



ANNO OCTODECIMO

ELIZABETHAE SECUNDAE REGINAE

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No. 33 of 1969

**An Act to Amend The Acquisition of Land Act of 1967 in  
certain particulars**

[ASSENTED TO 19<sup>TH</sup> DECEMBER, 1969]

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:—

1. **Short title and citation.** (1) This Act may be cited as the *Acquisition of Land Act Amendment Act 1969*.

(2) *The Acquisition of Land Act of 1967* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be collectively cited as the *Acquisition of Land Act 1967–1969*.

**2. Amendments to s. 9.** Section 9 of the Principal Act is amended by, in subsection (6)—

(a) inserting in paragraph (a) after the words “in question” the words “or any part thereof”;

(b) inserting in the general words following paragraph (b) after the words “in question” the words “or, as the case may be, such part”.

**3. Amendments to s. 10.** Section 10 of the Principal Act is amended by, in subsection (5)—

(a) adding to the first paragraph the words “or by section fifteen of this Act”;

(b) inserting in the second paragraph—

(i) after the words “section nine” the words “and in subsection (3) of section fifteen”;

(ii) after the words “this section” the words “or, as the case requires, by section fifteen of this Act”.

**4. Amendments to s. 12.** Section 12 of the Principal Act is amended by—

(a) omitting subsections (1), (2) and (3) and inserting in their stead the following subsections:—

“(1) Subject to subsection (4) of this section—

(a) land taken by Proclamation—

(i) shall vest, according as the Proclamation prescribes, in the Crown or in the constructing authority which requires the land on and from the date of the publication in the Gazette of the Proclamation; or

(ii) if it is taken by the Crown on behalf of a corporation representing the Crown in right of the State or constituted by any Act shall vest in the corporation requiring the land if the Proclamation so prescribes and in such case, where the corporation is not a constructing authority, the provisions of section forty-one of this Act shall apply as if the corporation were a constructing authority;

(b) land taken by Notification of Resumption shall vest in Brisbane City Council on and from the date of the publication in the Gazette of the Notification of Resumption.

(2) Where land taken consists of the whole estate in fee-simple and vests in the Crown it shall be and remain Crown land until it is, according to the purpose for which it is taken, dealt with as prescribed by an Act other than this Act.

Where land taken vests in a constructing authority (including the Crown where the land consists of an estate or interest less than the whole estate in fee-simple) or, where the Proclamation so prescribes, in a corporation it shall so vest and be held by the constructing authority or corporation for the estate or interest therein of which the land taken consists and, where the estate or

interest is such that provision is made by *The Real Property Acts, 1861 to 1963* for its registration, upon application by the constructing authority or corporation 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 or corporation accordingly.

Where such application is in respect of the whole estate in fee-simple—

(a) in land not under *The Real Property Acts 1861 to 1963* it shall contain a request for the issue of a certificate of title for the land;

(b) in land under *The Real Property Acts 1861 to 1963* it may contain a request for the issue of a certificate of title for the land,

and upon payment of the prescribed fees the Registrar of Titles shall issue to the constructing authority or corporation a certificate of title accordingly.

(3) Where 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 as he considers necessary to amend the building units plan, and may make all such entries, notings and endorsements as he considers necessary in the appropriate Register Book.”;

(b) in subsection (5)—

(i) omitting the words “From and after” and inserting in their stead the words “On and from”;

(ii) inserting after the words “constructing authority” where they firstly occur the words “or, where the Proclamation so prescribes, in the corporation requiring the easement”;

(c) omitting subsection (6) and inserting in its stead the following subsection:—

“(6) Subject to section eleven of this Act, publication in the Gazette of the Proclamation or, in the case of Brisbane City Council, Notification of Resumption shall be evidence, and in the absence of evidence in rebuttal, conclusive evidence that—

(a) in the case of land taken pursuant to an agreement in writing within the purview of section fifteen of this Act, the provisions of that section have been complied with;

(b) in any other case, the provisions of sections seven, eight and nine or, as the case may be, seven, eight and ten of this Act have been complied with.”.

**5. Amendment to s. 13.** Section 13 of the Principal Act is amended by omitting subsection (2) and inserting in its stead the following subsections:—

“(2) If, by reason of the fact that a boundary of land proposed to be taken (in this subsection called the “primary land”) will sever the principal building erected on the land from which the

primary land will be severed and of the circumstances of the case relevant thereto, it appears to the Governor in Council that it is desirable that the constructing authority should take additional land approved by him (in this subsection called the "additional land") being the whole or part of the land from which the primary land will be severed the additional land may be taken as prescribed by this Act and the taking of the additional land shall be deemed to be for a purpose incidental to the carrying out of the purpose for which the primary land is to be taken.

(3) A constructing authority may sell or otherwise deal with additional land taken by it pursuant to subsection (1) or (2) of this section in such manner as it thinks fit and the power hereby conferred shall not be subject to the provisions of any other Act which purport to restrict or regulate the exercise by the constructing authority of its power to sell or otherwise deal with land or to the provisions of section forty-one of this Act."

**6. Repeal of and new s. 15.** The Principal Act is amended by repealing section 15 and inserting in its stead the following section:—

**"15. Taking by agreement.** (1) Where a constructing authority has lawfully agreed in writing to take as prescribed by this Act any land for a purpose for which it may take the same the constructing authority may take the land under and in accordance with this section.

Save as is otherwise expressly provided in this section the provisions of sections seven, eight, nine and ten (other than subsection (5) thereof) of this Act shall not apply with respect to a taking of land under this section.

This subsection shall not be construed to limit the power of a constructing authority to acquire by purchase or otherwise any land otherwise than as prescribed by this Act.

An agreement which purports or is properly to be construed to pass any interest in land to a constructing authority or to prejudice the right of any person to use, enjoy or dispose of his land shall not be an agreement within the purview of this subsection.

(2) In any such agreement the parties—

- (a) may agree upon the amount of compensation; or
- (b) may agree that the amount of compensation 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 at the date on which the land is taken.

If the amount of 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.

(3) This subsection does not apply with respect to the taking of land by Brisbane City Council or an approved Local Authority.

A constructing authority entitled to take land under this section may apply to the Minister that the land be taken as prescribed by this section.

Such an application may be made within twelve months after the date of the agreement and not thereafter and shall be accompanied by the agreement and, where the land to be taken is not described in the agreement as mentioned in subparagraph (i) of paragraph (b) of subsection (3) of section seven of this Act, by a copy of a plan of survey of the land to be taken certified as accurate by an authorized surveyor.

In and for the purposes of this subsection "Minister" has the meaning assigned to that term in and for the purposes of section nine of this Act.

(4) Where Brisbane City Council is entitled to take land under this section it may apply to the Minister for the approval of the Governor in Council to the taking by it of the land.

Such an application shall be in writing under the seal of Brisbane City Council and shall be accompanied by the agreement and, where the land to be taken is not described in the agreement as mentioned in subparagraph (i) of paragraph (b) of subsection (3) of section seven of this Act, by a copy of a plan of survey of the land to be taken certified as accurate by an authorized surveyor and by a copy of the resolution of Brisbane City Council to take the land.

(5) With respect to an application made to him under subsection (3) or (4) of this section the Minister may require the constructing authority to furnish him, within a time specified by him, such further particulars and information as he deems fit.

(6) If upon consideration of such an application, including the agreement and the copy plan of survey accompanying the same and any further particulars and information required by him, the Governor in Council is satisfied 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 under this section the Governor in Council may—

(a) in the case of an application under subsection (3) of this section, 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 on and from the date of the publication in the Gazette of the Proclamation;

(b) in the case of an application under subsection (4) of this section, by Order in Council approve that Brisbane City Council take the land in question.

(7) Subject to such approval by the Governor 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 purpose mentioned in the notification on and from the date of the publication in the Gazette of the notification.

For the purposes of this Act such a notification shall be taken to be included in the expression "Notification of Resumption".

Such a notification may be so published within twelve months after the date of the agreement to take the land in question and not thereafter.

(8) Section twelve of this Act applies with respect to a taking of land under this section as it does to a taking of land under section nine or ten of this Act.

(9) Upon failure by a constructing authority to make the application under subsection (3) of this section or, in the case of Brisbane City Council, to publish a Notification of Resumption under subsection (7) of this section within the time prescribed therefor by this section the constructing authority shall be deemed to discontinue the resumption in question and the provisions of section sixteen of this Act shall apply with respect thereto as if the person from whom the land was to be taken had been served with a notice of intention to resume."

**7. New ss. 36A and 36B.** The Principal Act is amended by inserting after section 36 the following sections:—

**“36A. Minister may act for Crown as constructing authority.** The Minister is authorized and required to exercise such powers, perform such functions and take such steps as are permitted or required by this Act for the purpose of taking land on behalf of the Crown as a constructing authority.

**36B. Minister may delegate certain authorities and functions.** (1) The Minister may either generally or otherwise as provided by the instrument of delegation, by writing under his hand, delegate to any officer of the Department of Lands all or any of his powers, authorities and functions conferred on him by section 36A of this Act.

(2) A power, authority or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) Where in the exercise or performance of a power, authority or function so delegated the Minister is required or permitted by or under this Act to form an opinion, belief or state of mind in relation to any matter the delegate shall, or as the case may be, may, in the exercise or performance by him of that power, authority or function, form his opinion, belief or state of mind.

(4) A delegation under this section is revocable at will and does not prevent the exercise of a power or authority or the performance of a function by the Minister or the making of a further delegation."

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**8. Amendments to s. 41.** Section 41 of the Principal Act is amended by, in subsection (1)—

(a) omitting the words “acquired either by agreement or” and inserting in their stead the words “taken either pursuant to an agreement under section fifteen of this Act or by”;

(b) omitting the word “acquisition” and inserting in its stead the word “taking”.