

**DARLING HARBOUR AUTHORITY (AMENDMENT)  
ACT, 1985, No. 50**

New South Wales



ANNO TRICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 50, 1985.**

An Act to amend the New Darling Harbour Authority Act, 1984, with respect to the acquisition of land and the payment of compensation; and for other purposes. [Assented to, 7th May, 1985.]

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**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 "Darling Harbour Authority (Amendment) Act, 1985".

**Interpretation.**

2. (1) The New Darling Harbour Authority Act, 1984, is referred to in this Act as the Principal Act.

(2) Words and expressions used in this Act have the same meanings as they have in the Principal Act.

**Amendment of Act No. 103, 1984.**

3. The Principal Act is amended in the manner set forth in Schedule 1.

**Rescission of notifications under Act No. 45, 1912.**

4. (1) The following notifications are rescinded:—

- (a) the notification published pursuant to section 13 of the Principal Act and Division 1 of Part V of the Public Works Act, 1912, in Gazette No. 9 of 11th January, 1985, at page 133; and
- (b) the notification published pursuant to section 13 of the Principal Act and Division 1 of Part V of the Public Works Act, 1912, in Gazette No. 29 of 30th January, 1985, at page 477.

(2) A notification referred to in subsection (1) shall, for all purposes, be deemed to have had no force or effect when it was published or at any time thereafter.

**Termination of proceedings.**

5. (1) The following proceedings are terminated:—

- (a) the proceedings in *Yates Property Corporation Pty. Limited v. New Darling Harbour Authority*, No. 1149 of 1985, commenced in the Equity Division of the Supreme Court; and

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(b) any other proceedings (being proceedings in relation to the acquisition, or purported acquisition, by the Authority, pursuant to section 13 of the Principal Act, of land within the Development Area) pending, or in the course of being heard, in any court immediately before the date of assent to this Act.

(2) Except in so far as the parties to any proceedings referred to in subsection (1) otherwise agree, the costs of or incidental to the proceedings incurred by a party to the proceedings shall be borne by the party and shall not be the subject of any contrary order of any court.

(3) Notwithstanding anything in subsection (2), the Treasurer may, in the Treasurer's absolute discretion, pay from the Consolidated Fund to any party to any proceedings referred to in subsection (1) the whole or any part of any amount that the Attorney General, on application made to the Attorney General in writing by or on behalf of that party, certifies as being the costs of or incidental to the proceedings reasonably incurred by that party up to the time of their termination by subsection (1).

**References in other Acts, etc.**

6. On and from the date of assent to this Act, a reference (however expressed) in any other Act (whether assented to before, on or after that date), or in any regulation, by-law, or other statutory instrument or in any other document, whether of the same or of a different kind, to—

- (a) the New Darling Harbour Authority Act, 1984—shall be read as a reference to the Darling Harbour Authority Act, 1984;
  - (b) the New Darling Harbour Authority—shall be read as a reference to the Darling Harbour Authority; or
  - (c) the New Darling Harbour Authority Account established in the Special Deposits Account in the Treasury pursuant to section 63 of the Principal Act—shall be read as a reference to the Darling Harbour Authority Account so established.
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## SCHEDULE 1.

(Sec. 3.)

## AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Long title, sections 1, 3 (1) (definition of "Authority"), 6 (1), 63—  
Omit "New" wherever occurring.
- (2) (a) Section 3 (1), definition of "exempt land"—  
Omit the definition.
- (b) Section 3 (7)—  
Omit the subsection.
- (3) Section 9—  
After "Area", insert " , whether or not the development is carried out by or on behalf of the Authority".
- (4) Section 10 (4)—  
After section 10 (3), insert:—  
(4) The functions of the Authority are not limited in respect of any land within the Development Area by reason only that no development plan is in force in relation to that land.
- (5) Sections 12-12c—  
Omit section 12, insert instead:—  
**Vesting of land in the Authority.**  
12. (1) Upon publication of a proclamation under subsection (2), the land specified in the proclamation shall vest in the Authority for an estate in fee simple, freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements (except such rights-of-way or other easements as may be specified or described in the proclamation as being excepted

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

from the vesting) existing immediately before the publication of the proclamation and, in the case of public land, from any claim for compensation arising as a consequence of the land so vesting.

(2) Subsection (1) shall commence, with respect to any specified land within the Development Area, on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Upon the commencement of the Darling Harbour Authority (Amendment) Act, 1985, the land described in Schedule 5 shall vest in the Authority for an estate in fee simple, freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements existing immediately before that commencement.

**Authority's right to possession of vested land.**

12A. (1) Upon land vesting in the Authority pursuant to section 12, the Authority is entitled to immediate vacant possession of the land.

(2) If, after land has vested in the Authority pursuant to section 12 and before the Authority takes up occupation of the land, any person remains in, or takes up, occupation of that land or any part thereof, the Minister may, by order, direct and empower the Sheriff, or any prescribed person, to deliver possession of the land to the Authority.

(3) Upon receipt of an order under subsection (2), the Sheriff or prescribed person, as the case may be, shall deliver possession of the land the subject of the order to the Authority.

(4) Nothing in this section operates to limit or restrict the power of the Authority to enforce its right to possession of land otherwise than pursuant to this section.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

**Limitations on appeals, etc.**

12B. (1) A proclamation or order made or purporting to be made under section 12 or 12A, and any decision, proceeding, step or other matter involved in the making of the proclamation or order, shall not be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, quashed or called into question by any court for any reason.

(2) No proceedings (whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief) shall lie in respect of—

(a) any proclamation or order referred to in subsection (1); or

(b) any decision, proceeding, step or other matter involved in the making of any such proclamation or order.

(3) Subsection (2) does not apply to proceedings taken by or on behalf of the Minister or the Authority.

**Compensation.**

12C. (1) Any person who, but for the operation of section 12 in respect of any land (other than public land), would have an estate or interest in the land shall be entitled to receive compensation from the Authority as a consequence of the land having vested in the Authority pursuant to that section.

(2) A claim for compensation under subsection (1) shall be dealt with as if it were a case in which a claim had been made by reason of the acquisition of land for public purposes under the Public Works Act, 1912, by notification published in the Gazette, and the Court has jurisdiction accordingly.

(6) (a) Section 13 (1)—

Omit “(other than exempt land)”.

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## (b) Section 13 (2)—

Omit “, and, without affecting the generality of the foregoing, appropriation under that Act may be effected in respect of any public land (other than exempt land) within the Development Area”.

## (c) Section 13 (6)—

After section 13 (5), insert:—

(6) Notwithstanding anything contained in any other Act, land within the Development Area shall not be appropriated or resumed (otherwise than under this section) except by an Act of Parliament.

## (7) Schedule 5—

After Schedule 4, insert:—

## SCHEDULE 5.

(Sec. 12 (3).)

## LAND VESTED IN THE AUTHORITY.

All that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew and County of Cumberland, being lot 1, Deposited Plan 87660, and being also the whole of the land comprised in Certificate of Title, volume 15231, folio 105, and having an area of 1 448 square metres or thereabouts.

All that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew and County of Cumberland, being part lot 1, Deposited Plan 53600, part of the land in Deposited Plan 53321 and part lot 1, Deposited Plan 74062, and being also the whole of the land comprised in Certificate of Title, volume 5011, folio 170, and having an area of 1.33 hectares or thereabouts.

All that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew and County of Cumberland, being part of the 809.4 square metres (32 perches) parcel of land shown in Deposited Plan 63098, and being also the whole of the land comprised in Certificate of Title, volume 2374, folio 212, and having an area of 670.2 square metres or thereabouts.