

**PUBLIC WORKS.**

14° Geo. VI., No. XXIII.

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No. 23 of 1950.

AN ACT to amend the Public Works Act, 1902-1945.

[Assented to 5th December, 1950.]

**B**E it enacted by the King'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:—

Short title.

1. This Act may be cited as the *Public Works Act Amendment Act, 1950*, and shall be read as one with the Public Works Act, 1902-1945 (Act No. 47 of 1902 as reprinted as amended by Acts Nos. 8 of 1906 and 60 of 1926 incorporated in the Appendix to the Sessional Volume of Statutes for the year one thousand nine hundred and twenty-seven and further amended by Acts Nos. 35 of 1933 and 41 of 1945), hereinafter referred to as the principal Act.

Citation of principal Act as amended by this Act.

2. The principal Act as amended by this Act may be cited as the Public Works Act, 1902-1950.

Amendment of s. 18.

3. Section eighteen, paragraph (1) of the principal Act is amended by—

- (a) adding before the word “the” in paragraph (1), line one, the words, “As the Governor may direct and the case require”;
- (b) deleting the words, “as the Governor may direct and the case require,” in lines three and four;

- (c) adding after the word "possession" in lines four and five, the words, "or such lesser estate".

4. Section twenty-one, subsection (1), of the principal Act is amended by adding after the word, "effect" in line six, the words, "and upon publication of the subsequent notice the Registrar shall record the annulment or amendment as it affects the land on the Certificate of Title of the land if under the operation of the Transfer of Land Act, 1893-1946, or by memorial in the Register of Deeds, if the land is not under the operation of that Act".

Amendment  
of s. 21.

5. Section twenty-three of the principal Act is amended by—

Amendment  
of s. 23.

- (a) deleting subsections (1) and (2) and substituting the following:—

(1) Upon the vesting of the land in His Majesty or in a local authority pursuant to the provisions of section eighteen of this Act—

- (a) if the land is of an estate in fee simple and is not under the operation of the Transfer of Land Act, 1893-1946, the Registrar shall bring the land under the operation of that Act by registering the land in the name of His Majesty, His heirs and successors, or of the local authority, as the case may be;

- (b) if the land is of an estate of less than fee simple and is not under the

operation of the Transfer of Land Act, 1893-1946, the Registrar shall record the vesting by memorial in the Register of Deeds;

- (c) if the land, whether of an estate in fee simple or a lesser estate is under the operation of the Transfer of Land Act, 1893-1946, the Registrar shall register the land in the name of His Majesty, His heirs and successors, or of the local authority, as the case may be;
- (d) in any case, the Minister or the local authority, as the case may be, shall, so soon after the vesting as is practicable, deliver to the Registrar, a copy of the notice referred to in section seventeen of this Act and a description of the land referred to in the notice accompanied, when required by the Registrar, by a plan of that land;
- (b) adding after the word "cancelled" in subsection (3), line four, the words, "or for the purpose of recording the vesting in the Register of Deeds";
- (c) adding before the word "The" in subsection (4), line one, the letter "a" in brackets, thus, (a) and the words, "If the land is under the operation of the Transfer of Land Act, 1893-1946";

(d) adding to subsection (4) the following paragraph—

(b) If the land is not under the operation of the Transfer of Land Act, 1893-1946, the Registrar, after complying with the appropriate requirements of this section, shall return to the person from whom it was received or to any person entitled to receive it on his behalf, any such instrument as is not required to be retained for giving effect to those requirements and as evidences the ownership of any land, a description of which is included in the instrument, but is not taken.

6. Section twenty-five, subsection (1), of the principal Act is amended by— Amendment  
of s. 25.

(a) adding before the word "If" in line one, the letter "a" in brackets, thus (a), and the words, "Subject to the provisions of the next succeeding paragraph;

(b) deleting the words, "not situate in a municipality or townsite or not built upon", in lines one and two;

(c) substituting for the words "a less quantity of land than a statute acre" in lines three and four, the words "land of an area of one rood or less";

(d) adding the following paragraphs—

(b) The provisions of the last preceding paragraph do not apply—

(i) where the land so divided—

(A) is situate in a municipal district constituted pursuant to the provisions of the Municipal Corporations Act, 1906-1947, or a townsite according to the interpre-

tation of that expression in section five of the Road Districts Act, 1919-1948, or other area subdivided into sites for urban or suburban purposes; or

(B) is built upon; or

(C) had, prior to being so divided, an area not exceeding one statute acre; or

(ii) where the estate in the land taken is an estate of less than the fee simple.

(c) In this subsection—

“sites for urban or suburban purposes” includes, without limiting the scope of the expression, sites for residences, shops, factories, warehouses, markets, schools, hospitals, churches, theatres, halls, offices, banks and business chambers.

ss. 33A and  
33B  
inserted.

7. The principal Act is amended by inserting after section thirty-three, the following sections:—

Easements  
in gross.  
Cf. No. 44 of  
1930, s. 19.

33A. It shall be and shall be deemed always to have been possible—

(a) to create in favour of the Crown or with the consent of the Governor, in favour of a local authority, an easement without a dominant tenement;

(b) to make appurtenant or to annex to an easement, another easement or the benefit of a restriction as to the user of land.

Certificate  
not to issue  
for ease-  
ments.

33B. A certificate of title shall not issue pursuant to the provisions of the Transfer of Land Act, 1893-1946, for an easement acquired pursuant to the provisions of this Act.