

SYDNEY CORPORATION AMENDMENT (COSTS) ACT.

Act No. 60, 1916.

An Act to make further provision with respect to George V,
resumptions by the Municipal Council of No. 60.
Sydney, and proceedings in connection there-
with; to amend the Sydney Corporation
Amendment Act, 1905, and certain other Acts;
and for purposes consequent thereon or inci-
dental thereto. [Assented to, 22nd November,
1916.]

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

Preliminary.

1. This Act may be cited as the “Sydney Corporation Short title.
Amendment (Costs) Act, 1916.” *Resumptions.*

George V.
No. 66.

Resumptions.

Amendment
of Sydney
Corporation
Amendment
Act, 1905,
s. 20, par. (c).

2. Section twenty of the Sydney Corporation Amendment Act, 1905, is amended by inserting in paragraph (c) after “(section ninety-six)” the following proviso:—
“Provided that any such notice of valuation may within one hundred and twenty days after service thereof be varied by notification to the claimant or his solicitor.”

Amendment
of Sydney
Corporation
Amendment
Act, 1905,
s. 20, par. (d).

3. Paragraph (d) of the same section is repealed and the following inserted in its place:—

(d) As to the nature of the issue in actions for compensation, verdict and costs, the payment of compensation and mode of assessing compensation and the obligation of the party claiming payment to make out a title (sections ninety-nine, one hundred and seventeen, and one hundred and nineteen): Provided that—

(i) section ninety-nine shall be deemed to be amended and shall read as follows:—

99. (1) If the verdict in any action of compensation tried under the provisions of this Division of this Act is for an amount exceeding the amount of the valuation last notified to the claimant, and less than the amount of the claim of the claimant, the council shall pay to the claimant the proportion of his costs, which the excess of the amount of the verdict over such valuation bears to the excess of the claim over such valuation. If the amount of the verdict in such action is equal to or greater than the amount of such claim the council shall pay the costs of the action. If the amount of the verdict in such action is equal to or less than the amount of such valuation the claimant shall pay the costs of the action.

(2) The judge before whom any such action is tried shall in no case have power to direct a reference to arbitration.

(3) Either party in any such action may move for a new trial in accordance with the practice of the Supreme Court or the district court as the case may be.

(ii)

- (ii) in section one hundred and seventeen the words "as the case may be" shall be deemed to be omitted therefrom and the word "court" shall be substituted in lieu of the words "magistrates, arbitrators, surveyors, valuers, or jury" and "magistrates, arbitrators, surveyors, valuers, and jury" respectively;
- (iii) in the same section the words "establishment of railway or other public works upon or for which such land was resumed" shall be deemed to be omitted therefrom, and the words "construction of works by the council upon the land resumed" inserted in lieu thereof;
- (iv) in the same section the words "Provided also that in assessing the purchase money or compensation in respect of the resumption of any land comprised or described in Schedules A and B of the Sydney Corporation Amendment Act, 1905, no allowance shall be made for compulsory purchase or forced sale" shall be deemed to be added thereto;
- (v) in section one hundred and nineteen the word "four" shall be deemed to be inserted in lieu of the word "six", and the following words shall be added after the word "notification" at the end of subsection two "but in all cases where a claim is not served within the ninety days aforesaid the compensation money shall only bear interest from the date of service of notice of claim"; and subsection three thereof shall be deemed to be omitted.

4. The provisions of the two last preceding sections shall apply to all resumptions of land by the council published on or after the first day of February, one thousand nine hundred and fourteen: Provided that in any such resumption any claimant who has already lodged his claim may, within thirty days from the passing of this Act, amend such claim.

5. Section twenty-one of the Sydney Corporation Amendment Act, 1905, is amended by omitting the words "and a jury" wherever appearing therein.

6.

George T.
No. 86.

Application of
to cases now
pending—
with right to
amendments.

Amendment of
s. 21 of
Syd. Corp.
Amend. Act, No. 2,
1905.

George V, No. 60. **6.** The following section is inserted next after section twenty-one of the same Act:—

New s. 21A.
Compensation to non-leaseholders.

21A. Any tenant or occupier of land resumed by the council, who would not be entitled under the other provisions of this Act to compensation in respect of such resumption, by reason of his tenancy being weekly or monthly only, may within ninety days from the publication of notification of resumption (or in the case of resumptions, notification of which was published on or after the first day of June, one thousand nine hundred and sixteen, and before the commencement of this Act, within ninety days from the commencement of this Act), send in a claim in manner hereinafter provided, which claim shall be considered and dealt with by a stipendiary magistrate who shall have full power to deal with such claim and to assess and award compensation to the claimant, or to refuse compensation. The provisions hereinbefore in this Act contained as to payment of interest and costs shall not apply to claims made under this section, but the magistrate shall have power to deal with and award such costs to the claimant or the council as he may consider just.

The cases in which compensation may be granted under this section shall be limited to the cases where the tenant can prove—

- (1) that he has been in lawful possession of the property resumed for a period of three years prior to the date of resumption; or
- (2) that he has applied for and been refused a lease by the owner not less than six months prior to such resumption; or
- (3) that he has paid a bonus for the purchase of any goodwill of the business carried on by him and appurtenant to the premises in the resumed area.

The amount to be awarded shall be limited to a sum not exceeding fifty pounds to be assessed as compensation for the removal of such tenant's goods and for any disturbance of business which he may have suffered by reason of such resumption. There shall be no appeal from such decision.

The

The magistrate may call for the production of any documents in the possession or power of any party which he may think necessary for determining the matter under consideration, and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose, and shall in regard to the issuing of subpoenas compelling the attendance of witnesses and production of documents, the taking of evidence and committal for contempt, have the powers in that behalf conferred on courts of petty sessions. **George V., No. 60.**

7. Section sixteen of the Sydney Corporation Amendment Act, 1905, is amended by the insertion of the words "or buildings therein" between the words "any portion of the said city" and the words "or for any of the purposes of the Principal Act". Amendment of Sydney Corporation Amendment Act, 1905, s. 16.