

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1918.

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# A BILL

To make further provision for the rescission of certain resumptions and takings, and for the amendment of errors in connection therewith; to amend the City and Suburban Railways (Resumption Rescission) Act, 1917, and the Public Works Act, 1912; and for purposes consequent thereon or incidental thereto.

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "City and Suburban Railways (Resumption Rescission) Amendment Act, 1918." Short title.

2. The following subsection is inserted next after subsection two of section two of the City and Suburban Railways (Resumption Rescission) Act, 1917 :—

(2A) On the publication as aforesaid of a notification of the rescission of any notification of resumption the Registrar-General shall cancel any registration of or dealing with such notification, or any act done for giving effect thereto under section forty-six of the Public Works Act, 1912, and shall register or otherwise deal with and shall take such steps as he thinks desirable in order to give effect to the notification of rescission.

Cancellation of registration of notification of resumption.

3. Subsection three of section two of the City and Suburban Railways (Resumption Rescission) Act, 1917, is amended by omitting all after “determined” to the end of the subsection and substituting therefor the following :—“subject to the conditions hereinafter prescribed—

Action for compensation for loss or damage. Amendment of s. 2 (3).

- “(a) No such action may be brought unless a claim in writing setting out the nature of the loss or damage alleged, and particulars of the amount of compensation claimed in respect thereof has been served upon the Constructing Authority within twelve months after the alleged cause of action arose.
- “(b) Within sixty days after the receipt of such claim the Constructing Authority shall notify the claimant in writing as to the amount of compensation he is prepared to pay in respect of such loss or damage: Provided that the Constructing Authority may within thirty days after service thereof vary such offer by notice in writing to the claimant.
- “(c) If the Constructing Authority does not admit such claim or is unable to agree with the claimant as to the amount of compensation to be paid, the claimant may, after the expiration of ninety days from the receipt by the Constructing Authority of such claim, and not before, bring an action for recovering compensation for such loss or damage. Such action shall be commenced within three months after the expiration of such ninety days. “(d)

- “ (d) Any such action shall be heard and determined, when the amount therein claimed exceeds one thousand pounds, by a judge of the Supreme Court without a jury, and when such amount does not exceed one thousand pounds by a district court judge without a jury.
- “ (e) If the verdict in any such action is for a sum equal to or less than the amount last notified to the claimant under paragraph (b) of this section the claimant shall pay the cost of such action, but if for a greater sum the Constructing Authority shall pay such costs. Act No. 45, 1912, s. 106 (1).
- “ (f) The Colonial Treasurer shall pay all compensation and costs adjudged in such action to be paid by the Constructing Authority. Act No. 27, 1912, s. 11.
- “ In the event of such payment not being made within sixty days after demand, execution may be had for the amount and may be levied upon any property vested in the Government.
- 4.** The following Division is inserted next after Division 7 of Part VI of the Public Works Act, 1912 :—

DIVISION 8.

100A. If at any time after any land has been resumed or taken under this Act it is found that the land or any part thereof is not required for the purpose for which it was so resumed or taken, the Governor may, by notification in the Gazette, rescind in whole or in part any such notification of resumption or taking, and thereupon such notification or taking shall to the extent to which it is rescinded as aforesaid be void and of no effect: Rescission of resumption.

Provided that the power contained herein shall not be exercised, if the compensation payable in respect of the land has been determined, or if actual possession has been taken of the land and work of construction has been commenced thereon.

100B. On the publication of such notification of rescission the land and any easements or rights resumed or taken as aforesaid shall, to the extent of such Revesting.

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such rescission, revert in the persons who were entitled to the same at the date of such resumption or taking for their estates, interests, or rights at such date, but subject to any interests in or equities binding on such land created by the Constructing Authority since such date; and the land shall be subject to all trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way, or other easements from which it was freed and discharged by such resumption or taking, as if the land, easements, and rights had not been resumed or taken, and shall also be subject to any interests in or equities binding on the compensation moneys and created since the resumption or taking.

100c. On the publication as aforesaid of a notification of the rescission of any notification of resumption the Registrar-General shall cancel any registration of or dealing with such notification or any act done for giving effect thereto under section forty-six of this Act, and shall register or otherwise deal with and shall take such steps as he thinks desirable in order to give effect to the notification of rescission.

Cancellation  
of notification  
of resump-  
tion.

100d. Any person who has any estate or interest in the land resumed or taken and who has in respect of such estate or interest suffered any actual loss or damage as a direct consequence of the said resumption or taking and its rescission, other than compensation in respect of the value of the land, shall be entitled to be compensated by the Constructing Authority. Such compensation may be recovered by action against the Constructing Authority, and such action may be brought, heard, and determined subject to the conditions hereinafter prescribed:—

Action for  
loss or  
damage.

- (a) No such action may be brought unless a claim in writing setting out the nature of the loss or damage alleged, and particulars of the amount of compensation claimed in respect thereof has been served upon the Constructing

Constructing Authority within twelve months after the alleged cause of action arose.

- (b) Within sixty days after the receipt of such claim the Constructing Authority shall notify the claimant in writing as to the amount of compensation he is prepared to pay in respect of such loss or damage: Provided that the Constructing Authority may within thirty days after service thereof vary such offer by notice in writing to the claimant.
- (c) If the Constructing Authority does not admit such claim or is unable to agree with the claimant as to the amount of compensation to be paid, the claimant may, after the expiration of ninety days from the receipt by the Constructing Authority of such claim, bring an action for recovering compensation for such loss or damage. Such action shall be commenced within twelve months after the expiration of such ninety days.
- (d) Any such action shall be heard and determined, when the amount therein claimed exceeds one thousand pounds, by a judge of the Supreme Court without a jury, and when such amount does not exceed one thousand pounds by a judge of the said court or a district court judge without a jury.
- (e) If the verdict in any such action is for a sum equal to or less than the amount last notified to the claimant under paragraph (b) of this section such claimant shall pay the costs of such action, but if for a greater sum the Constructing Authority shall pay such costs.
- (f) The Colonial Treasurer shall pay all compensation and costs adjudged in such action to be paid by the Constructing Authority.

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In the event of such payment not being made within sixty days after demand, execution may be had for the amount and may be levied upon any property vested in the Government, but not upon any property—

- (i) vested in the Government on behalf of the Imperial Government; or
- (ii) to which the Imperial Government has any claim or is in anywise entitled.

100E. Nothing in the preceding sections of this Division shall affect the City and Suburban Railways (Resumption Rescission) Act, 1917, or any enactments amending the same. Saving.

100F. If at any time after any land has been resumed under this Act it is found that any error in form or substance exists in or in relation to the notification of resumption or in the gazettal thereof, or in any notice in relation thereto, the Governor may by notification in the Gazette correct such error. Correction of errors.

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