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QUEENSLAND

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**THE WATER ACTS AND ANOTHER ACT AMENDMENT  
ACT of 1940 4 Geo. 6 No. 27**

[Reprinted as at 1 September, 1983]

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An Act to Amend "The Water Acts, 1926 to 1937," and "The Public Works Land Resumption Acts, 1906 to 1938," respectively, in certain particulars, and for other purposes

[ASSENTED TO 28 NOVEMBER, 1940]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. (1) **Short title.** This Act may be cited as "*The Water Acts and Another Act Amendment Act of 1940.*"

(2) **Parts of Act.** This Act is divided into Parts as follows, namely:—

PART I—PRELIMINARY;

PART II—AMENDMENTS OF "THE WATER ACTS, 1926 TO 1937";

PART III—AMENDMENTS OF "THE PUBLIC WORKS LAND RESUMPTION ACTS, 1906 TO 1938";

PART IV—GENERAL.

PART II—AMENDMENTS OF "THE WATER ACTS, 1926 TO 1937"

2. **Construction and collective title of Part II.** This Part II of this Act shall be read as one with "*The Water Acts, 1926 to 1937,*" and this Part II and such Acts may be collectively cited as "*The Water Acts, 1926 to 1940.*"

3. **Amended Principal Act.**

4. (1) **Amended Principal Act.**

4. (2) **Retrospectivity of s. 54C.** Section 54C as inserted in "*The Water Acts, 1926 to 1937,*" by this Act shall have retrospective effect so far as may be necessary or expedient to validate, confirm, and ratify the taking of any land or easement over land prior to the passing of this Act in any case where such taking would be lawful after the passing of this Act.

**5, 6. Amended Principal Act.**

**PART III (Repealed).**

Part III repealed by Act of 1967, No. 48, s. 3 (1) First Sch.

**PART IV—GENERAL**

**9. Portion 405, County of Merivale, Parish of Warwick, vested in the Council of the City of Warwick.** (1) In this section and in the Schedule to this section the term "trustees" includes the persons and each of them who are or have been at any time or who purport to be or to have been at any time the proprietors or proprietor (whether or not registered as such) of the estate in fee-simple in the land or any part of the land described in Part I of the Schedule to this section as trustees or trustee upon trust for cemetery purposes or, as the case may be, for a Church of England cemetery site.

(2) Notwithstanding any other Act or law, it is hereby declared that the land described in Part I of the Schedule to this section is and always has been on and after the thirteenth day of July, one thousand nine hundred and thirty-nine, divested from the trustees and transferred to and vested in the Council of the City of Warwick as proprietor of the estate in fee-simple therein upon and subject to the following trusts, namely:—

- (a) As to that part thereof described in Part II of the Schedule to this section upon trust, subject to the easement hereinafter prescribed, for cemetery purposes; and
- (b) As to that part thereof described in Part III of the Schedule to this section upon trust for sewerage purposes, and more particularly for the erection and maintenance thereupon of sewage treatment works:

Provided that so much of the said land as is described in Part IV of the Schedule to this section shall be subject to an easement in favour of the said Council for purposes of sewerage and other functions of local government:

Provided further, that the said land shall be so transferred to and vested in the said Council subject to the reservations in favour of the Crown contained in Deed of Grant No. 94029, Volume 1083, Folio 39.

(3) **Registration of lands.** The Registrar of Titles shall on application made by or on behalf of the Council of the City of Warwick in respect of the land by this section transferred to and vested in the said Council, or that part of such land described in Part II or, as the case may be, Part III of the Schedule to this section, register the said Council as registered proprietor of an estate in fee-simple in the said land or that part thereof to which the application relates as trustee upon and subject to the trusts prescribed by this section or upon and subject to such of the trusts so prescribed as is applicable in respect of the application concerned free, subject to subsection two of this section, of any restrictions contained in the original deed of grant or in any deed of grant issued

thereafter as to the purpose for which such land may be used, and for that purpose shall issue any certificate of title and make such endorsement or endorsements, and make any such entry in the registers as may be necessary and proper for the purposes of this section, including power and authority to the Surveyor-General and the Registrar of Titles to make any correction and other entries in the registers or other records of their respective offices necessary for the purposes of this section.

(4) Neither the trustees nor any other person whomsoever shall have any right or claim for any damages or compensation whatsoever or any other right or remedy whatsoever at law or in equity against the Crown, or any Minister of the Crown, or any person representing the Crown or any Minister of the Crown, or the Council of the City of Warwick or any member of or person representing the said Council, for or in respect of the divesting from the trustees and the transfer to and vesting in the said Council upon the aforesaid trusts or any of such trusts of the said land or any part thereof or for or in respect of any alteration made by this section in respect of the trusts or any of the trusts for which the said land was vested in such trustees or any of them prior to the passing of this Act.

## SCHEDULE

### PART I

All that piece or parcel of land situated in the County of Merivale, Parish of Warwick, Portion 405, being the whole of the land contained in Deed of Grant No. 94029, Volume 1083, Folio 39, area, 56 acres 2 roods (be the same a little more or less), and which land is described in the said deed of grant as commencing on the left bank of the Condamine River at the south-west corner of Portion 104, and bounded thence on the north by that portion bearing east eleven chains and twenty links, on the east by a road bearing south thirty-two chains, on the south by a road bearing west eighteen chains and seventy links, on the west by Portions 323, 324, 325, and 327 bearing north twenty-six chains and seventy links to the Condamine River, and thence by the left bank of that river upwards to the point of commencement.

### PART II

The part of that piece or parcel of land set out in Part I of this Schedule remaining after the exclusion therefrom of the area of 5 acres 1 rood and 27 perches set out and described in Part III of this Schedule.

### PART III

Part of that piece or parcel of land set out in Part I of this Schedule being an area of 5 acres 1 rood and 27 perches thereof, commencing on the left bank of the Condamine River at the south-west corner of Portion 104, and bounded thence on the north by that portion bearing east three chains ninety-eight links, on the east by Subdivision 2 of Portion 405 and a line bearing south seven chains fifty links, on the south by Subdivision 2 of Portion 405 bearing west eleven chains fifty-five and one-tenth links, on the west by Portion 327 bearing three hundred and fifty-nine degrees fifty-three minutes one chain fifty links to the Condamine River, and thence by the left bank thereof upwards to the point of commencement:—as shown on plan, Catalogue No. Ml. 1036, deposited in the office of the Surveyor-General.

### PART IV

Part of that piece or parcel of land set out in Part II of this Schedule, being an area of 1 rood 20 perches, commencing at a point seven chains south from the south-east corner of Portion 104, and bounded thence on the north, the west, and the south by lines bearing west seven chains fifty links, south fifty links, and east seven chains fifty links; and on the east by a road bearing north fifty links to the point of commencement:—as shown on plan aforesaid, Catalogue No. Ml. 1036.