

Western Australia

Taking of Property on Just Terms Bill 2014

Contents

1.	Short title	2
2.	Commencement	2
3.	Terms used	2
4.	Crown bound	3
5.	Application of Act	3
6.	Taking of property by public authority	3
7.	Orders by State Administrative Tribunal	3

Defined terms

Western Australia

LEGISLATIVE ASSEMBLY

(Introduced by Mr Murray Cowper, MLA)

Taking of Property on Just Terms Bill 2014

A Bill for

An Act to provide that taking of property by public authorities is to be on just terms.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Taking of Property on Just Terms Act 2014*.

3 **2. Commencement**

4 This Act comes into operation as follows —

- 5 (a) sections 1 and 2 — on the day on which this Act
6 receives the Royal Assent;
- 7 (b) the rest of the Act — on a day fixed by proclamation,
8 and different days may be fixed for different provisions.

9 **3. Terms used**

10 In this Act, unless the contrary intention appears —

11 ***property*** means property of every kind, whether real or
12 personal, tangible or intangible, corporeal or incorporeal, and
13 any interest in property;

14 ***public authority*** means any of the following —

- 15 (a) a Minister of the State;
- 16 (b) an agency or an organisation as those terms are defined
17 in the *Public Sector Management Act 1994* section 3(1);
- 18 (c) a body, whether incorporated or not, or the holder of an
19 office, that is established or continued for a public
20 purpose under a written law and that, under the authority
21 of a written law, performs a statutory function on behalf
22 of the State;
- 23 (d) a local government or regional local government;

24 ***SAT*** means the State Administrative Tribunal;

25 ***take***, in relation to property, includes —

- 26 (a) to extinguish an interest in the property; or
- 27 (b) to lower the value of the property; or
- 28 (c) to restrict the use and enjoyment of the property by its
29 owner.

1 **4. Crown bound**

2 This Act binds the State and, so far as the legislative power of
3 the State permits, the Crown in all its other capacities.

4 **5. Application of Act**

5 (1) This Act applies in addition to any other law.

6 (2) This Act does not apply to an imposition, under a written law,
7 of —

8 (a) taxation; or

9 (b) a penalty.

10 **6. Taking of property by public authority**

11 A public authority must not take property from a person,
12 whether by direct or indirect means and whether intentionally or
13 otherwise, under a written law or policy except on just terms.

14 **7. Orders by State Administrative Tribunal**

15 (1) A person who is aggrieved by the taking of the person's
16 property by a public authority may apply to SAT to review that
17 taking.

18 (2) On the application, SAT may substitute any order it considers
19 just in the circumstances.

20 (3) Without limiting subsection (2), SAT may make an order for
21 one or more of the following —

22 (a) the payment of compensation or damages to the person;

23 (b) the restitution to the person of rights of access to, or use
24 of, property affected by the taking;

25 (c) the performance of, and payment for, work to ameliorate
26 loss or damage suffered by the person as a result of the
27 taking.

s. 7

- 1 (4) Unless SAT otherwise determines, the *Land Administration*
2 *Act 1997* section 241 applies to any order for compensation or
3 damages as if —
4 (a) the reference to “land” in that section were a reference
5 to the property to which the order relates; and
6 (b) with any other necessary modifications.

7

Defined terms

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
property	3
public authority	3
SAT	3
take	3