

1962.]

*Metropolitan Region Town  
Planning Scheme.*

[No. 44.]

# METROPOLITAN REGION TOWN PLANNING SCHEME.

11° Elizabeth II., No. XLIV.

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**No. 44 of 1962.**

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## **AN ACT to amend the Metropolitan Region Town Planning Scheme Act, 1959-1960.**

*[Assented to 1st November, 1962.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Metropolitan Region Town Planning Scheme Act Amendment Act, 1962.*

Short title  
and citation.

(2) In this Act the Metropolitan Region Town Planning Scheme Act, 1959-1960, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Metropolitan Region Town Planning Scheme Act, 1959-1962.

No. 44.] *Metropolitan Region Town* [1962.  
*Planning Scheme.*

Commence-  
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

S. 31  
amended.

3. Paragraph (d) of section thirty-one of the principal Act is amended by substituting for the word, "Scheme" in line three, the word, "notice".

S. 33  
amended.

4. Section thirty-three of the principal Act is amended—

(a) by adding after the word, "Act", being the last word in subsection (1), the passage, " , but if the Authority sends to the Minister a copy of the proposed amendment together with a written certificate certifying that, in the opinion of the Authority, the proposed amendment does not constitute a substantial alteration to the Scheme, the amendment is not required to be so submitted and approved";

(b) by adding after subsection (1) a subsection as follows—

(1a) (a) Where the Authority so certifies in relation to a proposed amendment to the Scheme—

(i) a notice of the amendment describing the amendment and stating where and when the proposed amendment will be available for inspection shall, as soon as practicable after the receipt by the Minister of the certificate of the Authority, be published by the Authority in the *Gazette* and in a daily newspaper circulating in the Metropolitan Region; and

(ii) the Authority shall within seven days after the date of the last such publication of that notice, notify in writing such owners of land directly affected

by the amendment as the Minister directs shall be so notified.

(b) The proposed amendment to the Scheme shall come into operation on the publication of the notice in the *Gazette* and daily newspaper in accordance with paragraph (a) of this subsection.

(c) Any person who feels aggrieved by the proposed amendment may, within the time and in the manner prescribed, appeal to the Minister against the amendment, and the Minister shall hear the appeal in accordance with the regulations.

(d) The Minister may dismiss or uphold the appeal and if the Minister upholds the appeal he shall order that the amendment be cancelled or modified and from the date of the order the amendment has no force or effect or has force and effect as so modified. .

5. Section thirty-six of the principal Act is amended— § 36  
amended.

(a) by adding after the word, “eleven”, being the last word in paragraph (b) of subsection (1), the following—  
; and

(c) those provisions included subsections (3), (4) and (5) of this section; and

(b) by adding after subsection (2) the following subsections—

(3) Subject to subsection (4) of this section, where under the Scheme any land has been reserved for a public purpose, no compensation is payable by

the responsible authority for injurious affection to that land alleged to be due to or arising out of such reservation until—

- (a) the land is first sold following the date of the reservation; or
- (b) the responsible authority refuses an application made under the Scheme for permission to carry out development on the land or grants permission to carry out development on the land subject to conditions.

(4) Before compensation is payable under subsection (3) of this section—

- (a) where the land is sold, the person lawfully appointed to determine the amount of the compensation shall be satisfied—
  - (i) that the owner of the land has sold the land at a lesser price than he might reasonably have expected to receive had there been no reservation of the land under the Scheme;
  - (ii) that the owner before selling the land gave notice in writing to the responsible authority of his intention to sell the land; and
  - (iii) that the owner sold the land in good faith and took reasonable steps to obtain a fair and reasonable price for the land; or
- (b) where the responsible authority refuses an application made under the Scheme for permission

1962.]

*Metropolitan Region Town* [No. 44.  
*Planning Scheme.*

to carry out development on the land, the person lawfully appointed to determine the amount of compensation shall be satisfied that the application was made in good faith.

(5) A claim for compensation under subsection (3) of this section shall be made at any time within six months after the land is sold or the application for permission to carry out development on the land is refused. .

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