

NORTHERN TERRITORY OF AUSTRALIA

LANDS ACQUISITION ACT

As in force at 1 May 1998

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 1998

LANDS ACQUISITION ACT

An Act to the acquisition of land by the Territory

Part I Preliminary

1 Short title

This Act may be cited as the *Lands Acquisition Act*.

2 Commencement

This Act shall come into operation on the date fixed by the Administrator by notice published in the *Gazette*.

3 Repeals

The Acts of the State of South Australia specified in Schedule 1 cease to apply to the Territory as laws of the Territory.

4 Definitions

(1) In this Act, unless the contrary intention appears:

acquired land means land acquired under this Act.

affected person, in relation to a proposal, means a person who has been served with a notice of that proposal under section 32(1)(b)(ii) or 33(2).

Chairman means the person appointed under section 8(1)(a) as Chairman of the Tribunal.

claimant means a person who:

- (a) has been served with an offer under section 50(1); or
- (b) has lodged a claim for compensation with the Minister under section 73(1).

compensation means the compensation to which a person is entitled under this Act.

date of acquisition means, in relation to land:

- (a) acquired under Division 1 of Part V – the date upon which a notice of acquisition in relation to that land is published in the *Gazette*; or
- (b) which vests in the Territory by operation of section 48C – the date 2 months after the date of service of the notice under section 48C on the Minister.

Deputy Chairman means the person appointed as Deputy Chairman of the Tribunal under section 8(1)(b).

Deputy Registrar means a person appointed as Deputy Registrar of the Tribunal under section 18(1)(b).

interest, in relation to land, means:

- (a) a legal or equitable estate or interest in the land; or
- (b) an easement, right, power or privilege in, under, over, affecting or in connection with land,

and includes native title rights and interests within the meaning of the *Native Title Act 1993* of the Commonwealth.

land includes an interest in land.

member means a person appointed as a member of the Tribunal under section 7(1).

mining interest means any lease or other interest in land granted under a law of the Territory relating to minerals and includes an exploration licence.

mortgage means an interest in land to secure a debt.

notice of acquisition means a notice referred to in section 43.

notice of dispute means a notice referred to in section 68(2)(b).

notice of proposal means a notice referred to in section 34.

pre-acquisition hearing means a hearing conducted under Division 2 of Part IV.

proposal means a proposal for dealing with land made by the Minister.

Registrar means the person appointed as Registrar of the Tribunal under section 18(1)(a).

rules means the rules of the Tribunal made under section 28.

Tribunal means the Lands Acquisition Tribunal established by section 6.

- (2) For the avoidance of doubt, **land** as used in this Act shall be taken to include, and to have always included, water covering land.

5 Just terms

This Act shall be read so as to provide for the acquisition of land on just terms.

5A Incorporation of provisions to effect of section 79 of *Native Title Act*

If, but for this section, this Act is not a Compulsory Acquisition Act as defined in section 253 of the *Native Title Act 1993* of the Commonwealth, provisions to the same effect as section 79 of that Act in relation to the determination of the compensation are incorporated into and are to be taken to form part of this Act.

Part II Lands Acquisition Tribunal

Division 1 Establishment of the Lands Acquisition Tribunal

6 Establishment

There is established a tribunal which shall be known as the Lands Acquisition Tribunal.

7 Members

- (1) The Minister shall, by notice in the *Gazette*, appoint not less than 11 persons to be members of the Tribunal, not less than 2 of whom shall have qualifications for appointment referred to in subsection (2)(a).
- (2) A person shall not be appointed under subsection (1) unless he is:
- (a) enrolled as a legal practitioner of the High Court of Australia or the Supreme Court of a State or a Territory of the Commonwealth and has been so enrolled for not less than 5 years;

- (b) registered as a licensed surveyor under the *Licensed Surveyors Act*;
- (c) a fellow or associate of the Australian Institute of Valuers;
- (d) an architect registered under the *Architects Act*;
- (e) a member or person qualified to be a member of the Institute of Engineers of Australia;
- (f) a member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants; or
- (g) in the opinion of the Minister, a person who has special knowledge in relation to Aboriginal societies or any other class of matters considered by the Minister to have substantial relevance to the question of native title rights and interests within the meaning of the *Native Title Act 1993* of the Commonwealth.

8 Chairman and Deputy Chairman

- (1) The Minister shall, by notice in the *Gazette* and for such period, not exceeding 3 years as is specified in the notice, appoint a member having qualifications for appointment referred to in section 7(2)(a) to be the Chairman of the Tribunal and another such member to be the Deputy Chairman.
- (2) A member appointed as Chairman or Deputy Chairman of the Tribunal is eligible for reappointment.

9 Term of office

- (1) Subject to subsection (2) and section 10, a member holds office for such period, not exceeding 5 years, as is specified in his notice of appointment, but is eligible for reappointment.
- (2) Where at the expiration of the term of office of a member, or of the Chairman or Deputy Chairman, he was a member or presiding member of the Tribunal constituted for the hearing of a particular matter that had not then been finally disposed of, he shall continue to be a member or the presiding member in respect of that matter until it is finally disposed of, as if his office had never expired.

10 Removal from office

- (1) The Minister may, by notification published in the *Gazette*, remove a member from office.

- (2) The Minister shall remove a member from office under subsection (1) if that member:
- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
 - (c) becomes mentally defective within the meaning of the *Mental Defectives Act*; or
 - (d) resigns.

11 Vacancies

- (1) Where:
- (a) there is or is expected to be a vacancy in an office of a member; or
 - (b) a member is or is expected to be absent or unable to act,
- the Minister may, by instrument in writing, authorize a person who is qualified to hold the office of that member to act in the office.
- (2) The power of the Minister under subsection (1) includes the power to authorize a person to act in an office of a member from time to time during the absence or inability to act of the member.
- (3) In this section, **member** does not include the Chairman or the Deputy Chairman.

12 Disclosure of interest

- (1) A member who has a direct or indirect interest in any matter the subject of any proceedings before the Tribunal shall, as soon as possible after he knows that he has the interest and that the Tribunal is hearing the matter, disclose his interest to the Tribunal.
- (2) A disclosure under subsection (1) shall be lodged in the office of the Registrar.
- (3) A member who makes a disclosure under subsection (1) shall not serve as a member for the hearing of the matter to which the disclosure relates.

13 Pecuniary interest

Without limiting the generality of section 12, a member who:

- (a) is a member of the governing body of, or is a substantial shareholder within the meaning of section 708 of the Corporations Law; or
- (b) has a relevant interest within the meaning of section 50 of that Law,

in a company which has a direct or indirect pecuniary interest in any proceedings before the Tribunal, has a direct or indirect pecuniary interest in those proceedings.

14 Exercise of function not invalid

The exercise of a power or the performance of a function by the Tribunal is not invalid by reason only of there being a vacancy in the membership of the Tribunal hearing the proceedings.

15 Vacancies

(1) If:

- (a) there is or is expected to be a vacancy in the office of Chairman; or
- (b) the Chairman is or is expected to be absent or unable to act,

the Deputy Chairman shall have and perform all the powers, authorities, duties and functions of the Chairman during that vacancy, absence or inability to act.

(2) Where the Deputy Chairman has and performs all the powers, authorities, duties and functions of the Chairman under subsection (1), the Minister may, by instrument in writing, authorise another person who is qualified to hold the office of Deputy Chairman to act as Deputy Chairman during the vacancy, absence or inability to act of the Chairman.

(3) For the purposes of this section, a reference in this Act to:

- (a) the Chairman includes a reference to the Deputy Chairman acting under subsection (1); and
- (b) the Deputy Chairman includes a reference to a person authorised to act as Deputy Chairman under subsection (2).

17 Public servants

An employee within the meaning of the *Public Sector Employment and Management Act* shall not be appointed to be a member.

18 Registrar and Deputy Registrar

- (1) The Minister shall appoint, by instrument in writing:
 - (a) a person to be the Registrar; and
 - (b) one or more persons, as the Minister considers appropriate, to be Deputy Registrars,of the Tribunal.
- (2) The Minister shall cause such Registries of the Tribunal to be established as he thinks fit and shall designate one of the Registries to be the Principal Registry.

18A Protection of members

No action or proceeding, civil or criminal, shall lie against a member for or in respect of an act or thing done or omitted to be done in good faith:

- (a) by him in his capacity as a member; or
- (b) by the Tribunal,

in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

Division 2 Hearings

19 Tribunal

- (1) The Tribunal may sit at such times as are necessary to conduct its business.
- (2) Subject to this Act, the Tribunal is constituted by the Chairman and 2 other members or, on the direction of the Chairman, the Deputy Chairman and 2 other members.
- (3) The Chairman or Deputy Chairman shall, in respect of each matter referred to the Tribunal, select the members to constitute the Tribunal.

- (4) The Chairman and 2 other members may sit and perform the functions and exercise the powers of the Tribunal notwithstanding that the Deputy Chairman and another 2 members are at that time sitting and performing those functions and exercising those powers in respect of another matter.

20 Summons

- (1) The Chairman or Deputy Chairman may issue an order requiring:
- (a) the attendance of any person before the Tribunal; or
 - (b) the production of documents specified in the order which are in the possession or control of any person to the Tribunal.
- (2) An order made under subsection (1) shall be:
- (a) in the form; and
 - (b) served in the manner,
- prescribed by the rules.
- (3) A person shall comply with an order under this section.
- Penalty: \$1,000 or imprisonment for 6 months.

21 Representation

- (1) A person appearing before the Tribunal may be represented by:
- (a) a legal practitioner; or
 - (b) an agent.
- (2) A legal practitioner or agent appearing before the Tribunal has the same protection and immunity as a legal practitioner has in appearing for a party in proceedings before the Supreme Court.

22 Oaths

- (1) A person appearing before the Tribunal to give evidence may, if required by the Chairman or Deputy Chairman to give sworn evidence, take an oath or make an affirmation.
- (2) The Chairman or Deputy Chairman may:
- (a) administer an oath or affirmation to a person appearing to give evidence before the Tribunal; and

- (b) require a person appearing to give evidence to answer any question.
- (3) Subject to subsection (4), a person shall not refuse or fail to comply with a requirement under subsection (1) or (2)(b).

Penalty: \$1,000 or imprisonment for 6 months.

- (4) A witness appearing before the Tribunal has the same protection and immunity as a witness in proceedings before the Supreme Court.

23 Contempt

A person shall not:

- (a) insult a member in or in relation to the exercise of his powers or functions as a member;
- (b) interrupt any proceedings of the Tribunal;
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where the Tribunal is sitting; or
- (d) do any other act or thing that would, if the Tribunal were a court of record, constitute contempt of that court.

Penalty: \$1,000 or imprisonment for 6 months.

24 Hearings open to public

- (1) Unless the Tribunal otherwise directs, proceedings of the Tribunal are open to the public.
- (2) The Tribunal shall publish its recommendations and determinations.

25 Practice and procedure

- (1) The practice and procedure relating to the hearing of proceedings before the Tribunal shall be:
 - (a) as prescribed by the rules; or
 - (b) if no practice or procedure is prescribed by the rules – as determined by the Tribunal.
- (2) Subject to subsection (1), the Tribunal:
 - (a) is not bound by any rules of evidence but may inform itself on any matter in such manner as it thinks fit; and

- (b) is not bound to act in a formal manner and shall act without regard to legal forms and technicalities.

26 Hearings

The Tribunal may:

- (a) if at the time and place appointed for the hearing, the person who instituted the proceedings the subject of the hearing does not appear – conclude the hearing;
- (b) if at the time and place appointed for the hearing of any proceedings, the person who instituted the proceedings does, but any other party does not, appear – commence and conclude the hearing and make its determination, in the absence of that other party;
- (c) if all the parties to the hearing of any proceedings consent, make its determination in the absence of the parties having regard to documentary evidence and written submissions exchanged by the parties and lodged with the Tribunal;
- (d) adjourn any proceedings for such period as it thinks fit;
- (e) permit any party to any proceedings to withdraw from the proceedings;
- (f) permit:
 - (i) any minister of the Crown in right of the Territory, a State or the Commonwealth; or
 - (ii) any body constituted by or under an Act or an Act of a State or the Commonwealth,to appear as a party in any proceedings;
- (f) permit any party to any proceedings to cross-examine any witness for any other party to the proceedings;
- (g) appoint one or more of its members to make any inquiry or any inspection which appears to be necessary or expedient for the purposes of any proceedings; or
- (h) refer any question or matter arising upon the hearing of any proceedings (pre-acquisition hearings excepted) to the Supreme Court for hearing and determination.

27 Costs

- (1) The costs of any proceedings before the Tribunal are in the discretion of the Tribunal.
- (2) The Tribunal may at any time during any proceedings order that the Minister pay to a party to the proceedings an amount of money specified in the order, in the circumstances and within the time specified by the order, on account of that person's costs (including valuation and survey fees).
- (3) The Chairman or Deputy Chairman may make an order under subsection (1) during a preliminary hearing under Part IV or Part VIII.
- (4) The Tribunal, the Chairman or the Deputy Chairman, shall, before making an order under subsection (2) or (3), have regard to:
 - (a) the expedition with which the person has presented his case;
 - (b) any unnecessary or irrelevant evidence or submissions which the person has led before or made to the Tribunal; and
 - (c) such other matters as the Tribunal, the Chairman or the Deputy Chairman, as the case may be, considers to be relevant.

28 Rules

The Chairman may make rules, not inconsistent with this Act, for or in respect of the practice and procedure of the Tribunal.

Part III Temporary entry onto land**28A Certain land not to be acquired**

- (1) The Minister may not compulsorily acquire any prescribed land or an interest in prescribed land except:
 - (a) for the purpose of the provision of essential services and facilities being power (including gas), water, sewerage, road or communication services or facilities to or across the prescribed land, or access to any of them; or
 - (b) where the prescribed land is held subject to the reservation that the Territory can acquire the part or interest for the purpose for which it is proposed to be acquired.

- (2) In subsection (1) **prescribed land** means land granted to, and held by, an incorporated association within the meaning of the *Associations Incorporation Act* or an Aboriginal association within the meaning of the *Aboriginal Councils and Associations Act 1976* of the Commonwealth as a community living area for Aboriginals, having been excised (by agreement or otherwise) for that purpose from a pastoral lease within the meaning of the *Pastoral Land Act* or a Crown lease of another kind.
- (3) In any dispute under this section, the Minister shall refer the matter in dispute to the Community Living Areas Tribunal continued in existence by section 93 of the *Pastoral Land Act* and the provisions of Part 8 of that Act, with the necessary changes, shall apply as if the matter in dispute were an application under that Part and the Minister and the association were parties to the application.
- (4) Nothing in subsection (1) empowers the Minister to compulsorily acquire the fee simple of any part of the prescribed land other than the interests referred to in that subsection.

29 Authorizations

- (1) The Minister may authorize any person to:
- (a) enter onto and remain upon any land specified in the authorization; and
 - (b) perform any works specified in the authorization on or in relation to that land,
- for the purpose of formulating a proposal.
- (2) An authorization under subsection (1) shall be in writing.

30 Entry and works

- (1) Subject to this section, a person authorized under section 29 may:
- (a) enter and remain upon the land; and
 - (b) perform the works,
- specified in the authorization.
- (2) A person authorized under section 29 shall:
- (a) in performing a work authorized under subsection (1), do as little damage as possible to:
 - (i) the land; and

- (ii) anything on or growing on the land;
- (b) unless an agreement in that regard has been made with the owner of the land, remove from the land at the conclusion of the period during which he has remained on the land all plant, machinery or equipment brought upon the land; and
- (c) leave the land, as nearly as possible, in the same condition as it was immediately before he entered onto the land.

31 Interference

A person shall not:

- (a) wilfully and without authority interfere with anything established or placed on or in land; or
- (b) wilfully obstruct a person acting,

in accordance with an authorization under section 29.

Penalty: \$500.

Part IV Pre-acquisition procedures

Division 1 Notice of proposal

32 Notice of proposal

- (1) Subject to subsection (3), the Minister shall not, under this Act, acquire land unless:
 - (a) the acquisition is by agreement with the owner of the land; or
 - (b) he has:
 - (i) caused a search to be made of the Register maintained by the Registrar-General under the *Real Property Act* and also that part of the National Native Title Register, within the meaning of the *Native Title Act 1993* of the Commonwealth, relating to approved determinations of native title;
 - (ii) served a notice of proposal on each person ascertained as a result of such a search as having in the land an interest that will be divested or modified by the acquisition of the land;

- (iii) caused a notice in the prescribed form to be published in a newspaper circulating in the area in which the land the subject of the proposal is situated;
 - (iv) if the land proposed to be acquired, or the land an interest in which is proposed to be acquired, is registered on a register referred to in subparagraph (i) – caused a copy of the notice to be lodged with the Registrar-General or the Native Title Registrar, as the case may be;
 - (v) caused a copy of the notice to be served on the body or bodies, if any, determined under section 202(1) of the *Native Title Act 1993* of the Commonwealth to be the representative Aboriginal body or bodies for the area in which the land is situated; and
 - (vi) caused a notice of proposal, in such form as he thinks fit, to be served on such other persons he is satisfied have in the land an interest that will be divested or modified by the acquisition, and on such other persons as he, in his discretion, thinks necessary.
- (2) The serving of a notice of proposal under subsection (1)(b) or section 33(2) does not constitute:
- (a) an offer; or
 - (b) a binding agreement,
- to acquire the land the subject of the notice or a recognition by the Territory that the person on whom it is served has an interest in the land it is proposed should be acquired.
- (3) Subject to compliance with subsection (1)(b)(iii), a failure to serve a notice under this section or section 33(2) does not invalidate a proposal to acquire land or an acquisition of land.

33 Claims

- (1) Any person who has or claims to have an interest in any land the subject of a proposal may, before the date of acquisition, lodge with the Minister a claim that he is affected by the proposal.
- (2) The Minister shall, within 7 days of the lodgement of a claim under subsection (1), serve a notice of proposal on the person who lodged the claim.

34 Forms

- (1) A notice of proposal shall:
 - (a) be in the prescribed form; and
 - (b) contain:
 - (i) the description of the land proposed to be acquired; and
 - (ii) details of the manner in which it is proposed that the land, if acquired, will be dealt with.
- (2) The Minister shall cause to be served on each person served with a notice of proposal a statement in the prescribed form setting out the rights of persons under this Act.

35 Modification or abandonment of proposal

- (1) The Minister may, at any time:
 - (a) modify a proposal; or
 - (b) abandon a proposal.
- (2) The Minister shall not modify a proposal which has been referred to the Tribunal under section 36(1) except by leave of the Chairman or Deputy Chairman.
- (3) The Minister shall cause notice of any modification or abandonment of a proposal to be lodged with:
 - (a) each affected person; and
 - (b) if the notice of proposal was served on the Registrar-General or the Native Title Registrar under section 32(1)(b)(iv) – the Registrar-General or the Native Title Registrar, as the case may be.

Division 2 Pre-acquisition Hearings

36 Reference to Tribunal

- (1) An affected person may refer a proposal to the Tribunal within 28 days of the date of service on him of the notice of proposal.
- (2) A reference under subsection (1) shall be:
 - (a) in the form; and

(b) accompanied by the fee,
prescribed.

(3) A reference under subsection (1) shall be served on the Minister by the Registrar.

37 Fixing of preliminary hearing

(1) The Registrar shall, as soon as is reasonably practicable after receiving a proposal under section 36(1), fix a date, time and place for a preliminary hearing of the proposal by the Chairman or Deputy Chairman.

(2) The Registrar shall cause notice of the preliminary hearing of a proposal to be given to:

- (a) all affected persons; and
- (b) the Minister.

38 Preliminary hearing

(1) The Chairman or Deputy Chairman may, at a preliminary hearing of a proposal, make such orders as are necessary for the expeditious hearing of the proposal.

(2) Without limiting the generality of subsection (1), the Chairman or Deputy Chairman may make orders for or with respect to:

- (a) if more than one affected person has referred a proposal to the Tribunal under section 36(1):
 - (i) the consolidation of hearings; and
 - (ii) the appointment of a person or persons to represent all or some of the persons who referred the proposal;
- (b) public notification of the date, place and time for the pre-acquisition hearing;
- (c) the exchange of reports or other documents or proofs of evidence between persons who intend to tender reports or other documents or evidence at the pre-acquisition hearing; or
- (d) further preliminary hearings.

(3) The Chairman or Deputy Chairman shall not make an order under subsection (2)(a)(ii) without the consent of the persons who will be represented by the person appointed under that subsection.

- (4) If the Chairman or Deputy Chairman is satisfied that the reference to the Tribunal of a proposal is trivial or not genuine, he may, without holding a pre-acquisition hearing, recommend to the Minister that the land be acquired and dealt with in the manner proposed.

39 Public notification of hearing

If the Chairman or Deputy Chairman makes an order under section 38(2)(b) for the public notification of the pre-acquisition hearing, the Registrar shall cause a notice to be published in a newspaper circulating in the area in which the land the subject of the proposal is situated, specifying:

- (a) a date after which no further references under section 36(1) may be made to the Tribunal;
- (b) the date, time and place fixed for any further preliminary hearing, if any; and
- (c) the date, time and place fixed for the pre-acquisition hearing, in relation to that proposal.

40 Hearing

- (1) Subject to this Act the Tribunal shall conduct a hearing in relation to each proposal referred to it under section 36(1).
- (2) The Tribunal shall consider, having regard to the evidence placed before it, whether the proposal in respect of which it is conducting a pre-acquisition hearing should be:
 - (a) implemented by the acquisition of the land the subject of the proposal or a part of that land;
 - (b) modified; or
 - (c) abandoned.
- (3) Without limiting the generality of the power of the Tribunal under subsection (2), the Tribunal may consider whether the proposed manner in which the land is to be dealt with:
 - (a) would have a detrimental effect on the environment of the area in which the land is situated and, in particular, whether it would:
 - (i) seriously impair an area of scenic beauty;

- (ii) destroy or adversely affect a site of architectural, historic or scientific interest;
 - (iii) create conditions seriously harmful to the conservation of flora and fauna that should, in the public interest, be preserved; or
 - (iv) affect, either directly or indirectly, the amenity of the neighbourhood by the emission of fumes, smoke, noise, odours, gases or other substances or by interfering with the reception or transmission of radio or television signals; and
- (b) is, in all the circumstances, desirable.

41 Recommendations

- (1) The Tribunal shall, within 30 days of the conclusion of a pre-acquisition hearing, make a recommendation in relation to the proposal to the Minister.
- (2) If the Tribunal recommends that land be acquired under this Act it may also recommend measures to be taken to prevent or lessen any detrimental effect of the proposed manner in which the land is to be dealt with referred to in section 40(3)(a).
- (3) The Tribunal shall give written reasons for each recommendation it makes under subsection (1).

42 Service of recommendations

The Tribunal shall cause to be served on -

- (a) the Minister; and
- (b) each affected person who referred a proposal to it under section 36(1),

a copy of any recommendation, and the reasons for that recommendation, in relation to that proposal.

Part V Acquisition of land

Division 1 Compulsory acquisition

43 Compulsory acquisition

Subject to this Act, the Minister may, under this Act, acquire land by causing a notice declaring that land to be acquired to be published in the *Gazette*.

44 Time limits

- (1) Subject to subsection (2), the Minister shall not acquire any land under section 43 before the expiration of 28 days from the date of service of the notice of proposal under section 32(1)(b)(ii) or 33(2).
- (2) Subsection (1) does not apply if the Minister certifies that:
 - (a) the interest to be acquired is an interest referred to in section 47; or
 - (b) having regard to:
 - (i) the urgency of the case; or
 - (ii) any other exceptional circumstances,it is not practicable to:
 - (iii) delay the acquisition for the 28 days referred to in subsection (1); or
 - (iv) have the proposal referred to the Tribunal for a pre-acquisition hearing.
- (3) If land is acquired under this Division before the expiration of the 28 days referred to in subsection (1), the Minister shall cause to be tabled in the Legislative Assembly within 3 sitting days of the publication of the notice of acquisition in the *Gazette*, a statement of his reasons for the acquisition.
- (4) The Tribunal shall not hold or continue to hold a pre-acquisition hearing in respect of a proposal in relation to which the Minister has given a certificate under subsection (2).

45 Acquisition where matter referred to Tribunal

- (1) Subject to this section, if a proposal has been referred to the Tribunal under section 36(1), the Minister shall not acquire any land the subject of the proposal under section 43 unless:
 - (a) all affected persons who referred the proposal to the Tribunal have withdrawn from the pre-acquisition hearing; or
 - (b) the Tribunal has made a recommendation under section 41 in relation to the proposal.
- (2) The Minister shall not acquire land under section 43 in pursuance of a proposal after the expiration of 6 months from the date of the recommendation of the Tribunal under section 41 in relation to that proposal.
- (3) If the Tribunal has made a recommendation under section 41 that land the subject of a proposal should not be acquired and dealt with in the manner proposed, the Minister shall not acquire that land under section 43 before the expiration of 28 days from the date of the recommendation.

46 Effect of notice of acquisition

- (1) Subject to this section, upon publication in the *Gazette* of a notice of acquisition:
 - (a) the land described in the notice vests in the Territory freed and discharged from all interests, trusts, restrictions, dedications, reservations, obligations, encumbrances, contracts, licences, charges and rates of any kind; and
 - (b) any interest that a person had in the acquired land shall be divested or modified to the extent necessary to give effect to this subsection.
- (1A) Where a notice of acquisition describes land that is to be excised from any parcel of land as an Aboriginal community living area as the result of an application under Part 8 of the *Pastoral Land Act* or Part IV of the *Crown Land Act* as in force before the commencement of the *Pastoral Land Act 1992*, an estate in fee simple in the land described in the notice of acquisition is, on publication in the *Gazette* of the notice and by virtue of this subsection, granted to the association formed or approved pursuant to either of those Parts of those Acts to take the land.

(1B) Land granted by subsection (1A):

(a) is granted subject to:

- (i) the provisions of sections 20, 21 and 22 of the *Crown Lands Act*; and
- (ii) any mining tenement, exploration licence, exploration retention licence, reserve, occupation or other right under the *Mining Act*; and

(b) is granted as prescribed property within the meaning of the *Associations Incorporation Act*,

but is otherwise granted freed and discharged from all other interests, trusts, restrictions, dedications, reservations, obligations, encumbrances, contracts, licences, charges or rates of any kind, and for this purpose any interest that a person had in the granted land is divested or modified to the extent necessary to give effect to this subsection.

(2) A mining interest is not acquired under this section unless the notice of acquisition indicates, whether by specific or general reference, that the mining interest has been acquired.

47 New interests

An interest in land acquired under this Division may be an interest which did not previously exist as such.

48 Land acquired is Crown land

(1) The Minister may, at any time while no person (other than the Crown) has an estate or interest in the land, by notice published in the *Gazette*, declare that any land acquired under this Act is no longer required for the purpose for which it was acquired.

(2) Land referred to in a notice under subsection (1) may be dealt with as unalienated Crown land under a law in force in the Territory.

Division 2 Action after acquisition

49 Service of notice of acquisition

(1) Within 28 days after the date of acquisition of land under Division 1, the Minister shall cause a search to be made of the Register maintained by the Registrar-General under the *Real Property Act* and also that part of the National Native Title Register, within the meaning of the *Native Title Act 1993* of the Commonwealth, relating

to approved determinations of native title, and may in his discretion make such other inquiries as he thinks fit to be made to ascertain who, in his opinion, had an interest in the acquired land at the date of the acquisition, and shall cause a copy of the notice of acquisition:

- (a) to be served on each person whose interest in the land, in the Minister's opinion, was or may have been divested or modified by the acquisition of the land;
 - (b) to be published in a newspaper circulating in the area in which the acquired land is situated; and
 - (c) if the acquired land:
 - (i) is under the provisions of the *Real Property Act* – to be lodged with the Registrar-General; or
 - (ii) has not been brought under the provisions of that Act – to be lodged with the proper officer controlling any official register or record of the land.
- (1AA) For the purposes of subsection (1)(c)(ii), the proper officer, where the acquired land is a native title right or interest, is the Native Title Registrar under, and the register is the Register of Native Title Claims established and maintained in accordance with, Part 7 of the *Native Title Act 1993* of the Commonwealth.
- (2) Upon lodgement of a copy of the notice of acquisition with the Registrar-General or proper officer under subsection (1)(c), the Registrar-General or that proper officer shall deal with the notice as though it were an instrument of transfer or conveyance of the interest specified in the notice from the owner of that interest to the Territory.
 - (3) The Minister shall cause to be served on each person served with a notice of acquisition a statement in the prescribed form setting out the rights of persons whose land has been acquired under this Act.
 - (4) A notice under subsection (1) does not constitute a recognition by the Territory that the person on whom it is served has an interest in the land to which it relates.
 - (5) Subject to compliance with subsection (1)(b), a failure to serve a notice under this section does not invalidate the acquisition of land.

50 Offers

- (1) If the Minister is of the opinion that a person who has been served with a notice under section 49(1)(a) has a claim for compensation under this Act, he shall cause to be served with that notice an offer of:
- (a) the amount of compensation which he considers appropriate for the acquisition of that person's interest in the acquired land; or
 - (b) resettlement, either with or without compensation.
- (2) An offer of resettlement made under subsection (1)(b):
- (a) is, subject to this section, an offer of:
 - (i) possession of; and
 - (ii) title to,

land and improvements, if any, specified in the offer which is, in the opinion of the Minister, substantially equivalent to the land and improvements, if any, acquired under Division 1;
 - (b) may contain an offer to construct a building or other improvements which, in the opinion of the Minister would, when completed, be substantially equivalent to the building or improvements, as the case may be, on the acquired land; and
 - (c) shall specify:
 - (i) the nature of the title to that land which will be conveyed or transferred to that person; and
 - (ii) the terms and conditions under which that title will be conveyed or transferred and possession will be given to the person to whom the offer is made.
- (3) An offer of resettlement referred to in subsection (2) shall be accompanied by:
- (a) a statement or plan showing the location of the buildings or improvements on the land; and
 - (b) if the offer is an offer referred to in subsection (2)(b) – a copy of the plans and specifications of the buildings or improvements proposed to be constructed.

- (4) An offer may be modified or withdrawn by the Minister at any time before it is accepted in writing.

50A Compensation, other than money, in respect of native title

Without limiting the generality of section 50, where an interest in land in respect of which compensation is otherwise payable under this Act comprises native title rights or interests and the purpose of the acquisition is to confer rights or interests in relation to the land on a person or persons other than the Territory, the person or persons who may be entitled to compensation may request that the compensation should be in a form other than money, and the Minister:

- (a) must consider the request; and
(b) must negotiate in good faith in relation to the request.

51 Reference to Tribunal

If the Minister has not served an offer under section 50 on any person in relation to his interest in acquired land:

- (a) he may pay the amount of compensation which he considers appropriate for the acquisition of that interest into the Tribunal; and
(b) he shall, at the expiration of 28 days from the date of acquisition, refer the matter to the Tribunal to be dealt with under Division 3 of Part VIII.

52 Claims

- (1) Any person who, immediately before the date of acquisition, had an interest in acquired land may, at any time before the expiration of 3 years from the date of acquisition, lodge with the Minister a claim for compensation in the prescribed form.
- (2) The Minister shall, within 7 days of the lodgement of a claim under subsection (1), if he is of the opinion that that person has a claim for compensation, cause to be served on the person who lodged the claim an offer of compensation for his interest in the acquired land in accordance with section 50(1).
- (3) If no claim is lodged within the 3 years referred to in subsection (1), claims for compensation and interest are, by virtue of this subsection, statute barred.

53 Title documents

- (1) The Minister may, at any time, require any person to deliver up, in accordance with his directions, any instrument or other thing which is:
 - (a) in that person's possession or control; and
 - (b) evidence of an interest in acquired land.
- (2) A requirement under subsection (1) shall be:
 - (a) signed by the Minister; and
 - (b) served on the person to whom it is addressed.
- (3) A person served with a notice under subsection (1) shall not, without reasonable excuse, fail to deliver up, within the time specified in the notice, an instrument or other thing which he is required by that notice to deliver up.

Penalty: \$200.

Part VI Entry into possession

54 Entry into possession

- (1) Subject to this Part, the Territory shall not enter into possession of acquired land before the expiration of 3 months from the date of acquisition.
- (2) Subsection (1) does not apply if:
 - (a) the Minister certifies that, having regard to:
 - (i) the urgency of the case; or
 - (ii) any other exceptional circumstances,it is not practicable to delay entry into possession of the acquired land for the 3 months referred to in subsection (1);
 - (b) the Minister and the occupant of the land enter into an agreement in relation to the entry by the Territory into possession of the land; or
 - (c) the acquired land is not occupied at the date of acquisition.

- (3) The period of 3 months referred to in subsection (1) may be extended by agreement between the Minister and the occupant of the acquired land.

55 Warrants

- (1) A Magistrate may, on the application of the Minister, issue a warrant under this section.
- (2) A warrant issued under this section shall be addressed to a member of the Police Force.
- (3) A warrant issued under this section authorizes the person to whom it is addressed to:
- (a) enter onto the acquired land specified in the warrant;
 - (b) deliver possession of the acquired land to the Territory; and
 - (c) use such force as is reasonably necessary to execute the warrant.

56 Protection of persons executing warrants

A person who executes a warrant issued under section 55(1) does not incur any civil liability if he acts reasonably and without actual knowledge of any defect in the warrant or of any lack of jurisdiction in the person who issued the warrant.

57 Application for determinations as to occupancy

- (1) The Minister may, at any time, apply to the Chairman for a determination as to occupancy in relation to any acquired land.
- (2) An application under subsection (1) shall be:
- (a) in the form prescribed; and
 - (b) served on the occupant of the acquired land.

58 Determinations as to occupancy

- (1) The Chairman or Deputy Chairman shall hear and determine each application under section 57(1).
- (2) In determining an application under section 57(1), the Chairman or Deputy Chairman may:
- (a) order that a person in occupation of the acquired land occupies that land under licence from the Territory;

- (b) determine the rent payable by that person to the Territory; and
 - (c) determine any other terms or conditions in relation to a licence determined under paragraph (a).
- (3) A determination under this section that a person is a licensee of the Territory is binding on that person and the terms and conditions of the licensee may be enforced and the rent recovered by the Territory in a court of competent jurisdiction.

Part VII Compensation

59 Compensation for acquired land

Subject to section 63, the interest of any person in land acquired under Division 1 or 1A of Part V is, at the date of acquisition, converted into a claim for compensation against the Territory.

60 Compensation for abandoned proposals

Any affected person who:

- (a) sustained any loss; or
- (b) incurred any cost,

as a natural and reasonable consequence of the service of a notice of proposal on him may:

- (c) if the proposal is abandoned under section 35; or
- (d) if the land is not acquired within the time prescribed by this Act,

recover the amount of that loss or cost from the Territory.

61 Damages

A person who:

- (a) sustained any loss; or
- (b) incurred any cost,

by reason of any action taken under Part III may recover that loss or cost from the Territory.

62 Prepayments

- (1) Upon the service on a person of an offer under section 50, there shall be payable to that person out of moneys appropriated for the purpose an amount of money equal to 90% of the amount of compensation offered.
- (2) If the amount of money paid under subsection (1) exceeds the amount of compensation determined under this Act for the acquisition of the interest of the person to whom the money was paid, that person shall be liable to pay to the Territory as a debt due, an amount of money equal to the difference between the amount paid to him under subsection (1) and the amount of compensation determined under this Act in respect of his interest.

63 Offers of resettlement

- (1) Where an offer of resettlement with compensation is made under section 50(1)(b), the compensation payable under this Act in respect of the acquired land to the person who accepts the offer is the compensation so offered.
- (2) Where an offer of resettlement without compensation is made under section 50(1)(b), no compensation is payable under this Act in respect of the acquired land to the person who accepts the offer.

64 Interest

- (1) Subject to this section, compensation bears interest from:
 - (a) the date of acquisition; or
 - (b) such other date as is specified by the Tribunal,to the date on which payment is made to the claimant.
- (2) Interest is not payable on compensation in respect of a debt which was, immediately prior to the date of acquisition, secured by a mortgage over the acquired land.
- (3) Interest is not payable in respect of so much of the compensation payable to a claimant as is paid under section 62(1) from the date of that payment.
- (4) Subject to subsection (5) interest is not payable in respect of compensation paid into the Tribunal from the date of payment into the Tribunal.

- (5) Interest paid to the Tribunal on an investment made under section 94 shall be paid to the claimant in respect of whose claim the amount of compensation was paid into the Tribunal by the Minister.

65 Rates of interest

- (1) The rate of interest payable under section 64(1) is the rate from time to time fixed by the Minister.
- (2) In fixing the rate of interest under subsection (1) the Minister shall have regard to the rate of interest payable from time to time by the Commonwealth Trading Bank of Australia in respect of money owed to that bank upon a current account overdraft.

66 Assessment of compensation

- (1) Subject to this section, compensation shall be assessed in accordance with the rules set out in Schedule 2.
- (2) The Chairman may, for the purpose of the assessment of compensation for land comprising or involving native title rights and interests, make rules modifying the rules set out in Schedule 2.
- (3) Where a claim is made for compensation in respect of the acquisition of native title rights and interests, the rules set out in Schedule 2 as modified under subsection (2) apply.

67 Recovery of compensation

Compensation or damages determined to be payable under this Act by the Territory is a debt due by the Territory to the claimant and may be enforced accordingly.

Part VIII Assessment of compensation or damages

Division 1 Acquired land

68 Notices

- (1) A claimant served with a notice of acquisition under section 49(1)(a) and an offer under section 50(1) shall, within 60 days of the date of service of that notice and offer or offer:
- (a) serve a notice of acceptance of the offer; or
- (b) serve a notice of dispute,

on the Minister.

- (2) A notice of acceptance or dispute under subsection (1) shall:
- (a) be in writing; and
 - (b) if it is a notice of dispute:
 - (i) be in the prescribed form; and
 - (ii) specify the amount of compensation or additional compensation claimed.

69 Reference to tribunal

If a claimant does not comply with section 68(1) within the time prescribed by that subsection, the Minister may refer the matter to the Tribunal.

70 Counter offers

If the Minister is served with a notice of dispute under section 68(1)(b), he shall, within 28 days of being served with that notice:

- (a) agree that the amount of compensation claimed in the notice of dispute is the appropriate amount of compensation;
- (b) make a further offer under section 50(1); or
- (c) refer the matter to the Tribunal.

71 Reference to Tribunal

A claimant served with an offer under section 70(b) shall, within 28 days of being served with that offer:

- (a) agree that the amount of compensation offered is the appropriate amount of compensation; or
- (b) refer the matter to the Tribunal.

72 Documents to be transmitted to Tribunal

A person who refers a matter to the Tribunal under this Division shall transmit to the Tribunal a copy of:

- (a) the notice of acquisition;
- (b) any offer under section 50(1); and

- (c) any notice of dispute.

Division 2 Abandoned proposals and damages

73 Claims

- (1) A person who has a claim for compensation under section 60 or 61 may, within 28 days of:
- (a) the date of service of a notice under section 35 of the abandonment of the proposal; or
 - (b) the date on which the person authorized under Part III to enter and remain on the land left the land,
- as the case may be, lodge with the Minister a claim for compensation.
- (2) A claim under subsection (1) shall:
- (a) be in the prescribed form; and
 - (b) specify the amount of compensation claimed.

74 Offers

If the Minister is served with a claim under section 73, he shall, within 28 days of being served with that claim:

- (a) agree that the amount of compensation or damages claimed is the appropriate amount of compensation or damages;
- (b) make an offer to the claimant of the amount of compensation or damages which he considers to be the appropriate amount of compensation or damages; or
- (c) refer the matter to the Tribunal.

75 Reference to Tribunal

A person served with an offer under section 74(b) shall, within 28 days of being served with the offer:

- (a) agree that the amount of compensation offered is the appropriate amount of compensation; or
- (b) refer the matter to the Tribunal.

76 Documents to be transmitted to Tribunal

A person who refers a matter to the Tribunal under this Division shall transmit to the Tribunal a copy of:

- (a) the claim; and
- (b) any offer under section 74.

Division 3 Hearings

77 Fixing of preliminary hearing

- (1) The Registrar shall, on request of a party to proceedings under this Part, fix a date, time and place for a preliminary hearing by the Chairman or Deputy Chairman of the matter.
- (2) The Registrar shall cause notice of the preliminary hearing to be given to:
 - (a) the claimant; and
 - (b) the Minister.

78 Preliminary hearing

- (1) The Chairman or Deputy Chairman may, at a preliminary hearing, make such orders as are necessary for the expeditious hearing of the matter.
- (2) Without limiting the generality of subsection (1), the Chairman or Deputy Chairman may make orders for or with respect to:
 - (a) if more than one claimant has referred a matter involving the same land to the Tribunal:
 - (i) the consolidation of matters; and
 - (ii) the appointment of a person or persons to represent all or some of those claimants;
 - (b) public notification of the date and time for the hearing of the matter;
 - (c) the exchange of reports or proofs of evidence between persons who intend to tender reports or other evidence or documents at the hearing of the matter; or
 - (d) further preliminary hearings.

- (3) The Chairman or Deputy Chairman shall not make an order under subsection (2)(a)(ii) without the consent of the persons who will be represented by the person appointed under that subsection.

79 Public notification of hearings

If the Chairman or the Deputy Chairman makes an order under section 78(2)(b) for the public notification of the hearing of the matter, the Registrar shall cause a notice in the prescribed form to be published in a newspaper published and circulating in the area in which the land the subject of the proceedings is situated, specifying:

- (a) the date, time and place fixed for any further preliminary hearing; and
- (b) the date, time and place fixed for the hearing.

80 Payment into Tribunal

The Minister may, at any time, pay the amount of compensation or damages which he considers to be the appropriate amount of compensation or damages to which a claimant is entitled under this Act into the Tribunal, in the manner prescribed in the rules.

81 Determinations

The Tribunal shall hear and determine, in relation to each matter referred to it under this Part:

- (a) whether the claimant is entitled to compensation under this Act; and
- (b) the amount of compensation to which the claimant is entitled,

and may recommend that the Minister grant the claimant a loan under rule 11 of Schedule 2.

82 Instrument of determinations

- (1) The Tribunal shall, within 28 days of the conclusion of a hearing under section 81, issue an instrument of determination in respect of each matter heard.
- (2) The Tribunal may direct that any compensation in respect of acquired land be applied in such manner, and subject to such terms and conditions, as the Tribunal thinks fit.
- (3) The Tribunal shall give written reasons for each determination it makes under subsection (1) or (2).

83 Service of determinations

The Tribunal shall cause to be served on:

- (a) the Minister; and
- (b) each claimant who referred a matter to it under this Part,

a copy of the instrument of determination, and the reasons for that determination, in relation to that matter.

Part IX Appeals

84 Appeals

A person aggrieved by a determination of the Tribunal under section 58 or 81 may appeal to the Supreme Court.

85 Notice of appeal

An appeal may be instituted by lodging a notice of appeal in the Supreme Court:

- (a) in the form; and
- (b) accompanied by the fee,
prescribed by the Rules of Court.

86 Powers of Supreme Court

- (1) The Supreme Court has jurisdiction to hear and determine appeals under this Part and may:
 - (a) confirm the determination of the Tribunal;
 - (b) vary that determination;
 - (c) substitute its own determination for that determination; or
 - (d) dismiss the appeal.
- (2) The Supreme Court has jurisdiction to hear and determine matters or questions referred to it under section 26(h).
- (3) A determination under this section has effect as if it were a determination of the Tribunal.

87 Costs

- (1) Subject to this section, the costs of any appeal under this Part are in the discretion of the Supreme Court.
- (2) The Supreme Court has the powers conferred on the Tribunal under section 27(2).
- (3) The Supreme Court shall have regard to the matters referred to in section 27(4) in exercising its discretion under this section.

88 Rules of Court

- (1) The Chief Judge may make Rules of Court under the *Supreme Court Act* prescribing the practice and procedure applicable to the hearing of:
 - (a) references under section 26(h); and
 - (b) appeals under this Part.
- (2) Subject to the Rules of Court, a Judge may give such directions as to the practice and procedure applicable to the hearing of an appeal or reference referred to in subsection (1) as he thinks fit.

Part IXA Special provisions relating to native title rights and interests**88A Interpretation**

- (1) In this Part **Commonwealth Act** means the *Native Title Act 1993* of the Commonwealth.
- (2) Unless the contrary intention appears, a word or expression used in the Commonwealth Act has the same meaning in this Part (and in the remainder of this Act for the purposes of the application of this Part) as it has in the Commonwealth Act.

88B Application of Part

- (1) This Part applies to and in relation to permissible future acts involving the compulsory acquisition of native title rights and interests where the purpose of the acquisition is to confer rights or interests in relation to land or waters concerned on persons other than the Government party.
- (2) Except to the extent that they are inconsistent with this Part or the Commonwealth Act in relation to native title rights and interests, but

subject to subsection (1), the other provisions of this Act continue to apply, according to their tenor, to and in relation to acts referred to in subsection (1) and all other acts under this Act involving the acquisition of property.

88C Tribunal may be *arbitral body* for purpose of Commonwealth Act

- (1) If the Commonwealth Minister determines that the Lands Acquisition Tribunal is a recognised State/Territory body, that Tribunal as constituted as provided in this Part is, and in pursuance of section 27 of the Commonwealth Act is hereby allowed and has the necessary jurisdiction to be, an arbitral body under Subdivision B of Division 3 of Part 2 of that Act.
- (2) Notwithstanding subsection (1), the Tribunal does not have the power to make a determination of native title but may act on any approved determination of native title as though it were lawfully made by the Tribunal.

88D Chairman to constitute Tribunal for purposes concerning native title

Where a question relating to compensation for land or waters comprising or involving native title rights and interests arises in a matter to be considered by the Tribunal under this Act, the Tribunal shall be constituted by the Chairman or, on the direction of the Chairman, the Deputy Chairman, alone for the purpose of determining that question.

88E Powers, &c.

- (1) To ensure that this Act is consistent with and gives effect to the objects and provisions of the Commonwealth Act, this Act applies to native title with the prescribed changes (which may include the adoption of procedures).
- (2) Without limiting subsection (1), this Act applies to native title with the changes and adoption of procedures, if any, prescribed by the Regulations that, in the opinion of the Administrator, are necessary or convenient to ensure that:
 - (a) the Tribunal becomes a recognised State/ Territory body and arbitral body;
 - (b) the Tribunal will have available to it appropriate expertise (including expertise in matters relating to Aboriginal peoples) for performing its functions in relation to native title;

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- (c) an act under this Act may be excluded from the coverage of section 26(3) (which deals with acts excluded from the right to negotiate) of the Commonwealth Act in appropriate cases;
 - (d) the expedited procedure in section 32 of the Commonwealth Act may apply in appropriate cases; and
 - (e) this Act may comply with section 43(2) (which deals with alternative right to negotiate provisions) of the Commonwealth Act.

Part X Miscellaneous

89 Other acquisitions

Nothing in this Act affects:

- (a) the acquisition by the Territory of land by agreement;
- (b) the payment and acceptance under any agreement of valuable consideration in satisfaction for compensation; or
- (c) the acquisition of land by the Territory under any other law of the Territory.

90 Service

- (1) A notice or other document that is required to be or may be served on or lodged with a person under this Act may be served on or lodged with that person:
 - (a) personally;
 - (b) by post; or
 - (c) if that person is the Minister, by serving the notice or other document on, or lodging it with, the Solicitor for the Northern Territory.
- (2) The Solicitor for the Northern Territory is authorized to accept service of any document served on or lodged with him under subsection (1)(c).
- (3) If:
 - (a) the whereabouts of a person who is required to be or may be served with a notice or other document is not known; or

-
- (b) the identity of an affected person or claimant cannot be ascertained,

the notice or other document may be served on that person or claimant:

- (c) by publication of a copy of that notice or other document in a newspaper published and circulating in the Territory; or
- (d) by affixing a copy of that notice or other document in a prominent place on the land to which it relates.

91 Registrar-General

The Registrar-General shall, when served with a notice under section 32(1)(b)(iv) or 35(3)(b), enter particulars of the notice on the register maintained by him under the *Real Property Act*.

92 Extensions or abridgements of time

- (1) Where it is provided in this Act that an act or thing may be or is required to be done:
- (a) within a specified time; or
- (b) not before the expiration of a specified time,

the Chairman or Deputy Chairman may, in his discretion, extend or abridge that time.

- (2) The Chairman or Deputy Chairman may extend time under subsection (1) notwithstanding that the time prescribed by this Act for the doing of an act or thing has expired.

93 Execution of documents

All documents relating to:

- (a) the acquisition of land; or
- (b) land vested in the Territory,

under this Act may be executed for and on behalf of the Territory by the Minister.

94 Investment

The Chairman or Deputy Chairman may authorize the investment of money paid into the Tribunal under this Act in such manner as trust funds may be invested under the *Trustee Act*.

95 Regulations

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act (except matters in respect of which rules or Rules of Court may be made).
- (2) Without limiting the generality of subsection (1), the Regulations may include provisions:
 - (a) prescribing forms to be used for the purposes of this Act;
 - (b) prescribing fees payable to witnesses; and
 - (c) providing for:
 - (i) the payment of compensation (including payment by a person other than the Territory) in respect of an acquisition of land the purpose of which is to confer a right or interest in relation to the land on a person other than the Territory; and
 - (ii) the recovery from the person on whom the right or interest is to be conferred of other costs and expenses reasonably incurred by the Territory in the course of making the acquisition.

Schedule 1 Repealed Statutes

section 3

Land Clauses Consolidation Act 1847

Land Clauses Consolidation Act 1855-6

Land Clauses Consolidation Act 1881

Schedule 2 Rules for the assessment of compensation

section 66

1 Value to the owner

Subject to this Schedule, the compensation payable to a claimant in respect of the acquisition of land under this Act is the amount that fairly compensates the claimant for the loss he has suffered, or will suffer, by reason of the acquisition of the land.

2 Market value, special value, severance, disturbance

Subject to this Schedule, in assessing the compensation payable to a claimant in respect of acquired land the Tribunal may take into account:

- (a) the consideration that would have been paid for the land if it had been sold on the open market on the date of acquisition by a willing seller to a willing buyer;
- (b) the value of any additional advantage to the claimant incidental to his ownership, or occupation of, the acquired land;
- (c) the amount of any reduction in the value of other land of the claimant caused by its severance from the acquired land by the acquisition; and
- (d) any loss sustained, or cost incurred, by the claimant as a natural and reasonable consequence of:
 - (i) the acquisition of the land; or
 - (ii) the service on the claimant of the notice of proposal,for which provision is not otherwise made under this Act.

3 Market value for use other than existing use

If the amount referred to in rule 2(a) is determined upon the basis of a use for a purpose which is not the purpose for which the land was used on the date of acquisition, no amount shall be allowed under rule 2(d) in respect of any:

- (a) loss that would have been sustained; or
- (b) costs that would have been incurred,

in adapting the land for use for that other purpose.

4 Circumstance peculiar to the claimant

For the purposes of rule 2(d), in determining whether a particular loss sustained, or cost incurred, by a claimant is a natural and reasonable consequence of:

- (a) the acquisition of the land; or
- (b) the service on the claimant of the notice of proposal,

the Tribunal shall take into account any circumstances peculiar to the claimant.

6 Determinable interests

If, at the date of acquisition, the interest of the claimant in the land was:

- (a) due to expire; or
- (b) liable to be determined,

the Tribunal shall take into account any reasonable prospect of renewal or continuation of the interest, and the likely terms and conditions of that renewal.

7 Resettlement

(1) If:

- (a) the acquired land:
 - (i) was, immediately before the date of acquisition, used for a purpose for which there is no general demand or market for land; and
 - (ii) but for the acquisition, would have continued to have been used for that purpose; and
- (b) the claimant has acquired, or genuinely intends to acquire, other land suitable for that purpose,

the Tribunal shall take into account, in place of the amount referred to in rule 2(a), an amount ascertained by adding:

- (c) the cost of acquiring the other land; and
- (d) the cost and losses incurred or likely to be incurred by the claimant as a result of, or incidental to, relocation,

in each case calculated at the date when, in all the circumstances, it was or would be reasonably practical for the claimant to incur the cost or losses.

- (2) In assessing the amount of compensation under subrule (1) the Tribunal shall have regard to the amount, if any, by which the claimant has improved, or is likely to improve, his financial position by the relocation.

8 Matters not to be taken into account

The Tribunal shall not take into account:

- (a) any special suitability or adaptability of the acquired land for a purpose for which it could only be used:
- (i) in pursuance of a power conferred by law; or
 - (ii) by the Commonwealth or the Territory, a statutory corporation to which the *Financial Management Act* applies, or a municipal council or community government council within the meaning of the *Local Government Act*;
- (b) any increase in value of the acquired land resulting from its use or development contrary to law;
- (c) any increase or decrease in the amount referred to in rule 2(a) arising from:
- (i) the carrying out; or
 - (ii) the proposal to carry out, the proposal; or
- (d) any increase in the value of the land caused by construction, after the notice of proposal was served on the claimant, of any improvements on the land without the approval of the Minister.

9 Intangible disadvantages

- (1) If the claimant, during the period commencing on the date on which the notice of proposal was served and ending on the date of acquisition:
- (a) occupied the acquired land as his principal place of residence; and
 - (b) held an estate in fee simple, a life estate or a leasehold interest in the acquired land,

the amount of compensation otherwise payable under this Schedule may be increased by the amount which the Tribunal considers will reasonably compensate the claimant for intangible disadvantages resulting from the acquisition.

- (2) In assessing the amount payable under subrule (1), the Tribunal shall have regard to:
- (a) the interest of the claimant in the land;
 - (b) the length of time during which the claimant resided on the land;
 - (c) the inconvenience likely to be caused to the claimant by reason of his removal from the acquired land;
 - (d) the period after the acquisition of the land during which the claimant has been, or will be, allowed to remain in possession of the land;
 - (e) the period during which the claimant would have been likely to continue to reside on the land; and
 - (f) any other matter which is, in the Tribunal's opinion, relevant to the circumstances of the claimant.

10 Mortgage debts

The amount of compensation payable to a mortgagee in respect of a debt secured by a mortgage over acquired land shall not exceed the amount of compensation that would be payable for the acquisition of all interests in the land if there had been no mortgage secured over that land.

11 Loans

- (1) If the amount of compensation assessed in accordance with this Schedule is insufficient to enable a claimant who occupied the acquired land as his principal place of residence continuously between the date of service of the notice of intention and the date of acquisition and:
- (a) who held an interest in fee simple in the acquired land;
 - (b) in whom an equity of redemption in respect of that land was vested; or
 - (c) who held a lease of that land granted under an Act:
 - (i) in perpetuity;

- (ii) for a term of not less than 99 years;
- (iii) with a right of purchase; or
- (iv) which contained terms and conditions prohibiting the claimant from erecting or using any building on the land other than a dwelling-house,

to purchase land to be used as a principal place of residence providing accommodation reasonably comparable with the accommodation on the acquired land, the Minister may offer to grant a loan to the claimant of an amount which, when added to the amount of compensation otherwise payable in respect of the acquired land, would be sufficient to enable the claimant to purchase land on which there is accommodation reasonably comparable with the accommodation on the acquired land.

- (2) The Minister shall, when making an offer under subrule (1), specify the maximum amount of the loan he is prepared to grant.
- (3) Repayment of a loan granted in accordance with this rule shall be secured by a mortgage to the Territory of the land purchased to provide the comparable accommodation.
- (4) A mortgage under subrule (3):
 - (a) shall provide for the amount secured to be repayable forthwith if:
 - (i) the land the subject of the mortgage is sold;
 - (ii) the claimant and his spouse or de facto partner cease to use the land as a principal place of residence; or
 - (iii) if both the claimant and his spouse or de facto partner have died; and
 - (b) shall contain such other terms and conditions as the Minister thinks fit to secure the repayment of the loan.

12 Interpretation

- (1) In rules 9 and 11, a reference to a claimant includes a reference to a claimant's spouse and his de facto partner if any.
- (2) In this Schedule, **de facto partner** means:
 - (a) in relation to a man – a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

- (b) in relation to a woman – a man who is living with her as her husband on a bona fide domestic basis although not married to her.

ENDNOTES
1**KEY**

Key to abbreviations

| | |
|------------------------------|-------------------------------------|
| amd = amended | od = order |
| app = appendix | om = omitted |
| bl = by-law | pt = Part |
| ch = Chapter | r = regulation/rule |
| cl = clause | rem = remainder |
| div = Division | renum = renumbered |
| exp = expires/expired | rep = repealed |
| f = forms | s = section |
| Gaz = Gazette | sch = Schedule |
| hdg = heading | sdiv = Subdivision |
| ins = inserted | SL = Subordinate Legislation |
| lt = long title | sub = substituted |
| nc = not commenced | |

2**LIST OF LEGISLATION*****Lands Acquisition Act 1978 (Act No. 11, 1979)***

| | |
|-------------|---|
| Assent date | 26 January 1979 |
| Commenced | 1 August 1979 (<i>Gaz G29</i> , 20 July 1979, p 1) |

Lands Acquisition Act 1979 (Act No. 53, 1979)

| | |
|-------------|--|
| Assent date | 14 May 1979 |
| Commenced | 3 August 1979 (<i>Gaz G31</i> , 3 August 1979, p 4) |

Statute Law Revision Act 1979 (Act No. 98, 1979)

| | |
|-------------|---|
| Assent date | 10 August 1979 |
| Commenced | 26 October 1979 (<i>Gaz G43</i> , 26 August 1979, p 1) |

Remuneration (Statutory Bodies) Act 1979 (Act No. 9, 1980)

| | |
|-------------|---|
| Assent date | 14 January 1980 |
| Commenced | 8 February 1980 (<i>Gaz G6</i> , 8 February 1980, p 6) |

Statute Law Revision Act 1980 (Act No. 6, 1981)

| | |
|-------------|----------------|
| Assent date | 9 January 1981 |
| Commenced | 9 January 1981 |

Lands Acquisition Amendment Act 1982 (Act No. 45, 1982)

| | |
|-------------|--------------|
| Assent date | 29 June 1982 |
| Commenced | 29 June 1982 |

Lands Acquisition Amendment Act 1985 (Act No. 68, 1985)

| | |
|-------------|------------------|
| Assent date | 24 December 1985 |
| Commenced | 24 December 1985 |

Companies and Securities (Consequential Amendments) Act 1986 (Act No. 18, 1986)

| | |
|-------------|-------------------|
| Assent date | 30 June 1986 |
| Commenced | 1 July 1986 (s 2) |

Law Officers Amendment Act (No. 2) 1986 (Act No. 48, 1986)

Assent date 10 December 1986
 Commenced 19 December 1986 (*Gaz S87, 17 December 1986*)

Statute Law Revision Act 1989 (Act No. 60, 1989)

Assent date 2 October 1989
 Commenced 2 October 1989

Miscellaneous Acts Amendment (Aboriginal Community Living Areas) Act 1989 (Act No. 78, 1989)

Assent date 22 December 1989
 Commenced 1 March 1990 (*Gaz S12, 28 February 1990*)

Statute Law Revision Act 1990 (Act No. 33, 1990)

Assent date 11 June 1990
 Commenced 11 June 1990

Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)

Assent date 14 December 1990
 Commenced 1 January 1991 (s 2, s 2 *Corporations (NT) Act 1990* (Act No. 56, 1990) and *Gaz S76, 21 December 1990*)

De Facto Relationships (Miscellaneous Amendments) Act 1991 (Act No. 82, 1991)

Assent date 24 December 1991
 Commenced 1 January 1992 (s 2)

Pastoral Land (Consequential Amendments) Act 1992 (Act No. 39, 1992)

Assent date 25 June 1992
 Commenced 26 June 1992 (s 2, s 2 *Pastoral Land Act 1992* (Act No. 17, 1992) and *Gaz S33, 26 June 1992*)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date 30 June 1993
 Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz S53, 29 June 1993*)

Lands Acquisition Amendment Act 1993 (Act No. 67, 1993)

Assent date 9 November 1993
 Commenced 1 December 1993 (s 2, s 2 *Pastoral Land Amendment Act (No. 2) 1993* (Act No. 68, 1993) and *Gaz S95, 1 December 1993*)

Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)

Assent date 31 December 1993
 Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz S35, 20 May 1994*)

Planning (Consequential Amendments) Act 1993 (Act No. 86, 1993)

Assent date 31 December 1993
 Commenced 18 April 1994 (s 2, s 2 *Planning Act 1993* (Act No. 85, 1993) and *Gaz S28, 18 April 1994*)

Lands Acquisition Amendment Act 1994 (Act No. 25, 1994)

Assent date 18 May 1994
 Commenced 29 June 1994 (*Gaz G26, 19 June 1994, p 3*)

Lands Acquisition Amendment Act (No. 2) 1994 (Act No. 75, 1994)

Assent date 30 December 1994
 Commenced 15 March 1995 (*Gaz G11*, 15 March 1995, p 3)

Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)

Assent date 21 March 1995
 Commenced 1 April 1995 (s 2, s 2 *Financial Management 1995* (Act No. 4, 1995) and *Gaz S13*, 31 March 1995)

Statute Law Revision Act 1995 (Act No. 14, 1995)

Assent date 23 June 1995
 Commenced 23 June 1995

Lands Acquisition Amendment Act 1995 (Act No. 21, 1995)

Assent date 26 June 1995
 Commenced 26 June 1995

Lands Acquisition Amendment Act (No. 2) 1995 (Act No. 56, 1995)

Assent date 28 December 1995
 Commenced 7 February 1996 (*Gaz G6*, 7 February 1996, p 3)

Trustee (Consequential Amendments) Act 1996 (Act No. 8, 1996)

Assent date 20 March 1996
 Commenced 20 March 1996 (s 2, s 2 *Trustee Amendment Act (No. 2) 1995* (Act No. 60, 1995) and *Gaz G7*, 14 February 1996, p 2)

Lands Acquisition Amendment Act 1998 (Act No. 31, 1998)

Assent date 1 May 1998
 Commenced 1 May 1998

3 LIST OF AMENDMENTS

| | |
|-------|--|
| It | amd No. 45, 1982, s 3 |
| s 4 | amd No. 53, 1979, s 4; No. 6, 1981, s 4; No. 45, 1982, s 4; No. 60, 1989, s 6; No. 86, 1993, s 3; No. 25, 1994, s 4; No. 56, 1995, s 4 |
| s 5A | ins No. 31, 1998, s 2 |
| s 7 | amd No. 75, 1994, s 4 sub No. 56, 1995, s 5 |
| s 8 | amd No. 75, 1994, s 5 sub No. 56, 1995, s 6 |
| s 9 | sub No. 56, 1995, s 6 |
| s 10 | amd No. 56, 1995, s 7 |
| s 11 | amd No. 75, 1994, s 6 |
| s 13 | amd No. 6, 1981, s 4; No. 18, 1986 s 3; No. 59, 1990, s 4 |
| s 15 | amd No. 75, 1994, s 7 |
| s 16 | rep No. 9, 1980, s 6 |
| s 17 | amd No. 28, 1993, s 3 |
| s 18A | ins No. 68, 1985, s 2 |
| s 19 | sub No. 75, 1994, s 8 |
| s 28A | ins No. 78, 1989, s 9 amd No. 39, 1992, s 3; No. 67, 1993, s 3 |
| s 31A | ins No. 53, 1979, s 5 rep No. 56, 1995, s 8 |
| s 32 | amd No. 45, 1982, s 5; No. 56, 1995, s 9 |
| s 33 | amd No. 56, 1995, s 10 |
| s 34 | amd No. 45, 1982, s 6; No. 56, 1995, s 11 |
| s 35 | amd No. 56, 1995, s 12 |

ENDNOTES

| | |
|--------------|---|
| s 38 | amd No. 45, 1982, s 7 |
| s 40 | amd No. 53, 1979, s 6; No. 45, 1982, s 8 |
| s 41 | amd No. 45, 1982, s 9 |
| s 43 | amd No. 45, 1982, s 10 |
| s 44 | amd No. 53, 1979, s 7; No. 56, 1995, s 13 |
| s 45 | amd No. 45, 1982, s 11 |
| s 46 | ins No. 78, 1989, s 9 amd No. 33, 1990, s 5; No. 39, 1992, s 3; No. 67, 1993, s 4; No. 21, 1995, s 2 |
| s 48 | amd No. 45, 1982, s 12 |
| pt V | |
| div 1A hdg | ins No. 53, 1979, s 8 rep No. 56, 1995, s 14 |
| ss 48A – 48C | ins No. 53, 1979, s 8 rep No. 56, 1995, s 14 |
| s 49 | amd No. 53, 1979, s 9; No. 25, 1994, s 5; No. 56, 1995, s 15 |
| s 50 | amd No. 53, 1979, s 10; No. 56, 1995, s 16 |
| s 50A | ins No. 25, 1994, s 6 |
| s 51 | amd No. 56, 1995, s 17 |
| s 52 | amd No. 56, 1995, s 18 |
| s 59 | amd No. 53, 1979, s 11 |
| s 66 | amd No. 75, 1994, s 9 |
| s 68 | amd No. 53, 1979, s 12; No. 56, 1995, s 19 |
| s 73 | amd No. 53, 1979, s 13 |
| s 88 | amd No. 33, 1990, s 9 |
| pt IXA hdg | ins No. 25, 1994, s 7 |
| ss 88A – 88C | ins No. 25, 1994, s 7 |
| s 88D | ins No. 25, 1994, s 7 amd No. 75, 1994, s 10 |
| s 88E | ins No. 25, 1994, s 7 amd No. 14, 1995, s 12 |
| s 90 | amd No. 48, 1986, s 9 |
| s 94 | amd No. 8, 1996, s 3 |
| s 95 | amd No. 75, 1994, s 11 |
| sch 2 | amd No. 53, 1979, s 14; No. 98, 1979, s 12; No. 82, 1991, s 11; No. 84, 1993, s 6; No. 86, 1993, s 3; No. 5, 1995, s 19; No. 56, 1995, s 20 |