

CONCURRENCE COPY

METROPOLITAN WATER, SEWERAGE, AND DRAINAGE (LAND ACQUISITION) AMENDMENT BILL, 1982

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924, in relation to the appropriation or resumption of land required by the Metropolitan Water Sewerage and Drainage Board for the purposes of that Act (Schedule 1 (3) and (4));
 - (b) to make other minor amendments to that Act in consequence of the transfer of its administration to the Minister for Water Resources (Schedule 1 (2)); and
 - (c) to confirm the validity of certain appropriations and resumptions notified and declared otherwise than in strict conformity with the relevant provisions of that Act (clause 5).
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**METROPOLITAN WATER, SEWERAGE, AND DRAINAGE
(LAND ACQUISITION) AMENDMENT BILL, 1982**

No. , 1982.

A BILL FOR

An Act to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924, in relation to the appropriation or resumption of land required for the purposes of that Act; to validate certain matters; and for other purposes.

[MR GORDON—16 *September*, 1982.]

Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment Act, 1982".

Principal Act.

2. The Metropolitan Water, Sewerage, and Drainage Act, 1924, is 10 referred to in this Act as the Principal Act.

Amendment of Act No. 50, 1924.

3. The Principal Act is amended in the manner set forth in Schedule 1.

Transitional provision.

4. (1) The provisions of section 115 (5) of, and the Fifth Schedule to, 15 the Principal Act, as amended by this Act, do not apply to or in respect of an appropriation or resumption effected in accordance with section 115 of the Principal Act at any time before the date of assent to this Act or deemed to have been so effected.

(2) For the purposes of the Public Works Act, 1912, an appropriation 20 or resumption referred to in subsection (1) shall be deemed to be for an authorised work and the Metropolitan Water Sewerage and Drainage Board shall be deemed to be the Constructing Authority.

Validation.

5. An instrument published in the Gazette on or after 2nd October, 25 1981, and before the date of assent to this Act, being a notification and declaration—

- (a) by the Governor and the Minister for Water Resources, purporting to appropriate or resume certain land and to vest the land in the Metropolitan Water Sewerage and Drainage Board; and

Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment.

- (b) which would, had it been a notification and declaration in the like terms by the Governor and the Minister for Public Works, have effected the appropriation or resumption and the vesting of the land in accordance with section 115 of the Principal Act,
- 5 shall be deemed to have so effected the appropriation or resumption and the vesting.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE PRINCIPAL ACT.

- 10 (1) Section 3, matter relating to Division 1 of Part VI—

Omit "114–116", insert instead "114, 115".

- (2) Sections 37A, 69, 118, 119—

After "Minister" wherever occurring, insert "for Public Works".

- (3) Sections 115, 116—

- 15 Omit the sections, insert instead:—

Resumption.

115. (1) The board may, for any of the purposes of this Act, acquire land by appropriation or resumption in accordance with this section.

- 20 (2) An appropriation or resumption for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty.

- 25 (3) Such an appropriation or resumption shall be deemed to be for an authorised work and the board shall be deemed to be the Constructing Authority.

- (4) Nothing in this section affects the operation of section
30 (3).

*Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) For the purposes of this section and not otherwise, the Fifth Schedule has effect.

5 (4) Fifth Schedule—

After the Fourth Schedule, insert:—

FIFTH SCHEDULE.

(Sec. 115.)

MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

10 The Public Works Act, 1912, shall, for the purposes referred to in section 115, be deemed to be amended—

- (a) (i) by omitting from section 53 the words “so seised, possessed or entitled as aforesaid”;
- 15 (ii) by omitting from section 53 the words “as in the preceding section mentioned” and by inserting instead the words “and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of such compensation”;
- 20 (iii) by inserting in section 53 (3) after the word “release” the words “and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation”;
- (iv) by omitting section 53 (5);
- (b) by omitting Division 7 of Part VI;
- 25 (c) by omitting section 124 and by inserting instead the following section:—

30 124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Land and Environment Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the land taken from other lands or by the exercise of any statutory powers of the Constructing Authority otherwise injuriously affecting such other lands and that Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way

35 by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works upon the land taken.

Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2) Notwithstanding subsection (1), the Land and Environment Court, in ascertaining such compensation, shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom by the construction of any works upon the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.

10 (3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel, no compensation shall be allowed or awarded unless—

- 15 (a) the surface of the overlying soil is disturbed;
- (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
- 20 (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.

(d) by omitting section 126 (3);

25 (e) (i) by omitting from section 135 (1) the words "such conveyances" and by inserting instead the words "conveyances or assurances of lands taken";

(ii) by omitting from section 135 (2) the words "incurred on the part as well of the vendor as of the purchaser,".

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

**METROPOLITAN WATER, SEWERAGE, AND DRAINAGE
(LAND ACQUISITION) AMENDMENT ACT, 1982, No. 98**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 98, 1982.

An Act to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924, in relation to the appropriation or resumption of land required for the purposes of that Act; to validate certain matters; and for other purposes. [Assented to, 23rd September, 1982.]

Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment Act, 1982".

Principal Act.

2. The Metropolitan Water, Sewerage, and Drainage Act, 1924, is referred to in this Act as the Principal Act.

Amendment of Act No. 50, 1924.

3. The Principal Act is amended in the manner set forth in Schedule 1.

Transitional provision.

4. (1) The provisions of section 115 (5) of, and the Fifth Schedule to, the Principal Act, as amended by this Act, do not apply to or in respect of an appropriation or resumption effected in accordance with section 115 of the Principal Act at any time before the date of assent to this Act or deemed to have been so effected.

(2) For the purposes of the Public Works Act, 1912, an appropriation or resumption referred to in subsection (1) shall be deemed to be for an authorised work and the Metropolitan Water Sewerage and Drainage Board shall be deemed to be the Constructing Authority.

Validation.

5. An instrument published in the Gazette on or after 2nd October, 1981, and before the date of assent to this Act, being a notification and declaration—

- (a) by the Governor and the Minister for Water Resources, purporting to appropriate or resume certain land and to vest the land in the Metropolitan Water Sewerage and Drainage Board; and

Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment.

(b) which would, had it been a notification and declaration in the like terms by the Governor and the Minister for Public Works, have effected the appropriation or resumption and the vesting of the land in accordance with section 115 of the Principal Act, shall be deemed to have so effected the appropriation or resumption and the vesting.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 3, matter relating to Division 1 of Part VI—
Omit “114–116”, insert instead “114, 115”.
- (2) Sections 37A, 69, 118, 119—
After “Minister” wherever occurring, insert “for Public Works”.
- (3) Sections 115, 116—
Omit the sections, insert instead:—

Resumption.

115. (1) The board may, for any of the purposes of this Act, acquire land by appropriation or resumption in accordance with this section.

(2) An appropriation or resumption for the purposes of this Act shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty.

(3) Such an appropriation or resumption shall be deemed to be for an authorised work and the board shall be deemed to be the Constructing Authority.

(4) Nothing in this section affects the operation of section 30 (3).

Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) For the purposes of this section and not otherwise, the Fifth Schedule has effect.

(4) Fifth Schedule—

After the Fourth Schedule, insert:—

FIFTH SCHEDULE.

(Sec. 115.)

MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

The Public Works Act, 1912, shall, for the purposes referred to in section 115, be deemed to be amended—

- (a) (i) by omitting from section 53 the words “so seised, possessed or entitled as aforesaid”;
- (ii) by omitting from section 53 the words “as in the preceding section mentioned” and by inserting instead the words “and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of such compensation”;
- (iii) by inserting in section 53 (3) after the word “release” the words “and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation”;
- (iv) by omitting section 53 (5);
- (b) by omitting Division 7 of Part VI;
- (c) by omitting section 124 and by inserting instead the following section:—

124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Land and Environment Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the land taken from other lands or by the exercise of any statutory powers of the Constructing Authority otherwise injuriously affecting such other lands and that Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works upon the land taken.

Metropolitan Water, Sewerage, and Drainage (Land Acquisition) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Notwithstanding subsection (1), the Land and Environment Court, in ascertaining such compensation, shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom by the construction of any works upon the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.

(3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel, no compensation shall be allowed or awarded unless—

- (a) the surface of the overlying soil is disturbed;
 - (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
 - (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- (d) by omitting section 126 (3);
- (e) (i) by omitting from section 135 (1) the words “such conveyances” and by inserting instead the words “conveyances or assurances of lands taken”;
- (ii) by omitting from section 135 (2) the words “incurred on the part as well of the vendor as of the purchaser,”.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 23rd September, 1982.*



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