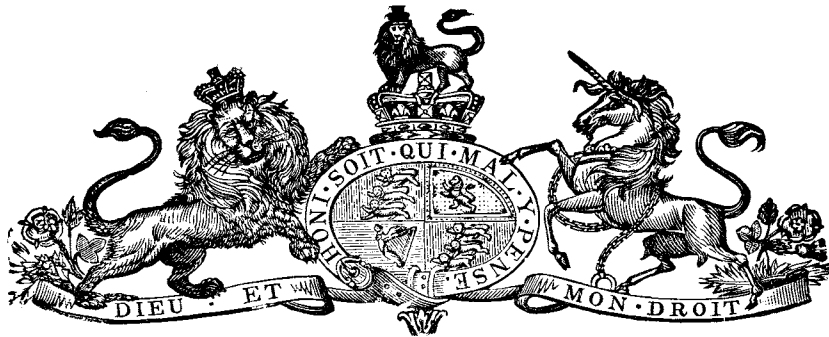


1007

TASMANIA.



1935.

ANNO VICESIMO SEXTO

GEORGII V. REGIS.

No. 40.

ANALYSIS.

- | | |
|---|--|
| <p>1. Short title.</p> <p>2. Repeal.</p> <p>3. Amendment of 1 Geo. V No. 11,
s. 4.</p> <p style="padding-left: 40px;">Section 10.</p> <p style="padding-left: 40px;">Section 12.</p> <p style="padding-left: 40px;">Section 13.</p> <p style="padding-left: 40px;">Section 15.</p> <p style="padding-left: 40px;">Section 16.</p> | <p>New section 21A.
Vesting of land by notification.</p> <p>New section 21B.
Registration of notification.</p> <p>New section 22.
Irregularity or mistake.</p> <p>New section 22A.
Land to be vested in the Crown.</p> <p>4. Amendment of 1 Geo. V. No. 11 by second schedule.</p> |
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AN ACT to amend the *Lands Resumption Act* 1910. [18 October, 1935.]

A.D.
1935.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as the *Lands Resumption Act* 1935.

8a].

Short title.

Lands Resumption.

A.D. 1935.

Repeal.

2—(1) The enactments mentioned in the first schedule are hereby repealed to the extent indicated in the third column thereof.

(2) The repeal by this Act of the enactments set forth in the fourth column of the first schedule shall not affect the operation of the amendments inserted or effected in the Principal Act by such repealed enactments, and the Principal Act shall continue to be read and construed as altered by such repealed enactments as if the same had not been repealed, subject, however, to any amendments or alterations therein made by any subsequent enactments.

Amend-
ment of
1 Geo. V.
No. 11, s. 4

3 The Principal Act is hereby amended—

I. As to section four thereof—

(a) By expunging the definitions of “Any Act,” “Land,” “Minister,” and “The Supreme Court”:

(b) By deleting—

(i) “means” and substituting “includes”:

(ii) “convey” (secondly occurring) and “or lease”:

(iii) “includes” and substituting “means” (after “encumbrance”)—

and inserting “and” (after “surrender”): and

(c) By inserting “‘Court’ means the Supreme Court” (after the definition of “Convey”):

Section 10.

II. As to section ten thereof—

(a) By deleting the words—

(i) “Under” to “of” (thrice occurring): and

(ii) “or the Governor in Council” (twice occurring): and

(b) By inserting the words “under or by virtue of” (after “Whenever” in the first line):

Section 12.

III. As to section twelve thereof, by deleting the words “such” and “apart of” and substituting “the Governor may set apart any” and inserting “as provided by this Act.” (at the end of the section):

Section 13.

IV. As to section thirteen thereof, by deleting the word “the” (before “Parliament”) and “if the” to “Parliament” (at end) and inserting—

(a) “the first” (before “fourteen”): and

(b) “sitting-” (before “days”):

Section 15.

V. As to section fifteen thereof, by deleting the words “either” to “abode” and by inserting (after “served” in line 4) “personally or by registered post”:

Lands Resumption.

VI. As to section sixteen thereof—

A. D. 1935.

(a) By deleting the words—

Section 16

- (i) “ ninety days ” and substituting “ six months ”:
- (ii) “ and if ” to “ effect ” (in (1)):
- (iii) “ in ” to “ following ” (in (3)) and substituting “ by ” and inserting “ seventeen ” (after “ section ” in same line) :
- (iv) “ *bonâ fide* ” and inserting “ in good faith ” (after “ done ” in same line) :

(b) By inserting after subsection (1)—

“ (2) Upon the gazettal of such subsequent notification, the original notification shall cease to have effect—

- i. Wholly, if annulled : or
- ii. To the extent indicated in the subsequent notification, if otherwise.” : and

(c) By renumbering subsections (2), (3), and (4) as (3), (4), and (5) respectively :

VII. By inserting after section twenty-one thereof the following new sections twenty-one A and twenty-one B :—

New section
21A.

“ **21A**—(1) When any Minister is empowered to acquire land for road purposes or for any railway or tramway or for drainage purposes the Governor, by notification in the Gazette, with the written consent of all persons interested in the land required for any such purpose and upon payment of the purchase-money agreed upon and of compensation, if any, to such persons, may define by metes and bounds the land so required and the road, if any, proposed to be closed. Vesting of land by notification.

(2) Every such notification shall be published in the Gazette and three times in a newspaper.

(3) Upon the registration of such notification as hereinafter provided, the land therein described, and expressed and intended to be thereby acquired, shall revert to and revest in His Majesty, freed and discharged from all estates and interests therein subsisting in any person.

(4) Where any land has been acquired under this section for the purposes of a new line of road or for the deviation or alteration of an existing road, the land so acquired shall, by force of the registration of the notification, be dedicated as a public highway.

(5) Where any such deviation as aforesaid is proposed, the land comprised in the existing road or portion thereof to be closed shall cease to be a public highway and shall vest in the owners in fee simple of the immediately adjoining land upon such registration as aforesaid as though

Lands Resumption.

A.D. 1935.

New section 21B. Registration of notification.

granted to them respectively by His Majesty, and any land so vesting shall be subject to such and the same encumbrances to which such adjoining lands are subject respectively.

(6) The Secretary for Lands shall cause every such deviation or alteration of any road effected by such notification to be recorded on the plans of such road in his office.

“**21B**—(1) Where the land comprised in any notification under section twenty-one A is subject to the *Real Property Act* 1862 the Minister shall cause a certified copy of such notification and a plan of such land to be filed with the Recorder of Titles.

(2) The Recorder shall enter a memorial of such notification on the folium of the register containing the title to such land.

(3) If the certificate of title or grant of such land is not produced for endorsement, the Recorder may call in the same as provided by section one hundred and thirty-six of the *Real Property Act* 1862 as containing a misdescription, and may correct the same for the purpose of giving effect to the provisions of subsection (5) of section twenty-one A, or issue a new certificate of title as he thinks fit, but no duty shall be payable thereon under the *Stamp Duties Act* 1931.

(4) Where such land as aforesaid is not subject to the *Real Property Act* 1862, the Crown Solicitor shall register the notification in the Registry of Deeds by lodging a memorial thereof signed by the Minister and certified as provided by the *Registration of Deeds Act* 1935.

(5) Such memorial shall contain a copy of the notification and of the plan, if any, referred to therein, and shall set forth the names and additions of the persons who were seised or possessed of any estate or interest in the land thereby affected, and the name of the district or place where such land is situated.

(6) If the last conveyance or document of title of such land is produced to the Crown Solicitor for that purpose, he shall record thereon a memorandum of the registration of the notification and of the date thereof.

(7) The Minister shall not cause any such notification to be registered where it is proposed to close any existing road until the expiration of the time, not being less than sixty days from the first publication of the notification, allowed for lodging objections thereto; but the Recorder of Titles and the Registrar of Deeds shall not be bound to enquire whether such time has elapsed.” :

Lands Resumption.

VIII. By substituting for repealed section twenty-two thereof the following new sections twenty-two and twenty-two A :—

“**22**—(1) Where after the enactment of this section by reason of any error, omission, or inadvertence land has been occupied for the purposes of any public work without having been taken in compliance with the provisions of this Act, and such land is afterwards acquired for such work as provided by this Act, any claim arising in respect of such irregular occupation shall be included with the claim for compensation in respect of such land and shall be determined as provided by this Act in conjunction with the claim for compensation.

(2) If in any such case any action or proceeding is commenced against the Crown or against any person in respect of such occupation, the Court on the application of the Minister may stay such action or proceeding and may order that the claim in respect of which it was commenced shall be determined as provided by this section.

“**22A** All lands at any time acquired for public purposes shall revert to and be vested in His Majesty freed and discharged from all estates and interests of any persons therein.”

Irregularity A.D. 1935.
or mistake.

New section
22.

Land to be New section
vested in 22A.
the Crown.

4 The Principal Act is hereby further amended in the manner and to the extent set forth in the second schedule.

Amend-
ment of
1 Geo. V,
No. 11 by
second
schedule

THE FIRST SCHEDULE.

Regnal Year and Number.	Title of Act.	Extent of Repeal.	Enactments the operation of which is Preserved notwithstanding Repeal.
58 Vict. No. 17	<i>The Land Vesting Act 1894</i>	The whole Act	
62 Vict. No. 45	<i>An Act to amend an Act to make better provision for vesting in Her Majesty the Queen Land acquired for Roads and other purposes.</i>	The whole Act	
1 Geo. V. No. 11	<i>The Lands Resumption Act 1910</i>	Sections 2, 3, 22, and 62	
10 Geo. V. No. 24	<i>The Lands Resumption Act 1919</i>	The whole Act	Section 2
12 Geo. V. No. 11	<i>The Land Vesting Act 1921</i>	The whole Act	

Lands Resumption.

A.D. 1935.

THE SECOND SCHEDULE.

FURTHER AMENDMENT OF PRINCIPAL ACT
(1 GEO. V. NO. 11).

Part or Section Amended.	How Amended—
	By expunging or by deleting the words, as the case may be—
Section 5	“or entitled to dower”; and “or subject” to “dower” and inserting “or” (after “seised”) and “of” (after “possessed” in the first line)
Section 6	“a” to “or”; “and” (after paragraphs I. to III.); and “have done” (thrice occurring) and substituting “do”
Section 7	“or” (after first three paragraphs of (2))
Section 11	“by and”
Section 14	“taken to have been”
Section 18	“the following” and substituting “where”; “where” (thrice occurring)
Section 19	“or other” to “State”; “1882” to “thereof” and substituting “1931”
Section 20	“for” to “works”; “notice” and substituting “notification”
Sections 21 and 28	“notwithstanding” to “contained”
Sections 23, 24, and 61	“and” (after paragraph I.)
Section 26	“then” and substituting “by the Court”; and “by any court” to “compensation”
Section 30	“(other” to “land)”
Section 34	“severance” to “affected” and substituting “severing of the lands taken from the other lands of the claimant or otherwise injuriously affecting such other lands”
Section 35	“last” (twice occurring) and substituting “next” and inserting “Session of” (before “Parliament”)
Section 36	“the” (fifthly occurring) and substituting “such” and inserting “(1)” (at beginning) and “(2)” (before “If such”)
Section 37	“the right” to “performed” and substituting “if the same is done in the exercise of any right reserved by any Act or by any grant or other instrument”
Section 39	“bonâ fide” and substituting “made in good faith”
Sections 40 and 44	“or” (after paragraph I.)
Section 41	“The Minister” (twice occurring) and inserting “The Minister” (after “If” in first line)

Lands Resumption.

A.D. 1935.

Part or Section Amended.	How Amended—
	By expunging or by deleting the words, as the case may be—
Section 42	“or” (after paragraphs I. and II.)
Section 43	“any” and substituting “the”; “of” to “jurisdiction”; and paragraph III.; and renumbering IV. as III.
Section 44	“a court” to “claim” and subsections (2), (3), and (4) and substituting “the Court for a summons calling upon the owner to prosecute his claim within a time specified in the summons. “(2) The summons shall be served on such persons and in such manner as the Court may direct. “(3) In default of compliance with the summons the Court may determine <i>ex parte</i> the amount of compensation which shall be payable and the persons to whom it shall be paid, and the order of the Court shall be final and conclusive and binding on all persons.”
Section 45	“(1)” and “apply to a” to “or not” (at end) and substituting “proceed as provided by section forty-four, and the provisions of that section shall have effect as if a disputed claim existed.”
Section 52	“All” to “virtue of” and substituting “Every payment of compensation made by the Minister to the person entitled thereto in accordance with”; “discharges” and substituting “discharge to the Minister” and inserting “a” (before “good”) and “for him” (after “necessary”); and “to see” (last occurring)
Section 53	“and” (after first four paragraphs)
Section 54	“or” (after paragraph I.)
Sections 57 and 58	“rights” and substituting “right”
Section 63	“any person” (twice occurring) and inserting “any person” (after “If” in first line); “of the Supreme Court”
Section 65	“or other officer”
Section 66	“or deemed” to “resumed”; “the” (thrice occurring before “Parliament”)
Section 68	“or dedicate to”; “or in” to “Majesty”; and “or dedication”
Section 69	“not” to “prescribed” (last occurring); and “giving” to “out” and substituting “the purposes of”
Wherever occurring	“Supreme” (before “Court,” except in section 4)

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