

MURRUMBIDGEE IRRIGATION (AMENDMENT) ACT.

Act No. 30, 1940.

An Act to make provision for and in relation to the acquisition of public roads within any part of the land described in Schedule One to the Murrumbidgee Irrigation Act, 1910; for these and other purposes to amend the said Act and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 11th November, 1940.]

George VI.
No. 30, 1940.

BE it enacted by the King'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:—

1. This Act may be cited as the "Murrumbidgee Irrigation (Amendment) Act, 1940."

Short title.

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Murrumbidgee Irrigation (Amendment) Act.

No. 30, 1940.

Amendment
of Act
No. 42,
1910.

Sec. 6.

(Power to
acquire
land.)

2. The Murrumbidgee Irrigation Act, 1910, as amended by subsequent Acts, is amended by inserting next after subsection two of section six the following new subsections:—

(2A) Notwithstanding anything in any Act passed after the commencement of this Act the provisions of subsection one of this section shall extend and shall be deemed always to have extended to the resumption of any public road within the boundaries described in Schedule One to this Act.

(2B) Where any public road is resumed under the authority of this section after the commencement of the Murrumbidgee Irrigation (Amendment) Act, 1940, the following provisions shall have effect:—

- (a) Subsection two of this section shall not apply to or in respect of such resumption.
- (b) The municipal or shire council within whose area the public road so resumed is situated shall be entitled to claim compensation therefor.
- (c) Subject to paragraph (d) of this subsection the compensation shall be an amount not exceeding the capital sum spent by the council upon the construction of the road together with the sum, if any, paid by the council for purchase or resumption of the land therefor.
- (d) In any case where the council decides that it is necessary to purchase or resume and construct a new road to replace that resumed it shall notify the constructing authority of its decision.

Any such notification shall be accompanied by a plan of the location of the proposed new road, together with an estimate of the cost of the purchase or resumption and construction of the proposed new road.

Where

Where, having regard to the requirements of the public as at the date upon which the public road is resumed by the constructing authority, the constructing authority is of opinion—

- (a) that it is not necessary to replace the road resumed; or
- (b) that the location of the proposed new road is not satisfactory; or
- (c) that the cost of the purchase or resumption and construction of the proposed new road is excessive; or
- (d) that, for any reason whatsoever, the decision of the council should not be carried out either wholly or in part—

the constructing authority shall notify the council accordingly.

Such notification shall be accompanied by—

- (i) a statement setting out the grounds upon which the opinion of the constructing authority is based;
- (ii) details of any alternative proposal which in the opinion of the constructing authority should be adopted, together with such plans and estimates of costs (if any) as may be necessary to provide the council with full information in relation to the carrying out of such alternative proposal.

Any matter in dispute between the council and the constructing authority under this paragraph may be referred by either the council or the constructing authority to the Land and Valuation Court in accordance with rules of court.

The Land and Valuation Court shall have jurisdiction to hear and determine any matter so referred to it. The determination
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of that court shall be final and shall be carried into effect by the council and the constructing authority.

The Land and Valuation Court may in its discretion award such costs as it thinks fit in relation to any reference under this paragraph.

Where the Land and Valuation Court by its determination decides that it is necessary to replace the public road resumed by the constructing authority the amount of compensation shall be such sum, not exceeding the cost of the purchase or resumption and construction of the new road as the said court may determine. In making such determination the said court shall have regard to the actual condition of the public road resumed by the constructing authority as at the date of the resumption, and to the extent to which the same was used by the public before that date, and also to any damage to the road caused by the constructing authority or the Water Conservation and Irrigation Commission before that date.

Any amount paid to the council by way of compensation under this paragraph shall be placed in a trust fund until expended on such new road.
