

## PUBLIC WORKS.

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No. 41 of 1966.

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**AN ACT to amend the Public Works Act, 1902-1965.**

[Assented to 4th November, 1966.]

**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, 1966*.

(2) In this Act the Public Works Act, 1902-1965, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Public Works Act, 1902-1966.

Short title and citation. Reprinted in Vol. 14 of the Reprinted Acts.

Approved for Reprint 27th August, 1959, and amended by Acts Nos. 46 of 1961 and 59 of 1965.

S. 23  
amended.

2. Section twenty-three of the principal Act is amended by substituting for the words, "Fifty pounds" in the last line of subsection (3), the words, "One hundred dollars".

S. 29  
amended.

3. Section twenty-nine of the principal Act is amended—

(a) by adding after paragraph (c) of subsection (3), the following paragraphs—

(ca) Notwithstanding the provisions of paragraph (c) of this subsection the Minister shall not be bound to grant the option referred to in that paragraph where—

- (i) the land as a separate lot does not comply with the requirements of the Town Planning and Development Act, 1928, except where it can be amalgamated with adjoining land owned by the person who would otherwise be qualified to apply for the option and thereupon comply with those requirements;
- (ii) the land was taken or resumed because it would have been severed by the work from the remaining land of the owner thereof;
- (iii) the land taken or resumed cannot be added to other land owned by the person otherwise qualified to apply for the option by reason of that person having disposed of, or subdivided for disposal, the remainder or any part of the remainder of the land from which the first-mentioned land was taken or resumed; or

(iv) the land is portion only of that taken or resumed and is required for a work ancillary or incidental to any public work, the remainder of the land so taken or resumed continuing to be required for the public work for which the taking or resumption was effected.

(cb) Any person aggrieved by the refusal of the Minister by virtue of paragraph (ca) of this subsection to grant to him the option applied for may within twenty-one days after notice of such refusal appeal in manner prescribed by Rules of Court against that refusal to the Supreme Court and such Court on hearing the appeal may make such order as appears to the Court to be just, including an order for the payment of costs, and the decision of the Court shall be final and conclusive. ;

(b) by adding after the word, "final", being the last word in subparagraph (ii) of paragraph (e) of subsection (3), the passage, ", except where a decision made under paragraph (c) is so made by virtue of the provisions of paragraph (ca) of this subsection";

(c) by substituting for the words, "only if he has power to purchase the land in his representative capacity" in lines seven, eight and nine of paragraph (f) of subsection (3), the passage, "upon that legal representative, in the absence of any testamentary power to purchase land, obtaining an order of the Court or the consent of all the beneficiaries of the deceased person to purchase the land"; and

(d) by adding after subsection (7), the following subsection—

(8) Where no person is qualified under this section to be granted an option to purchase land that has been acquired by having been compulsorily taken or resumed under this or any other Act for any public work and in accordance with the provisions of this section it is proposed to dispose of that land or of any land that has been acquired by agreement for any public work, regard shall be had to the general principle that in such cases the land should, where in the opinion of the Minister practicable and appropriate, be first offered for sale at a reasonable price determined by the Minister to the former owner or the owner for the time being of the land from which the land proposed to be disposed of was so taken or resumed or acquired by agreement. .

S. 29B  
amended.

4. Section twenty-nine B of the principal Act is amended by substituting for the words, "five hundred pounds" where occurring in lines three and four of paragraph (a), and again in line four of paragraph (b), of subsection (3), the words, "one thousand dollars", in each case.

S. 41  
amended.

5. Section forty-one of the principal Act is amended by substituting for the words, "Five pounds" in the last line of subsection (3), the words, "Ten dollars".

S. 46  
amended.

6. Section forty-six of the principal Act is amended by repealing subsection (3) and re-enacting it with amendments as follows—

(3) As soon as practicable after making such offer (but subject to all the other provisions of this Act) the respondent may offer and pay to the claimant, as and by way of an advance or

interim payment on account of the compensation, such amount or amounts as the respondent thinks fit, but if required by the claimant the respondent shall pay to the claimant, by way of such advance or interim payment, an amount equivalent to two-thirds of the amount of the offer of compensation; and any such payment may be so received and retained by the claimant without prejudice to his rights under section forty-seven or any other provision of this Act. .

7. Section forty-eight of the principal Act is amended by substituting for the words, "five hundred pounds" in lines seven and eight of subsection (3), the words, "One thousand dollars". S. 48  
amended.

8. The principal Act is amended by substituting the words, "One thousand dollars" for the words, "Five hundred pounds" where occurring in— Ss. 50 and 51  
amended.

- (a) line two of subsection (2) of section fifty;
- (b) lines one and two of subsection (3) of section fifty; and
- (c) lines one and two of section fifty-one.

9. Section sixty-three of the principal Act is amended— S. 63  
amended.

- (a) by deleting the words, "the sixtieth consecutive day preceding" in lines three and four of paragraph (a);
- (b) by deleting the passage, "the first day of January or the first day of July, as the case may be, last preceding" in lines ten, eleven and twelve of paragraph (a);
- (c) by adding after the word, "introduced" in lines thirteen and fourteen of paragraph (a), the passage, "; or in the case of land taken by agreement pursuant to section

twenty-six of this Act, the date of the completion of the agreement, unless the agreement provides otherwise”;

- (d) by substituting for the two provisoes to paragraph (a), the following proviso—

Provided that—

- (i) where land which is entered under section one hundred and twelve of this Act is subsequently taken or resumed, the date of first entry under that section shall, in order to ascertain the value of the land for the purposes of paragraph (a) of this section, be regarded as the date of the gazetting of the notice of the taking or resumption of the land;
- (ii) where a notice of intention to take or resume any land or to carry out a public work under this or any other Act is published in the *Gazette*, whether or not that notice is amended by a subsequent notice, any transaction relating to that land or affecting the value thereof or the compensation payable that is entered into by the claimant after the date of the gazetting of the notice first referred to in this subparagraph may at the discretion of the respondent or the Court be disregarded;
- (iii) where any buildings or improvements have been made on such land after the date of the gazetting of the notice first referred to in subparagraph (ii) of this proviso but before the gazetting of the notice of the taking or resumption, or in the case of a railway or other work authorised by a special Act

after the first day of the session of Parliament in which the Act was introduced but before the date of the gazetting of the notice of the taking or resumption, the value of those buildings or improvements shall be allowed, not exceeding their actual cost. ;

- (e) by adding after the word, "taking", being the last word in paragraph (b), the passage, " , but where the value of other land of the claimant is enhanced by reason of the carrying out of, or the proposal to carry out, the public work for which the land was taken or resumed, the enhancement shall be set off against the amount of compensation that would otherwise be payable by reason of such other land being injuriously affected by the taking";
- (f) by substituting for the passage, "taking." in the last line of paragraph (c), the following passage—

taking;

but where the respondent or the Court, as the case may be, is of the opinion that the application of the provisions of this Act would not result in the assessment of compensation adequate to meet the special circumstances of the case, the respondent, or the Court, may determine such compensation as it considers adequate for compulsory taking. ;

- (g) by deleting the word, "pounds" in line eleven of paragraph (d); and
- (h) by substituting for subparagraph (iii) of paragraph (e), the following subparagraph—
  - (iii) Subject to subparagraph (ii) of this paragraph, when any amount representing an advance payment of the compensation is paid to a claimant,

interest is payable on the total amount of compensation only to the date of the first of such payments, and is payable thereafter only on the balance outstanding from time to time, or if any amount is offered by the respondent as an advance payment of compensation under subsection (3) of section forty-six of this Act and is not accepted by the claimant within thirty days thereafter, no interest shall be payable thereafter in respect to any amount so offered. .

S. 73  
amended.

10. Section seventy-three of the principal Act is amended—

- (a) by substituting for the words, “two hundred pounds” in line one of paragraph (i) of subsection (1), the words, “four hundred dollars”;
- (b) by substituting for the words, “twenty but less than two hundred pounds” in lines one and two of paragraph (ii) of subsection (1), the words, “forty dollars but less than four hundred dollars”; and
- (c) by substituting for the words, “twenty pounds” in lines one and two of paragraph (iii) of subsection (1), the words, “forty dollars”.

S. 83  
amended.

11. Section eighty-three of the principal Act is amended—

- (a) by substituting for the words, “Twenty pounds” in line eight, the words, “Forty dollars”;
- (b) by substituting for the words, “One hundred pounds” in line nine, the words, “Two hundred dollars”; and



- (c) by substituting for the words, "Fifty pounds" in the last line, the words, "One hundred dollars".

12. Section eighty-three B of the principal Act is amended— S. 83B amended.

- (a) by substituting for the words, "Twenty pounds" in line four of paragraph (a), the words, "Forty dollars";
- (b) by substituting for the words, "one hundred pounds" in line five of paragraph (a), the words, "Two hundred dollars"; and
- (c) by substituting for the words, "Fifty pounds" in the last line of paragraph (b), the words, "One hundred dollars".

13. Section eighty-seven of the principal Act is amended by substituting for the words, "twenty pounds" in the penultimate line of subsection (2), the words, "Forty dollars". S. 87 amended.

14. Section eighty-eight of the principal Act is amended by substituting for the words, "a shilling" in the last line of paragraph (c), the words, "ten cents". S. 88 amended.

15. Section ninety-four D of the principal Act is amended by substituting for the words, "fifty pounds" in the last two lines, the words, "One hundred dollars". S. 94D amended.

16. Section one hundred and nine of the principal Act is amended— S. 109 amended.

- (a) by substituting for the words, "Two pounds" in the last two lines of subsection (1), the words, "Four dollars"; and

- (b) by substituting for the words, "Five pounds" in the last line of subsection (2), the words, "Ten dollars".

S. 120  
amended.

17. Section one hundred and twenty of the principal Act is amended by substituting for the words, "Fifty pounds" in line eleven, the words, "One hundred dollars".
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