

PUBLIC WORKS.

2° Elizabeth II., No. XLVIII.

No. 48 of 1953.

AN ACT to amend the Public Works Act, 1902-1950.

[Assented to 29th December, 1953.]

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 *Public Works Act Amendment Act, 1953*. Short title and citation.

(2) In this Act the Public Works Act, 1902-1950, Act No. 47 of 1902 as reprinted as amended by Acts Nos. 8 of 1906 and 60 of 1926 in the Appendix to the Sessional Volume of Acts, 1927 and as further amended by Acts Nos. 35 of 1933, 41 of 1945, and 23 of 1950,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Public Works Act, 1902-1953.

S. 1
amended.

2. Section one of the principal Act is amended by adding after the figures, "83" in line seven, the following heading:—

PART IVA.—INVESTIGATIONS FOR WATER, ss. 83A-83C.

S. 2
amended.

3. Section two of the principal Act is amended by—

- (a) adding after the word, "scientific" in line two of paragraph (14) of the interpretation, "Public work" the words, "or historical";
- (b) adding after the word, "rivers" in line six of paragraph (16) of the interpretation, "Public work", the words, "including the deepening, widening, and straightening of rivers";
- (c) adding after paragraph (17B) of the interpretation, "Public work" the following paragraphs:—

(17C) The establishment and the extension by the Governor of sites for towns.

(17D) The establishment and the extension by the Governor of agricultural research stations. ; and

- (d) adding after the interpretation, "Respondent" the following interpretation:—

"River" means a river, stream, creek, or watercourse, in which water flows permanently or intermittently.

Par. (17B)
was added
by No. 41 of
1945, s. 2.

Cf. s. 29 (m)
of the Land
Act, 1933 in
Vol. 3 of The
Reprinted
Acts, 1950;
and the inter-
pretation,
"Town" in
s. 4 of
the Road
Districts Act,
1919, in Vol.
4 of The
Reprinted
Acts, 1951.

Cf. No. 19 of
1914, s. 2,
"Water-
course",
Vol. 2 of
Reprinted
Acts, 1943.

S. 15
amended.

4. Section fifteen of the principal Act is amended by—

- (a) substituting for the words, "When any land is" in line one of subsection (1), the words, "Where prior to the coming into operation of the Public Works Act Amendment Act, 1953, the estate in fee simple in land has been";
- (b) adding before the word, "the" in line three of subsection (1), the word, "and";

- (c) substituting for the words, "shall not be" in line four of subsection (1) the words, "have not, because of the provisions of this section as they were in operation prior to the coming into operation of that Act, been";
- (d) substituting for the words, "shall be" in line five of subsection (1), the words, "have been";
- (e) adding after the word, "works" in line seven of subsection (1), the following paragraphs:—
 - (a) to the extent to which those rights have not been included in the taking, they are by virtue of this section taken, and revert in Her Majesty as of her former estate; and
 - (b) for the purpose of calculating the period within which claims may be made under this Act for compensation in respect of those rights which by virtue of this section are so taken, the day of the coming into operation of the Public Works Act Amendment Act, 1953, is deemed to be the date of the publication, mentioned in section thirty-six of this Act of the notice of the taking. ;
- (f) repealing and re-enacting subsection (2) as follows:—

(2) Where on or after the coming into operation of the Public Works Act Amendment Act, 1953, the estate in fee simple in land is taken by the Governor or a local authority for the construction or providing of a public work, the taking includes the rights to mines of coal or other minerals under the land, and the land reverts in Her Majesty as of her former estate, unless the notice effecting the taking provides otherwise. ; and

(g) adding the following subsections:—

(3) Where a claim is made for compensation in respect of rights to mines of coal, or other minerals under land, whether taken by paragraph (a) of subsection (1) of this section, or under a taking mentioned in subsection (2) of this section, the Minister or the local authority, as the case requires, may elect either to make compensation or to revest in the claimant the whole or such part of those rights, as the Minister or the local authority thinks fit.

(4) Where the Minister or the local authority revests under subsection (3) of this section the whole or part of those rights no compensation is payable in respect of the taking of the rights so revested.

5. The principal Act is amended by adding after section seventy-five the following section:—

S. 75A
added.

75A. If the purchase price of land in respect of which compensation is awarded was at the time the land was taken being paid by instalments, the compensation or so much of it as is required for the purpose, shall, upon the application of the vendor, be paid in discharge—

Land being
sold on
payment by
instalments.

- (a) of the balance of the purchase price owing; and
- (b) of interest, if any, payable in respect of the purchase price with a limit of interest accrued during the period of twelve months commencing on the day next following that on which the land was taken.

6. The principal Act is amended by adding after section eighty-three the following Part:—

Part IVA.
added.

PART IVA.—INVESTIGATIONS FOR WATER.

83A. (1) In this Part,
“authorised person” means

Interpre-
tation.

- (a) the Minister, the Minister for Water Supply, and any local authority; and
- (b) a person authorised, whether generally or specially to carry out testing work, by either of those Ministers or a local authority;

“testing work” means work which in the opinion of an authorised person is necessary for general investigation for water supply purposes, and includes, without limiting the generality of the foregoing, the carrying out of tests, gaugings, borings, the construction of gauging weirs, the sinking of shafts, the digging of trenches and other incidental work and things used for or in connection with that work.

(2) An authorised person may from time to time lawfully enter upon land with such assistants and things as he thinks fit for the purpose and carry out testing work and alter, remove, inspect, reinstate and repair, testing work upon the land.

(3) Where an authorised person intends to enter upon land he shall, if it is practicable, give to the owner or occupier of the land at least forty-eight hours' notice of his intention, and if required by the owner or occupier shall produce to him his authority to enter the land.

83B. A person who wilfully and unlawfully— *Offences.*

- (a) interferes with, alters, takes, injures, or destroys, testing work or part of it commits an offence.

Penalty: Twenty pounds for a first offence; and one hundred pounds for a subsequent offence;

- (b) obstructs an authorised person or his assistants in doing anything which he is authorised under this Part to do commits an offence.

Penalty: Fifty pounds.

Compen-
sation.

83C. (1) An authorised person or his assistants shall do as little damage as is practicable in exercising the powers conferred by this Part.

(2) Where within one year of the exercise of a power conferred by this Part, a person suffers damage of which the exercise of the power is the proximate cause, he is entitled to compensation for the damage from the Minister or the local authority by whom, or by whose direction, the power is exercised, if within thirty days of the occurrence or commencement of the damage or within twelve months where notice of intention to enter the land was not given to the owner or occupier as required by subsection (3) of section eighty-three A he serves on the Minister or local authority a written claim for compensation for the damage.

(3) Within, but not later than, one year after service of his claim, the claimant may, if his claim has not been settled in the meantime, sue in a court of competent jurisdiction to recover compensation for the damage.

(4) The parties may compromise, compound, or otherwise settle the claim, whether proceedings have or have not been commenced in a court of competent jurisdiction and the Minister or local authority may, before exercising a power conferred by this Part, enter into such agreements relating to compensation as the Minister or local authority thinks fit.

S. 93
amended.

7. Section ninety-three of the principal Act is amended by—

- (a) adding after the word, “may” in line one, the words, “deepen, widen, straighten, and

otherwise improve, any river, and may, without limiting the generality of the foregoing power"; and

- (b) adding after the word, "natural" in line seven, the words, "or deepened, widened, straightened, or otherwise improved,".

8. Section one hundred and twelve of the principal Act is amended— S. 112
amended.

- (a) by adding after subsection (1) the following subsection:—

(1a) Where it is necessary and is intended to take land for a public work which the Minister is authorised to undertake, construct, or provide, the Minister and persons authorised, whether generally or specially by him to do so, may from time to time—

- (a) lawfully enter the land with such assistants and things as the Minister or authorised persons think fit for the purpose of undertaking, constructing, or providing the public work; and
- (b) do such things as the Minister is empowered by this Act to do in order to undertake, construct, or provide, the public work, and such things as are, in the Minister's opinion, necessary as preliminary or ancillary to undertaking, constructing, or providing, the public work;

in all respects as if the land intended to be taken, had in fact been taken. ;

- (b) by adding after subsection (2) the following subsection:—

(3) Where land which has been entered in exercise of the powers conferred by this section is being taken, after it has

been so entered the Governor may cause to be specified in the notice of the taking as the date of the taking, a day being not earlier than that on which the land was so entered, and on publication of the notice in the *Gazette*, the notice as so published is conclusive proof of the taking of the land on the date so specified.

(4) Where in exercise of a power conferred by this Act the Minister causes anything to be placed in, on, over, or under, land, it is deemed to be the property of the Minister unless the Minister certifies otherwise.

(5) The provisions of this section are in addition to and not in derogation of any of the other provisions of this Act.

S. 120
amended.

9. Section one hundred and twenty of the principal Act is amended by—

- (a) adding after the word, “wilfully” in line one the words, “and unlawfully”;
 - (b) adding after the word, “Act” in line seven, the words, “or obstructs, injures, interferes with, alters, or removes anything, constructed, provided, or done, under those provisions”; and
 - (c) adding after the word, “offence” in line eight the words, “and the cost of repairing or reinstating it, or clearing it of obstruction is recoverable by the Minister from the person in a court of competent jurisdiction.”
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