

Queensland



ANNO SEXTO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 48 of 1967

**An Act to Consolidate and Amend the Law Relating to the  
Acquisition of Land for Public Works and other  
Public Purposes, and for other purposes**

[ASSENTED TO 22ND DECEMBER, 1967]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. (1) **Short title.** This Act may be cited as "*The Acquisition of Land Act of 1967.*"

(2) **Commencement.** This Act shall come into force on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

2. **Parts of Act.** This Act is divided into Parts and Schedules as follows:—

PART I—PRELIMINARY (ss. 1-4);

PART II—TAKING OF LAND (ss. 5-15);

PART III—DISCONTINUANCE OF TAKING OF LAND (ss. 16-17);

PART IV—COMPENSATION (ss. 18-35);

PART V—GENERAL (ss. 36-42);

FIRST SCHEDULE;

SECOND SCHEDULE.

3. (1) **Repeals.** The Acts set out in Part I of the First Schedule to this Act are repealed to the extent indicated in that Part.

(2) **Amendments.** The Acts set out in Part II of the First Schedule to this Act are amended to the extent indicated in that Part.

(3) **Savings.** (a) Without derogating from the operation of "*The Acts Interpretation Acts, 1954 to 1962,*" where proceedings for taking any land begun before the date of the commencement of this Act are not completed before that date, such of the provisions of any of the Acts repealed or amended by this Act as applied with respect to the taking of such land when proceedings to take it began shall continue to apply with respect to the taking of such land as if this Act had not come into force.

For the purposes of this paragraph (a) proceedings for taking any land include proceedings in respect of compensation:

Provided that no right or claim to compensation in respect of any taking of land to which this paragraph (a) applies shall become or be absolutely barred by reason of the provisions of subsection (2) of section eighteen, section twenty-one or subsection (2) of section twenty-three of "*The Public Works Land Resumption Acts, 1906 to 1955,*" or the provisions of sections seventeen or twenty of "*The City of Brisbane Improvement Acts, 1916 to 1953,*" or the provisions of subparagraph (g) of paragraph (vii) of subsection (2) of section twenty-two of "*The State Housing Acts, 1945 to 1966,*" or the provisions of paragraph (i) of subsection (7) of section 8B of "*The State Development and Public Works Organisation Acts, 1938 to 1964,*" or the provisions of sections fifty-five, fifty-eight or sixty of "*The Railways Acts, 1914 to 1965*":

Provided further that if the claimant has not referred the matter of the compensation to the Land Court within one year after the land has been taken, such matter may be so referred at any time thereafter by either the claimant or the constructing authority and, in the case of a reference by the constructing authority, the Land Court may make all such orders and give all such directions as it deems necessary or expedient to ensure the due hearing and determination of the reference.

(b) Nothing in paragraph (a) of this subsection shall revive any right or claim to compensation which at the date of the commencement of this Act was absolutely barred by reason of the provisions of subsection (2) of section eighteen, section twenty-one or subsection (2) of section twenty-three of "*The Public Works Land Resumption Acts, 1906 to 1955,*" or the provisions of sections seventeen or twenty of "*The City of Brisbane Improvement Acts, 1916 to 1953,*" or the provisions of subparagraph (g) of paragraph (vii) of subsection (2) of section twenty-two of "*The State Housing Acts, 1945 to 1966,*" or the provisions of paragraph (i) of subsection (7) of section 8B of "*The State Development and Public Works Organisation Acts, 1938 to 1964,*" or the provisions of sections fifty-five, fifty-eight or sixty of "*The Railways Acts, 1914 to 1965.*"

(c) The provisions of paragraph (b) of this subsection shall be construed so as not to prejudice or affect in any way the right of the constructing authority concerned to make at its discretion payment of compensation in respect of any claim referred to in that paragraph, it being hereby declared that the making of such a payment by a constructing authority is and always was lawful.



**4. Meaning of terms.** In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

“Constructing authority”—The Crown or any person or local authority authorised by this Act or any other Act (and whether another Act passed before, on or after the commencement of this Act) to take land for any purpose;

“Land”—Land which is for the time being granted in fee-simple by the Crown:

The term includes any estate or interest in land so granted:

The term does not include land being purchased pursuant to Part VII of “*The Land Acts, 1962 to 1967*”;

“Local authority”—The term includes Brisbane City Council or a joint local authority;

“Minister”—The Minister for Lands or other Minister for the time being administering this Act:

The term includes any Minister performing temporarily the duties of the Minister administering this Act;

“Part”—Part of this Act;

“Registrar of Titles”—The term includes the Deputy Registrars of Titles for the Central District and Northern District respectively under and within the meaning of “*The Real Property (Local Registries) Act of 1887.*”

## PART II—TAKING OF LAND

**5. Purposes for which land may be taken.** (1) Land may be taken under and subject to this Act—

(a) Where the constructing authority is the Crown, for any purpose set out in the Second Schedule to this Act;

(b) Where the constructing authority is a local authority—

(i) for any purpose set out in the Second Schedule to this Act which the local authority may lawfully carry out; or

(ii) for any purpose, including any function of local government, which the local authority is authorised or required by a provision of an Act other than this Act to carry out; or

(c) In the case of a constructing authority other than the Crown or a local authority—

(i) for any purpose set out in the Second Schedule to this Act which that constructing authority may lawfully carry out; or

(ii) for any purpose which that constructing authority is authorised or required, by a provision of an Act other than this Act, to carry out.

(2) The power to take, under and subject to this Act, land for a purpose (in this subsection called the “primary purpose”) includes power to take from time to time as required land either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.

(3) The Governor in Council, pursuant to any of his powers under “*The Land Acts, 1962 to 1967*,” to resume land, at the request of a constructing authority other than the Crown, may take on its behalf any land comprised in a holding or any easement on a holding within the meaning of Division XI of Part X of those Acts required by such constructing authority for a purpose for which it may take under and subject to this Act land or an easement on land granted in fee-simple.

**6. Easements.** (1) When for any purpose it is not necessary that the constructing authority should take the whole estate in any land, but it is sufficient for such purpose to take an easement, the constructing authority may take such easement only and for that purpose the provisions of this Act shall apply as if the easement were land.

(2) Upon application in that behalf, payment of the prescribed fees, and the production to him of the *Gazette* copy of the Proclamation, or, in the case of Brisbane City Council, Notification of Resumption, whereby an easement is taken affecting land under “*The Real Property Acts, 1861 to 1963*,” the Registrar of Titles shall register such easement as prescribed by those Acts, notwithstanding that such easement is not being annexed to or used and enjoyed together with any other land.

**7. Notice of intention to take land.** (1) A constructing authority which proposes to take any land shall serve as prescribed by this section the notice (in this Act called a “notice of intention to resume”) prescribed by this section.

(2) A notice of intention to resume shall be served upon any and every person who to the knowledge of the constructing authority—

- (a) will be entitled to claim compensation under this Act in respect of the taking of the land concerned; or
- (b) is a mortgagee of the land.

(3) A notice of intention to resume shall be in writing and shall—

- (a) specify the particular purpose for which the land to be taken is required;
- (b) state the description of the land to be taken which description—
  - (i) if the land is described as a separate lot or parcel in a plan of survey registered in the office of the Registrar of Titles or deposited in the office of the Surveyor-General, shall be that description; or
  - (ii) if the land is not described as mentioned in subparagraph (i) of this paragraph, may be made in any manner sufficient to substantially identify the land;
- (c) in the case of an easement, also state the rights and obligations to be conferred and imposed by the easement;
- (d) state that the person to whom the notice is directed may, on or before the date specified in the notice (being a date not less than thirty days after the date of the notice), serve upon the constructing authority at the address set out in the notice an objection in writing to the taking of the land;
- (e) in relation to the objection mentioned in paragraph (d) of this subsection, set out—
  - (i) that the objection must state the grounds of the objection and the facts and circumstances relied on by the objector in support of those grounds;

- (ii) that any matter pertaining to the amount or payment of compensation is not a ground of objection;
- (iii) that an objector who states in his objection that he desires to be heard in support of the grounds of his objection may appear and be heard by the constructing authority or its delegate at the time and place specified in the notice;
- (f) state that the constructing authority is willing to negotiate to acquire by agreement or, failing agreement, to treat as to the compensation to be paid and all consequential matters.

(4) (a) Where a notice of intention to resume relates to land under "*The Real Property Acts, 1861 to 1963*," the constructing authority shall file a copy of the notice with the Registrar of Titles.

(b) If the constructing authority amends or discontinues the resumption it shall forthwith file with the Registrar of Titles a notice of the amendment or discontinuance.

For the purpose of this paragraph (b), notwithstanding that a constructing authority has not served notice under section sixteen of this Act, it shall be deemed to discontinue a resumption if the application prescribed by subsection (3) of section nine of this Act has not been made within the time prescribed by that subsection or, in the case of Brisbane City Council, if the Notification of Resumption has not been published in the *Gazette* within twelve months after the date of the notice of intention to resume.

(5) The failure by the constructing authority to serve upon the owner a notice of intention to resume, where such failure is due to circumstances beyond the control of the constructing authority, or the failure of the constructing authority to serve upon any person other than the owner a notice of intention to resume, or the failure of the constructing authority to observe paragraph (a) of subsection (4) of this section, shall not prejudice any Proclamation or, in the case of Brisbane City Council, Notification of Resumption made under this Act, with respect to any land, and any land included in any such Proclamation or Notification shall be taken in terms of the Proclamation or Notification concerned notwithstanding any such failure, and the failure by the constructing authority to serve upon any person entitled thereto any notice as prescribed by this Act shall not invalidate the continuance or discontinuance of any resumption.

In this subsection the term "owner" means, in the case of land under "*The Real Property Acts, 1861 to 1963*," the person registered as the proprietor in fee-simple at the date of the notice of intention to resume.

**8. Dealing with objections.** (1) A person entitled to be served with a notice of intention to resume land who has objected as prescribed to the taking shall not be entitled to be heard in support of the grounds of his objection unless he stated in his objection that he desired to be so heard and appears, in person or by counsel, solicitor or agent, at the time and place specified in the notice.

(2) The constructing authority shall consider the grounds of objection to the taking of any land and—

- (a) if the objector has been heard by the constructing authority, the matters put forward by him in support of such grounds; or
- (b) if the objector has been heard by the delegate of the constructing authority, the report thereon of such delegate."

If upon such consideration, the constructing authority is of opinion that the resumption should be discontinued or that the notice of intention to resume should be amended, the constructing authority may discontinue the resumption or amend the notice of intention to resume:

Provided that a notice of intention to resume shall not be amended so as to include therein land additional to the land the subject thereof.

(3) Without the consent in writing of the owner Brisbane City Council shall not take any land for the purpose of park, garden or recreation grounds unless such land is zoned under the City of Brisbane Town Plan for the purpose of open space.

An owner who, at the time when any land to which this subsection applies is taken by Brisbane City Council, has an unsatisfied claim for compensation for injurious affection as prescribed by "*The City of Brisbane Town Planning Acts, 1964 to 1967*," shall in respect of the taking of the land be entitled to compensation as if the land were not so injuriously affected.

**9. Means by which land to be taken other than by Brisbane City Council or an approved Local Authority.** (1) This section does not apply with respect to the taking of land by Brisbane City Council or an approved Local Authority.

(2) In and for the purposes of this section "Minister" means—

- (a) in the case of land to be taken for a purpose of "*The State Development and Public Works Organisation Acts, 1938 to 1964*," the Minister for the time being administering those Acts;
- (b) in the case of land to be taken for a purpose of "*The Main Roads Acts, 1920 to 1965*," the Minister for the time being administering those Acts;
- (c) where the Governor in Council (who is hereby thereunto authorized) by Order in Council has so declared in the case of land to be taken for a purpose of any other Act, the Minister for the time being administering the Act in question; and
- (d) in any other case the Minister for the time being administering this Act.

(3) If within the time stated in the notice of intention to resume no objection is made or if, after due consideration of all objections, the constructing authority is of opinion that the land in question is required for the purpose for which it is proposed to be taken, the constructing authority may apply to the Minister that the land be taken as prescribed by this section.

Such application shall be made within twelve months after the date of the notice of intention to resume and not thereafter.

(4) Such application shall contain or be accompanied by—

- (a) a copy of the relevant notice of intention to resume and of any further notice amending the same served under section seven of this Act;
- (b) where the land is not described in the notice of intention to resume as mentioned in subparagraph (i) of paragraph (b) of subsection (3) of section seven of this Act, a copy of a plan of survey of the land certified as accurate by an authorised surveyor;

- (c) a list of the names and addresses last known to the constructing authority of all persons who to the knowledge of the constructing authority are entitled pursuant to section eighteen of this Act to claim compensation;
- (d) a statement as to those of the persons mentioned in paragraph (c) of this subsection who have not been served with the notice of intention to resume and, a further statement setting out in relation to every such person, the manner in which such service was attempted and the reasons for failure to effect it;
- (e) a statement whether or not any person objected in terms of the notice of intention to resume and, in the case of such an objection or objections, the name or names of the objector or objectors, a copy of every objection, and a report by the constructing authority thereon.

(5) The Minister may require any constructing authority to furnish him, within a time specified by him, such further particulars and information as he deems fit with respect to an application under this section.

(6) The Governor in Council shall consider every application made to the Minister under this section, including all statements and documents or copies of documents accompanying the application and, if satisfied—

- (a) that the land in question may be lawfully taken for the purpose for which it is proposed to be taken and should be so taken; and
- (b) that the constructing authority has done and taken reasonable things and steps for the purpose of complying with the requirements of sections seven and eight of this Act and, where the notice of intention to resume has not been served upon the owner as defined in subsection (5) of section seven of this Act, that such failure was due to circumstances beyond the control of the constructing authority,

the Governor in Council may, by Proclamation published in the *Gazette*, declare that the land in question, particulars whereof shall be contained in or annexed to the Proclamation, is taken for the purpose therein mentioned as from the date of the publication in the *Gazette* of the Proclamation.

**10. Means by which land to be taken by Brisbane City Council or an approved Local Authority.** (1) (a) If within the time stated in the notice of intention to resume no objection is made or if, after due consideration of all objections, Brisbane City Council is of opinion that the land in question is required for the purpose for which it is proposed to be taken, Brisbane City Council may resolve accordingly and apply for the approval of the Governor in Council to the taking by it of the land.

(b) Such application shall be made to the Minister and shall be in writing under the seal of Brisbane City Council and shall contain or be accompanied by a copy of the resolution and by the statements, documents and copies of documents prescribed by subsection (4) of section nine of this Act.

The Minister may require Brisbane City Council to furnish him, within a time specified by him, such further particulars and information as he deems fit with respect to the application;

(c) If upon consideration of the application, including all statements, and documents or copies of documents accompanying the application, the Governor in Council is satisfied as prescribed by subsection (6) of section nine of this Act, the Governor in Council by Order in Council may approve that Brisbane City Council take the land in question.

(2) Subject to the approval of the Governor in Council by Order in Council Brisbane City Council, by notification published in the *Gazette*, shall declare that the land in question, particulars whereof shall be contained in or annexed to the notification, is taken by Brisbane City Council for the particular purpose mentioned in the notification as from the date of the publication in the *Gazette* of the notification.

A notification referred to in this subsection is in this Act called a "Notification of Resumption."

(3) Where the land in question is not described in the notice of intention to resume as mentioned in subparagraph (i) of paragraph (b) of subsection (3) of section seven of this Act, the particulars of the land in question which are contained in or annexed to the Notification of Resumption shall be in accordance with a plan of survey of such land certified as correct by an authorised surveyor.

(4) A Notification of Resumption may be published in the *Gazette* within twelve months after the date of the notice of intention to resume but shall not be published thereafter.

(5) The Governor in Council by Order in Council may approve that a Local Authority other than Brisbane City Council may take land as prescribed by this section.

During the continuance in force of such an Order in Council the Local Authority named therein, in this subsection and in subsection (1) of section nine of this Act referred to as "an approved Local Authority," may take as prescribed by this section any land which may be lawfully taken by it.

For the purpose of giving effect to such an Order in Council the provisions, other than subsection (3) of section eight, of this Act shall be read and construed with and subject to all necessary modifications including by reading and construing any reference therein to Brisbane City Council as a reference to the approved Local Authority in question.

**11. Correction of errors, &c., in Proclamation or Notification of Resumption.** (1) Where it is found that the Proclamation or Notification of Resumption, in this subsection called the "first Proclamation" or, as the case requires, the "first Notification", incorrectly describes the land purporting to be taken thereby or that any other error in form or substance exists in relation to such taking, the Governor in Council, by a subsequent Proclamation published in the *Gazette*, or Brisbane City Council by a subsequent Notification published in the *Gazette*, may amend the first Proclamation or, as the case may be, the first Notification.

(2) If amended by a subsequent Proclamation or Notification made pursuant to this section, the first Proclamation or, as the case may be, the first Notification shall, on and from the date of the publication in the *Gazette* of the subsequent Proclamation or Notification, be read as one with the subsequent Proclamation or Notification and shall have force and effect accordingly.

(3) The power to amend by a subsequent Proclamation or Notification includes power to so amend from time to time, including power by any subsequent Proclamation or Notification to amend the first Proclamation or the first Notification as theretofore amended by any other Proclamation or Notification:

Provided that—

- (a) no person shall be prejudiced in respect of any mortgage, charge, claim, estate, or interest existing in respect of the land, by reason of his having, in consequence of the first Proclamation or the first Notification or any subsequent Proclamation or Notification, done or omitted to do any act or thing, or failed to enforce or act upon any right, or to comply with any obligation in respect of such mortgage, charge, claim, estate or interest;
- (b) no person shall have any right of action or claim against the constructing authority for anything *bona fide* done under the first Proclamation or the first Notification or any subsequent Proclamation or Notification;
- (c) nothing in this section contained shall limit the power of the constructing authority to take at any subsequent time the whole or any part of the land mentioned or described in any Proclamation or, in the case of Brisbane City Council, Notification of Resumption so amended;
- (d) any amendment of the first Proclamation or first Notification shall not prejudice or affect the power of the constructing authority to take any land which has been excluded from the first Proclamation or first Notification by reason of the amendment;
- (e) if the constructing authority again takes land which has been excluded from the first Proclamation or first Notification by reason of the amendment, compensation shall not be payable in respect of the value of any works or improvements which have been made or effected on the land by the constructing authority subsequent to the date of publication in the *Gazette* of the first Proclamation or first Notification.

**12. Effect of Proclamation or Notification of Resumption.** (1) Subject to subsection (4) of this section, according as the Proclamation prescribes, the land taken thereby shall vest in the Crown or in the constructing authority which requires the land from and after the date of the publication in the *Gazette* of the Proclamation.

Where the land vests in the Crown it shall be and remain Crown land until it is, according to the purpose for which it was taken, dealt with as prescribed by an Act other than this Act.

(2) Subject to subsection (4) of this section, the land taken by a Notification of Resumption shall vest in Brisbane City Council from and after the date of the publication in the *Gazette* of the Notification of Resumption.

(3) Where the land vests in a constructing authority, including Brisbane City Council, it shall so vest and be held by the constructing authority for an estate in fee-simple and, upon application by the constructing authority and production of a *Gazette* copy of the



Proclamation or, in the case of Brisbane City Council, the Notification of Resumption and payment of the prescribed fees, the Registrar of Titles shall register the constructing authority accordingly and, if the application so requests, issue to it a certificate of title accordingly.

If the land is not under "*The Real Property Acts, 1861 to 1963.*" the application shall contain a request to issue a certificate of title for the land.

If the land taken is part of land subject to a building units plan registered under "*The Building Units Titles Act of 1965,*" the Registrar of Titles shall, upon payment of the prescribed fees, do and execute all such acts, matters and things he shall consider necessary to amend the building units plan, and may make all such entries, notings or endorsements as he shall consider necessary in the appropriate Register Book.

(4) Land granted by the Crown upon trust for a public purpose shall upon and by virtue of the taking thereof become Crown land and may, according to the purpose for which it was taken, be granted upon trust to, or set apart and placed under the control of, the constructing authority, including Brisbane City Council, as trustee, or may be dedicated to public use.

(5) From and after the date of the publication in the *Gazette* of the Proclamation or, in the case of Brisbane City Council, the date of the publication in the *Gazette* of the Notification of Resumption the land thereby taken shall be vested or become Crown land as provided by the foregoing provisions of this section absolutely freed and discharged from all trusts, obligations, mortgages, charges, rates, contracts, claims, estates, or interest of what kind soever, or if an easement only is taken, such easement shall be vested in the constructing authority; and the estate and interest of every person entitled to the whole or any part of the land shall thereby be converted into a right to claim compensation under this Act and every person whose estate and interest in the land is injuriously affected by the easement shall have a right to claim compensation under this Act.

The amount of such compensation may be agreed upon between the constructing authority and the claimant subject, however, to the consent of any mortgagee of the land taken. Failing such agreement every such claim may be enforced against the constructing authority concerned under, subject to and in accordance with this Act and that constructing authority shall be liable accordingly.

(6) Subject to section eleven of this Act, upon publication in the *Gazette* the Proclamation or, in the case of Brisbane City Council, Notification of Resumption shall be evidence that the provisions of sections seven, eight and nine or, in the case of a Notification of Resumption, seven, eight and ten of this Act have been complied with and, in the absence of evidence in rebuttal, shall be conclusive such evidence.

(7) Forthwith after the publication in the *Gazette* of the Proclamation or Notification of Resumption taking any land or of a subsequent Proclamation or Notification amending the same, the constructing authority or, as the case may be, Brisbane City Council shall serve upon every person who to its knowledge is entitled pursuant to section eighteen of this Act to claim compensation or is a mortgagee of the land a copy of the Proclamation or Notification.



The omission to serve upon any person such a copy shall not prejudice or affect in any way the operation and effect of the Proclamation or Notification in question.

**13. Owner may require small parcel of severed land to be taken.** (1) If a constructing authority proposes to take part of any land and the taking of such part will leave a parcel which, the constructing authority and the owner of the land required to be taken agree in writing, will by reason of its small size or shape be of no practical use or value to the owner of such land, the constructing authority shall take the whole of the land.

(2) A constructing authority may sell or otherwise deal with any parcel taken by it by reason of subsection (1) of this section.

**14. Dealing with title to land affected by resumption.** (1) The Registrar of Titles may, by notice in writing, require a person who has in his possession, custody or control any instrument evidencing the title to the land taken by the constructing authority named in such notice, to deliver up to him, within the time specified in such notice, the instrument in question.

(2) A person thereunto required by a notice under subsection (1) of this section, who fails to deliver up to the Registrar of Titles the instrument specified in the notice within the time therein specified shall be guilty of an offence and liable to a penalty of one hundred dollars.

Notwithstanding that such person has not been proceeded against for such offence, unless such failure is due to circumstances beyond his control, he shall not be entitled to receive compensation or to be paid any advance or, in the case of a mortgagee, to be made any payment under this Act until the instrument in question is delivered to the Registrar of Titles.

(3) The costs and expenses in connection with the registration and issue of documents rendered necessary by the taking of the land shall be borne by the constructing authority.

Such costs and expenses may be taxed by the proper officer of the Supreme Court under the rules of that Court.

**15. Taking by agreement.** Subject to any limitation imposed on it by any Act other than this Act, a constructing authority may by agreement in writing acquire any land or any estate or interest in any land required by it for a purpose for which it may take such land or such estate or interest.

In such case the parties—

(a) may agree upon the amount of the compensation; or

(b) may agree that such amount be determined by the Land Court in which case the compensation shall, upon the reference of either party, be determined by the Land Court as if the land had been taken under this Act on the date of the acquisition.

If the amount of the compensation is agreed upon it may be further agreed that the constructing authority will grant any easement, right of way, right of occupation or any other right, privilege or concession in, upon, over or under any land under its control, in satisfaction or part satisfaction of such amount, and such a grant shall satisfy the amount of the compensation to the extent so agreed upon.

## PART III—DISCONTINUANCE OF TAKING OF LAND

**16. Discontinuance of resumption before Proclamation or Notification of Resumption.** (1) A constructing authority may at any time before the publication in the *Gazette* of the Proclamation or, in the case of Brisbane City Council, the Notification of Resumption, serve upon every person who has been served with a notice of intention to resume a further notice stating that the constructing authority is discontinuing the resumption of the land concerned.

Service of the further notice shall discontinue the resumption concerned and no person shall have any claim for compensation or other right or remedy whatsoever against the constructing authority for any loss or damage alleged to have been occasioned (directly or indirectly) by the service of the notice of intention to resume or the discontinuance of the resumption except a claim for compensation for costs and expenses incurred by the person who was served with the notice and any actual damage done to the land concerned by the constructing authority.

The constructing authority and the claimant may agree upon the amount of the compensation to be paid under this subsection or, upon the reference of either of them, such amount may be determined by the Land Court:

Provided that the constructing authority may have such costs and expenses taxed by the proper officer of the Supreme Court under the rules of that Court and that no person shall be entitled to compensation in excess of the value of his estate or interest in the land.

(2) For the purposes of this section, notwithstanding that notice under this section has not been served, the constructing authority shall be deemed to discontinue a resumption if the application prescribed by subsection (3) of section nine of this Act has not been made within the time prescribed by that subsection or, in the case of Brisbane City Council, if the Notification of Resumption has not been published in the *Gazette* within twelve months after the date of the notice of intention to resume.

**17. Revocation before determination of compensation.** (1) If, at any time after the publication in the *Gazette* of the Proclamation taking any land in this section called the "first Proclamation" or, in the case of Brisbane City Council, the publication in the *Gazette* of the Notification of Resumption taking any land in this section called the "first Notification" and before the amount of compensation to be paid in respect of the taking thereof is determined by the Land Court or the payment of compensation in respect of the taking is sooner made, it is found that the land or any part thereof is not required for the purpose for which it was taken, the Governor in Council, by a subsequent Proclamation published in the *Gazette*, or Brisbane City Council by a subsequent Notification published in the *Gazette*, may revoke the first Proclamation or, as the case may be, the first Notification and, if the first Proclamation or first Notification has been amended, any amending Proclamation or Notification, or both the first Proclamation or first Notification and any such amending Proclamation or Notification, either wholly or so far as he or it thinks necessary:

Provided that a Proclamation or Notification under this subsection shall not be made or published in the *Gazette* unless the person entitled as owner to compensation in respect of the taking of the land has previously agreed in writing to the revesting as provided by this section of the land or part to which that Proclamation or Notification relates.

(2) Upon the revocation wholly or otherwise by a subsequent Proclamation or Notification under subsection (1) of this section of any former Proclamation or Notification—

- (a) the former Proclamation or Notification shall to the extent to which so revoked be deemed to be absolutely void as from the making thereof as if it had not been made; and
- (b) without prejudice to the provisions of paragraph (a) of this subsection, the land or part thereof, as the case may be, to which the subsequent Proclamation or Notification relates shall revert in the person in whom the same vested immediately prior to the day when it was taken by the constructing authority under and pursuant to the Proclamation or, in the case of Brisbane City Council, the Notification of Resumption taking the land and, subject as hereinafter in this subparagraph provided, shall so revert for his then estate or interest therein:

Provided that such land or part shall so revert subject to all trusts, obligations, mortgages, encumbrances, charges, rates, contracts, claims, estates, and interests of what kind soever subsisting therein or thereover immediately prior to the taking thereof, but so that no person shall be prejudiced by reason of his having, in consequence of the Proclamation or Notification of Resumption taking the land in question and in the meantime, done or omitted to do any act or thing or failed to exercise any right in respect of any such trust, obligation, mortgage, encumbrance, charge, rate, contract, claim, estate, or interest, and, without limiting the generality of the foregoing, so that the time allowed under any such trust, obligation, mortgage, encumbrance, charge, rate, contract, claim, estate, or interest for the doing of any act or the exercising of any right shall be deemed not to be shortened by the period commencing on and including the date on which the land was taken and ending with and including the day immediately preceding the date on which the land or part was reverted; and

- (c) the constructing authority shall cause a *Gazette* copy of the subsequent Proclamation or Notification to be lodged with the Registrar of Titles who shall as soon as may be thereafter, at the cost and expense of the constructing authority, do and execute all such acts, matters, and things as he shall consider necessary to give effect to this subsection.

(3) Without limiting the generality of the provisions of paragraph (c) of subsection (2) of this section, the Registrar of Titles may make such endorsements upon the deed of grant or certificate of title for any lot or parcel of such reverted land or part, or issue such new certificates of title therefor with such endorsements thereon, if any, as he may deem requisite in the circumstances.

(4) Any person entitled to claim compensation under this Act in respect of the taking of any land may, upon the revesting of such land or part thereof pursuant to this section, claim from the constructing authority compensation for the loss or damage and, if any, costs or expenses incurred by him in consequence of the taking of the land and prior to its revesting.

The constructing authority and the claimant may agree upon the amount of the compensation to be paid under this subsection, or they may agree that such amount be determined by the Land Court, in which case such amount shall, upon the reference of either of them, be determined by the Land Court as if the land had been taken and not revested and the claim were limited to the compensation payable under this subsection.

#### PART IV—COMPENSATION

**18. By whom compensation may be claimed.** (1) Subject to subsections (2), (3), (4) and (5) of this section compensation whereto a right is had under section twelve of this Act may be claimed from the constructing authority under, subject to and in accordance with the provisions of this Part.

(2) In the case of the inability or incapacity of any person entitled to claim, the claim may be made by his guardian, trustee or committee or, if there is no guardian, trustee or committee, the Public Curator of Queensland.

(3) Compensation shall not be claimable by or payable to a person who is lessee, tenant or licensee of any land taken if the constructing authority upon written application allows his estate or interest to continue uninterrupted.

(4) This subsection applies to land under "*The Real Property Acts, 1861 to 1963.*"

Where, in respect of an estate or interest in the land taken which is not duly registered or notified in the office of the Registrar of Titles, a claimant makes a claim for compensation subsequent to the payment to another claimant of compensation in respect of a greater estate or interest in the land taken which included the unregistered or unnotified estate or interest pursuant to a claim made by such other claimant in or in connection with which he did not disclose in writing such unregistered or unnotified estate or interest, the claimant first mentioned in this subsection shall not be entitled to any compensation whatever from the constructing authority.

(5) The claim for compensation of a trustee or trustees of any land in respect of the taking thereof shall be limited to the amount of actual damage caused to the trust by reason of the taking, and no such trustee shall have any other right, remedy, or claim whatsoever in respect of such taking against the Crown or any other person whomsoever and this Act and every other relevant Act or law or rule, practice, or process of law, or judgment of any court of competent jurisdiction, shall be read, construed and applied subject to this subsection.

(6) For the purposes of a claim for compensation in respect of common property under and within the meaning of "*The Building Units Titles Act of 1965,*" the body corporate constituted under that Act by the proprietors within the meaning thereof of the units comprised in the building units plan concerned shall be deemed to be the owner of such common property.

Except by unanimous resolution of all proprietors such body corporate shall not agree upon the amount of compensation.

Unless otherwise agreed by unanimous resolution of all proprietors, the amount of compensation shall be distributed among the proprietors in shares proportional to the unit entitlements of their respective units.

**19. Claim for compensation.** (1) A claim for compensation shall be in writing, shall be served upon the constructing authority, shall state in full the name and address of the claimant, shall be signed by the claimant, and shall contain or be accompanied by—

- (a) a description of the land taken and a statement of the area thereof;
- (b) a statement of the nature and particulars of the claimant's estate or interest in the land taken;
- (c) a statement (which, in the case of the owner, shall be verified by statutory declaration) as to whether or not the claimant's estate or interest in the land taken is subject to any trust, obligation, mortgage, lease, agreement to lease, charge, rate, contract, claim or other estate or interest whatsoever and, if so, the nature and particulars of those of the aforesaid to which the estate or interest is subject;
- (d) an itemised statement of the claim, showing the nature and particulars of each item and the amount claimed in respect thereof;
- (e) the total amount of compensation claimed.

(2) Where the estate or interest of the claimant is not registered or notified in the office of the Registrar of Titles, the claim shall be accompanied by proof of title to the estate or interest claimed, which proof shall include copies of or abstracts from all documents, if any, necessary to establish in law the estate or interest.

**20. Assessment of compensation.** (1) In assessing the compensation to be paid, regard shall in every case be had not only to the value of land taken but also to the damage, if any, caused by either or both of the following, namely—

- (a) the severing of the land taken from other land of the claimant;
- (b) the exercise of any statutory powers by the constructing authority otherwise injuriously affecting such other land.

(2) Compensation shall be assessed according to the value of the estate or interest of the claimant in the land taken on the date when it was taken.

(3) In assessing the compensation to be paid, there shall be taken into consideration, by way of set-off or abatement, any enhancement of the value of the interest of the claimant in any land adjoining the land taken or severed therefrom by the carrying out of the works or purpose for which the land is taken.

But in no case shall this subsection operate so as to require any payment to be made by the claimant in consideration of such enhancement of value.

**21. Grant of easement, &c., in satisfaction of compensation.** The constructing authority and the claimant may agree that the constructing authority will grant the claimant, in satisfaction wholly or partly of his claim for compensation, any easement, right of way, lease or other right of occupation, or any other right, privilege or concession in, upon, over or under the land taken or any other land the property of the constructing authority.

In such case the parties may agree that the extent to which the grant shall satisfy the claim for compensation shall be determined by the Land Court, and the jurisdiction of the Land Court to determine the compensation shall include jurisdiction to determine the extent of such satisfaction.

**22. Crown grant in satisfaction of compensation.** Where the Crown is the constructing authority, and the claimant agrees, the Governor in Council may grant in fee-simple or demise for any lesser estate or interest to the claimant, in satisfaction wholly or partly of the claim for compensation, any Crown land.

The Governor in Council for that purpose may close any road which traverses or adjoins land owned by the claimant, and grant the land comprised in the closed road to the claimant.

**23. Advance against compensation.** (1) A claimant for compensation as the owner of the land taken may at any time after the date on which he delivered to the constructing authority his claim for compensation in accordance with the requirements of section nineteen of this Act, apply to the constructing authority to make to him an advance not exceeding the amount prescribed by subsection (3) of this section in respect of the compensation claimable by him.

(2) Subject to being satisfied that the applicant is entitled to claim compensation as owner of the land taken and to subsection (3) of this section the constructing authority shall make to him the advance applied for by him in respect of the compensation claimed by him.

(3) The amount of an advance under this section shall not exceed—

(a) Where the constructing authority has made to the claimant an offer in writing of an amount of compensation in settlement of his claim, that amount; or

(b) Where the constructing authority has not made the offer mentioned in paragraph (a) of this subsection, an amount equal to its estimate of the amount of compensation payable to the claimant.

(4) Subject to subsections (5) and (6) of this section, any amount payable to a claimant under this section which is not paid within ninety days after he applied for the payment shall be recoverable by him as a debt due and unpaid to him by the constructing authority.

(5) Before paying the advance the constructing authority may require the claimant to satisfy it regarding taxes, rates and other moneys which, if unpaid, would be a charge upon the land, and may reduce the advance by any sum which, in respect of any thereof, is unpaid or, as respects any period of time prior to the date when the land was taken, will become payable.

(6) Where the land concerned is subject to a mortgage at the date when it is taken the constructing authority may reduce the advance by the sum due to the mortgagee.

(7) The constructing authority may pay to the Crown or to the local authority concerned or to the mortgagee any sum by which the advance has been reduced under subsections (5) or (6) of this section.

**24. Reference of claim for compensation to Land Court.** (1) Subject to this section either the constructing authority or the claimant may refer to the Land Court for hearing and determination the matter of the amount of the compensation.



(2) If the amount of the compensation has not been sooner agreed upon, the claimant may so refer that matter at any time after the date upon which he delivered to the constructing authority a claim for compensation in accordance with the requirements of section nineteen of this Act.

He shall make the reference by filing in the office of the Registrar of the Land Court copies of the claim delivered by him to the constructing authority and of the notice of intention to resume and a *Gazette* copy of the Proclamation or, as the case may be, Notification of Resumption taking the land.

(3) The claimant shall not amend the claim filed by him in the office of the Registrar of the Land Court except upon leave granted by that Court (which leave the Court may grant upon such terms as it deems just, including terms with respect to the payment of costs).

(4) Upon the application of the constructing authority, the Land Court may order the claimant to file in the office of the Registrar of the Land Court such further or other particulars with respect to the claim for compensation as, having regard to the provisions of section nineteen of this Act, the Court deems fit.

A claimant who fails to comply with such an order within the time specified therein shall be deemed not to have referred to the Land Court the claim in question.

(5) If the amount of the compensation has not been sooner agreed upon and—

- (a) if the claimant has not sooner delivered to it a claim for compensation substantially in accordance with the requirements of section nineteen of this Act, the constructing authority may so refer the matter at any time after the expiration of the period of three months next following the date of the *Gazette* containing the Proclamation or, in the case of Brisbane City Council, the Notification of Resumption taking the land; or
- (b) if the claimant has delivered to the constructing authority a claim for compensation, the constructing authority may so refer that matter at any time after the expiration of the period of three months next following the date of the *Gazette* containing the Proclamation or, in the case of Brisbane City Council, the Notification of Resumption taking the land, unless the reference has been sooner made by the claimant.

(6) The constructing authority shall make the reference in the manner prescribed by subsection (2) of this section save that if the claimant has not delivered to the constructing authority a claim for compensation substantially in accordance with section nineteen of this Act, then in the stead of a copy of the claim the constructing authority shall file a document containing or accompanied by all of the particulars required to be contained in or to accompany the claim so far as those particulars are known to it but, in relation to paragraphs (d) and (e), stating amounts which it is willing to pay.

**25. Reference to Land Court by constructing authority.** (1) Where the constructing authority makes a reference mentioned in section twenty-four of this Act, the Land Court upon application in that behalf made by the constructing authority, shall order that the claimant may enter an appearance on the reference on or before the date fixed by the order.

(2) A claimant may appear on the reference by filing in the office of the Registrar of the Land Court, on or before the date fixed by the order, a claim for compensation in accordance with the requirements of section nineteen of this Act, and thereupon subsections (3) and (4) of section twenty-four of this Act shall apply and the matter of the amount of compensation shall be heard and determined as if the reference had been made in the first instance by the claimant:

Provided that an order as provided for by subsection (4) of section twenty-four of this Act may be made in respect of such appearance and, if the claimant fails to comply with such order within the time therein specified, he shall be deemed to have failed to enter an appearance on the reference.

(3) A claimant who fails to enter an appearance on a reference made by the constructing authority shall not be entitled to appear or to be heard by the Land Court upon the hearing of the reference save by leave of such Court (which leave the Court may grant upon such terms as it deems just, including terms with respect to the payment of costs).

(4) In the case of a reference made by the constructing authority, the Land Court may hear and determine the matter of the amount of compensation in the absence of the claimant where he fails to enter an appearance on or before the date fixed by order of the Court or where, having so entered an appearance or having leave to appear, he fails to appear at the hearing.

(5) Where the reference has been made by the claimant in the first instance, the Land Court may hear and determine the matter of compensation in the absence of the claimant if he fails to appear at the hearing.

**26. Jurisdiction relating to compensation.** (1) Subject to this section the Land Court shall have jurisdiction to hear and determine all matters relating to compensation under this Act.

(2) The Crown or any party aggrieved by a decision of the Land Court constituted by a single member may appeal to the Land Appeal Court in the manner provided in "*The Land Acts, 1962 to 1967.*"

The Crown or any party aggrieved by a decision of the Land Appeal Court upon any of the grounds specified in subsection (1) of section forty-five of "*The Land Acts, 1962 to 1967,*" may appeal in the manner provided in those Acts.

(3) The decision (whether of the Land Court constituted by a single member or, as the case may be, the Land Appeal Court) shall be in writing and the Registrar of the Land Court shall transmit the decision to the Registrar of the Supreme Court, who shall cause the same to be filed in the registry of the latter Court.

(4) The decision---

(a) shall be final as regards the amount of compensation awarded; and

(b) unless the amount shall have been paid into the Supreme Court pursuant to section twenty-nine of this Act, shall be final for all purposes and have the effect of a judgment of the Supreme Court and may be enforced accordingly.

Where, pursuant to section twenty-nine of this Act, the amount of compensation awarded is paid into the Supreme Court the decision shall not be final as regards the right or title of the claimant or any other person whomsoever to be paid that amount or any part thereof.



**27. Costs.** (1) Subject to this section the costs of and incidental to the hearing and determination by the Land Court of a claim for compensation under this Act shall be in the discretion of that Court.

(2) If the amount of compensation as determined is the amount finally claimed by the claimant in the proceedings or is nearer to that amount than to the amount of the valuation finally put in evidence by the constructing authority, costs, if any, shall be awarded to the claimant; otherwise costs, if any, shall be awarded to the constructing authority.

The subsection does not apply to any appeal in respect of the decision of the Land Court or to costs awarded pursuant to subsection (3) of section twenty-four or subsection (3) of section twenty-five of this Act.

**28. Interest.** (1) Subject to subsection (2) of this section, in respect of the period or any part of the period commenced on and including the date on and from which any land is taken and ending on and including the day immediately preceding the date on which payment of compensation is made the Land Court or, upon appeal, the Land Appeal Court may order that interest be paid upon the amount of compensation determined by it.

Such interest shall be at such rate per centum per annum as the Land Court or, upon appeal, the Land Appeal Court, deeming reasonable, fixes by the order.

Interest so ordered to be paid shall be payable as if it were part of the compensation in question and shall be added to the amount thereof and be payable by the constructing authority accordingly.

(2) Interest shall not be payable in respect of any amount of compensation advanced under section twenty-three of this Act.

**29. Where right to compensation is questioned.** (1) Where the title by reason whereof compensation is claimed under this Act comes in question—

(a) in the Land Court or, upon appeal, the Land Appeal Court during the hearing and determination of the claim for compensation; or

(b) during negotiations between the constructing authority and the claimant,

nevertheless the said Court shall have power to determine or, as the case may be, the constructing authority and the claimant may agree upon the amount of the compensation to be paid.

In such case the constructing authority shall pay the amount of compensation determined or agreed upon into the Supreme Court.

(2) Where subsequent to the date when compensation has been determined or agreed upon, but before the constructing authority has paid the compensation to the claimant, the title by reason whereof the compensation was claimed under this Act comes in question to the knowledge of the constructing authority, it shall pay the amount of the compensation into the Supreme Court.

(3) A constructing authority may pay into the Supreme Court the amount of any compensation under this Act where—

(a) the person to whom the amount is payable fails or refuses to accept payment thereof; or

(b) the constructing authority is unable for any reason whatsoever to make to the claimant payment of the amount or to obtain from him a good and sufficient discharge for such payment.

(4) The payment pursuant to a provision of this section of any amount of compensation into the Supreme Court shall discharge in full the liability of the constructing authority to pay that amount pursuant to the determination or agreement by virtue whereof it became payable.

(5) Upon application in that behalf the Supreme Court or a Judge thereof may order that any money paid into that Court pursuant to a provision of this section or part thereof shall be paid to or applied for the benefit of such person as the said Court or Judge finds to be entitled thereto.

The said Court or Judge may subject such order to such terms and conditions as it or he deems just and may, at its or his discretion, order any party to the application to pay to any other party thereto such costs as it or he deems just.

**30. Limited interests.** (1) Where compensation is determined or agreed to be paid to any claimant in respect of a partial or qualified interest held by him in the land taken and such person is not entitled to sell or dispose of such interest—

- (a) the constructing authority shall pay the amount of the compensation into the Supreme Court; and
- (b) the Supreme Court or a Judge may upon application in that behalf order that the amount or any part thereof shall be applied to any one or more of the following purposes, that is to say—
  - (i) the discharge of any debt or encumbrance affecting the land, or affecting any land settled therewith, or to the same or like uses, trusts, or purposes;
  - (ii) the purchase of other land to be conveyed, limited, and settled upon or for the like uses, trusts, or purposes;
  - (iii) removing or replacing any buildings on the land, or substituting others in their stead;
  - (iv) the purchase of such securities as the Supreme Court or Judge may direct, to be settled in the same manner as the land;
  - (v) in payment to any parties becoming absolutely entitled thereto, or, in case of their disability or incapacity, to their respective guardians, trustees, or committees (or if there is no guardian, trustee or committee, to the Public Curator of Queensland), as the case may be.

(2) The costs of and incidental to any application under this section shall be in the discretion of the Supreme Court or Judge.

(3) Nothing in this section shall be deemed to prevent any person who has a partial or other qualified interest in land to which interest he is solely entitled, and which he may absolutely sell or dispose of, from receiving any compensation awarded to him in respect of such interest, or which has been agreed to be paid to him.

**31. Powers of Supreme Court in respect of building units.** Where the whole of the land comprised in a building units plan registered under "*The Building Units Titles Act of 1965*," is taken under this Act, the Supreme Court of Queensland shall have and may exercise in relation to the building shown in such building units plan such jurisdiction under that Act as it would have were such building destroyed for the purpose of that Act on and by such taking.

**32. Mortgages.** (1) Where the land taken is subject to a mortgage at the date when it is taken, upon application by the mortgagee—

- (a) the Land Court or, upon appeal, the Land Appeal Court shall order that payment be made to the mortgagee of; or
- (b) if the compensation is agreed upon, the constructing authority shall pay to the mortgagee,

so much of the amount of the compensation as does not exceed the sum due to the mortgagee.

(2) Payment shall not be made to a mortgagee under this section—

- (a) in priority to any other claimant, save the mortgagor, unless the mortgagee would, if the land had been sold on the date when it was taken, have been entitled to such priority; or
- (b) in priority to any taxes, rates or other moneys charged upon the land taken in favour of the Crown or any local authority.

(3) For the purposes of this section the sum due to the mortgagee includes interest payable under the mortgage up to the date of the payment or the last day of any period in respect whereof interest upon the amount of compensation has been ordered to be paid pursuant to section twenty-eight of this Act, whichever is the earlier.

**33. Rent-charge or annuity.** If the land in respect of which compensation is determined or has been agreed to be paid is subject to a rent-charge or annuity, the Land Court or, upon appeal, the Land Appeal Court shall, upon application by the person entitled to such rent-charge or annuity, determine what part of such compensation shall be paid to the person so entitled in redemption thereof.

If the land is part of land subject to a rent-charge or annuity, the Land Court or, upon appeal, the Land Appeal Court upon the like application shall determine what part of such rent-charge or annuity shall be redeemed, and what part of such compensation shall be paid in the redemption thereof, so that the remaining part of the land subject to the rent-charge or annuity shall be as good security as theretofore for the part thereof remaining unredeemed.

**34. Where part only of land subject to rent is taken.** If the land in respect of which compensation is determined or has been agreed to be paid is part of land in respect of which any rent is payable, the Land Court or, upon appeal, the Land Appeal Court shall, upon application by the person liable to pay rent, determine what part of such rent shall cease to be payable, so that the rent ceasing to be payable shall bear the same proportion to the whole rent as the value of the land in respect of which compensation is determined or agreed to be paid bears to the value of the whole of the land.

**35. Taxes, rates and charges.** Any amount due and unpaid as at the date of the taking of the land of any taxes, rates or other moneys charged upon the land taken in favour of the Crown or any local authority shall be a charge upon the compensation payable under this Act to a claimant who is legally liable for payment thereof, and the constructing authority may deduct from such compensation and pay to the Crown or local authority concerned any such amount.

## PART V—GENERAL

**36. Powers of entry, &c.** (1) For the purposes of this Act any member, officer, employee, contractor or agent of the constructing authority or any person authorized by it in that behalf may—

- (a) enter upon any land, for the purpose of making any inspection, valuation, survey or taking levels;
- (b) affix or set up thereon trigonometrical stations, survey pegs, marks, or poles, and from time to time alter, remove, inspect, reinstate and repair the same;
- (c) dig and bore into the land so as to ascertain the nature of the soil, and set out the lines of any works thereon;
- (d) do all things necessary for the purposes aforesaid.

(2) The power to enter upon any land includes power to—

- (a) re-enter from time to time;
- (b) remain upon that land for such time as is necessary to achieve the purpose of the entry;
- (c) take such assistants, vehicles, materials, equipment or things as are necessary to achieve the purpose of the entry.

(3) When practicable, not less than seven days' notice in writing shall be given to the occupier or, if there is no occupier, the owner of the land of the intention to enter thereon, and the authority under which the person entering claims to enter or has entered shall, if required by such owner or occupier, be produced and shown.

(4) Every person who—

- (a) without due authority, destroys, mutilates, defaces, takes away, or alters the position of any trigonometrical station, survey peg, mark, or pole fixed or set up by any person under the authority of this section; or
- (b) wilfully obstructs or attempts to obstruct any person acting under the authority of this section,

shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

(5) The constructing authority shall be liable for compensation for the actual damage (if any), done to the land by reason of the exercise of any power conferred by this section.

This subsection applies subject to subsection (4) of section thirty-seven of this Act.

Compensation pursuant to this subsection may be claimed and agreed upon or determined as prescribed by subsections (3) and (5) of section thirty-seven of this Act.

**37. Temporary occupation of land.** (1) The constructing authority may temporarily occupy and use any land for the purpose of constructing, maintaining or repairing any works, and may—

- (a) take therefrom stone, gravel, earth, and other material;
- (b) deposit thereon any material;
- (c) form and use temporary roads thereon;
- (d) manufacture bricks or other materials thereon;
- (e) erect workshops, sheds, and other buildings of a temporary nature thereon.

(2) The constructing authority or the person having the charge of the works shall, before occupying or using any land as herein provided, and except in the case of accident requiring immediate repair, give to the occupier or, if there is no occupier, the owner thereof not less than seven days' notice in writing, and shall state in such notice the use proposed to be made of the land and an approximate period during which such use is expected to continue.

(3) The owner of the land or any other person having any estate or interest in the land may, at any time during such occupation or within three months thereafter, give notice in writing to the constructing authority that he claims compensation; and, subject to giving such notice, if the land is not taken the owner and all such other persons may recover under this Act compensation for all damage done, but not in the case of the owner or any such other person exceeding the compensation which would have been payable to him had the land been taken.

(4) No compensation shall be payable for any act or thing done under this section, the right or authority to exercise which is reserved by any Act, or by any regulation, Crown grant, or other instrument, except to the extent therein mentioned, notwithstanding that the terms and conditions imposed by such Act, regulation, grant, or instrument have not been performed.

(5) The constructing authority and the claimant may agree upon the amount of compensation to be paid under this section or they may agree that such amount be determined by the Land Court, in which case such amount shall, upon the reference of either of them, be determined by the Land Court as if the land had been taken and the claim were limited to the compensation recoverable under this section.

**38. Refusal to give up land.** (1) If the owner or occupier of any land taken or occupied under this Act, or any other person, refuses to give up possession thereof, or obstructs the constructing authority or any person appointed in writing by it, the constructing authority may issue its warrant to the sheriff to deliver possession of the same to the person appointed in the warrant to receive possession, and on receipt of the warrant the sheriff shall deliver possession of such land accordingly.

(2) The costs of the issue and execution of the warrant, to be settled by the sheriff, shall be paid by the person in default, and may be deducted from any compensation payable to him, or the same or any balance may be levied by distress and sale of the goods and chattels of such person.

**39. Service of documents.** (1) Any notice or other document required by this Act to be served on any person may be served on such person personally or by post. If such person is absent from the State the document may be served on his agent in like manner. If such person is not known or has no known agent in the State, the document shall be served by the publication of the same, or a true abstract thereof, in the *Gazette* and in some newspaper circulating generally in the locality where the land affected is situated.

(2) A document may be served on the constructing authority by being sent by post to the constructing authority at its office or to the office of such person as the constructing authority authorizes by public notice to receive documents on its behalf.

**40. Offences.** All offences against this Act or the regulations may be prosecuted in a summary way under "*The Justices Acts, 1886 to 1965.*"

**41. Disposal of land.** (1) Notwithstanding any provision of any other Act, where land has been acquired either by agreement or compulsory process under this Act and, within seven years after the date of acquisition, the constructing authority no longer requires the land, then the constructing authority shall offer the land for sale to the former owner at a price determined by the Valuer-General.

Unless sooner accepted by the former owner the offer shall lapse at the expiration of twenty-eight days after it is made.

(2) In this section "the former owner" in relation to land means—

(a) where only one person had an interest in the land at the date of acquisition and that person is still alive or, in the case of a corporation, in existence—that person; or

(b) in any other case—such person or persons (if any) as the Minister, in his absolute discretion, having regard to the interest that existed in the land at the date of acquisition, considers to be fairly entitled to the benefit of this section.

(3) A person contracting or otherwise dealing with the constructing authority is not concerned to inquire whether the requirements of this section have been complied with, and the title of such a person to land acquired from the constructing authority is not affected by any failure to comply with those requirements.

**42. Regulations.** The Governor in Council may from time to time make regulations not inconsistent with this Act providing for all or any purposes, whether general or to meet particular cases, that may be necessary or convenient for the administration of this Act or for carrying out the objects and purposes of this Act.

A regulation may be made prescribing a penalty, but not exceeding in any case forty dollars, for any contravention of or failure to comply with that or any other regulation.

**43. Publication of Proclamations, Orders in Council, Notifications of Resumption, Notifications under section seventeen, and Regulations.**

(1) Every Proclamation, every Order in Council, every Notification of Resumption, every Notification under section seventeen of this Act, and every regulation made pursuant to this Act shall—

(a) be published in the *Gazette*;

(b) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;

(c) take effect from the date of such publication unless, in the case of any regulation, a later date is specified in that or any other regulation for its commencement when in such event it shall take effect from that later date; and

(d) in the case of any regulation, be laid before the Legislative Assembly within fourteen sitting days after such publication, if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such regulation has been laid before it disallowing the same or part thereof, that regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further regulation.

## SCHEDULES

[Section 3 (1) and (2)]

## FIRST SCHEDULE

## PART I

Year and Number of Act	Short Title	Extent of Repeal
6 Edw. VII No. 14	“ <i>The Public Works Land Resumption Act of 1906</i> ”	The whole
7 Geo. V No. 6	“ <i>The Public Works Land Resumption Act Amendment Act of 1916</i> ”	The whole
7 Geo. V No. 24	“ <i>The City of Brisbane Improvement Act of 1916</i> ”	The whole
8 Geo. V No. 20	“ <i>The Public Works Land Resumption Act Amendment Act of 1917</i> ”	The whole
17 Geo. V No. 18	“ <i>The Public Works Land Resumption Acts Amendment Act of 1926</i> ”	The whole
25 Geo. V No. 28	“ <i>The Bureau of Industry Acts Amendment Act of 1934</i> ”	Section thirteen
2 Geo. VI No. 11	“ <i>The Public Works Land Resumption Acts Amendment Act of 1938</i> ”	The whole
4 Geo. VI No. 27	“ <i>The Water Acts and Another Act Amendment Act of 1940</i> ”	Part III
15 Geo. VI No. 11	“ <i>The Land Acts and Other Acts Amendment Act of 1951</i> ”	Part IX
1 Eliz. II No. 45	“ <i>The Public Works Land Resumption Acts Amendment Act of 1952</i> ”	The whole
2 Eliz. II No. 19	“ <i>The City of Brisbane Acts and Other Acts Amendment Act of 1953</i> ”	Part III
4 Eliz. II No. 5	“ <i>The Public Works Land Resumption Acts Amendment Act of 1955</i> ”	The whole



## FIRST SCHEDULE—continued

## PART II

Year and Number of Act	Short title	Extent of Amendment
60 Vic. No. 24 as subsequently amended	“ <i>The Electric Light and Power Acts, 1896 to 1965</i> ”	<p>Section 12B is amended by—</p> <p>(a) in subsection (1)—</p> <p>(i) omitting where appearing in the first paragraph all words from and including the words “and thereupon it shall be lawful” to the end of the said first paragraph;</p> <p>(ii) inserting after the first paragraph as so amended the following paragraph:—</p> <p>“The Electric Authority may acquire the right of way by taking an easement and for that purpose shall be a constructing authority under “<i>The Acquisition of Land Act of 1967</i>”.”;</p> <p>(b) omitting subsection (4) and inserting in its stead the following subsection:—</p> <p>“(4) As well as an easement over land granted in fee-simple, an Electric Authority may, pursuant to this section, take an easement over land which is held from the Crown for a lesser estate or interest than fee-simple.”</p> <p>(c) in subsection (5) omitting the words, numerals and quotation marks ““<i>The Public Works Land Resumption Acts, 1906 to 1955,</i>”” and inserting in their stead the words, numerals and quotation marks ““<i>The Acquisition of Land Act of 1967</i>”.”</p>
9 Edw. VII, No. 12 as subsequently amended	“ <i>The Metropolitan Water Supply and Sewerage Acts, 1909 to 1962</i> ”	<p>1. Section four is amended by omitting the definition “Public Works Land Resumption Act”.</p> <p>2. Section thirty-four is amended by omitting subsection (2) and inserting in its stead the following subsection:—</p> <p>“(2) In respect of any land granted in fee-simple, whether within or without the district, which Brisbane City Council by</p>



## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
5 Geo. V, No. 24 as subsequently amended	“ <i>The Railways Acts, 1914 to 1965</i> ”	<p>resolution declares to be required by it for or in connexion with any of the purposes of this Act, the Council shall be a constructing authority under and within the meaning of “<i>The Acquisition of Land Act of 1967</i>,” the provisions whereof shall apply and extend accordingly.”</p> <ol style="list-style-type: none"> <li>1. Subsection (2) of section thirty-seven is amended by omitting the word “taken”.</li> <li>2. Section forty-two is amended by— <ol style="list-style-type: none"> <li>(a) adding to subsection (1) the following paragraph:— <p>“For the purposes specified in this subsection, the Commissioner shall be a constructing authority under and within the meaning of “<i>The Acquisition of Land Act of 1967</i>”.”;</p> </li> <li>and</li> <li>(b) omitting subsections (2) and (3) and inserting in their stead the following subsection:— <p>“(2) Any land taken by the Commissioner may be described in the Proclamation taking the land or in an annexure thereto in any manner sufficiently identifying that land.”.</p> </li> </ol> </li> <li>3. Sections forty-four, forty-five, forty-seven, forty-eight, and forty-nine are repealed.</li> <li>4. Section fifty is repealed and the following section is inserted in its stead:— <p>“[50.] <b>Lands held from the Crown for estate or interest less than fee-simple.</b> (1) As well as land granted in fee-simple the</p> </li> </ol>

FIRST SCHEDULE—*continued*  
PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p>Commissioner as a constructing authority under “<i>The Acquisition of Land Act of 1967</i>,” may take for any purpose of this Act land which is held from the Crown for a lesser estate or interest than fee-simple.</p> <p>Any land referred to in this subsection shall be vested in the Commissioner for an estate in fee-simple.</p> <p>The Governor in Council is hereby authorised to so vest and grant in fee-simple the land subject to such reservations and conditions as are authorised or prescribed by “<i>The Land Acts, 1962 to 1967</i>.”</p> <p>(2) “<i>The Acquisition of Land Act of 1967</i>,” shall be read with and subject to all such modifications and adaptations thereof as are necessary to give operation and effect to subsection (1) of this section including, as respects any land in question, by reading any reference therein to the Registrar of Titles as referring to the person or authority charged with registering instruments evidencing the title to the estate or interest in that land held from the Crown.”</p> <p>5. Section fifty-two is repealed and the following section is inserted in its stead:—</p> <p>“ [52.] <b>Compensation where land injuriously affected other than by resumption.</b> (1) Any person entitled to claim compensation under “<i>The Acquisition of Land Act of 1967</i>,” in respect of the taking of any land by the Commissioner, may claim from the Commissioner compensation for</p>

## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
		<p>injurious affection to the land caused by the execution by the Commissioner of any of the powers (other than the power to acquire the land) conferred by this Act.</p> <p>(2) The claimant and the Commissioner may agree upon the amount of the compensation to be paid pursuant to this section or such amount may, upon the reference of either of them, be determined by the Land Court under "The Acquisition of Land Act of 1967," as if the land had been taken by the Commissioner and the claim for compensation in respect of such taking were limited to compensation for the injurious affection in question."</p> <p>6. Sections fifty-three to seventy, both inclusive, are repealed.</p>
10 Geo. V, No. 26 as subsequently amended	"The Main Roads Acts, 1920 to 1965"	<p>1. Section nine is amended by in paragraph (3) omitting the subparagraph commencing with the words "For the purpose of taking any land", and inserting in its stead the following subparagraph:—</p> <p>"For the purpose of taking any land the taking of which is authorised or approved by the Governor in Council under this Act, the Commissioner shall be a constructing authority under "The Acquisition of Land Act of 1967," and, subject to this Act, that Act shall apply and extend accordingly."</p> <p>2. Section 26A is amended by omitting subsections (1), (2), (3), (4) and (5) and inserting in their stead the following subsections:—</p> <p>"(1) As well as land granted in fee-simple the Commissioner as a constructing authority</p>

FIRST SCHEDULE—*continued*PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p>under “<i>The Acquisition of Land Act of 1967</i>,” may take for any works or purpose under this Act land which is held from the Crown for a lesser estate or interest than fee-simple.</p> <p>Any land referred to in this subsection shall, if vested in the Commissioner by the Proclamation taking it, be vested in him for an estate in fee-simple.</p> <p>The Governor in Council is hereby authorised to so vest and grant in fee-simple the land subject to such reservations and conditions as are authorised or prescribed by “<i>The Land Acts, 1962 to 1967</i>.”</p> <p>(2) Any land taken by the Commissioner which has been vested in the Crown by the Proclamation taking the land shall be and remain Crown land until the same is, according to the works or purpose for which the land shall have been taken, dealt with as prescribed.</p> <p>(3) Any land taken by the Commissioner may be described in the Proclamation taking the land or in an annexure thereto in any manner sufficiently identifying that land.</p> <p>(4) If any land taken or any part thereof is found to be not required for the works or purpose for which it was taken the same shall be disposed of as the Governor in Council by Order in Council directs.</p> <p>(5) “<i>The Acquisition of Land Act of 1967</i>,” shall be read with and subject to all such modifications and adaptations thereof as are necessary to give operation and effect to subsection (1) of this section including, as respects any land in question, by reading any reference therein</p>

FIRST SCHEDULE—*continued*PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
13 Geo. V, No. 29 as subsequently amended	“ <i>The Irrigation Acts, 1922 to 1965</i> ”	<p>to the Registrar of Titles as referring to the person or authority charged with registering instruments evidencing the title to the estate or interest in that land held from the Crown.”.</p> <p>Section 15A is repealed and the following section is inserted in its stead:—</p> <p>“<b>[15A.] Acquisition of land.</b></p> <p>(1) The Commissioner may acquire either by agreement or by resumption—</p> <p>(a) Any land within or without an Irrigation Area which, in the opinion of the Commissioner, is required for a purpose of this Act: or</p> <p>(b) Any land within an Irrigation Area which, in the opinion of the Commissioner, is suitable for closer settlement under “<i>The Land Acts, 1962 to 1967.</i>” and “<i>The Irrigation Areas (Land Settlement) Act of 1962.</i>”</p> <p>(2) (a) In respect of the acquisition of any land the Commissioner shall be a constructing authority under “<i>The Acquisition of Land Act of 1967.</i>” and, subject to this section, that Act shall apply and extend accordingly.</p> <p>(b) As well as land granted in fee-simple the Commissioner as a constructing authority under “<i>The Acquisition of Land Act of 1967.</i>” may take land which is held from the Crown for a lesser estate or interest than fee-simple.</p> <p>(3) If the Commissioner proposes to acquire any land and the acquisition of such land will sever it from other land of</p>

FIRST SCHEDULE—*continued*<sup>a</sup>PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p>and used together therewith by the owner (whether or not abutting thereon) the Commissioner, with the approval of the Minister and the consent in writing of the owner, may acquire by agreement or by resumption the whole or part of that other land.</p> <p>(4) Section twenty-two of "<i>The Acquisition of Land Act of 1967</i>," shall apply so that the power thereby conferred upon the Governor in Council to grant land shall include power to demise land for such leasehold estate under "<i>The Land Acts, 1962 to 1967</i>," and "<i>The Irrigation Areas (Land Settlement) Act of 1962</i>," as the Governor in Council deems appropriate in the circumstances.</p> <p>(5) (a) With respect to a proposed acquisition of land by resumption for closer settlement, the Commissioner may, upon application in writing by the owner and if he is of the opinion that the granting of such an application will not unduly affect adversely the plan or proposed plan for subdivision of the land for closer settlement, permit the owner to retain unresumed so much of the land as is reasonably sufficient, in the opinion of the Commissioner, to enable the owner to carry on agricultural pursuits.</p> <p>(b) Where the Commissioner is of the opinion that the plan or proposed plan for subdivision of the land for closer settlement would be unduly affected adversely by the granting of such an application, the Governor in Council may,</p>

FIRST SCHEDULE—*continued*PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p>in the name of Her Majesty, sell to the owner of the land acquired or proposed to be acquired for an estate in fee-simple upon such terms (including the purchasing price to be paid therefor) as may be agreed any Crown land set apart for the purposes of this Act or any land acquired by the Commissioner pursuant to this section including land so acquired from that owner.</p> <p>(6) (a) If the purchasing price of the land to be sold to the owner pursuant to subsection (5) of this section cannot be agreed upon, the Commissioner may, and if an agreement for sale of land pursuant to the said subsection (5) has been made subject to the determination by the Land Court of the purchasing price to be paid therefor, shall refer to the Land Court for hearing and determination the matter of the amount of that purchasing price and the Land Court shall hear and determine that matter.</p> <p>(b) (i) An appeal shall lie to the Land Appeal Court from a determination of the Land Court upon an application or reference under this subsection. The determination of the Land Court or, upon appeal, of the Land Appeal Court upon any application or reference under this subsection shall be final and conclusive of the matter.</p> <p>(ii) For the purposes of this subsection the purchasing price of the land shall be the amount which, in the opinion of the Court hearing the matter, experienced persons would be</p>

FIRST SCHEDULE—*continued*PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p>willing to pay for the fee-simple of the land, together with the developmental work and other improvements thereon or pertaining thereto, whether visible or invisible, and by whomsoever made or acquired, assuming that due regard were had to the availability or likely availability of water pursuant to the provisions of this Act and "The Water Acts, 1926 to 1967," and it were offered on such reasonable terms and conditions as a <i>bona fide</i> seller would require.</p> <p>(7) (a) Where the purchasing price of the land has been determined as prescribed by subsection (6) of this section, then if, whether before or after any such determination, an agreement for the sale of the land is concluded pursuant to the provisions of subsection (5) of this section the purchasing price of the land payable under such an agreement shall be the purchasing price as so determined.</p> <p>(b) Unless otherwise prescribed by the agreement for sale, the purchasing price for the land sold pursuant to the provisions of subsection (5) of this section shall be paid within three months, or such longer term as may be allowed by the Commissioner, after the making of the agreement for sale or the determination of the purchasing price as prescribed by subsection (6) of this section, whichever is the later.</p> <p>(8) The Governor in Council, if he deems fit, may elect not to proceed with the sale of any land pursuant to the provisions of subsection (5) of this section.</p>



## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
15 Geo. V, No. 32 as subsequently amended	“ <i>The City of Brisbane Acts, 1924 to 1966</i> ”	<p>Such right of election shall be exercised before the issue of the deed of grant but in any case not later than three months after the making of an agreement for sale pursuant to the provisions of subsection (5) of this section, or the determination of the purchasing price of the land as prescribed by subsection (6) of this section, whichever is the later.</p> <p>The Crown shall not be liable to pay compensation for any loss or damage alleged to have been occasioned (directly or indirectly) by reason of such election not to proceed.”</p> <p>Section thirty-seven is repealed and the following section is inserted in its stead:—</p> <p>“[37.] <b>Acquisition of land.</b></p> <p>(1) For the purpose of taking any land granted in fee-simple required for any purpose of this Act, Brisbane City Council shall be a constructing authority under “<i>The Acquisition of Land Act of 1967,</i>” and, subject to this Act, that Act shall apply and extend accordingly.</p> <p>(2) The Council may expend moneys from the City Fund for the purpose of making surveys and obtaining plans, estimates, and reports as to the cost or desirability of taking any lands for any purpose of this Act:</p> <p>Provided that in the event of such lands being taken by the Council such preliminary expenditure shall be charged to the special account to which the cost of such taking is charged.”</p>

FIRST SCHEDULE—continued

PART II—continued

Year and Number of Act	Short title	Extent of Amendment
17 Geo. V, No. 12 as subsequently amended	"The Water Acts, 1926 to 1967"	<p>(3) The Council may in respect of land taken by it as a constructing authority under "The Acquisition of Land Act of 1967" do all or any of the following things that is to say:—</p> <ul style="list-style-type: none"> <li>(a) demolish, alter, improve or retain any buildings or erections thereon;</li> <li>(b) construct or erect new buildings thereon;</li> <li>(c) dedicate any part thereof and construct the same as a road for public use;</li> <li>(d) generally alter, remodel and improve such land and in such manner as it may think fit;</li> <li>(e) with the prior approval of the Minister, lease the whole or any part of such land for such periods and on such terms and conditions as it may think fit until such time as the land may be required for the purpose for which it was taken;</li> <li>(f) if the land or any part thereof is found to be not required for the purpose for which it was taken, with the prior approval of the Minister sell the same." <p>1. Section 17B is repealed and the following section is inserted in its stead:—</p> <p>"[17B.] Acquisition of Land.</p> <p>(1) The Commissioner may acquire by agreement or resumption any land which, in the opinion of the Commissioner, is required for the purposes of this Act.</p> <p>(2) In respect of the acquisition by resumption of any land the Commissioner shall have and may exercise the</p> </li></ul>

## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
		<p>powers and authorities of a constructing authority under “<i>The Acquisition of Land Act of 1967</i>,” and, subject to this section, that Act shall apply and extend accordingly</p> <p>(3) As well as land granted in fee-simple the Commissioner as a constructing authority under “<i>The Acquisition of Land Act of 1967</i>,” may take land which is held from the Crown for a lesser estate or interest than fee-simple.</p> <p>(4) If the Commissioner proposes to acquire any land and the acquisition of such land will sever it from other land of and used together therewith by the owner (whether or not abutting thereon) the Commissioner, with the approval of the Minister and the consent in writing of the owner, may acquire by agreement or by resumption the whole or part of that other land.</p> <p>(5) Section twenty-two of “<i>The Acquisition of Land Act of 1967</i>,” shall apply so that the power thereby conferred upon the Governor in Council to grant land shall include power to demise land for such leasehold estate under “<i>The Land Acts, 1962 to 1967</i>,” as the Governor in Council deems appropriate in the circumstances.”</p> <p>2. Section 27A is repealed and the following section is inserted in its stead:—</p> <p>“ [27A.] <b>Resumption of land, &amp;c.</b> (1) A Board shall, in relation to land as defined therein, be a constructing authority under and within the</p>

FIRST SCHEDULE—continued

PART II—continued

Year and Number of Act	Short title	Extent of Amendment
1 Geo. VI, No. 4 as subsequently amended	“The <i>Hospitals Acts, 1936 to 1967</i> ”	<p>meaning of “<i>The Acquisition of Land Act of 1967</i>,” and the purposes for which land as defined by that Act may be taken by the Board thereunder shall include any works or purpose with respect or in relation to which any right, power or authority is conferred or duty or obligation imposed upon the Board under this Act.</p> <p>(2) The Minister for the time being administering “<i>The Land Acts, 1962 to 1967</i>,” may resume for any purpose specified in subsection (1) of this section any land other than land as defined in “<i>The Acquisition of Land Act of 1967</i>,” and all of the provisions of “<i>The Land Acts, 1962 to 1967</i>,” relating to resumptions thereunder shall, with and subject to all necessary adaptations apply and extend accordingly.</p> <p>(3) Where land assigned to a sugar mill is taken, The Central Sugar Cane Prices Board may, and is hereby empowered to, grant an assignment of other land to the same or another sugar mill in the stead of the assigned land so taken. The value of any assignment so granted or proposed to be so granted shall be set off against the compensation payable.”</p> <p>3. Section 54c is repealed.</p> <p>1. Subsection (5) of section thirteen is amended by omitting the word and symbol “taking.”</p> <p>2. Subsection (2) of section twenty-six is amended by omitting the words “shall have full power and authority to take any land, and”.</p>

## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
2 Geo. VI, No. 3 as subsequently amended	“ <i>The State Development and Public Works Organisation Acts, 1938 to 1964</i> ”	<p>Section 8B is amended by—</p> <p>(a) in subsection (1) omitting the words, numerals and quotation marks “<i>“The Public Works Land Resumption Acts, 1906 to 1938”</i>” where they appear twice and inserting in their stead where so omitted twice the words, numeral and quotation marks “<i>“The Acquisition of Land Act of 1967”</i>”;</p> <p>(b) omitting subsection (2);</p> <p>(c) renumbering subsection (3) to be subsection (2) and omitting therefrom as so renumbered the words, numerals and quotation marks “<i>“The Public Works Land Resumption Acts, 1906 to 1938”</i>” and inserting in their stead the words, numeral and quotation marks “<i>“The Acquisition of Land Act of 1967”</i>”;</p> <p>(d) omitting subsections (4) and (5) and inserting in their stead the following subsections:—</p> <p>“ (3) Notwithstanding any provision of “<i>The Acquisition of Land Act of 1967</i>,” land taken by the Co-ordinator-General shall, according as the Proclamation taking same or a later Proclamation provides, vest in the Crown, the Co-ordinator-General, any instrumentality representing the Crown, any local body, or any other person whomsoever.</p> <p>The Governor in Council, upon the recommendation of the Co-ordinator-General, by Order in Council may divest any land from the Co-ordinator-General and vest the same in the Crown, an instrumentality representing the Crown, a local body, or other person whomsoever.</p>

FIRST SCHEDULE—*continued*PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p>(4) As well as land granted in fee-simple the Co-ordinator-General as a constructing authority under “<i>The Acquisition of Land Act of 1967</i>,” may take for any works or purpose under this Act land which is held from the Crown for a lesser estate or interest than fee-simple.</p> <p>Any land referred to in this subsection shall, if vested in the Co-ordinator-General, an instrumentality representing the Crown, a local body, or other person by the Proclamation taking it, be vested in him or it for an estate in fee-simple.</p> <p>The Governor in Council is hereby authorised to so vest and grant in fee-simple the land subject to such reservations and conditions as are authorised or prescribed by “<i>The Land Acts, 1962 to 1967</i>.”</p> <p>(5) Any land taken by the Co-ordinator-General which has been vested in the Crown by the Proclamation taking the land shall be and remain Crown land until the same is, according to the works or purpose for which the land shall have been taken, dealt with as prescribed.</p> <p>(6) “<i>The Acquisition of Land Act of 1967</i>,” shall be read with and subject to all such modifications and adaptations thereof as are necessary to give operation and effect to subsection (1) of this section including, as respects any land in question, by reading any reference therein to the Registrar of Titles as referring to the person or authority charged with registering</p>

## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
4 Geo. VI, No. 5 as subsequently amended	“ <i>The River Improvement Trust Acts, 1940 to 1965</i> ”	<p>instruments evidencing the title to the estate or interest in that land held from the Crown.”;</p> <p>(e) renumbering subsection (6) to be subsection (7);</p> <p>(f) omitting subsections (7) and (8);</p> <p>(g) renumbering subsections (9) and (10) to be respectively subsections (8) and (9);</p> <p>(h) omitting subsection (11).</p> <p>Section nine is repealed and the following section is inserted in its stead:—</p> <p>“[9.] <b>Compulsory acquisition of land.</b> (1) In respect of any works or purpose with respect or in relation to which any right, power or authority is conferred or duty or obligation imposed upon the Trust under this Act, the Trust shall be a constructing authority under “<i>The Acquisition of Land Act of 1967.</i>”</p> <p>(2) Where, land assigned to a sugar mill is taken the Central Sugar Cane Prices Board may, and is hereby empowered to, grant an assignment of other land to the same or another sugar mill in the stead of the assigned land so taken.</p> <p>The value of any assignment so granted or proposed to be so granted shall be set off against the compensation payable.”.</p>
9 Geo. VI, No. 24 as subsequently amended	“ <i>The State Housing Acts, 1945 to 1966</i> ”	<p>Section twenty-two is amended by omitting subsection (2) and inserting in its stead the following subsection:—</p> <p>“(2) (a) The Commission shall be a constructing authority within the meaning of “<i>The Acquisition of Land Act of 1967,</i>” for the purposes of exercising its powers and authorities under this Act.</p>

FIRST SCHEDULE—*continued*PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p>(b) As well as land granted in fee-simple the Commission as a constructing authority under "<i>The Acquisition of Land Act of 1967</i>," may take for the purpose of exercising its powers and authorities under this Act land which is held from the Crown for a lesser estate or interest than fee-simple.</p> <p>Any land referred to in this paragraph (b) shall, if vested in the Commission by the Proclamation taking it, be vested in it for an estate in fee-simple.</p> <p>The Governor in Council is hereby authorised to so vest and grant in fee-simple the land subject to such reservations and conditions as are authorised or prescribed by "<i>The Land Acts, 1962 to 1967</i>".</p> <p>(c) Any land taken by the Commission which has been vested in the Crown by the Proclamation taking the land shall be and remain Crown land until the same is according to the purpose for which the land shall have been taken, dealt with as prescribed.</p> <p>(d) "<i>The Acquisition of Land Act of 1967</i>," shall be read with and subject to all such modifications and adaptations thereof as are necessary to give operation and effect to paragraph (b) of this subsection including, as respects any land in question, by reading any reference therein to the Registrar of Titles as referring to the person or authority charged with registering instruments evidencing the title to the estate or interest in that land held from the Crown."</p>



## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
11 Geo. VI, No. 16	“ <i>The New South Wales - Queensland Border Rivers Act of 1946</i> ”	<p>1. Section fifteen is amended by—</p> <p>(a) omitting subsection (2) and inserting in its stead the following subsection:—</p> <p>“ (2) In respect of the acquisition by resumption of any land for any purpose of the construction, maintenance, operation and control of any works referred to in subsection (1) of this section, the Commissioner of Irrigation and Water Supply shall be a constructing authority under “<i>The Acquisition of Land Act of 1967</i>” ”;</p> <p>(b) omitting subsection (3).</p> <p>2. Section seventeen is repealed.</p>
12 Geo. VI, No. 18 as subsequently amended	“ <i>The Coal Industry (Control) Acts, 1948 to 1965</i> ”	<p>1. Section thirty-one is amended by—</p> <p>(a) in the first paragraph omitting the words, numerals and quotation marks “ “<i>The Public Works Land Resumption Acts, 1906 to 1940</i>” ” and inserting in their stead the words, numeral and quotation marks “ “<i>The Acquisition of Land Act of 1967</i>” ”; and</p> <p>(b) omitting the proviso (being the second paragraph).</p> <p>2. Sections thirty-two, thirty-three, thirty-four, thirty-five, thirty-six and thirty-seven are repealed.</p> <p>3. Section thirty-eight is amended by omitting the words, numerals and quotation marks “ “<i>The Public Works Land Resumption Acts, 1906 to 1940,</i>” as modified by this Act ” and inserting in their stead the words, numeral and quotation marks “ “<i>The Acquisition of Land Act of 1967</i>” ”.</p> <p>4. Section thirty-nine is amended by omitting the words, numerals and quotation marks “ “<i>The Public Works Land Resumption</i></p>

FIRST SCHEDULE—*continued*PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p><i>Acts, 1906 to 1940,</i>” as modified by this Act ” where they appear twice, and by inserting in their stead where so omitted twice the words, numeral and quotation marks “ “ <i>The Acquisition of Land Act of 1967</i> ” ”.</p> <p>5. Subsection (7) of section forty is amended by omitting the words, numerals and quotation marks “ sections twenty-three and twenty-six of “ <i>The Public Works Land Resumption Acts, 1906 to 1940</i> ” ” and inserting in their stead the words, numeral and quotation marks “ sections twenty-four, twenty-five and twenty-nine of “ <i>The Acquisition of Land Act of 1967</i> ” ”.</p>
13 Geo. VI, No. 58 as subsequently amended	“ <i>The Burdekin River Development Acts, 1949 to 1959</i> ”	<p>Section thirty-one is repealed and the following section is inserted in its stead:—</p> <p>“ [31.] <b>Acquisition of land.</b> For the purpose of taking any land required for any works under or for any purpose of this Act, the Authority shall be a constructing authority under “ <i>The Acquisition of Land Act of 1967.</i> ” ”</p>
1 Eliz. II, No. 50 as subsequently amended	“ <i>The Southern Electric Authority of Queensland Acts, 1952 to 1964</i> ”	<p>Section forty-seven is amended by omitting subsection (2) and inserting in its stead the following subsection:—</p> <p>“ (2) The Authority may, with the consent in writing of the Commission, take any land granted in fee-simple required by it for a purpose of this Act and for the purpose of taking the land shall be a constructing authority under “ <i>The Acquisition of Land Act of 1967,</i> ” and, subject to this Act, that Act shall apply and extend accordingly.”</p>

## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
4 Eliz. II, No. 40 as subsequently amended	“ <i>The Harbours Acts, 1955 to 1966</i> ”	<p>Section sixty-two is amended by—</p> <p>(a) in subsection (1)—</p> <p>(i) omitting the words, numerals and quotation marks “ or take under “ <i>The Public Works Land Resumption Acts, 1906 to 1955</i> ”, as modified by this section ” and inserting in their stead the words, numeral and quotation marks “ or, in the case of land granted in fee-simple, take under “ <i>The Acquisition of Land Act of 1967</i> ” ”;</p> <p>(ii) inserting before the words “ all such easements ” the word “ and ”;</p> <p>(iii) inserting before the words “ all such earth ” the words “ acquire by purchase ”;</p> <p>(b) omitting subsection (2) and inserting in its stead the following subsection:—</p> <p>“ (2) A Harbour Board shall be a constructing authority under “ <i>The Acquisition of Land Act of 1967</i>,” for the purpose of taking under that Act any land which it is authorised by this Act to take thereunder.”</p> <p>(c) omitting subsections (3) and (4).</p>
8 Eliz. II, No. 29	“ <i>The City of Brisbane (Water Supply) Act of 1959</i> ”	<p>Section ten is amended by omitting subsection (3) and inserting in its stead the following subsection:—</p> <p>“ (3) For the purpose of taking any land granted in fee-simple, either within or without the Area of the City of Brisbane, required by it for the purpose of any work or thing to which this section relates Brisbane City Council shall be a constructing authority under “ <i>The Acquisition of Land Act of 1967</i>.” ”</p>

## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
8 Eliz. II, No. 58 as subsequently amended	“ <i>The Forestry Acts, 1959 to 1964</i> ”	Section thirteen is repealed and the following section is inserted in its stead:— “ [13.] <b>Taking of land, &amp;c.</b> For the purpose of taking any land or easement over land under and for the purposes of this Act, the Conservator of Forests shall be a constructing authority under “ <i>The Acquisition of Land Act of 1967</i> ”.”
11 Eliz. II, No. 23	“ <i>The City of Brisbane (North Pine River Dam) Act of 1962</i> ”	Section five is amended by omitting subsection (3) and inserting in its stead the following subsection:— “ (3) For the purpose of taking any land granted in fee-simple, either within or without the Area of the City of Brisbane required by it for the purposes of the Pine River Dam or any work or thing appurtenant to that dam, including any pumping station, treatment works, pipe line or other thing whatsoever appurtenant to that dam Brisbane City Council shall be a constructing authority under “ <i>The Acquisition of Land Act of 1967</i> .” ”
No. 44 of 1962, as subsequently amended	“ <i>The Brigalow and Other Lands Development Acts, 1962 to 1967</i> ”	Section 5 is amended by omitting subsections (4), (5) and (6) and inserting in their stead the following subsection:— “ (4) Notwithstanding any other provision of this Act, for the purpose of taking any land granted in fee-simple required for the purposes of this Act, the Corporation shall be a constructing authority under “ <i>The Acquisition of Land Act of 1967</i> ,” and that Act shall apply and extend accordingly.”
No. 39 of 1963, as subsequently amended	“ <i>The Northern Electric Authority of Queensland Acts, 1963 to 1964</i> ”	Section thirty-two is amended by omitting subsection (2) and inserting in its stead the following subsection:— “ (2) The Authority may, with the consent in writing of the Commission, take any land

## FIRST SCHEDULE—continued

## PART II—continued

Year and Number of Act	Short title	Extent of Amendment
No. 48 of 1964, as subsequently amended	“ <i>The Fire Brigades Acts, 1964 to 1966</i> ”	<p>granted in fee-simple required by it for a purpose of this Act and for the purpose of taking the land shall be a constructing authority under “<i>The Acquisition of Land Act of 1967</i>,” and, subject to this Act, that Act shall apply and extend accordingly.”</p> <p>Section eight is amended by omitting subsection (2) and inserting in its stead the following subsection:—</p> <p>“(2) For the purpose of taking any land granted in fee-simple required by it for a purpose of this Act a Board shall be a constructing authority under “<i>The Acquisition of Land Act of 1967</i>.””</p>
No. 4 of 1965 ..	“ <i>The Soil Conservation Act of 1965</i> ”	<p>1. Section eighty-nine is amended by—</p> <p>(a) omitting subsection (1) and inserting in its stead the following subsection:—</p> <p>“(1) For the purpose of taking any land granted in fee-simple required by it for a purpose specified in subsection (2) of this section, a Trust shall be a constructing authority under “<i>The Acquisition of Land Act of 1967</i>.””;</p> <p>(b) in subsection (2) omitting the word “deemed” and the words “under those Acts”.</p> <p>2. Section ninety is repealed.</p> <p>3. Section ninety-one is repealed and the following section is inserted in its stead:—</p> <p>“[91.] <b>Acquisition of land by Authority.</b> For the purpose of taking any land granted in fee-simple required by it for or in connexion with any purpose under this Act including any</p>

FIRST SCHEDULE—continued  
PART II—continued

Year and Number of Act	Short title	Extent of Amendment
No. 60 of 1964 ..	<p style="text-align: center;"><i>“The City of Brisbane Town Planning Acts, 1964 to 1967”</i></p>	<p>works or purpose with respect to or in relation to which any right, power or authority is conferred, or duty or obligation imposed upon it under this Act, the Authority shall be a constructing authority under “<i>The Acquisition of Land Act of 1967</i>”.”</p> <p>1. Section sixteen is amended by omitting subsection (2) and inserting in its stead the following subsection:—</p> <p style="padding-left: 2em;">“ (2) Where compensation for injurious affection is claimed under this Act, instead of paying compensation, the Council at its option may take the land and for that purpose shall be a constructing authority under “<i>The Acquisition of Land Act of 1967</i>”:</p> <p style="padding-left: 2em;">Provided that before resolving to take the land the Council shall obtain the consent of the Minister (which consent the Minister may grant or refuse to grant).</p> <p style="padding-left: 2em;">In such case the owner shall be entitled to compensation as if the land were not injuriously affected by reason of the coming into operation of any provision contained in the Plan or any prohibition or restriction imposed by or under the Plan.”</p> <p>2. Section twenty-three is amended by—</p> <p>(a) omitting subsection (1) and inserting in its stead the following subsection:—</p> <p style="padding-left: 2em;">“ (1) The Council may purchase or, with the prior approval of the Governor in Council, take any land in the City which is required for any purpose of the Plan, whether such land is so required immediately or not.”;</p>

FIRST SCHEDULE—*continued*PART II—*continued*

Year and Number of Act	Short title	Extent of Amendment
		<p>(b) in subsection (2) omitting the words, numerals and quotation marks “ under <i>The City of Brisbane Improvement Acts, 1916 to 1953</i> ” ;</p> <p>(c) in subsection (3) omitting the words, numerals and quotation marks “ <i>The City of Brisbane Improvement Acts, 1916 to 1953</i> ” and inserting in their stead the words, numeral and quotation marks “ <i>The Acquisition of Land Act of 1967</i> ” ; and</p> <p>(d) adding the following subsection:—  “(6) For the purpose of taking under this section any land granted in fee-simple, the Council shall be a constructing authority under “ <i>The Acquisition of Land Act of 1967.</i> ” ”</p>

[Section 5]

## SECOND SCHEDULE

Purposes for which land may be taken under and subject to this Act—

- (a) Abattoirs, ambulances, appliances for the destruction of pests or vermin, aqueducts, aviation and purposes associated therewith, baths and washhouses, beacons, bores, bore drains, botanical or other gardens, bridges, buildings, canals, caravan parks, cemeteries or crematories, charitable institutions, civic centres or squares, colleges, dams or weirs or other works for the conservation or reticulation of water, departmental and official purposes, docks, dockyards, drainage, educational establishments, electrical works, experimental farms, ferries, fire stations, flood gates and flood warnings, flood prevention or flood mitigation, fords, forestry (including afforestation, silviculture, protection of forests and forest products, harvesting, transport, milling, preparing, treating or marketing of forest products, access to or for the purposes of forests, acquisition of forests and forest products and kindred purposes), gas works, gravel and sand pits, gymnasiums, harbours and harbour works, health, hospitals, and hostels (including for mentally sick, inebriate or indigent persons), industrial schools, infirmaries, jetties, kindergartens, landing places, libraries, lighthouses, locks, lockups, markets, museums, offices, orphanages, parks, parking of vehicles, police, pounds,

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- prisons, public meetings, public music, pumps, quays, quarries, racecourses, railway and purposes associated therewith, recreation grounds, reformatories, reservoirs, roads, rubbish depots, schools, septic tanks, sewage farms and disposal works and depots, sewers, sewerage, shipbuilding, showgrounds, slaughter houses, soil conservation, swimming pools, tramways, universities, weighing machines, wells, wharves, works for the protection of the seashore and land abutting thereon, works for the conservation of hydraulic or other power or for any public works or other work, or purpose of a like character and also for the construction or erection of any public or other works which the constructing authority is authorised by any Act or resolution of Parliament to construct or erect or for the purposes of any Act;
- (b) Setting apart, subdividing, resubdividing, reclaiming, alienating, taking up, occupying, leasing, using as town or suburban lands or dealing with in any manner in which Crown land may be dealt with under “ *The Land Acts, 1962 to 1967* ” (whether in carrying out the purposes for which land is taken in any of the cases in this paragraph (b), the land is dealt with separately or in conjunction with any adjacent or other Crown land);
- (c) any purpose declared by the Governor in Council by Order in Council to be a purpose for which land may be taken under and subject to this Act.