

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 14 November, 1916.*

New South Wales.



ANNO SEPTIMO

GEORGII V REGIS.

Act No. 60, 1916.

An Act to make further provision with respect to resumptions by the Municipal Council of Sydney, and proceedings in connection therewith; to amend the Sydney Corporation Amendment Act, 1905, and certain other Acts; and for purposes consequent thereon or incidental thereto. [Assented to, 22nd November, 1916.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

THOS. H. THROWER,
Chairman of Committees of the Legislative Assembly.

Sydney Corporation Amendment (Costs).

BE 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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

Short title.

1. This Act may be cited as the "Sydney Corporation Amendment (Costs) Act, 1916."

Resumptions.

Amendment
of Sydney
Corporation
Amendment
Act, 1905,
s. 20, par. (c).

2. Section twenty of the Sydney Corporation Amendment Act, 1905, is amended by inserting in paragraph (c) after "(section ninety-six)" the following proviso:—
"Provided that any such notice of valuation may within one hundred and twenty days after service thereof be varied by notification to the claimant or his solicitor."

Amendment
of Sydney
Corporation
Amendment
Act, 1905,
s. 20, par. (d).

3. Paragraph (d) of the same section is repealed and the following inserted in its place:—

(d) As to the nature of the issue in actions for compensation, verdict and costs, the payment of compensation and mode of assessing compensation and the obligation of the party claiming payment to make out a title (sections ninety-nine, one hundred and seventeen, and one hundred and nineteen): Provided that—

(i) section ninety-nine shall be deemed to be amended and shall read as follows:—

99. (1) If the verdict in any action of compensation tried under the provisions of this Division of this Act is for an amount exceeding the amount of the valuation last notified to the claimant, and less than the amount of the claim of the claimant, the council shall pay to the claimant the proportion of his costs, which the excess of the amount of the verdict over such valuation bears to the excess of the claim over such valuation. If the amount of the verdict in such action is equal to or greater than the amount

Sydney Corporation Amendment (Costs).

amount of such claim the council shall pay the costs of the action. If the amount of the verdict in such action is equal to or less than the amount of such valuation the claimant shall pay the costs of the action.

(2) The judge before whom any such action is tried shall in no case have power to direct a reference to arbitration.

(3) Either party in any such action may move for a new trial in accordance with the practice of the Supreme Court or the district court as the case may be;

(ii) in section one hundred and seventeen the words "as the case may be" shall be deemed to be omitted therefrom and the word "court" shall be substituted in lieu of the words "magistrates, arbitrators, surveyors, valuers, or jury" and "magistrates, arbitrators, surveyors, valuers, and jury" respectively;

(iii) in the same section the words "establishment of railway or other public works upon or for which such land was resumed" shall be deemed to be omitted therefrom, and the words "construction of works by the council upon the land resumed" inserted in lieu thereof;

(iv) in the same section the words "Provided also that in assessing the purchase money or compensation in respect of the resumption of any land comprised or described in Schedules A and B of the Sydney Corporation Amendment Act, 1905, no allowance shall be made for compulsory purchase or forced sale" shall be deemed to be added thereto;

(v) in section one hundred and nineteen the word "four" shall be deemed to be inserted in lieu of the word "six", and the following words shall be added after the word "notification" at the end of subsection two "but

Government House,

Sydney, 22nd November, 1916.

G. STRICKLAND,
Governor.

Sydney Corporation Amendment (Costs).

“but in all cases where a claim is not served within the ninety days aforesaid the compensation money shall only bear interest from the date of service of notice of claim”; and subsection three thereof shall be deemed to be omitted.

Application
to cases now
pending—
with right of
amendment.

4. The provisions of the two last preceding sections shall apply to all resumptions of land by the council published on or after the first day of February, one thousand nine hundred and fourteen: Provided that in any such resumption any claimant who has already lodged his claim may, within thirty days from the passing of this Act, amend such claim.

Amendment of
s. 21 of
Syd. Corp.
Amend. Act,
1905.

5. Section twenty-one of the Sydney Corporation Amendment Act, 1905, is amended by omitting the words “and a jury” wherever appearing therein.

New s. 21A.

6. The following section is inserted next after section twenty-one of the same Act:—

Compensa-
tion to non-
leaseholders.

21A. Any tenant or occupier of land resumed by the council, who would not be entitled under the other provisions of this Act to compensation in respect of such resumption, by reason of his tenancy being weekly or monthly only, may within ninety days from the publication of notification of resumption (or in the case of resumptions, notification of which was published on or after the first day of June, one thousand nine hundred and sixteen, and before the commencement of this Act, within ninety days from the commencement of this Act), send in a claim in manner hereinafter provided, which claim shall be considered and dealt with by a stipendiary magistrate who shall have full power to deal with such claim and to assess and award compensation to the claimant, or to refuse compensation. The provisions hereinbefore in this Act contained as to payment of interest and costs shall not apply to claims made under this section, but the magistrate shall have power to deal with and award such costs to the claimant or the council as he may consider just.

The

Sydney Corporation Amendment (Costs).

The cases in which compensation may be granted under this section shall be limited to the cases where the tenant can prove—

- (1) that he has been in lawful possession of the property resumed for a period of three years prior to the date of resumption; or
- (2) that he has applied for and been refused a lease by the owner not less than six months prior to such resumption; or
- (3) that he has paid a bonus for the purchase of any goodwill of the business carried on by him and appurtenant to the premises in the resumed area.

The amount to be awarded shall be limited to a sum not exceeding fifty pounds to be assessed as compensation for the removal of such tenant's goods and for any disturbance of business which he may have suffered by reason of such resumption. There shall be no appeal from such decision.

The magistrate may call for the production of any documents in the possession or power of any party which he may think necessary for determining the matter under consideration, and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose, and shall in regard to the issuing of subpoenas compelling the attendance of witnesses and production of documents, the taking of evidence and committal for contempt, have the powers in that behalf conferred on courts of petty sessions.

7. Section sixteen of the Sydney Corporation Amendment Act, 1905, is amended by the insertion of the words "or buildings therein" between the words "any portion of the said city" and the words "or for any of the purposes of the Principal Act".

Amendment
of Sydney
Corporation
Amendment
Act, 1905,
s. 16.

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

G. STRICKLAND,

Government House,

Governor.

Sydney, 22nd November, 1916.

SYDNEY CORPORATION AMENDMENT (COSTS) BILL.

SCHEDULE of the Amendments referred to in Message of 14th November, 1916.

Pages 4 and 5, clause 6. *Omit clause 6, insert new clauses 6 and 7.*

STUDY COLLECTION AMENDMENT (2016)

CONTRIBUTE to the development of the library of the University of the Pacific, 1916

Pages 1 and 2, Chapter 2. (First Chapter 2, Chapter 2 and 3)

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. S. MOWLE,

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 21 September, 1916.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. L. S. COOPER,

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 14th November, 1916.*

New South Wales.



ANNO SEPTIMO

GEORGII V REGIS.

Act No. , 1916.

An Act to make further provision with respect to resumptions by the Municipal Council of Sydney, and proceedings in connection therewith; to amend the Sydney Corporation Amendment Act, 1905, and certain other Acts; and for purposes consequent thereon or incidental thereto.

77097

80—

BE

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Sydney Corporation Amendment (Costs).

BE 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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as the "Sydney Corporation Amendment (Costs) Act, 1916." Short title.

Resumptions.

2. Section twenty of the Sydney Corporation Amendment Act, 1905, is amended by inserting in paragraph (c) after "(section ninety-six)" the following proviso:—
"Provided that any such notice of valuation may within one hundred and twenty days after service thereof be varied by notification to the claimant or his solicitor."

Amendment of Sydney Corporation Amendment Act, 1905, s. 20, par. (c).

3. Paragraph (d) of the same section is repealed and the following inserted in its place:—

Amendment of Sydney Corporation Amendment Act, 1905, s. 20, par. (d).

(d) As to the nature of the issue in actions for compensation, verdict and costs, the payment of compensation and mode of assessing compensation and the obligation of the party claiming payment to make out a title (sections ninety-nine, one hundred and seventeen, and one hundred and nineteen): Provided that—
(i) section ninety-nine shall be deemed to be amended and shall read as follows:—

99. (1) If the verdict in any action of compensation tried under the provisions of this Division of this Act is for an amount exceeding the amount of the valuation last notified to the claimant, and less than the amount of the claim of the claimant, the council shall pay to the claimant the proportion of his costs, which the excess of the amount of the verdict over such valuation bears to the excess of the claim over such valuation. If the amount of the verdict in such action is equal to or greater than the amount

Sydney Corporation Amendment (Costs).

amount of such claim the council shall pay the costs of the action. If the amount of the verdict in such action is equal to or less than the amount of such valuation the claimant shall pay the costs of the action.

(2) The judge before whom any such action is tried shall in no case have power to direct a reference to arbitration.

(3) Either party in any such action may move for a new trial in accordance with the practice of the Supreme Court or the district court as the case may be;

(ii) in section one hundred and seventeen the words "as the case may be" shall be deemed to be omitted therefrom and the word "court" shall be substituted in lieu of the words "magistrates, arbitrators, surveyors, valuers, or jury" and "magistrates, arbitrators, surveyors, valuers, and jury" respectively;

(iii) in the same section the words "establishment of railway or other public works upon or for which such land was resumed" shall be deemed to be omitted therefrom, and the words "construction of works by the council upon the land resumed" inserted in lieu thereof;

(iv) in the same section the words "Provided also that in assessing the purchase money or compensation in respect of the resumption of any land comprised or described in Schedules A and B of the Sydney Corporation Amendment Act, 1905, no allowance shall be made for compulsory purchase or forced sale" shall be deemed to be added thereto;

(v) in section one hundred and nineteen the word "four" shall be deemed to be inserted in lieu of the word "six", and the following words shall be added after the word "notification" at the end of subsection two "but in all cases where a claim is not served within

Sydney Corporation Amendment (Costs).

within the ninety days aforesaid the compensation money shall only bear interest from the date of service of notice of claim"; and subsection three thereof shall be deemed to be omitted.

5

4. The provisions of the two last preceding sections shall apply to all resumptions of land by the council published on or after the first day of February, one thousand nine hundred and fourteen: Provided that in any such resumption any claimant who has already lodged his claim may, within thirty days from the passing of this Act, amend such claim.

Application to cases now pending— with right of amendment.

5. Section twenty-one of the Sydney Corporation Amendment Act, 1905, is amended by omitting the words "and a jury" wherever appearing therein.

Amendment of s. 21 of Syd. Corp. Amdmt. Act, 1905.

6. The following section is inserted next after section twenty-one of the same Act:—

New s. 21a.

21A. Any tenant or occupier of land resumed by the council by notification published on and after the first day of June, one thousand nine hundred and sixteen, who would not be entitled under the other provisions of this Act to compensation in respect of such resumption—by reason of his tenancy being weekly or monthly only—may within ninety days from the publication of such notification of resumption send in a claim in manner hereinbefore provided, which claim shall be considered and dealt with by a Board which shall consist of the town clerk of the city of Sydney for the time being and one member to be from time to time nominated and appointed by His Excellency the Governor for the purpose, and for such term as His Excellency may name. Such board shall have full power to deal with such claim and to assess and award compensation to the claimant or to refuse compensation. The provisions hereinbefore in this Act contained as to payment of interest and costs shall not apply to claims made under this section, but the board shall have power to deal with and award such costs to the claimant or the council as it may consider just, and the payment of any such costs may be enforced

Compensation to non-leaseholders.

by

Sydney Corporation Amendment (Costs).

by action in the district court. The maximum amount of compensation to be awarded under this section shall not in any case exceed a sum equal to the nett profits of the claimant during the period of twelve months or any lesser period immediately preceding the date of resumption from the business (if any) carried on by him upon the premises resumed, which amount may be recovered by action in a district court. If at any time the members of the board are unable to agree as to the amount of compensation or as to costs to be paid under this section, they shall refer the matter to the public trustee, whose decision thereon shall be final and binding on all parties. There shall be no appeal from the decision of the board or the public trustee, as the case may be.

The board or the public trustee may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the matter under consideration, and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose and shall in regard to the issuing of subpoenas compelling the attendance of witnesses and production of documents, the taking of evidence and committal for contempt, have the powers in that behalf conferred on courts of petty sessions.

The members of the board and the public trustee shall be entitled to be paid for their services under this section out of the city fund such sum or sums as the council may from time to time determine.

6. The following section is inserted next after section twenty-one of the same Act:—

21A. Any tenant or occupier of land resumed by the council, who would not be entitled under the other provisions of this Act to compensation in respect of such resumption, by reason of his tenancy being weekly or monthly only, may within ninety days from the publication of notification of resumption (or in the case of resumptions,

Sydney Corporation Amendment (Costs).

resumptions, notification of which was published on or after the first day of June, one thousand nine hundred and sixteen, and before the commencement of this Act, within ninety days from the commencement of this Act), send in a claim in manner hereinafter provided, which claim shall be considered and dealt with by a stipendiary magistrate, who shall have full power to deal with such claim and to assess and award compensation to the claimant, or to refuse compensation. The provisions hereinbefore in this Act contained as to payment of interest and costs shall not apply to claims made under this section, but the magistrate shall have power to deal with and award such costs to the claimant or the council as he may consider just.

The cases in which compensation may be granted under this section shall be limited to the cases where the tenant can prove—

- (1) that he has been in lawful possession of the property resumed for a period of three years prior to the date of resumption; or
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The amount to be awarded shall be limited to a sum not exceeding fifty pounds, to be assessed as compensation for the removal of such tenant's goods, and for any disturbance of business which he may have suffered by reason of such resumption.

There shall be no appeal from such decision.

The magistrate may call for the production of any documents in the possession or power of any party which he may think necessary for determining the matter under consideration, and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose, and shall in regard

Sydney Corporation Amendment (Costs).

regard to the issuing of subpoenas compelling the attendance of witnesses and production of documents, the taking of evidence and committal for contempt, have the powers in that behalf conferred on courts of petty sessions.

- 5 7. Section sixteen of the Sydney Corporation Amendment Act, 1905, is amended by the insertion of the words "or buildings therein" between the words "any portion of the said city" and the words "or for any of
10 the purposes of the Principal Act"

[6d.]

Sydney: William Applegate Gullick, Government Printer.—1916.

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W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
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"Provided that any such notice of valuation may within one hundred and twenty days after service thereof be varied by notification to the claimant or his solicitor."
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3. Paragraph (d) of the same section is repealed and the following inserted in its place :—
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(i) section ninety-nine shall be deemed to be amended and shall read as follows :—

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Sydney Corporation Amendment (Costs).

amount of such claim the council shall pay the costs of the action. If the amount of the verdict in such action is equal to or less than the amount of such valuation the claimant shall pay the costs of the action.

(2) The judge before whom any such action is tried shall in no case have power to direct a reference to arbitration.

(3) Either party in any such action may move for a new trial in accordance with the practice of the Supreme Court or the district court as the case may be;

(ii) in section one hundred and seventeen the words "as the case may be" shall be deemed to be omitted therefrom and the word "court" shall be substituted in lieu of the words "magistrates, arbitrators, surveyors, valuers, or jury" and "magistrates, arbitrators, surveyors, valuers, and jury" respectively;

(iii) in the same section the words "establishment of railway or other public works upon or for which such land was resumed" shall be deemed to be omitted therefrom, and the words "construction of works by the council upon the land resumed" inserted in lieu thereof;

(iv) in the same section the words "Provided also that in assessing the purchase money or compensation in respect of the resumption of any land comprised or described in Schedules A and B of the Sydney Corporation Amendment Act, 1905, no allowance shall be made for compulsory purchase or forced sale" shall be deemed to be added thereto;

(v) in section one hundred and nineteen the word "four" shall be deemed to be inserted in lieu of the word "six", and the following words shall be added after the word "notification" at the end of subsection two "but in all cases where a claim is not served within

Sydney Corporation Amendment (Costs).

within the ninety days aforesaid the compensation money shall only bear interest from the date of service of notice of claim"; and subsection three thereof shall be deemed to be omitted.

5 **4.** The provisions of the two last preceding sections shall apply to all resumptions of land by the council published on or after the first day of February, one thousand nine hundred and fourteen: Provided that in
10 any such resumption any claimant who has already lodged his claim may, within thirty days from the passing of this Act, amend such claim.

5. Section twenty-one of the Sydney Corporation Amendment Act, 1905, is amended by omitting the
15 words "and a jury" wherever appearing therein.

6. The following section is inserted next after section twenty-one of the same Act:—

20 **21A.** Any tenant or occupier of land resumed by the council by notification published on and after the first day of June, one thousand nine hundred and sixteen, who would not be entitled under the other provisions of this Act to compensation in respect of such resumption—by reason of his tenancy being
25 weekly or monthly only—may within ninety days from the publication of such notification of resumption send in a claim in manner hereinbefore provided, which claim shall be considered and dealt with by a Board which shall consist of the town clerk of the city of Sydney for the time being and one member to
30 be from time to time nominated and appointed by His Excellency the Governor for the purpose, and for such term as His Excellency may name. Such board shall have full power to deal with such claim and to assess and award compensation to the
35 claimant or to refuse compensation. The provisions hereinbefore in this Act contained as to payment of interest and costs shall not apply to claims made under this section, but the board shall have power to deal with and award such costs to the
40 claimant or the council as it may consider just, and the payment of any such costs may be enforced
by

Application to cases now pending— with right of amendment.

Amendment of s. 21 of Syd. Corp. Amdmt. Act, 1905.

New s. 21A.

Compensation to non-leaseholders.

Sydney Corporation Amendment (Costs).

5 by action in the district court. The maximum
amount of compensation to be awarded under this
section shall not in any case exceed a sum equal to
the nett profits of the claimant during the period of
10 twelve months or any lesser period immediately
preceding the date of resumption from the business
(if any) carried on by him upon the premises resumed,
which amount may be recovered by action in a
district court. If at any time the members of the
15 board are unable to agree as to the amount of
compensation or as to costs to be paid under this
section, they shall refer the matter to the public
trustee, whose decision thereon shall be final and
binding on all parties. There shall be no appeal
from the decision of the board or the public trustee,
as the case may be.

The board or the public trustee may call for the
production of any documents in the possession or
20 power of either party which they or he may think
necessary for determining the matter under con-
sideration, and may examine the parties or their
witnesses on oath and administer the oaths
necessary for that purpose and shall in regard
25 to the issuing of subpoenas compelling the attend-
ance of witnesses and production of documents,
the taking of evidence and committal for contempt,
have the powers in that behalf conferred on courts
of petty sessions.

30 The members of the board and the public trustee
shall be entitled to be paid for their services under
this section out of the city fund such sum or sums
as the council may from time to time determine.

[6d.]

Sydney : William Applegate Gullick, Government Printer.—1916.

