

Queensland



ACQUISITION OF LAND AMENDMENT BILL 1999

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**ACQUISITION OF LAND AMENDMENT
BILL 1999**

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1999

A BILL

FOR

An Act to amend the *Acquisition of Land Act 1967*, and for related purposes

	The Parliament of Queensland enacts—	1
	Short title	2
Clause	1. This Act may be cited as the <i>Acquisition of Land Amendment Act 1999</i> .	3
	Act amended	4
Clause	2. This Act amends the <i>Acquisition of Land Act 1967</i> .	5
	Amendment of s 9 (Means by which land to be taken other than by Brisbane City Council or an approved local government)	6
Clause	3.(1) Section 9(4)(b), after ‘surveyor’—	8
	<i>insert—</i>	9
	‘or a plan sufficient to substantially identify the land’.	10
	(2) Section 9(6)—	11
	<i>omit, insert—</i>	12
	‘ (6) The Minister must consider every application made under this section, including all statements and documents, or copies of documents, accompanying the application to ensure that—	13
	(a) the land to be taken may be taken and should be taken for the purpose for which it is proposed to be taken; and	16
	(b) the constructing authority has taken reasonable steps to comply with sections 7 and 8; and	17
	(c) if the notice of intention to resume has not been served on the owner as defined in section 7(6), that the failure to do so was due to circumstances beyond the control of the constructing authority.	18
	‘ (7) The Governor in Council may, by gazette notice, declare that the land particularised in the notice is taken for the purpose mentioned in the notice.	19
	‘ (8) The taking is effective on the day of publication of the notice.’.	20
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		22
		23
		24
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	Amendment of s 10 (Means by which land to be taken by Brisbane City Council or an approved local government)	1
		2
Clause	4.(1) Section 10(1C)—	3
	<i>omit, insert—</i>	4
	‘ (1C) The Minister must consider every application made under this section, including all statements and documents, or copies of documents, accompanying the application to ensure that—	5
		6
		7
	(a) the land to be taken may be taken and should be taken for the purpose for which it is proposed to be taken; and	8
		9
	(b) Brisbane City Council has taken reasonable steps to comply with sections 7 and 8; and	10
		11
	(c) if the notice of intention to resume has not been served on the owner as defined in section 7(6), that the failure to do so was due to circumstances beyond the control of Brisbane City Council.	12
		13
		14
	‘ (1D) The Governor in Council may, by gazette notice, approve that the land particularised in the notice be taken by Brisbane City Council for the purpose mentioned in the notice.’	15
		16
		17
	(2) Section 10(3), after ‘surveyor’—	18
	<i>insert—</i>	19
	‘or a plan sufficient to substantially identify the land’.	20
	Amendment of s 15 (Taking by agreement)	21
Clause	5.(1) Section 15(3B), after ‘surveyor’—	22
	<i>insert—</i>	23
	‘or a plan sufficient to substantially identify the land’.	24
	(2) Section 15(4A), from ‘accompanied by’ to the end—	25
	<i>omit, insert—</i>	26
	‘accompanied by—	27
	(a) the agreement; and	28

Acquisition of Land Amendment

- (b) a copy of the resolution of Brisbane City Council to take the land; 1
and 2
- (c) if the land is not described in the agreement in the way mentioned 3
in section 7(3)(b)(i)— 4
 - (i) a copy of a plan of survey of the land certified as accurate by 5
an authorised surveyor; or 6
 - (ii) a plan sufficient to substantially identify the land.’ 7

(3) Section 15(6)— 8

omit, insert— 9

‘**(6)** The Minister must consider the following to ensure that the land to 10
be taken may be taken and should be taken for the purpose for which it is 11
proposed to be taken— 12

- (a) every application made under this section, including the 13
agreement and any copy of the plan of survey, or a plan sufficient 14
to substantially identify the land, accompanying the application; 15
- (b) any particulars and information given about the application under 16
subsection (5). 17

‘**(6A)** For an application made under subsection (3A), the Governor in 18
Council may, by gazette notice, declare that the land particularised in the 19
notice is taken for the purpose mentioned in the notice. 20

‘**(6B)** The taking is effective on the day of publication of the notice. 21

‘**(6C)** For an application made under subsection (4), the Governor in 22
Council may, by gazette notice, approve that the land particularised in the 23
notice be taken by Brisbane City Council for the purpose mentioned in the 24
notice.’. 25

Insertion of new pt 6 26

Clause **6.** After section 43— 27

insert— 28

‘PART 6—TRANSITIONAL PROVISIONS

1

‘Validating and transitional provisions for the Acquisition of Land Amendment Act 1999

2

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‘44.(1) This section applies if—

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- (a) for the taking of land, a constructing authority made an application for the taking of the land under section 9(4) or section 15(3A) before the commencement of this section; and
- (b) the application was not accompanied by a copy of a plan of survey mentioned in section 9(4)(b) or section 15(3B) but was accompanied by a plan sufficient to substantially identify the land; and
- (c) the land was taken.

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‘(2) The constructing authority is taken to have complied with section 9(4)(b) or section 15(3B).

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‘(3) The taking of the land is and always was valid whether or not the action required of the Governor in Council to consider the application under section 9(6) or section 15 was followed.

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‘(4) In this Act a reference to a gazette resumption notice includes, if the context permits, a reference to—

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19

- (a) for a constructing authority—a proclamation published in the gazette under section 9(6) or 15(6)(a); or
- (b) for Brisbane City Council or an approved local government—a notification published in the gazette under section 10(2) or 15(6)(b).

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‘(5) A reference to a section in subsections (2), (3) and (4) is a reference to the section as it was before the commencement of the *Acquisition of Land Amendment Act 1999*.

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SCHEDULE	1
CONSEQUENTIAL AND MINOR AMENDMENTS	2
section 2	3
1. Section 1(2) and heading—	4
<i>omit.</i>	5
2. Section 2—	6
<i>insert—</i>	7
‘ “approved local government” means a local government approved by gazette notice under section 10(5).	8 9
“gazette resumption notice” means—	10
(a) for a constructing authority—the gazette notice mentioned in section 9(7); or	11 12
(b) for Brisbane City Council or an approved local government—a notification of resumption.	13 14
“notice of intention to resume” see section 7(1).	15
“notification of resumption” means a notice published in the gazette under section 10(2).’.	16 17
3. Section 5(1), ‘schedule 2’—	18
<i>omit, insert—</i>	19
‘the schedule’.	20

SCHEDULE (continued)

4. Section 5(3), ‘Land Act 1962,’—	1
<i>omit, insert—</i>	2
‘Land Act 1994 ¹ ’.	3
5. Section 5(3), ‘holding’—	4
<i>omit, insert—</i>	5
‘lease’.	6
6. Section 6(2), from ‘proclamation,’ to ‘resumption,’—	7
<i>omit, insert—</i>	8
‘gazette resumption notice’.	9
7. Section 7(5), from ‘proclamation or,’ to ‘of resumption’—	10
<i>omit, insert—</i>	11
‘gazette resumption notice’.	12
8. Section 7(5), ‘any such proclamation or notification’—	13
<i>omit, insert—</i>	14
‘the notice’.	15
9. Section 7(5), ‘proclamation or notification concerned’—	16
<i>omit, insert—</i>	17
‘notice’.	18

¹ See *Land Act 1994*, chapter 5 (Matters affecting land holdings), part 3 (Resumption and compensation).

SCHEDULE (continued)

10. Section 8(3) and (4)—	1
<i>omit.</i>	2
11. Section 9(2)(a), ‘1938’—	3
<i>omit, insert—</i>	4
‘1971’.	5
12. Section 9(2)(c), ‘order in council’—	6
<i>omit, insert—</i>	7
‘gazette notice’.	8
13. Section 10(1), ‘the approval of the Governor in Council to’—	9
<i>omit.</i>	10
14. Section 10(2), ‘order in council’—	11
<i>omit, insert—</i>	12
‘gazette notice’.	13
15. Section 10(2A)—	14
<i>omit.</i>	15
16. Section 10(5), ‘order in council’—	16
<i>omit, insert—</i>	17
‘gazette notice’.	18

SCHEDULE (continued)

- | | |
|---|----|
| 17. Section 10(6), from ‘such an order in council’ to ‘government’— | 1 |
| <i>omit, insert—</i> | 2 |
| ‘a gazette notice under subsection (5), the approved local government’. | 3 |
|
 | |
| 18. Section 10(7), ‘such an order in council’— | 4 |
| <i>omit, insert—</i> | 5 |
| ‘a gazette notice under subsection (5)’. | 6 |
|
 | |
| 19. Section 11, heading— | 7 |
| <i>omit, insert—</i> | 8 |
| ‘ Amending of gazette resumption notice ’. | 9 |
|
 | |
| 20. Section 11(1), from ‘the proclamation or’ to ‘ “the first notification”, ’— | 10 |
| <i>omit, insert—</i> | 11 |
| ‘the gazette resumption notice’. | 12 |
|
 | |
| 21. Section 11(1), from ‘the Governor in Council’ to the end— | 14 |
| <i>omit, insert—</i> | 15 |
| ‘a gazette notice (the “ amending gazette notice ”) may amend the gazette resumption notice.’. | 16 |
| | 17 |
|
 | |
| 22. Section 11(2), ‘a subsequent proclamation or notification’— | 18 |
| <i>omit, insert—</i> | 19 |
| ‘an amending gazette notice’. | 20 |

SCHEDULE (continued)

23. Section 11(2), from ‘first proclamation’ to ‘first notification’—	1
<i>omit, insert—</i>	2
‘gazette resumption notice’.	3
24. Section 11(3), ‘a subsequent proclamation or notification’—	4
<i>omit, insert—</i>	5
‘an amending gazette notice’.	6
25. Section 11(3), ‘any subsequent proclamation or notification’—	7
<i>omit, insert—</i>	8
‘any amending gazette notice’.	9
26. Section 11(3), ‘first proclamation or the first notification’—	10
<i>omit, insert—</i>	11
‘gazette resumption notice’.	12
27. Section 11(3), ‘other proclamation or notification’—	13
<i>omit, insert—</i>	14
‘other amending gazette notice’.	15
28. Section 11(4)(a) and (b), from ‘first proclamation’ to ‘or notification’—	16
<i>omit, insert—</i>	17
‘gazette resumption notice or an amending gazette notice’.	18
	19

SCHEDULE (continued)

29. Section 11(4)(c), from ‘proclamation’ to ‘resumption’—	1
<i>omit, insert—</i>	2
‘gazette resumption notice’.	3
30. Section 11(4)(d) and (e), ‘first proclamation or first notification’—	4
<i>omit, insert—</i>	5
‘gazette resumption notice’.	6
31. Section 12, heading, ‘proclamation or notification of resumption’—	7
<i>omit, insert—</i>	8
‘gazette resumption notice’.	9
32. Section 12(1), ‘by proclamation’—	10
<i>omit, insert—</i>	11
‘by a gazette resumption notice’.	12
33. Section 12(1), ‘the proclamation’—	13
<i>omit, insert—</i>	14
‘the notice’.	15
34. Sections 12(2), (4) and (5) and 22(1) and schedule 2, paragraph (b), ‘Crown land’—	16
<i>omit, insert—</i>	17
‘unallocated State land’.	18
	19

SCHEDULE (continued)

35. Section 12(2A), ‘where the proclamation’—	1
<i>omit, insert—</i>	2
‘if the gazette resumption notice’.	3
36. Section 12(2A), from ‘the proclamation or,’ to ‘resumption’—	4
<i>omit, insert—</i>	5
‘the gazette resumption notice’.	6
37. Section 12(5), from ‘in the gazette of the proclamation’ to ‘resumption’—	7
<i>omit, insert—</i>	8
‘of the gazette resumption notice’.	9
38. Section 12(5), ‘the proclamation so’—	10
<i>omit, insert—</i>	11
‘the gazette resumption notice’.	12
39. Section 12(6), from ‘in the gazette’ to ‘resumption’—	13
<i>omit, insert—</i>	14
‘of the gazette resumption notice’.	15
40. Section 12(7), from ‘in the gazette’ to ‘resumption’—	16
<i>omit, insert—</i>	17
‘of the gazette resumption notice’.	18
	19

SCHEDULE (continued)

41. Section 12(7), ‘subsequent proclamation or notification’—	1
<i>omit, insert—</i>	2
‘gazette notice’.	3
42. Section 12(7), ‘the proclamation or notification’—	4
<i>omit, insert—</i>	5
‘the notice’.	6
43. Section 12(8), ‘proclamation or notification’—	7
<i>omit, insert—</i>	8
‘notice’.	9
44. Section 16(1), from ‘in the gazette’ to ‘resumption’—	10
<i>omit, insert—</i>	11
‘of the gazette resumption notice’.	12
45. Section 17(1), from ‘in the gazette of the proclamation’ to ‘“first notification”’—	13
<i>omit, insert—</i>	14
‘of the gazette resumption notice’.	16
46. Section 17(1), from ‘the Governor in Council’ to ‘gazette, may’—	17
<i>omit, insert—</i>	18
‘a gazette notice (the “revoking gazette notice”) may’.	19

SCHEDULE (continued)

47. Section 17(1), ‘first proclamation or, as the case may be, the first notification’—	1
	2
<i>omit, insert—</i>	3
‘gazette resumption notice’.	4
48. Section 17(1), ‘first proclamation or first notification’—	5
	6
<i>omit, insert—</i>	6
‘gazette resumption notice’.	7
49. Section 17(1), ‘amending proclamation or notification’—	8
	9
<i>omit, insert—</i>	9
‘amending gazette notice’.	10
50. Section 17(1A), ‘a proclamation or notification under subsection (1)’—	11
	12
<i>omit, insert—</i>	13
‘the revoking gazette notice’.	14
51. Section 17(1A), ‘proclamation or notification’—	15
	16
<i>omit, insert—</i>	16
‘notice’.	17
52. Section 17(2), from ‘subsequent proclamation’ to ‘notification—’—	18
	19
<i>omit, insert—</i>	20
‘revoking gazette notice of any gazette resumption notice or amending gazette notice—’.	21
	22

SCHEDULE (continued)

53. Section 17(2)(a), ‘former proclamation or notification’—	1
<i>omit, insert—</i>	2
‘gazette resumption notice or amending gazette notice’.	3
54. Section 17(2)(b), ‘subsequent proclamation or notification’—	4
<i>omit, insert—</i>	5
‘revoking gazette notice’.	6
55. Section 17(2)(b), from ‘under’ to ‘resumption’—	7
<i>omit, insert—</i>	8
‘or Brisbane City Council under the gazette resumption notice or amending gazette notice’.	9 10
56. Section 17(2)(c), ‘subsequent proclamation or notification’—	11
<i>omit, insert—</i>	12
‘revoking gazette notice’.	13
57. Section 17(2A), ‘proclamation or notification of resumption’—	14
<i>omit, insert—</i>	15
‘gazette resumption notice or amending gazette notice’.	16
58. Section 24(2A), from ‘proclamation’ to ‘resumption’—	17
<i>omit, insert—</i>	18
‘gazette resumption notice’.	19

SCHEDULE (continued)

59. Section 24(5), from ‘proclamation’ to ‘resumption’—	1
<i>omit, insert—</i>	2
‘gazette resumption notice’.	3
60. Section 36B(1), ‘Department of Lands’—	4
<i>omit, insert—</i>	5
‘department’.	6
61. Section 43—	7
<i>omit, insert—</i>	8
‘Publication of notices	9
‘43. Every notice given under this Act takes effect from the day of its publication.’.	10 11
62. Schedule 2, paragraph (b), ‘Land Act 1962’—	12
<i>omit, insert—</i>	13
‘Land Act 1994’.	14
63. Schedule 2, heading, ‘2’—	15
<i>omit.</i>	16