



ANNO QUINTO

GEORGII V REGIS.

A.D. 1914.

No. 1154.

An Act to provide for the Acquisition by the Crown of Lands for Public Purposes, and for purposes consequent thereon and incidental thereto.

[Assented to, September 24th, 1914.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The Lands for Public Purposes Acquisition Act, 1914." Short title.

2. In this Act, unless inconsistent with the context or some other meaning is clearly intended,— Interpretation.

"Convey" means convey, transfer, release, assign, or otherwise assure, according to the exigencies of the case:

"Land" includes messuages, tenements, and hereditaments and houses and buildings, and also includes any estate or interest (legal or equitable) in land, and any easement, right, power, or privilege in, under, over, affecting, or in connection with land:

"Owner" includes, with respect to any land, any person having any estate or interest (legal or equitable) in the land, or any easement, right, power, or privilege in, under, over, affecting, or in connection with the land, or by "The Lands Clauses Consolidation Act" enabled to sell and convey such estate, interest, easement, right, power, or privilege: No. 6 of 1847.

"Proclamation" means proclamation made by the Governor and published in the *Government Gazette*: "Promoter

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“Promoter of the undertaking” means the promoter of the undertaking appointed by the proclamation with regard to the particular public purpose :

“Public purpose” means a purpose declared by the Governor, by proclamation under this Act, to be a public purpose.

Act not to apply to public parks.

3. This Act does not apply to any lands which—

- (a) are, or are situated within, a public park or park lands, or a place reserved or dedicated for the use and enjoyment of the inhabitants of the State, or any part thereof, and
- (b) are vested in, or are under the control of, any Municipal Corporation or Municipal or District Council.

Governor may declare any purpose to be a public purpose.

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4. The Governor may by proclamation declare any of the following purposes to be a public purpose, namely—

- i. the providing of offices and other buildings and premises for carrying on the Government of the said State or any Department or Departments of the Government of the said State :
- ii. any work or undertaking which the Government of the said State are by any Act or law empowered to carry out, but for which there is no power (except this Act) to acquire land :
- iii. any purpose which both Houses of Parliament, during the same or different Sessions of any Parliament, resolve shall be a public purpose within the meaning of this Act ;

and thereupon such purpose shall be deemed to be an undertaking within the meaning of “The Lands Clauses Consolidation Act” and the Acts amending that Act, as if it were an undertaking authorised by Act of Parliament.

Appointment of promoter of undertaking and holder of lands.

5. By the proclamation whereby a purpose is declared to be a public purpose, or by a subsequent proclamation, the Governor—

- (a) may appoint some person, or the holder for the time being of some specified office, to be, in respect of such public purpose, the promoter of the undertaking for the purposes of this Act, and
- (b) may nominate a person, or the holder for the time being of a specified office, being in the case of such holder a body corporate, to be the person to whom all land to be acquired under this Act for the said public purpose shall be conveyed, and in whom the same shall vest.

Power to acquire lands required for a public purpose.

Cf. S.A. Act 6, 1847, s. 6, 18 *et seq.*

Comm. Act 13, 1906, s. 13.

6. When the Governor has, by proclamation, declared any purpose to be a public purpose, the promoter of the undertaking may take and acquire, either by agreement or compulsorily, any land which is required for the said purpose : Provided that—

(a) no

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- (a) no land shall be taken or acquired under this Act unless the Governor has in writing directed that the same shall be so acquired ; and
- (b) all land acquired under this Act shall be conveyed to and shall vest in the person or officer, if any, nominated in that behalf by proclamation, as provided by section 5, or, if no person or officer is so nominated, then to and in His Majesty the King.

7. For the purposes of the taking and acquiring of land under this Act, and for the purposes of all matters incidental to or connected with such taking and acquiring,—

Incorporation of
Lands Clauses Con-
solidation Acts.

- I. "The Lands Clauses Consolidation Act," except sections 9, 12 to 17 inclusive, 21 to 25 inclusive, 38 to 62 inclusive, 64 to 68 inclusive, 110, 114 to 120 inclusive, 136, and 137; No. 6 of 1847.
- II. the Act No. 26 of 1855-6, entitled "An Act to amend 'The Land Clauses Consolidation Act,'" except sections 1, 4, and 6;
- III. the "Lands Clauses Consolidation Amendment Act, 1881," No. 202 of 1881. except sections 5 to 11 inclusive; and
- IV. "The Lands Clauses Consolidation Further Amendment Act, 1911,"

mutatis mutandis, are incorporated with this Act, so far as the same are applicable and are not inconsistent with the provisions of this Act, and shall to that extent take effect with regard to every public purpose; and for the purposes of this Act the undermentioned expressions, when used in the enactments so incorporated, shall have the meanings hereunder ascribed to them respectively, namely:—

"the promoters of the undertaking" shall mean the promoter of the undertaking as defined by section 2 of this Act, and

"the special Act" shall mean this Act: Provided that for the purposes of section 13 of "The Lands Clauses Consolidation Amendment Act, 1881," there shall be deemed to be no special Act; No. 202 of 1881

and, notwithstanding anything contained in any of the said incorporated enactments, the powers of taking and acquiring land under this Act may be exercised without any limit as to time.

8. Anything to be done or suffered, or which may be done or suffered, by the promoters of an undertaking or any number of them, by virtue of the enactments incorporated herewith, shall or may be done or suffered by the promoter of the undertaking as defined by section 2 of this Act. Promoter of the
undertaking to have
powers of promoters
under incorporated
Acts.

9. With respect to any land taken or acquired or to be taken or acquired under this Act, if the amount of compensation to be paid to Method of determin-
ing compensation for
land taken.

to

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to any owner thereof is not determined by agreement in writing, signed by or on behalf of such owner and the promoter of the undertaking, within twenty-one days after such promoter has given notice to such owner, as required by section 18 of "The Lands Clauses Consolidation Act," that he requires to purchase or take such land, the amount of compensation shall be determined by arbitration in the following manner:—

- i. The promoter of the undertaking may give notice in writing to such owner of his intention to have the compensation settled by arbitration, and may, by the same or a subsequent notice in writing to such owner, nominate and appoint an arbitrator to act in the reference on behalf of such promoter :
- ii. Such owner may, within twenty-one days after the giving of such notice appointing an arbitrator, give notice in writing to the promoter of the undertaking, agreeing that such arbitrator shall be sole arbitrator, or nominating and appointing another arbitrator to act in the reference on behalf of such owner :
- iii. Each such notice nominating and appointing an arbitrator, or agreeing to the appointment of a sole arbitrator, shall be deemed a submission to arbitration on the part of the party by whom the same is given ; and after the giving of any such notice neither party shall have power to revoke the appointment thereby made or such submission without the consent of the other party, nor shall the death of either party operate as a revocation :
- iv. Unless such owner, within twenty-one days after the giving by the promoter of the undertaking as aforesaid of notice nominating and appointing an arbitrator, gives notice to such promoter as provided by paragraph ii. hereof, agreeing that such arbitrator shall be sole arbitrator, or nominating and appointing another arbitrator, such promoter may appoint the arbitrator nominated and appointed by him to act on behalf of both parties ; and such arbitrator shall proceed to hear and determine the matter and shall give his award determining the compensation to be paid :
- v. All the provisions of sections 26 to 35 inclusive, of "The Lands Consolidation Act" shall, *mutatis mutandis*, apply with respect to the determination of the compensation :
- vi. No notice, appointment, or award made under this section shall be set aside or be invalid for irregularity or error in matter of form :
- vii. Every award under this section of arbitrators, or of a single arbitrator (in a case where it is agreed, as mentioned in paragraph ii. hereof, that an arbitrator shall be the sole arbitrator, or where a single arbitrator is empowered by this

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this section to give an award), or of an umpire, shall be final: Provided always that where an arbitrator or umpire has misconducted himself, the Supreme Court or a Judge thereof may remove him, and that where an arbitrator has misconducted himself, or an arbitration or award has been improperly procured, the said Court or a Judge thereof may set the award aside:

VIII. A submission to arbitration under this section shall have the same effect as if it had been made an order of the Supreme Court; and an award under this section may be enforced in the same manner as a judgment or order of the said Court to the same effect.

10. In determining the amount of compensation to be paid in respect of any land taken or acquired or to be taken or acquired under this Act, regard shall not be had to any enhancement or diminution in the value of the land arising in consequence of—

Rules to be observed in fixing compensation.

Cf. Darling Harbor Act (N.S.W.), 10, 1900, s. 4.

Adelaide Loopline Act, 1909, s. 5.

(a) the passing of this Act; or

(b) the taking or acquiring under this Act of any land; or

(c) the construction or establishment by the promoter of the undertaking, or the Government of the said State, or any department under the said Government, of any work or undertaking of any kind on any land taken or acquired, or which there is power to take or acquire under this Act, or elsewhere; or

(d) any proposal so to construct or establish any such work or undertaking, or any expectation that any work or undertaking will be so constructed.

11. (1) When any land acquired under this Act vests in His Majesty the King, the Governor may cause the grant, duplicate certificate of title, or other muniment or muniments of title, and the instrument or document whereby the land is conveyed to His Majesty, to be lodged with the Registrar-General.

Proceedings to be adopted where land vests in His Majesty.

Ibid., s. 16.

(2) The Registrar-General shall make any entry in the Register Book or other book in the Lands Titles or General Registry Office necessary or proper to evidence the vesting of the land in His Majesty.

(3) If any of such land is under the provisions of "The Real Property Act, 1886," the Registrar-General shall, upon receiving the transfer or other instrument whereby the same is conveyed to His Majesty, make an entry on the folium relating thereto in the Register Book as follows:—"Cancelled, the land [or part of the land] having been acquired by the Crown," and shall sign such entry. Thereafter the land referred to in this subsection shall, for the purposes of "The Real Property Act, 1886," and until again alienated from the Crown, be dealt with and regarded in all respects as if it had never been alienated from the Crown.

No. 380 of 1886.

(4) Upon

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(4) Upon receiving the grant or duplicate certificate of title of the land in any such case as mentioned in subsection (3) of this section, the Registrar-General shall cancel the same by indorsing thereon the words—"Cancelled, the within land [*or part of the within land*] having been acquired by the Crown," and shall sign such indorsement; and if the land is not the whole of the land comprised in the grant or certificate of title, the Registrar-General shall, without fee, issue a fresh certificate of title for the balance of the land so comprised.

Power to enter and examine lands.

Comm. Act 13, 1906, s. 21.

12. When any purpose has been declared to be a public purpose, the promoter of the undertaking may—

- (a) enter upon any land, and
- (b) make surveys, take levels, and sink pits thereon and therein, and examine the soil thereof, and
- (c) do anything necessary for ascertaining the suitability of the land for such public purpose.

Power to occupy and use lands temporarily.

Ibid., s. 22.

S.A. Municipal Corporations Act, 1890, s. 301.

13. When any land has been taken or acquired under this Act for any public purpose, the promoter of the undertaking, and all persons authorised by him may enter any land—

- (a) being within a distance of five hundred yards from the nearest boundary of the land so taken or acquired, and
- (b) not being a garden, orchard, or plantation attached or belonging to a house, or a park, planted walk, avenue, or ground ornamentally planted, and
- (c) not being within a distance of five hundred yards from the dwelling-house of the owner of the land so entered;

and may occupy such land so entered so long as may be necessary for the purposes of any works connected with the carrying out of the public purpose.

Power to take materials and make roads on lands so occupied.

Ibid., s. 301.

Comm. Act 13, 1906, s. 23.

14. (1) The promoter of the undertaking and all persons authorised by him may, in connection with the carrying out of any public purpose, exercise on or in relation to any land occupied by him as provided by section 13, all or any of the following powers, namely, he and they may—

- (a) take clay, stone, gravel, earth, timber, wood, or material, or things required for carrying out the public purpose;
- (b) make cuttings and excavations;
- (c) deposit clay, stone, gravel, earth, timber, wood, material, or other things;
- (d) manufacture goods or articles required for carrying out the public purpose;
- (e) erect workshops, sheds, and buildings, of a temporary character;
- (f) make

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(f) make roads.

(2) The power to take clay, stone, gravel, or earth shall not be exercised in respect of any stone or slate quarry, brickfield, or other like place commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same.

15. (1) When the promoter of the undertaking or any person authorised by him enters any land and temporarily occupies it as provided by section 13, the promoter of the undertaking shall pay to the owner or occupier of the land, as the case requires, a rent for the occupation of the land and also compensation for all permanent or other loss or damage sustained by him by reason of the exercise, as regards such land, of the powers conferred by this Act, including the full value of all materials and things taken from such land.

Rent for temporary occupation and compensation for damage.

Ibid., s. 24.

S.A. M.C. Act, 1890, s. 303.

(2) The amount of the rent and compensation so to be paid and the times of payment thereof shall, in default of agreement in writing signed by the promoter of the undertaking and the owner or occupier within twenty-one days after such promoter has given notice to such owner of his desire to fix the amount, be determined by arbitration in the manner provided by section 9.

16. The promoter of the undertaking shall, if required by the owner or occupier of any land occupied under the provisions of section 13, separate such land from any adjoining land by a sufficient fence, with such gates as may be necessary for the convenient occupation of such adjoining land.

Fencing of lands temporarily occupied.

Comm. Act, 13, 1906, s. 25.

17. (1) When it appears to the Governor that any land taken or acquired for any public purpose is no longer required for such purpose, such land may, with the consent of the Governor,—

Power to dispose of surplus land.

Cf. ibid., s. 63

(a) be used for any other public purpose, or

(b) be sold, exchanged for other land, or otherwise disposed of.

(2) For the purpose of carrying out any sale, exchange, or disposition of such land, the person in whom the same is vested, or, if vested in His Majesty the King, the Governor, may execute any and every assurance, deed, instrument, and writing, and do all such other things as may be necessary or expedient; and it shall not be necessary for the person paying any moneys in respect of any such transaction to prove the consent of the Governor to such transaction, nor to inquire whether a proper case has arisen for the exercise of any power under this section.

(3) Moneys received in consideration of the sale, exchange, or disposition of any such land shall be paid into the General Revenue of the said State, unless such land was paid for out of moneys voted by Parliament for some particular public purpose, in which case such moneys shall be paid to the Treasurer to the credit of the said public purpose.

(4) Nothing

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No. 839 of 1903.

(4) Nothing in this section shall be deemed to interfere with any power of leasing any such lands by virtue of section 80 of "The Crown Lands Act, 1903," or any enactment substituted for that section.

(5) The Governor shall in the month of July in every year cause a report to be prepared stating—

- (a) particulars of all lands (if any) with regard to which, during the period ending on the preceding thirtieth day of June, any of the powers conferred by this section have been exercised,
- (b) how such lands have respectively been dealt with under this section, and
- (c) the price or other consideration, and the other terms and conditions (if any), in each case.

Every such report shall be laid before both Houses of Parliament within fourteen days after it has been prepared if Parliament is in Session, and if not, then within fourteen days after the commencement of the next Session.

Moneys to be paid out of funds voted by Parliament.

18. The moneys required for the purposes of this Act shall be paid out of moneys voted by Parliament for the purposes of this Act, or out of moneys so voted for the public purpose for which the particular land is taken or acquired.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.