, or authorised by the council pursuant to this section so to do, carry out; or

(b) cause or permit any person who is not so registered or authorised to carry out,

any work required for the purposes of section twenty or section twenty-one.

Drainage of houses.

24—(1) All premises within any part of the area to which a general notice or a further general notice under section twenty relates shall have such drains leading to such sewers or other places, and having such a fall and constructed of such material and in such manner as may be satisfactory to the council, and no drains shall be made without the written consent of the council or which fail to comply with such conditions as the council may impose.

(2) Where, in the case of any premises within that part of the area, drains satisfactory to the council have not been made, the council may cause drains to be constructed at the expense of the owner of the premises.

Powers of entry.

25 For the purposes of making, performing, constructing, and establishing drains, conveniences, connections, and other works and things for the purposes of this Act, or of cleansing, renewing, repairing, or amending them, the council, and its surveyors, inspectors, overseers, contractors, and work-

men may enter upon any lands, buildings, or premises at all reasonable hours during the daytime, and, in cases of emergency, at any time, and may do all things necessary or proper for those purposes or any of them, but entry shall be made in every case in such a manner as to interfere as little as possible with the occupier of the land or premises or his business.

26—(1) The council, by its proper officer, may inspect and test any drain, water-closet, sink, trap, pipe, or other apparatus connected therewith within the area, and for that purpose at all reasonable times in the daytime, after twenty-four hours' notice, in writing, has been given to the occupiers of the premises whereon the inspection is to be made, or left upon the premises or, in case of emergency, at any time without notice, by its proper officer enter upon the premises and the proper officer may enter by himself or with workmen and cause the ground to be opened in any place he may think fit, doing as little damage as may be.

Power of council to inspect private premises, &c.

(2) In case any drain, water-closet, sink, trap, pipe, or other apparatus is found, on inspection or testing, to have been made contrary to the provisions of this Act, or to be in bad order and condition, or to require cleansing or repairing, the council shall give notice, in writing, to the owner of the premises, requiring him to do the necessary works within such time as may be specified in the notice.

(3) If the notice is not complied with by the owner of the premises, the council may, if it thinks fit, execute the works, and the expenses incurred by it in so doing shall be paid to it by the owner of the premises, in default whereof these expenses may be recovered from the owner by the council by action in any court of competent jurisdiction.

(4) If the drain, water-closet, sink, trap, pipe, or other apparatus is found, on inspection, to be made to the satisfaction of the council and in proper condition and order, the council shall cause it to be reinstated and made good, and the whole expenses of the inspection and reinstatement shall be defrayed by the council.

27—(1) Where it is deemed necessary by the council that the owner of any premises shall do any act, matter, or thing, or construct any works, the council may, by notice in writing, require the person occupying or in possession of the premises to do that act, matter, or thing, or to construct such works as the council may deem necessary, and the owner and the person occupying or in possession of the premises, shall, if he refuses or neglects to comply with the notice, and within the time specified in that behalf in the notice, shall be liable to a daily penalty of not less than five shillings or more than five pounds.

If owner required to do any act occupier also liable at option of council.

(2) Notwithstanding any covenant or agreement to the contrary, any expense incurred by the person occupying or in possession of premises in complying with a notice under this section, shall be recoverable by that person from the owner in any court of competent jurisdiction as money paid to the use of the owner, or may be deducted from or set off against any rent then due or thereafter becoming due, and the owner from and against whom the expenses are so recovered, deducted, or set off, if he is a tenant to another person of the same premises, may, in like manner, recover, deduct, or set off the expenses.

(3) If the person on whom any notice under this section is served fails to comply therewith, the council may carry out the requirements of the notice, and may recover from that person all costs and expenses incurred by the council in so doing by action in any court of competent jurisdiction.

(4) No occupier of any premises shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which the expenses are payable at the time of the demand made upon him or which at any time thereafter accrues and is payable by him unless he neglects or refuses, upon application made to him for that purpose by the council, truly to disclose the amount of his rent and the name and address of the person to whom the rent is payable, but the burden of proof that the sum demanded of any occupier is greater than the rent which was due by him at the time of the demand or which thereafter accrues shall lie upon the occupier.

(5) Nothing in this section shall affect any agreement entered into between any owner and occupier respecting the payment of the expenses of any works to which this section relates.

Power of council to apportion costs of expenses where persons jointly liable.

28 Where, under the authority of this Act—

- (a) two or more persons are, or may be, directed by the council to do, or join in doing, any act or to pay or join in paying any sum of money, costs, or expenses; or
- (b) the council permits two or more persons to join in doing any act or paying any sum of money, costs, or expenses,

the council may apportion the matter to be done or the sum of money, costs, or expenses to be paid between those persons in such manner as the council considers just and reasonable.

Power to recover costs of performing works.

29—(1) Where the council provides any water-closets or drains, or any appliances, apparatus, or connections, or carries out on any property any works, matters, or things under this Act pursuant to the request of the owner of any property or in default of the compliance of the owner with any lawful notice, order, or direction of the council, the

costs and expenses thereof shall be paid by the owner of the property, and may be recovered as provided by the *Rates and Charges Recovery Act 1936*, after the expiration of one month from the time when the proper officer certifies, in writing, to the council that they have been provided or carried out and the amount of the costs and expenses.

(2) At the request of the owner the council may accept payment of any costs and expenses to which this section relates by forty quarterly instalments, bearing interest on such portion as from time to time remains unpaid at a rate not exceeding one pound per centum per annum more than the rate of interest payable by the council at the time of the request on moneys borrowed by it for the purposes of this Act; but so that in no case shall the interest be at a rate less than five pounds per centum per annum.

(3) A request under subsection (2) of this section shall be made in writing, and shall be signed by the owner, and shall be lodged with the council within a period of one month from the time of the owner being notified, in writing, by the council of the amount of the costs and expenses.

(4) The first quarterly instalment shall be payable immediately upon the expiration of the period referred to in subsection (3) of this section.

(5) The owner may at any time pay to the council such portion as then remains unpaid of any costs and expenses to which this section relates, together with interest thereon, to the date of payment.

(6) Every notification under subsection (3) of this section shall set forth the conditions upon and subject to which payment by instalments may be made as provided in this section.

(7) If any of the instalments or any interest is not paid within fourteen days after the due date thereof, the whole amount then unpaid of the costs and expenses, with interest thereon, shall, if the council so desires, become due and payable by, and may be recovered from, the same persons and in the same manner as is provided by the *Rates and Charges Recovery Act 1936* for the recovery of costs and expenses, and payment of any instalment and interest may be recovered in like manner.

(8) The certificate, in writing of the proper officer shall be *primâ facie* evidence that the water-closet, drains, appliances, apparatus, or connections have been provided or the works, matters, or things have been carried out, as the case may be, and *primâ facie* evidence as to the amount of the costs, expenses, and interest recoverable in respect thereof.

30 The council may, by order in writing—

- (a) require the owner or occupier of any premises situated within any part of the area to disinfect, empty, cleanse, fill in, and close, to the satisfaction of the council, all cesspools and bacteriolytic tanks used in connection with the premises; and

Prohibition of use of septic tanks or other sewers.

- (b) prohibit the owner or occupier of any premises situated within any part of the area from using any existing drain or sewer for the purpose of carrying sewage from the premises.

Powers of Trustees.

31 Where the owner of any premises is a trustee, he may apply any of the funds under his control in relation to the premises in defraying any rates, charges, costs, or expenses necessarily or properly incurred by him under this Act as the owner thereof.

Powers of agents.

32 An agent may deduct from any moneys held by him for his principal all rates, charges, costs, and expenses necessarily or properly incurred and paid by him under this Act as the owner of any premises for which he is the agent of the principal, or he may recover, from the principal the amount so incurred and paid by action in any court of competent jurisdiction.

Lessee's right of removing buildings controlled.

33 Where, under a lease or tenancy agreement, whether executed or entered into before or after the commencement of this Act, the lessee or tenant has the right to remove buildings at the end of his term or tenancy, he shall not be entitled, notwithstanding any term, condition, or covenant in the lease or agreement to remove the buildings or any part thereof unless—

- (a) he first pays to the council all the costs, expenses and interest payable under this Act in respect of any drains, appliances, apparatus, and connections constructed for the purposes of the buildings or parts thereof; and
- (b) the removal of the buildings or parts can be effected without injury to the drains, appliances, apparatus and connections, or the consent, in writing, of the council to the removal is obtained.

Power of council to contract with owner for making, altering, or enlarging sewers or drains.

34—(1) The council may agree with the owner of any premises that any sewers or drains required to be made, altered, or enlarged by the owner shall be made, altered, or enlarged by the council.

(2) The cost of so making, altering, or enlarging any sewers or drains, as certified by the proper officer, shall be repaid by the owner to the council, in default whereof, it may be recovered from the owner by the council by action in any court of competent jurisdiction.

Private sewers to be cleansed.

35 All private sewers or drains that communicate with any sewer vested in the council, together with the portion of any sewer lying between the premises drained and the sewer with which it so communicates, and all fittings and apparatus connected therewith, shall, from time to time, be

repaired and cleansed under the inspection and direction of the proper officer at the cost and expense of the owner or occupier of the land or premises in respect of which the sewers or drains have been constructed.

36—(1) Where it is desired by any person to abandon, either wholly or in part, or to extend, contract, or alter any design for a sewer or drain previously approved by the council, notice, in writing, of his desire so to do shall be given to the council by the person by whom the approval has been obtained, and shall be accompanied by plans and sections showing the nature of the abandonment, extension, contraction, or alteration desired, and no abandonment, extension, contraction, or alteration whereof shall be made without the previous approval, in writing, of the council.

Abandonment, alteration, &c., of designs for sewers previously approved.

(2) No person shall abandon wholly or in part, or extend, contract, or alter in construction any drain or sewer approved by the council without the approval of the council.

37 If any sewer or drain approved by the council is not constructed within twelve months from the date of the approval, the works for the construction of the sewer or drain shall not be executed without a fresh approval by the council, and that approval shall be applied for and obtained in like manner as the original approval for the construction of the sewer or drain.

If sewer not constructed within twelve months fresh consent to be applied for.

38—(1) A person who intends to make or branch any sewer or drain into a sewer vested in the council shall, seven clear days before commencing any works for that purpose, make written application to the council, accompanied by a plan showing such particulars as are required by any by-law or direction of the council.

Seven days' notice to be given before drains can be branched into main sewers.

(2) No such work shall be—

(a) commenced until the approval, in writing of the council has been given; or

(b) proceeded with or executed except under the immediate direction of the proper officer.

39—(1) No person shall make or branch, or cause to be made or branched, any sewer or drain, or make, or cause to be made, any opening into any sewer vested in the council without the approval, in writing, of the council.

Construction of private sewers and drains.

(2) Any person may, with the approval, in writing, of the council, at his own expense, make or branch any drain into any sewer vested in the council or any part thereof which is so far completed as to be ready for use in any street or other place within the area, but so that the drain is of such construction, size, and materials, and conforms to such conditions, and is branched into the sewer and ventilated in such manner and form, in all respects, as the council directs or as may be prescribed.

(3) No person shall—

- (a) without the approval, in writing, of the council, make or branch any sewer or drain, or make any opening into any of the sewers vested in the council; or
- (b) make or branch any drain of different construction, size, or materials, or under other conditions, or in any other manner or form, than as may be directed by the council or as may be prescribed.

Penalty: Fifty pounds.

(4) The council may cut off the connection between any drain and the sewer, or, if it thinks fit, may execute the necessary works for making the drain conformable to its by-laws or directions at the expense of the person making or branching the drain, and the expenses incurred by the council in so doing may be recovered under the *Rates and Charges Recovery Act 1936*.

Saving of Acts.

40 Nothing in this Act shall be construed in derogation of the *Public Health Act 1935*, or the *Building Act 1937*.

Drainage of adjacent lands.

41 Where any land is subdivided into holdings or allotments abutting back to back, side to back, or side to side, without any passage or right-of-way between them, the council may, notwithstanding anything to the contrary in this Act, make and provide, at such place or places as it may determine, any drain or sewer which it deems necessary for the proper drainage of those holdings or allotments, without making any compensation therefor to parties interested, except in relation to any building that may be injured or interfered with by the drain or sewer, or the making thereof and which the council has not reinstated or repaired.

Service on owners and occupiers.

42—(1) Any notice or order under this Act may be in print or in writing, or partly in print and partly in writing, and a copy of the provisions of subsection (4) of this section shall be set forth therein.

(2) Except as otherwise expressly provided in this Act, where any notice or order is required to be given to the owner or occupier of any house, building, land, or premises, the notice or order addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of the house, building, land, or premises, or left with some person residing therein or thereon, or, if there is no occupier, may be put up on some conspicuous part of the house, building, land, or premises.

(3) When the owner of any house, building, land, or premises, and his place of residence, are known to the council, the council shall, if the place of residence is within the municipality, cause every notice or order required to be given to the owner to be served on the owner or left with some other person residing at his residence, and, if the owner

is not resident within the municipality, shall send the notice or order by registered letter, addressed to the owner at his last known place of residence.

(4) The occupier of any house, building, land or premises on which there is served any notice or order affecting the owner of the house, building, land, or premises shall send the notice or order forthwith by registered letter, addressed to the owner at his residence.

(5) It shall not be necessary in any notice or order to mention the name of the owner or occupier, and it shall be sufficient to designate him as "the owner" or "the occupier" of any house, building, land, or premises without further description.

(6) All notices or orders required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under that owner or occupier to the same extent as if the notice or order had been served on the lastmentioned persons respectively.

43—(1) Any occupier of any premises who prevents the owner thereof, or any authorised person, from carrying into effect with respect to those premises any of the provisions of this Act or any order or direction of the council made in pursuance of this Act shall be liable to a daily penalty of five pounds. Offences by occupiers.

(2) No occupier of any premises, when requested by or on behalf of the council to state the name and address of the owner of the premises occupied by him, shall refuse or wilfully fail to disclose, or wilfully mis-state, that name and address.

Penalty: Twenty pounds.

44—(1) No person who has received permission to connect a private sewer or drain with any sewer vested in the council shall— Offences generally.

(a) fail to repair or cleanse the branch, sewer, or drain, according to the directions of the proper officer; or

(b) wilfully permit any other person, not having the authority or consent of the council, to use the sewer or drain or any branch into it.

Penalty: Twenty pounds.

(2) The council may cut off from its sewer the sewer or drain of every person offending against the provisions of this section.

45 Every person who is guilty of an offence against this Act, shall, be liable to the penalty expressly imposed by or under this Act, or if no penalty is so expressly imposed, he shall be liable to a penalty of twenty pounds and, in the case of a continuing offence, to a daily penalty of five pounds. Penalties.

Recovery of penalty not to prejudice right of council to take other proceedings.

46—(1) Every penalty imposed upon any person by or under this Act shall be without prejudice to the right of the council to recover from that person—

- (a) any sum for damage sustained by it through his act or default; and
- (b) the costs and expenses incurred by it in remedying the damage.

(2) The payment of any penalty shall not bar or affect the right of the council to bring any action or to take any proceedings against the person offending against the provisions of this Act.

Penalties recoverable by council.

47—(1) All penalties imposed by or under this Act for offences committed within the area or in respect of any part of the undertaking of the council, may be recovered by the council or by any person thereto authorised by it.

(2) All penalties, when recovered, shall be paid into the sewerage revenue account, and shall be applied to the purposes of the council in connection with sewerage.

Appropriation of penalties: Complaint, &c., in name of council.

48—(1) In any proceedings for the recovery of penalties under this Act or under any by-law thereunder, the complaint may be laid and made in the name of the council, and in any case may be laid and made by the clerk or some officer of the council appointed generally or in respect of any particular proceedings.

(2) The clerk or other officer shall be reimbursed out of the sewerage revenue account any damages, costs, charges, or expenses to which he is put or with which he is chargeable by reason of anything contained in this section.

Power to make by-laws.

49 The council may make by-laws for the purposes of this Act, and, in particular and without prejudice to the generality of the provisions of this section, may make by-laws—

- (a) prescribing and regulating the mode in which the duties imposed upon, and the authorities and powers conferred upon or exercisable by, the council shall be or may be performed;
- (b) prescribing charges to be payable under this Act;
- (c) prescribing measures for protecting the council's undertaking and every part thereof from trespass or injury;
- (d) prescribing and regulating the drainage of streets into sewers, and the drainage of waste water (other than storm water) from factories and other buildings and premises connected therewith;

- (e) prescribing and regulating the dimensions, form, and mode of construction and the materials, and the keeping, cleaning, and repairing, of the pipes, drains, and other means of communication with sewers and the fittings and apparatus connected therewith, and the emptying, closing, cleansing, and filling up of sinks, cesspools, bacteriolytic tanks, and privies, and such other works of cleansing and of removing and disposing of refuse as the council is authorised to perform;
- (f) prescribing and regulating the manner of the admission to drains or sewers of any land drainage, surface or otherwise, or rain-water from roofs, yards, streets, or other surfaces, whether by inlets specially designed to admit it or by any other inlet or opening so placed that the water may gain access thereto, and prohibiting, except as prescribed, the admission of rain-water thereto;
- (g) prescribing the positions in which any inlets or openings may be placed and prohibiting the placing thereof in such positions that any extraneous water from any river, bay, gully, or creek, or any other source, whether in flood or otherwise, may gain access to drains or sewers;
- (h) regulating and prohibiting the provision of water-closets or the fitting or laying of drains, sinks, traps, appliances, apparatus, or connections in cellars or basements;
- (i) prescribing the cases in which, and the manner in which, the discharge into any drain or sewer of any solid or liquid other than ordinary domestic sewage may be permitted; and
- (j) generally regulating the management and use of the property of the council and of its undertaking and the construction, completion, maintenance, and extension thereof.

50 A by-law under this Act may—

- (a) impose a penalty for any breach thereof and also different penalties in case of successive breaches, but so that no penalty so imposed exceeds twenty pounds;
- (b) impose a daily penalty for any breach thereof, but so that no penalty so imposed exceeds one pound per day;
- (c) provide that, in addition to a penalty, any expenses incurred by the council in consequence of the breach of a by-law or in the execution of work directed by the by-law to be executed by any

General provisions to by-laws.

person, and not executed by him, shall be paid by the person committing that breach or failing to execute that work; and

- (d) require any work or thing to be executed or done of or in such materials, within such time, or in such manner, as is directed or approved in any particular case by the council or the proper officer or by any person authorised by it, and require works to be executed only by qualified persons licensed by the council.

THE FIRST SCHEDULE.

(Section 3.)

TOWN OF BELLERIVE.

The Town of Bellerive, as proclaimed 3rd July, 1866, and March, 1892.

TOWN OF LINDISFARNE.

The Town of Lindisfarne, as proclaimed on the 6th November, 1904.

TOWN OF WARRANE.

Commencing at the north-western angle of 181 acres granted to G. Mercer on the Kangaroo Bay Rivulet and bounded by the north and by part of the east boundaries of that land by the north boundaries of 11 acres 1 rood 29 perches and 10 acres 0 roods 15 perches purchased by W. Murray of 10 acres 0 roods 33 perches purchased by A. C. Douglas and S. G. Fletcher of 9 acres 3 roods 26 perches purchased by W. Murray and of 9 acres 2 roods 25 perches also purchased by W. Murray by part of the north boundary of 9 acres 3 roods 38 perches also purchased by W. Murray by a west and by the north boundary of 82 acres 1 rood 8 perches granted to G. E. Featherstone by part of a west boundary of a location to J. Pearsall by the west and by the north boundaries of 35 acres 1 rood 30 perches granted to P. H. McArdell and others by the north boundary of 42 acres granted to J. Pearsall by a west and by a south and again by a west boundary of 1956 acres granted to G. Stokell by the south-east boundary of 62 acres 3 roods 37 perches purchased by H. Holtz thence by a continued south-westerly line to the south-eastern angle of 20 acres purchased by J. Purcell by the east the north and the west boundaries of that land by a north-westerly line to the north-eastern angle of 188 acres claimed by F. Pedder by a south-westerly line to the eastern angle of 48 acres 2 roods 0 perches granted to T. G. Gregson by the south-eastern boundary of that land thence by a creek to a point opposite an eastern angle of 970 acres granted to E. P. Wilson A. G. Webster and C. P. Davis by part of a south-eastern boundary of that land after crossing that creek by the north-eastern boundary of a location to J. Sanderson to the Kangaroo Bay Rivulet aforesaid and thence by that rivulet after crossing same to the point of commencement.

TOWN OF MONTAGU BAY.

Commencing at the south-west angle of the Town of Lindisfarne on Lindisfarne Bay on the River Derwent (in the vicinity of the Red Gate) and bounded by the south-eastern boundary of that town for a distance of 87 chains 86 links in several bearings to Kangaroo Bay Rivulet crossing the road Bellerive to Risdon by that rivulet to Kangaroo Bay on the River Derwent aforesaid (re-crossing the road from Bellerive to Risdon aforesaid) and thence by that river to the point of commencement.

THE SECOND SCHEDULE.

(Section 20.)

FORM I.

MUNICIPALITY OF CLARENCE.

GENERAL NOTICE.

The Clarence Municipal Council having made sewers for carrying off the sewage from which are situated on each and every property, which or any part of which, is included in the area hereinafter described doth hereby declare that on and after the _____ day of _____ 19____ each and every property, which or any part of which, is included in the said area shall be deemed to be a sewered property within the meaning of the said *Clarence Sewerage Act 1952*.

The boundaries of the sewerage area hereinbefore referred to are *(here describe them)*

By Order of the Council

..... Council Clerk.

FORM II.

MUNICIPALITY OF CLARENCE.

FURTHER GENERAL NOTICE.

The Clarence Municipal Council having made sewers for carrying off the sewage from which are situated on each and every property which, or any part of which is included in the area hereinafter described, doth hereby order as follows (that is to say) :—

- (1) Within one month after the _____ day of _____ 19____ or within such further time as the council, either before or after the expiration of such one month, allows the owner of each and every property which, or any part of which, is included in the said area shall, if there are any houses or buildings on such property—
 - (a) Submit for the approval of the council a plan (including a map drawn to scale) for providing such property with such water-closet or water-closets and such drains, appliances, apparatus, and connections, fitted and laid in such manner as set forth in any by-law or direction of the council, and such owner shall, in writing, undertake to carry out the work described in such plan and specifications within one month after the receipt of notification of the approval of the council or within such further time as the council may allow; or
 - (b) Submit for the approval of the council a plan as aforesaid and, in writing, request the council, if it does not approve thereof, to make such alterations and amendments therein as the council considers necessary, and thereupon the council shall do so or give its approval to the first named plan and specification, and, if any alterations are required the owner shall forthwith make the same to the satisfaction and approval of the council. As soon as the council notifies the owner of its approval, such owner shall, in writing, undertake to carry out the work described in such plan and specification within one month or within such

further time as the council may allow, or shall, in writing, request the council to carry out the same at the cost and expense of the said owner and thereupon the council shall do so. Any expenses connected with the preparation of plans and estimates by the council for an owner shall be paid by the owner.

- (2) If, within such period of one month or such further time as aforesaid any such owner has not complied with any of the foregoing requirements or, if, after undertaking so to do, any such owner has not, within the time limited, provided such water-closet or water-closets and such drains, appliances, apparatus, and connections as aforesaid, then the council may order such owner to comply with such of the requirements of this further general notice or the said undertaking as it deems to be necessary, or may carry out such undertaking, and, in either case, at the expense of the owner.
- (3) In the event of the council executing the work, the council will, if so requested, accept payment of the costs and expenses by forty quarterly instalments, bearing interest at a rate not exceeding one pound per centum per annum more than the rate of interest payable by the council at the time of the request on moneys borrowed by it for the purpose pursuant to the *Clarence Sewerage Act 1952*, or the whole may be paid off at any time, with interest as aforesaid to the date of payment or by twenty equal half-yearly instalments on the thirtieth day of June and the thirty-first day of December in each year with interest for the balance for the time being owing at the rate aforesaid.
- (4) The area hereinbefore referred to is (*here describe it*).
- (5) The by-laws of the council can be inspected at the office of the council situate at the Council Chambers, Bellerive.

By Order of the Council,

..... Council Clerk.

CIRCULAR HEAD MARINE BOARD LOAN (No. 2).

No. 84 of 1952.

AN ACT to amend the *Circular Head Marine Board Loan Act 1950*. [12 December, 1952.]

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 citation.

1—(1) This Act may be cited as the *Circular Head Marine Board Loan Act (No. 2) 1952*.