

PUBLIC WORKS (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 103, 1975.

An Act to amend the Public Works Act, 1912, with respect to the payment of compensation for the taking or acquisition of land under that Act and the payment of interest on the amount of that compensation. [Assented to, 18th December, 1975.]

BE

Public Works (Amendment).

No. 103, 1975 **BE** it enacted by the Queen'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:—

Short title. 1. This Act may be cited as the "Public Works (Amendment) Act, 1975".

Amendment of Act No. 45, 1912. 2. The Public Works Act, 1912, is amended as specified in Schedule 1.

Amendment of Act No. 41, 1919. 3. The Local Government Act, 1919, is amended as specified in Schedule 2.

Rates of interest during certain periods. 4. (1) For the purposes of section 126 of the Public Works Act, 1912, as enacted before the commencement of this Act, the rates of interest that, on and after 4th February, 1972, and before that commencement, were payable by a bank on a fixed deposit with the bank for a period of twelve months shall be deemed always to have been—

(a) where the total amount of compensation referred to in that section was, or is, less than \$50,000—the rates provided by subsection (2); or

(b) where the total amount of compensation referred to in that section was, or is, \$50,000 or more—the rates provided by subsection (3).

(2) The rate of interest per centum per annum provided by this subsection in respect of a period that commenced on a date specified in the First Column of the Table to this subsection and ended on the date specified opposite thereto in the Second Column of that Table is the rate specified opposite thereto in the Third Column of that Table.

TABLE

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TABLE (UNDER \$50,000) No. 103, 1975

First Column. (Commencing Date.)	Second Column. (Terminating Date.)	Third Column. (Rate.)
4th February, 1972.	2nd August, 1973.	4·5
3rd August, 1973.	16th September, 1973.	5
17th September, 1973.	13th January, 1974.	7
14th January, 1974.	8th July, 1974.	7·5
9th July, 1974.	31st January, 1975.	9·5
1st February, 1975.	7th August, 1975.	8·4
8th August, 1975.	The day that next preceded the date of assent to this Act.	8·3

(3) The rate of interest per centum per annum provided by this subsection in respect of a period that commenced on a date specified in the First Column of the Table to this subsection and ended on a date specified opposite thereto in the Second Column of that Table is the rate specified opposite thereto in the Third Column of that Table.

TABLE (\$50,000 AND OVER)

First Column. (Commencing Date.)	Second Column. (Terminating Date.)	Third Column. (Rate.)
4th February, 1972.	28th February, 1973.	5·3
1st March, 1973.	31st May, 1973.	5·4
1st June, 1973.	24th September, 1973.	6·5
25th September, 1973.	8th July, 1974.	8
9th July, 1974.	12th January, 1975.	10
13th January, 1975.	28th February, 1975.	9·5
1st March, 1975.	31st August, 1975.	9·75
1st September, 1975.	31st October, 1975.	9·4
1st November, 1975.	The day that next preceded the date of assent to this Act.	9·25

SCHEDULE

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SCHEDULE 1.

Sec. 2.

AMENDMENT OF THE PUBLIC WORKS ACT, 1912.

(1) Section 1, matter relating to Division 4 of Part VII—

Omit “s. 126”, insert instead “ss. 126–126B”.

(2) Section 126—

Omit section 126 (2), insert instead :—

(2) Where a claimant for the payment of compensation under subsection (1) applies to the Constructing Authority for payment of part of the compensation on account, the Constructing Authority may, if satisfied that the applicant is entitled to receive the compensation, pay to him on account such part of the compensation offered by the Constructing Authority, or estimated by the Constructing Authority to be payable, as the Constructing Authority thinks fit and may, before making such a payment, require compliance with such conditions as the Constructing Authority thinks fit to impose.

(2A) Where the Constructing Authority is unable to pay compensation under subsection (1) or (2) because of unreasonable delay or default on the part of the claimant for the compensation, whether in making title or settling the amount of the compensation or otherwise, the Constructing Authority may deposit the amount of the compensation agreed upon or offered but not accepted or, where part of the compensation has been paid, the balance of the compensation, with the Treasurer.

(2B) Where an amount of compensation is deposited with the Treasurer under subsection (2A), the Treasurer shall, at the time and in the manner directed by the Constructing Authority, make that amount available to satisfy the claim for that compensation.

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(3) Sections 126A, 126B—

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After section 126, insert :—

126A. (1) Subject to this section and section 126B, where land is taken or acquired under this Act by notification in the Gazette, the Constructing Authority shall—

Payment of interest on compensation.

- (a) where the compensation is paid by more than one payment—pay interest on each payment from the date of the notification until that payment is made; or
- (b) in any other case—pay interest from the date of the notification until the payment is made.

(2) Upon the deposit of an amount of compensation with the Treasurer under section 126 (2A), interest under subsection (1) shall not be paid on that amount in respect of any period after the date of the deposit unless the Court on the application of the claimant for compensation otherwise directs.

(3) Subject to subsection (9), where a taking or acquisition referred to in subsection (1) took effect more than twelve months before the commencement of the Public Works (Amendment) Act, 1975, interest is payable under that subsection—

- (a) in respect of the period before that commencement—at the rate or rates authorised in respect of that period by section 126, as enacted before that commencement; and

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(b) in respect of any period after that commencement—at the rate or rates specified in respect of that period in a notification under subsection (5).

(4) Subject to subsection (9), where a taking or acquisition referred to in subsection (1) took effect twelve months or less before the commencement of the Public Works (Amendment) Act, 1975, interest is payable under that subsection—

(a) in respect of the period expiring twelve months after the taking or acquisition—at the rate of four per centum per annum; and

(b) in respect of any period later than twelve months after the taking or acquisition—at the rate specified in respect of that period in a notification under subsection (5).

(5) The Treasurer may, by notification published in the Gazette, specify the rate of interest payable under subsection (1) in respect of a period that commences not earlier than the publication of the notification.

(6) A notification published under subsection (5) may have effect differently in respect of different amounts of compensation or in respect of different parts of the period in respect of which interest is payable, or in respect of both.

(7) A period of which the commencement is specified in a notification under subsection (5) expires as is provided in respect thereof in a later such notification.

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(8) In publishing a notification under subsection (5) in respect of an amount or period, or both, the Treasurer shall have regard to the rates of interest paid by banks.

(9) Until provision is otherwise made in a notification under subsection (5), the rate of interest payable under subsections (3) (b) and (4) (b) is—

- (a) where the total amount of compensation does not exceed \$50,000—8.3 per centum per annum; or
- (b) where the total amount of compensation is \$50,000 or more—9.25 per centum per annum.

126B. (1) Where land is taken or acquired under this Act, the Constructing Authority may enter into an agreement with a person who, immediately before the taking or acquisition, was in possession of the land, being an agreement whereby that person is, on such terms and conditions as are specified in the agreement, permitted to remain in possession of the land or a specified part of the land.

(2) Where a person referred to in subsection (1) fails to enter into an agreement so referred to, section 126A (1) does not, during any period during which that person remains in possession of the land taken or acquired or any part thereof, apply to or in respect of the compensation attributable to the interest of that person in the land or, where that person remains in possession of part only of the land, the compensation attributable to his interest in that part of the land.

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(3) Where a person referred to in subsection (1) remains in possession of part only of the land so referred to, the amount of compensation attributable to the interest of that person in that part of the land is—

- (a) the amount specified in a notice in writing served by the Constructing Authority on that person personally or by post ; or
- (b) if that person is dissatisfied with the amount so specified, the amount directed by the Court pursuant to an application made by that person not later than one month after service on him of the notice under paragraph (a).

Sec. 3.

SCHEDULE 2.

AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1919.

(1) Section 536c (2) (f) (i)—

Omit "subsection (2) of section 126", insert instead "section 126A (1)".

(2) Section 536c (2) (f) (i)—

Omit "further" wherever occurring.

WORKERS'