

been payable in respect of the proceedings if all documents used therein had been prepared by the clerk of petty sessions, and that amount shall for purposes of recovery be deemed to be costs ordered under section seventy-seven.

“(3) Fees under subsection (2) of this section that relate to the preparation of documents that were prepared not by the clerk of petty sessions but by the complainant shall when recovered be paid over to the complainant.

“(4) Except where otherwise expressly provided by this Act fees shall not be taken in respect of any proceedings in cases of indictable offences whether dealt with summarily or not.”.

Rule committee and rules of procedure.

5 Section one hundred and forty-four of the Principal Act is amended by adding, at the end thereof, the following subsection:—

“(6) Where rules are made under this section for the issue of summonses for summary offences without a prior complaint, such a summons shall contain a statement of the charge to be answered, which statement shall be deemed to be a complaint made before a justice and the summons to be a summons issued thereon.”.

LOCAL GOVERNMENT.

No. 20 of 1965.

AN ACT to amend the *Local Government Act* 1962. [22 June 1965.]

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 *Local Government Act* 1965.

(2) The *Local Government Act* 1962, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section four hundred and twenty-five of the Principal Act is amended by omitting paragraph (c) of subsection (4) and substituting therefor the following paragraphs:—

Building Regulations.

“(c) incorporate by reference—

- (i) any of the standard rules, codes, and specifications of the bodies known as the Standards Association of Australia and the British Standards Institute and of any similar institution;
- (ii) any part of a publication on building of the Commonwealth Experimental Building Station, the Building Research Station, and the Joint Fire Research Organization in the United Kingdom, or any similar organization; and
- (iii) any standard rules or specifications approved by the Minister and published as he may direct;

“(ca) provide that a reference—

- (i) to any rules, code, specification, or publication mentioned in paragraph (c); or
 - (ii) in any such rules, code, specification, or publication to any other such rules, code, specification, or publication,
- shall be read as a reference to those rules or that code, specification, or publication as from time to time amended or replaced by the institution, organization, or person that issued them or it;”.

3—(1) Sections four hundred and fifty-two to four hundred and fifty-five of the Principal Act are repealed.

Building appeals.

(2) After section four hundred and sixty-one of the Principal Act the following Division is inserted:—

“*Division IA—Building appeals.*

“461A In this Division—

Interpretation.

‘the Board’ means the Building Appeal Board constituted under section four hundred and sixty-one B;

‘the Panel’ means the Building Appeal Board Panel constituted under section four hundred and sixty-one F.

“461B—(1) There shall be a Board of Appeal to be called the ‘Building Appeal Board’, which shall consist of five members appointed by the Governor, of whom—

Building Appeal Board.
No. 41, 1919
(N.S.W.),
ss. 317AB,
317AC.

(a) one shall be the chairman;

- (b) one shall be an architect selected by the Governor from three architects nominated by the Royal Australian Institute of Architects, Tasmanian Chapter;
- (c) one shall be a structural engineer selected by the Governor from three structural engineers nominated by the Institution of Engineers, Australia, Tasmanian Division;
- (d) one shall be a member of the Australian Institute of Builders, Tasmanian Chapter, selected by the Governor from three members of that Institute nominated by that Chapter; and
- (e) one shall be an alderman or councillor selected by the Governor from four such officers nominated by the Municipal Association.

“(2) The members of the Board shall, subject to this Division, hold office for three years.

“(3) The Minister may in the case of the absence through sickness, disqualification, or otherwise of a member other than the chairman from time to time appoint a deputy member to act in the place of that member.

“(4) A deputy member so appointed shall be a member of the Panel and shall be a person nominated to the Panel by the same body which nominated the member of the Board in whose place the deputy member is appointed to act.

“(5) A person shall not be concerned to inquire whether or not any occasion has arisen requiring or authorizing a deputy member to act in the place of a member and all acts and things done or omitted to be done by a deputy member when so acting shall have the same consequences as if they had been done or omitted to be done by the member in whose place the deputy member has acted.

“(6) An officer or servant of a municipality shall not be a member of the Board except as provided in paragraph (e) of subsection (1).

Chairman
and quorum.
Ibid., s. 317AD.

“461C—(1) The chairman, or in his absence the person known as the deputy chairman, of the Board shall preside at the meetings of the Board.

“(2) In the absence of the chairman and of the person known as the deputy chairman of the Board from a meeting of the Board the members present at the meeting may elect from amongst their number a vice-chairman to preside at that meeting.

“(3) The deputy chairman and any vice-chairman have when so presiding all the powers and authorities of the chairman.

“(4) Where the voting on a question at a meeting of the Board is equal the chairman may have a casting vote in addition to his deliberative vote.

“(5) Three members of the Board form a quorum.

“461D—(1) A member or deputy member of the Board is disqualified from acting and shall not act as a member or deputy member on an appeal to the Board or on any reference to the Board under this Division with respect to any building of which he is the owner, architect, or engineer or in which he is in any manner directly or indirectly interested.

Disquali-
fication.
Ibid., s. 317AB.

“(2) A member or deputy member of the Board being an alderman or councillor is disqualified from acting and shall not act as a member or deputy member on an appeal relative to a building proposed to be erected in the municipal district of the municipality of which he is an alderman or councillor.

“461E A member or deputy member of the Board is entitled to receive such remuneration and such travelling and other expenses as may be prescribed.

Remunera-
tion of
members.
Ibid., s. 317AF.

“461F—(1) There shall be a Building Appeal Board Panel consisting of fourteen members appointed by the Governor, of whom—

Panel.
Ibid., s. 317AG.

- (a) one shall be known as the deputy chairman of the Board;
- (b) three shall be architects selected by the Governor from six architects nominated by the Royal Australian Institution of Architects, Tasmanian Chapter;
- (c) three shall be structural engineers selected by the Governor from six structural engineers nominated by the Institute of Engineers Australia, Tasmania Division;
- (d) three shall be members of the Australian Institute of Builders, Tasmanian Chapter, selected by the Governor from six members of that Institute nominated by that Chapter; and
- (e) four shall be aldermen or councillors selected by the Governor from eight such officers nominated by the Municipal Association.

“(2) The members of the Panel shall, subject to this Division, hold office for three years.

“461G—(1) Every nomination for the appointment of a member of the Board or the Panel shall be made as and within the time prescribed and shall be accompanied by the written consent of the person nominated to serve on the Board or Panel, as the case may be, if appointed.

Failure of
nomination.
Ibid., s. 317AH.

“(2) If within the time prescribed the necessary nomination for membership of the Board or Panel, as the case may be, has not been validly made by the persons entitled to make the nomination the Governor may appoint a person or persons, as the case may require, having the appropriate qualification as representative or representatives on the Board or the Panel.

Cessation
of term
of office.
Ibid., s. 317AL

“461H—(1) A member of the Board or Panel shall cease to hold his office if he—

- (a) holds any position of profit under or in the gift of any municipality other than mayor, warden, or treasurer;
- (b) is an undischarged bankrupt;
- (c) is taking the benefit of Part XI or Part XII of the *Bankruptcy Act* 1924 of the Commonwealth as from time to time amended or re-enacted;
- (d) is a patient within the meaning of Part VI of the *Mental Health Act* 1963;
- (e) is convicted after solemn trial in this State or elsewhere of a crime or similar offence which is punishable by imprisonment for twelve months or upwards;
- (f) being summoned is absent from three consecutive sittings of the Board without leave granted by it;
- (g) resigns his office in writing under his hand to the chairman of the Board; or
- (h) is removed from office by the Governor.

“(2) Upon a vacation of office under this section the Governor may forthwith appoint a new member to be nominated in accordance with the provisions of section four hundred and sixty-one B or four hundred and sixty-one F, as the case may require, to fill the vacant office.

“(3) A person appointed to fill a vacancy occasioned otherwise than by the expiration of the term of office of a member of the Board or Panel shall, subject to this Division, hold office for the residue of his predecessor’s term.

Declaration.
Ibid., s. 317AJ.

“461J Before—

- (a) a member of the Board; or
- (b) a member of the Panel who takes the place of a member of the Board,

acts in his office he shall make the following declaration before a judge or a police magistrate:—

‘I, A.B., do solemnly and sincerely declare that I will diligently, faithfully, and impartially execute my duties as a member of the Building Appeal Board under the *Local Government Act* 1962.’

Jurisdiction.
Cf. *ibid.*,
ss. 317AK,
317AL, 317AO,
No. 6299
(Vic.), 33rd
sch., par. 7,
No. 67 of
1962, s. 452.

“461K—(1) A person, including the Commissioner, who is aggrieved by—

- (a) a decision of any authority to refuse or permit building or to approve or otherwise deal with plans, specifications, or drawings of a building or structure proposed to be erected or altered; or
- (b) the neglect or delay by any authority to give within forty days after application therefor a decision in respect of permitting building or

approving plans, specifications, or drawings of a building or structure proposed to be erected or altered,

may appeal to the Board.

“(2) A person concerned with the erection or alteration of a building or structure proposed to be erected or altered or in course of erection may refer to the Board the question whether in the case of that building or structure any provision of the Building Regulations or a by-law with respect to building is inappropriate or any such provision may reasonably be varied or modified without detriment to the public interest.

“(3) On an appeal under this section the Board shall hear the appellant and any authorities and other persons appearing to it to be concerned and may—

- (a) reject the appeal;
- (b) modify or vary the decision appealed from, if any;
- (c) give such decision as it thinks the authority appealed against should have given; or
- (d) give directions to the authority appealed against on how it shall act or decide, with power to modify or vary the Building Regulations for the particular case and to direct that authority to revoke its decision and give another or to modify or vary its decision, whether or not it has power otherwise so to do.

“(4) On a reference under this section the Board may direct that any provision referred to in subsection (2) shall not apply to the building or structure concerned or shall apply to that building or structure with such modifications or variations as the Board may determine.

“(5) In determining appeals and references the Board shall have regard to all relevant Acts, regulations, and by-laws, any special knowledge or competence of an authority appealed against, the circumstances of the case, and the public interest.

“461L—(1) On an appeal or reference the Board may—

- (a) cause parties to be added as prescribed;
- (b) where it appears that a decision involved depends on the decision of another authority extend the scope of the appeal or reference so as to settle the whole matter, causing to be added all proper parties for that purpose;
- (c) appoint one of its members to make any inquiry or any survey that appears to it necessary or expedient for the purposes of the appeal or reference;
- (d) use the knowledge of its own members, however gained;
- (e) rely on, and adjourn proceedings to obtain, reports of tests of competent persons;

Powers and procedure.
Cf. No. 67 of 1962, s. 454, No. 41, 1919 (N.S.W.), ss. 317AM, 317AO, 317AP.

- (f) if a party warned of the time and place of hearing does not appear proceed with the hearing and determine it as if he were present; and
- (g) if a party's expenses have in the Board's opinion been caused or increased by unreasonable or improper conduct of another party order the latter to pay the former such sum by way of costs as it may fix.

“(2) The Governor may, by regulation, provide for—

- (a) a clerk, officers, and servants of the Board to be appointed under the *Public Service Act 1923*;
- (b) the mode and time of instituting appeals and making references;
- (c) the procedure of the Board;
- (d) fees to be paid by appellants and other parties and for inspecting documents and for copies of documents;
- (e) payment to witnesses;
- (f) deposits to be paid by appellants and their disposal;
- (g) recording of appeals and references; and
- (h) giving effect to the decisions of the Board.

“(3) Except as otherwise prescribed the Board may regulate its own proceedings.

“(4) The Minister may provide for publication of decisions of the Board.

Relation to
the Supreme
Court.
No. 67 of
1962, s. 455.

“461M—(1) The Board may at any time, and shall if ordered by a judge in chambers, on an application in a summary way made by any party to the appeal or reference, state a case for the opinion of the Supreme Court on any question of law arising in an appeal or reference.

“(2) The Supreme Court shall hear and determine the question of law arising on the case stated by the Board and remit its opinion to the Board, which shall be bound thereby, and the Supreme Court shall make such order as to the costs of the case and in the Supreme Court as it thinks fit.

“(3) No application may be made to a judge under this section except by a party who has already asked the Board to state a case on the question.

“(4) Except as provided in this section every decision of the Board is final and binding on the parties to the appeal or reference.”.

Special
powers.

4 Section five hundred and fifty of the Principal Act is amended by omitting paragraph (c) of subsection (1) and substituting therefor the following paragraph:—

- “(c) pay a subsidy to the Crown in consideration of—
- (i) its making the services of a legally-qualified medical practitioner available to the inhabitants of the municipality

- or a part thereof or to the corporation as municipal medical officer of health; or
- (ii) its testing dogs in the municipality for hydatids;”.

5 After section six hundred and eighty-five of the Principal Act the following section is inserted:—

“685A—(1) The corporation may lend money (including money borrowed by it for the purpose) to persons for works as defined in the *Community Centres Loans Act 1959*, upon the borrower’s entering into covenants approved by Her Majesty’s Treasurer for repayment, interest, and other matters. Loans for community centres.

“(2) For the purposes of the *Audit Act 1918* a person (including in the case of an association the trustees, if any, of its property) who is liable to repay moneys lent under this section shall be deemed to be a public body as defined in that Act.”.

6 Section seven hundred and thirty-one of the Principal Act is amended— Operation of Town Planning Scheme.

- (a) by inserting in subsection (1), after the word “description”, the words “or kind whatsoever”;
- (b) by inserting in that subsection after the word “person” the words “, public or private”; and
- (c) after the word “existing”, by inserting in that subsection the word “such”.

7 Section seven hundred and thirty-four of the Principal Act is amended by inserting, after subsection (9), the following subsections:— Regulation of building, &c., pending approval of scheme.

“(9A) Subject to subsection (9B), an appeal under this section may not be instituted more than sixty days after, in the case of an appeal against—

- (a) an interim order, the publication thereof; or
- (b) a dispensation or determination, the corporation’s notification of the dispensation or determination has been advertised on a Saturday in a newspaper and by posting a copy on the land directly affected so as to be plainly seen and read from the highway, or principal highway, if more than one, giving access to that land.

“(9B) Subsection (9A) does not apply to an appeal by a person who has—

- (a) been refused a dispensation under subsection (2); or
- (b) under subsection (4) been refused the corporation’s consent or granted it conditionally or been prohibited from erecting a building or carrying out a work.”.

Sixth
schedule.

8 The sixth schedule to the Principal Act is amended by inserting, after paragraph 26, the following paragraph:—

“26A That the council may delegate to the municipal architect, the approval of plans and other things and matters mentioned in paragraph 2 of this schedule.”.

Small
corrections.

9 The sections and schedule of the Principal Act mentioned in the schedule to this Act are amended as therein set forth.

THE SCHEDULE.

(Section 9.)

Section or schedule.	How amended.
72	By omitting from paragraph (c) of subsection (2) the word “votes” and substituting therefor the word “voters”.
111	By omitting the word “Juries” and substituting therefor the word “Jury”.
361	By omitting from paragraph (b) of subsection (7) the word “the” (second occurring).
471	By inserting at the beginning of paragraph (b) of subsection (1) the word “within”.
472	By inserting in sub-paragraph (ii) of paragraph (b) of subsection (3), after the symbol “(c)”, the words “of subsection (1)”.
481	(a) By omitting from subsection (1) the numeral “(17)” and substituting therefor the numeral “(20)”. (b) By omitting from subsection (10) the numerals and word “(9) to (19)” and substituting therefor the numerals and word “(11) to (25)”.
482	By omitting from subsection (1) the numeral “(17)” and substituting therefor the numeral “(20)”.
485	By omitting from subsection (4) the numerals and words “(8) to (17) and (19)” and substituting therefor the numerals and word “(9) to (25)”.
Sixth schedule	By omitting from paragraph 31 the words “a building appeal board” and substituting therefor the words “the Building Appeal Board constituted under Division IA of Part XVI”.
Eighth schedule	By omitting from Part I the item “Fingal Water Amendment Act 1921 12 Geo. V No. 13”.

LAUNCESTON CORPORATION.

No. 21 of 1965.

AN ACT to amend the *Launceston Corporation Act 1963*. [22 June 1965.]

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:—