

NORTHERN TERRITORY OF AUSTRALIA

LANDS, PLANNING AND MINING TRIBUNAL ACT

As in force at 1 October 2012

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 1 October 2012. Any amendments that commence after that date are not included.

LANDS, PLANNING AND MINING TRIBUNAL ACT

An Act to establish the Lands, Planning and Mining Tribunal

Part 1 Preliminary

1 Short title

This Act may be cited as the *Lands, Planning and Mining Tribunal Act*.

2 Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3 Definitions

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

approved determination of native title has the meaning given in section 253 of the Native Title Act.

claimant, in relation to a proceeding to which Division 3 of Part 3 applies, means the party to the proceeding to whom it is claimed compensation is payable.

member means a member of the Tribunal and includes the Chairperson.

native title and ***native title rights and interests*** have the meaning given in section 223 of the Native Title Act.

Native Title Act means the *Native Title Act 1993* of the Commonwealth.

native title holder has the meaning given in section 224 of the Native Title Act.

presiding member, in relation to a proceeding, means the member constituting the Tribunal for the purposes of the proceeding.

proceeding means a proceeding of the Tribunal.

Register of Native Title Claims means the Register of Native Title Claims established and maintained in accordance with Part 7 of the Native Title Act.

registered native title body corporate has the meaning given in section 253 of the Native Title Act.

registered native title claimant has the meaning given in section 253 of the Native Title Act or, if the claimant is replaced under section 66B of the Native Title Act, means the person who replaced the claimant.

registered native title rights and interests means:

- (a) in relation to a registered native title claimant – the native title rights and interests of the claimant described in the relevant entry on the Register of Native Title Claims; and
- (b) in relation to a registered native title body corporate – the native title rights and interests of the body corporate described in the relevant entry on the National Native Title Register established and maintained under Part 8 of the Native Title Act.

Registrar means the Registrar of the Lands, Planning and Mining Tribunal appointed under section 33(1).

rules means rules made under section 20.

Tribunal means the Lands, Planning and Mining Tribunal established by section 4.

- (2) A reference in this Act to the payment of compensation is to be read as including a reference to the giving of compensation in a form other than money, including the transfer of property and the provision of goods and services.

Part 2 Establishment, functions, &c.

4 Establishment

The Lands, Planning and Mining Tribunal is established.

5 Functions

- (1) Subject to subsection (2), the Tribunal has the following functions:
- (aa) to hear and decide:
 - (i) applications to review reviewable decisions under the *Heritage Act*, and
 - (ii) applications for the confirmation of stop work orders under that Act;
 - (a) to hear and make recommendations about objections to the acquisition of land under the *Lands Acquisition Act* by persons whose interests in the land will be divested, modified or affected by the acquisition, including objections by registered native title claimants and registered native title bodies corporate to the acquisition so far as it affects the registered native title rights and interests of the claimants and bodies;
 - (b) to hear and determine claims for compensation referred to the Tribunal under section 51(b) or Part VIII of the *Lands Acquisition Act*, including claims for compensation for the effect of an acquisition of land on native title rights and interests in relation to that land where there has been an approved determination of native title to the effect of any of the following:
 - (i) that the person claiming compensation holds native title;
 - (ii) that native title does not exist but did exist immediately before the acquisition and was held by the person claiming compensation;
 - (iii) that native title does not exist and it is apparent from the terms of or the reasons for the determination that native title did exist immediately before the acquisition and was held by the person claiming compensation;
 - (iv) that native title does not exist and it is not apparent from the terms of or the reasons for the determination whether native title existed immediately before the acquisition,

Note

Were the Federal Court to make a finding that native title does not exist, it is anticipated that the Court would make a determination of the kind referred to in subparagraph (ii) or (iii) rather than the kind referred to in subparagraph (iv).

where a reference to a person claiming compensation

includes a person claiming compensation on behalf of a group among whose members any compensation paid would be distributed;

- (ba) to hear and make recommendations about applications for grants of mineral titles referred to the Tribunal under section 78(2)(d) of the *Mineral Titles Act*;
- (c) as the independent body mentioned in section 24MD(6B)(f) of the Native Title Act, to hear and make recommendations about objections mentioned in section 24MD(6B)(d) of that Act;
- (d) to hear and determine applications made under section 111(1) of the *Mineral Titles Act* about a claim for compensation under section 110 of that Act;
- (e) to hear and make recommendations about objections by registered native title claimants and registered native title bodies corporate to the doing of prescribed petroleum acts to which Part IIA of the *Petroleum Act* applies so far as the doing of those acts affects the registered native title rights and interests of the claimants and bodies;
- (f) to hear and determine disputes about compensation referred to the Tribunal under section 57P(4), 57V(4), 81(3) or 82(2) of the *Petroleum Act*;
- (g) to hear and make recommendations about objections by registered native title claimants and registered native title bodies corporate to the extension or grant of a pastoral lease under section 49, 61, 62 or 64 of the *Pastoral Land Act* so far as it affects the registered native title rights and interests of the claimants and bodies;
- (ga) to hear and determine disputes about compensation referred to the Tribunal under section 72C(4) of the *Pastoral Land Act*;
- (h) to hear and determine disputes about compensation referred to the Tribunal under section 67B(6) of the *Energy Pipelines Act*;
- (j) the other functions conferred on the Tribunal by or under this Act or any other law of the Territory.

Note for subsection (1)(c)

Section 24MD(6B)(g) of the Native Title Act provides for the making of a determination and section 24MD(6C) of that Act defines determination to include recommendation.

- (2) The Tribunal must not proceed to hear and make recommendations about objections under subsection (1)(a) or (e) unless the parties to the proceeding have complied with sections 36, 37 and 38 of the *Lands Acquisition Act* or sections 57G, 57H and 57J of the *Petroleum Act*, as applicable.
- (3) For the purposes of subsection (2), the non-participation in the consultation process by the party objecting to the acquisition or to the doing of the prescribed petroleum act is not a ground for refusal by the Tribunal to hear and make recommendations about the objections.

6 Powers

Subject to this Act, the Tribunal may do all things necessary or convenient to be done in connection with the performance of its functions.

7 Constitution

- (1) Subject to this section, for the purpose of hearing a matter referred to in section 5, the Tribunal is to be constituted by one member.
- (2) The Tribunal is not to be constituted by a member who has acted as a mediator under section 36 in the matter unless the parties agree to the Tribunal being constituted by that member.
- (3) Where the Tribunal was constituted by a particular member for the purpose of making a recommendation about an objection to the doing of an act, the Tribunal is not to be constituted by that same member for the purpose of determining a dispute about compensation for the act payable to the person who lodged the objection unless the parties to the compensation proceeding agree.

8 Independence of Tribunal

In performing a function or exercising a power, the Tribunal is not subject to the direction of the Minister.

Part 3 Proceedings

Division 1 Proceedings generally

9 Lodgement of applications, &c.

An application or other document required to be made or given to the Tribunal is to be lodged at the office of the Registrar.

10 Sittings

The Tribunal is to sit at the times and in the places in the Territory determined by the Chairperson.

11 Conduct of proceedings generally

- (1) A proceeding is to be conducted with as little formality and technicality, and with as much expedition, as a proper consideration of the matter before the Tribunal permits.
- (2) The Tribunal is bound by the rules of natural justice.
- (3) Subject to this Part and any other Act, the practice and procedure of the Tribunal is to be:
 - (a) as prescribed by the rules; or
 - (b) if no practice or procedure is prescribed by the rules – as determined by the Tribunal.

12 Appearance and representation

- (1) Subject to any other Act, the following persons are parties to a proceeding:
 - (aa) if the proceeding is for an application to review a reviewable decision under the *Heritage Act*:
 - (i) the applicant; and
 - (ii) the Territory;
 - (ab) if the proceeding is for an application for the confirmation of a stop work order for a heritage place or object under the *Heritage Act*:
 - (i) the Territory; and
 - (ii) each interested person for the heritage place or object;
 - (a) if the proceeding is for the purposes of section 5(1)(a):
 - (i) the Minister to whom the administration of the *Lands Acquisition Act* is allotted under an Administrative Arrangements Order; and
 - (ii) the person objecting to the acquisition;

- (b) if the proceeding is for the purposes of section 5(1)(b):
 - (i) the Minister to whom the administration of the *Lands Acquisition Act* is allotted under an Administrative Arrangements Order; and
 - (ii) the person claiming compensation;
- (ba) if the proceeding is for the purposes of section 5(1)(ba):
 - (i) the person who applied for the grant of the mineral title; and
 - (ii) the persons (if any) objecting to the grant of the mineral title;
- (c) if the proceeding is for the purposes of section 5(1)(c):
 - (i) the claimant or body corporate mentioned in section 24MD(6B)(d) of the Native Title Act; and
 - (ii) the person mentioned in section 24MD(6B)(e)(ii) of the Native Title Act;
- (d) if the proceeding is for the purposes of section 5(1)(d):
 - (i) the person liable to pay compensation; and
 - (ii) the person claiming compensation;
- (e) if the proceeding is for the purposes of section 5(1)(e):
 - (i) the registered native title claimant or registered native title body corporate objecting to the doing of the prescribed petroleum act; and
 - (ii) the person who applied under the *Petroleum Act* for the doing of the prescribed petroleum act;
- (f) if the proceeding is for the purposes of section 5(1)(f):
 - (i) the person liable to pay compensation; and
 - (ii) the person claiming compensation;
- (g) if the proceeding is for the purposes of section 5(1)(g):
 - (i) the Minister to whom the administration of the *Pastoral Land Act* is allotted under an Administrative Arrangements Order; and

- (ii) the registered native title claimant or registered native title body corporate objecting to the extension or grant;
 - (ga) if the proceeding is for the purposes of section 5(1)(ga):
 - (i) the Minister to whom the administration of the *Pastoral Land Act* is allotted under an Administrative Arrangements Order; and
 - (ii) the person claiming compensation;
 - (h) if the proceeding is for the purposes of section 5(1)(h):
 - (i) the person liable to pay compensation; and
 - (ii) the person to whom compensation is payable;
 - (j) a person permitted by the Tribunal to appear as a party to the proceeding.
- (2) A person appearing before the Tribunal may be represented by:
- (a) a legal practitioner; or
 - (b) an agent.
- (3) A person who represents another person before the Tribunal has the same protection and immunity as a legal practitioner appearing for a party in a proceeding before the Supreme Court.

13 Hearings to be in public

The hearing of a proceeding is to be open to the public unless the Tribunal orders otherwise.

14 Evidence

- (1) The Tribunal is not bound by the rules of evidence but may inform itself of a matter relevant to a proceeding in the manner it thinks appropriate.
- (2) Evidence in a proceeding may be given orally or in writing.
- (3) The Tribunal may require a person appearing before it to give evidence on oath.
- (4) The presiding member may require a person appearing before the Tribunal:
 - (a) to answer a question relevant to the proceeding; or

(b) to produce a document relevant to the proceeding.

(4A) In deciding whether or not to require an answer to a question or the production of a document under subsection (4), the Tribunal must take into account the cultural and customary concerns of Aboriginal peoples but not so as to prejudice unduly any party to the proceeding.

(5) Subject to subsection (6), a person must not refuse or fail to comply with a requirement under subsection (3) or (4).

Maximum penalty: 20 penalty units or imprisonment for 6 months.

(6) A witness appearing before the Tribunal has the same protection and immunity as a witness in a proceeding before the Supreme Court.

15 Summons

(1) A presiding member may order a person:

(a) to attend before the Tribunal; or

(b) to produce the documents specified in the order that are in the person's possession or control.

(2) A person must, in the absence of reasonable excuse, comply with an order under subsection (1).

Maximum penalty: 8 penalty units or imprisonment for 6 months.

16 Assistance for Tribunal

(1) The Tribunal may engage consultants with appropriate expertise to assist it in relation to proceedings.

(2) Subject to the terms of engagement and any rules made under section 20, a consultant may assist the Tribunal by appearing in a proceeding.

17 Decisions and reasons for decisions

(1) The presiding member must:

(a) make a decision about the matter the subject of a proceeding; and

- (b) give the decision, the reasons for the decision and any relevant findings of fact in writing to:
 - (i) the parties to the proceeding; and
 - (ii) for a proceeding referred to in section 5(1)(ba), (c) or (e) – the relevant Minister.
- (2) The decision, reasons and findings of fact must be given by the presiding member within:
 - (a) 2 months after hearing a proceeding; or
 - (b) if another Act specifies a different period – the period specified.
- (3) However, the validity of a decision of the presiding member is not affected merely because of a failure to comply with subsection (1) or (2).
- (3A) This section does not apply to a proceeding for:
 - (a) an application to review a reviewable decision under the *Heritage Act*; or
 - (b) an application for the confirmation of a stop work order under that Act.
- (4) In this section:

decision includes the following:

 - (a) a recommendation referred to in section 5(1)(a), (ba), (c), (e) or (g);
 - (b) a determination referred to in section 5(1)(b), (d), (f), (ga) or (h).

relevant Minister means the Minister responsible for the administration of the Act under which it is proposed to grant the mineral title, do the future act mentioned in section 24MD(6B)(b) of the Native Title Act or do the prescribed petroleum act.

18 Costs

Each party to a proceeding is to bear its own costs unless the Tribunal orders otherwise.

19 Witness expenses

- (1) A witness appearing before the Tribunal is entitled to be paid fees and expenses in accordance with the scale of fees and expenses in respect of attendance in the Supreme Court.
- (2) The fees and expenses are payable by the person who requested the appearance of the witness (whether by summons or otherwise) and may be recovered as a debt due by that person to the witness.

20 Rules

- (1) Subject to subsection (2), the Chairperson may make rules, not inconsistent with this Act:
 - (a) relating to the practice and procedure of the Tribunal; or
 - (b) prescribing fees in respect of proceedings in the Tribunal.
- (2) The Chairperson must make rules, not inconsistent with this Act, relating to the practice and procedure of the Tribunal for the protection from disclosure of culturally sensitive information.
- (3) For the purpose of making rules under subsection (2), the Chairperson must seek the views of the Aboriginal Land Councils established by or under the *Aboriginal Land Rights (Northern Territory) Act 1976*, other than those Councils that only have responsibility for Aboriginal land within the meaning of that Act, and take those views (if any) into account.

21 Contempt of Tribunal

A person must not:

- (a) insult a presiding member in relation to the performance of his or her functions or the exercise of his or her powers as the Tribunal;
- (b) interrupt a proceeding;
- (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.

Maximum penalty: 20 penalty units or imprisonment for 6 months.

Division 1A Heritage Act proceedings

Subdivision 1 Interpretation

21A Definition

In this Division:

decision maker, for a reviewable decision under the *Heritage Act*, means the person who made the decision.

Subdivision 2 Tribunal reviews

21B Application of Subdivision

This Subdivision applies to a proceeding for an application for the review of a reviewable decision under the *Heritage Act*.

21C Operation and implementation of decision pending review

- (1) An application for the review of the reviewable decision does not affect the operation or implementation of the decision.
- (2) However, the Tribunal may make an order staying or otherwise affecting the operation or implementation of so much of the decision as the Tribunal considers appropriate.
- (3) The order is subject to the conditions stated in it.
- (4) The order has effect for the period stated in it, or if no period is stated, until the Court decides the application.

21D Applications may be heard together

If more than one application is made for the review of the reviewable decision, the Tribunal may:

- (a) hear the applications together or one immediately after the other; or
- (b) one application may be stayed until the other is decided.

21E Review procedure

- (1) In hearing an application for the review of a reviewable decision, the Tribunal must review afresh the merits of the decision.
- (2) In doing so, the Tribunal is not bound by anything done by the decision maker in making the reviewable decision.

- (3) Without limiting subsection (2), the Tribunal may:
- (a) consider evidence that was not considered by the decision maker; and
 - (b) disregard evidence that was considered by the decision maker.

21F Decision on review

- (1) In deciding the application, the Tribunal may:
- (a) confirm the reviewable decision; or
 - (b) set aside the reviewable decision and substitute its own decision; or
 - (c) set aside the reviewable decision and refer the matter to which the application relates to the decision maker for reconsideration.
- (2) In referring the matter to the decision maker, the Tribunal must give the directions it considers appropriate for the reconsideration of the matter.
- (3) The Tribunal may make the incidental orders it considers appropriate to give effect to its decision.
- (4) The Tribunal must give reasons for its decision.
- (5) If the Tribunal substitutes its own decision for the reviewable decision, the substituted decision is (other than for Part 4.1 of the *Heritage Act*) taken to be the decision maker's decision.

Subdivision 3 Applications for confirmation of stop work orders

21G Application of Subdivision

This Subdivision applies to a proceeding for an application for the confirmation of a stop work order under the *Heritage Act*.

21H Review procedure

- (1) In hearing the application, the Tribunal must review afresh the merits of the issuing of the order.
- (2) In doing so, the Tribunal is not bound by anything done by the heritage officer in issuing the order.

- (3) Without limiting subsection (2), the Tribunal may:
- (a) consider evidence that was not considered by the heritage officer; and
 - (b) disregard evidence that was considered by the heritage officer.

21J Decision on review

In deciding the application, the Tribunal may:

- (a) confirm the stop work order as issued or with the variations it considers appropriate; or
- (b) revoke the stop work order.

Division 2 Objection proceedings

22 Recommendations about objections

- (1) Without limiting the generality of section 5 so far as it relates to the making of recommendations about the doing of an act that affects native title rights and interests, the Tribunal may make a recommendation under section 5(1)(a), (c), (e) or (g):
- (a) upholding an objection to the act so far as it affects registered native title rights and interests; or
 - (b) that contains conditions about the doing of the act that relate to registered native title rights and interests and that are to be complied with by any of the parties to the proceeding.
- (2) The Tribunal must not make a recommendation containing a condition that has the effect that a native title holder is to be entitled to compensation worked out by reference to:
- (a) the amount of profits made;
 - (b) any income derived; or
 - (c) any things produced,
- by any person as a result of doing anything in relation to the land or waters after the act is done.
- (3) If a recommendation contains a condition that an amount is to be paid into the Lands Trust Fund under the *Lands Acquisition Act* and held in trust until dealt with in accordance with section 83C of that Act, or into the Petroleum Trust Fund under the *Petroleum Act* and

held in trust until dealt with in accordance with section 117AC of that Act:

- (a) the Tribunal must specify the amount in the recommendation; and
 - (b) if it is decided to do the act subject to the condition – the amount, when paid, must be held in trust until it is dealt with in accordance with that section.
- (4) If the Tribunal makes a recommendation under section 5(1)(c), and the recommendation contains a condition that an amount is to be paid as security for compensation mentioned in section 106(1)(b) of the *Mineral Titles Act*:
- (a) the Tribunal must specify the amount in the recommendation; and
 - (b) section 106(3), (4)(b) to (c) and (5) of the *Mineral Titles Act* applies in relation to the recommendation as if a reference in those provisions:
 - (i) to the Minister were a reference to the Tribunal; and
 - (ii) to the requirement for security were a reference to the condition.

22A Power to dismiss objections

- (1) The Tribunal may dismiss an objection to an act mentioned in section 24MD(6B)(b) of the Native Title Act or under the *Petroleum Act* by a registered native title claimant or registered native title body corporate if, in the Tribunal's opinion, the objection is not on the ground that the doing of the act would affect the registered native title rights and interests of the claimant or body.
- (1A) In subsection (1), **would affect**, in relation to an act mentioned in section 24MD(6B)(b) of the Native Title Act, means would be likely to affect.
- (1B) In subsection (1), **would affect**, in relation to an act under the *Petroleum Act*, means would be likely to affect.

- (2) The Tribunal may dismiss an objection to a compulsory acquisition under the *Lands Acquisition Act* by a person if, in the Tribunal's opinion, the objection is not on the ground that:
- (a) if the person is a registered native title claimant or registered native title body corporate – the compulsory acquisition would be likely to affect the registered native title rights and interests of the claimant or body; or
 - (b) in any other case – the compulsory acquisition would affect the person's interest in the land proposed to be acquired.

22B Withdrawal of objections

Where:

- (a) an objection to an act is withdrawn; or
- (b) if the objection was lodged by a registered native title claimant – the claimant has been removed from the Register of Native Title Claims for a reason other than because either an approved determination of native title that the claimant holds native title in the land in respect of land or waters in relation to which it is proposed to do the act has been made or the claimant has been replaced under section 66B of the Native Title Act,

the Tribunal must not proceed to make a recommendation about the objection and must dismiss the referral of the objection.

22C Power to proceed ex parte

If a party does not appear, the Tribunal may hear the matter and make a recommendation about an objection or determine compensation in the absence of that party.

23 Issues previously decided not to be re-opened

If:

- (a) a proceeding is for the purpose of making a recommendation in relation to the doing of an act under an Act referred to in section 5 (other than the *Lands Acquisition Act*) (in this section called ***the current proceeding***);
- (b) the parties to the current proceeding were previously involved in the making of an agreement, or as parties in a proceeding in which a recommendation was made, in relation to the doing of an act under the same Act in relation to the same area; and

- (c) an issue was decided in the agreement or during the previous proceeding,

the parties to the current proceeding must not, without leave of the Tribunal, seek to vary the decision on the issue.

Division 3 Compensation proceedings

24 Determination of compensation

- (1) Subject to any other Act, after hearing a dispute about compensation, the Tribunal must determine:
- (a) whether compensation is payable to the claimant; and
 - (b) if so – the amount of compensation that is payable.
- (2) However, if all parties to the proceeding consent to the making of an order, the Tribunal may make an order in the terms consented to.
- (3) An order under subsection (2) may be made at any stage of the proceeding.

24A No multiple compensation payable for essentially same act

Despite anything in this Act or another Act:

- (a) compensation is only payable once for acts that are essentially the same; and
- (b) in determining compensation in accordance with this Division, the Tribunal must take into account any compensation awarded under another law of the Territory or a law of the Commonwealth or of a State or another Territory of the Commonwealth.

24B Criteria for determining compensation for native title

- (1) The entitlement of a native title holder to compensation for the effect of an act on the holder's native title rights and interests is an entitlement on just terms to compensate the native title holder for any loss, diminution, impairment or other effect of the act on those native title rights and interests.
- (2) If the act is the compulsory acquisition of all or any of the native title rights and interests of the native title holder, in determining compensation on just terms, subject to section 25, the Tribunal may have regard to the principles and criteria for determining compensation set out in the *Lands Acquisition Act*.

25 Compensation other than money in respect of native title

- (1) Subject to this section, compensation determined by the Tribunal may only consist of the payment of money.
- (1A) If the person claiming compensation requests that the whole or part of the compensation should consist of the transfer of property or the provision of goods or services, the Tribunal:
 - (a) must consider the request; and
 - (b) may, instead of determining the whole or any part of the compensation, recommend that the person liable to pay the compensation should, within a specified period, transfer property or provide goods or services in accordance with the recommendation.
- (2) If a person does not transfer property or provide goods or services in accordance with a recommendation under subsection (1A), the claimant may request the Tribunal to determine instead that the whole or the part of the compensation concerned is to consist of the payment of money.
- (3) If a person transfers property or provides goods or services in accordance with a recommendation under subsection (1A), the transfer of the property or the provision of the goods or services constitutes full payment of the compensation in respect of which the recommendation was made.

26 Compensation not to include profits, &c.

The Tribunal must not determine the amount of compensation payable for the effect of an act on native title rights and interests by reference to:

- (a) the amount of profits made;
- (b) any income derived; or
- (c) any things produced,

by any person as a result of doing anything in relation to the land or waters in respect of which the act was done.

26A Limit on compensation

- (1) The total amount of compensation determined by the Tribunal to be payable for an act that extinguishes all native title in relation to particular land or waters is not to exceed the amount that would be payable if the act were instead a compulsory acquisition of a freehold estate in the land or waters.
- (2) Subsection (1) has effect subject to the requirement that compensation is to be on just terms.

27 Enforcement of determinations and orders

- (1) A determination under section 24 (including a determination for the purposes of section 25(2)) of the amount of compensation payable to a claimant is recoverable as a debt due to the claimant by the person liable to pay the compensation.
- (1A) An order of costs payable by one party to another party is recoverable as a debt due to the party in whose favour the order is made by the party ordered to pay the costs.
- (2) A claimant may register a determination referred to in subsection (1) or a party may register an order referred to in subsection (1A) in a court of competent jurisdiction by filing in the court:
 - (a) a copy of the determination or order, certified by the Registrar to be a true copy; and
 - (b) an affidavit stating the amount unpaid under the determination or order.
- (3) A determination or order registered under subsection (2) is to be taken to be an order of the court in which it is registered for the payment of the unpaid amount and may be enforced accordingly.

27A Investment

The Chairperson of the Tribunal may authorise the investment of money paid into the Tribunal under the *Lands Acquisition Act* in such manner as trust funds may be invested under the *Trustee Act*.

Part 4 Members and staff**28 Membership**

- (1) The Tribunal consists of a Chairperson and other members.

- (2) A person who is a magistrate is a member of the Tribunal.

29 Chairperson

- (1) The Administrator may appoint in writing a magistrate to be the Chairperson of the Tribunal.
- (2) The Chairperson holds office for the period (not exceeding 5 years) specified in the instrument of appointment but is eligible for re-appointment.
- (3) The Chairperson may resign by writing signed by the Chairperson and given to the Administrator.
- (4) The appointment of the Chairperson terminates if the Chairperson ceases to be a magistrate.

31 Acting members

- (1) The Administrator may appoint a member to act as the Chairperson:
- (a) during a vacancy in the office of the Chairperson, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chairperson is for any reason unable to perform the functions of the office.
- (3) A person appointed to act under subsection (1) during a vacancy in the office of the Chairperson must not act in the office continuously for more than 12 months.
- (5) Anything done by or in relation to a person purporting to act in pursuance of an appointment under subsection (1) is not invalid on the ground that:
- (a) the appointment was ineffective or had ceased to have effect; or
 - (b) the occasion to act had not arisen or had ceased.

33 Registrar and staff

- (1) The Minister must, in writing, appoint a person to be the Registrar of the Lands, Planning and Mining Tribunal.
- (2) In addition to the Registrar, the staff of the Tribunal is to consist of public sector employees provided by the Minister.

- (3) In performing a function or exercising a power under this Act:
- (a) the Registrar is subject to the direction of the Chairperson; and
 - (b) the other members of staff are subject to the direction of the Chairperson and the Registrar.

34 Legal immunity

- (1) This section applies to a person who is or has been:
- (a) a member of the Tribunal;
 - (b) a member of the staff of the Tribunal;
 - (c) acting under the direction or authority of the Tribunal; or
 - (d) participating in a proceeding of the Tribunal.
- (2) No civil or criminal proceedings lie against a person to whom this section applies in relation to an act done or omitted to be done in good faith in the performance or purported performance of a function, or the exercise or purported exercise of a power, under this Act.

35 Confidentiality

- (1) This section applies to a person who is or has been:
- (a) a member of the Tribunal;
 - (b) a member of the staff of the Tribunal; or
 - (c) acting under the direction or authority of the Tribunal.
- (2) A person to whom this section applies must not directly or indirectly:
- (a) make a record of, communicate to a person, or otherwise make use of, information acquired by him or her under this Act; or
 - (b) produce to a person, or permit a person to have access to, a document provided to him or her for the purposes of this Act.

Maximum penalty: 40 penalty units.

- (3) Subsection (2) does not apply if the recording, communication, use, production or permission is for the purposes of this Act or is authorised by or under this Act or another Act.

Part 5 Miscellaneous

36 Tribunal may appoint mediator

- (1) Where under a prescribed provision the parties in a matter have agreed to refer the matter to mediation, either party may apply to the Tribunal for the appointment of a mediator to conduct the mediation.
- (2) On receipt of an application under subsection (1), the Registrar must choose from the panel referred to in subsection (3) a person to mediate in the matter.
- (3) The Chairperson must appoint in writing a panel of persons who are willing to act as mediators for the purposes of a prescribed provision.
- (4) The persons who may be appointed under subsection (3) include but are not limited to members of the Tribunal.
- (5) In this section, ***prescribed provision*** means:
 - (a) section 37 of the *Lands Acquisition Act*; or
 - (b) section 110(4) of the *Mineral Titles Act*; or
 - (c) section 57H of the *Petroleum Act*.

37 Appeals against compensation determinations

- (1) Subject to any other Act, a person aggrieved by a determination of the Tribunal under section 24 (including a determination for the purposes of section 25(2)) may appeal to the Supreme Court.
- (2) An appeal under this section is an appeal in the strict sense.
- (3) On hearing an appeal under this section, the Supreme Court may consider the evidence that was presented to the Tribunal and any question of law 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.
- (4) A determination that is varied or substituted by the Supreme Court under subsection (3) has effect as a determination of the Tribunal.

37A Proof of recommendations and determinations

A copy of a recommendation or determination of the Tribunal that is certified to be a true copy of the recommendation or determination is to be admitted as conclusive evidence of that recommendation or determination and all courts, judges and persons acting judicially may take judicial notice of the Registrar's signature to such a document.

38 Annual Report

- (1) The Chairperson must provide the Minister with a report on the performance of the Tribunal's functions and the exercise of the Tribunal's powers during each financial year not later than 3 months after the end of the financial year.
- (2) The Minister must lay a copy of the report before the Legislative Assembly not later than 6 sitting days after receiving it.

39 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Part 6 Transitional matters for Justice Legislation Amendment Act 2006**40 Terms and conditions of Chairperson**

The person who is the Chairperson immediately before the commencement of Part 9 of the *Justice Legislation Amendment Act 2006* holds office for the period and on the terms and conditions (including terms and conditions relating to remuneration and allowances) specified in the instrument of appointment.

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 and Mining Tribunal Act 1998 (Act No. 51, 1998)***

Assent date	28 August 1998
Commenced	1 October 1998 (<i>Gaz</i> S37, 11 October 1998)

Lands and Mining (Miscellaneous Amendments) Act 1998 (Act No. 93, 1998)

Assent date	23 December 1998
Commenced	pts 2 to 5, 7, 8, 10 to 13 and s 272: 1 October 1998; rem: 23 December 1998

Lands and Mining (Miscellaneous Amendments) Act 1999 (Act No. 1, 1999)

Assent date	19 February 1999
Commenced	pt 2: 1 October 1998; pt 4: 23 December 1998; rem: 19 February 1999

Mining Amendment Regulations (SL No. 11, 1999)

Notified	16 April 1999
Commenced	16 April 1999

Lands Acquisition Amendment Regulations (SL No. 12, 1999)

Notified	16 April 1999
Commenced	16 April 1999

Petroleum Amendment Regulations (SL No. 13, 1999)

Notified	16 April 1999
Commenced	16 April 1999

Lands and Mining (Miscellaneous Amendments) Act (No. 2) 1999 (Act No. 26, 1999)

Assent date	17 June 1999
Commenced	17 June 1999

Statute Law Revision Act (No. 2) 2001 (Act No. 62, 2001)

Assent date	11 December 2001
Commenced	11 December 2001

Justice Legislation Amendment Act 2006 (Act No. 13, 2006)

Assent date 18 May 2006
Commenced 1 July 2006 (*Gaz G26*, 28 June 2006, p 7)

Statute Law Revision Act 2009 (Act No. 25, 2009)

Assent date 1 September 2009
Commenced 16 September 2009 (*Gaz G37*, 16 September 2009, p 3)

Justice Legislation Amendment (Penalties) Act 2010 (Act No. 12, 2010)

Assent date 20 May 2010
Commenced 1 July 2010 (*Gaz G24*, 16 June 2010, p 2)

Mineral Titles (Consequential Amendments) Act 2010 (Act No. 37, 2010)

Assent date 18 November 2010
Commenced 7 November 2011 (*Gaz G41*, 12 October 2011, p 5)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)

Assent date 18 November 2010
Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz G7*, 16 February 2011, p 4)

Heritage Act 2011 (Act No. 34, 2011)

Assent date 15 November 2011
Commenced 1 October 2012 (*Gaz S43*, 31 July 2012)

3 LIST OF AMENDMENTS

It	sub No. 13, 2006, s 53
s 1	amd No. 13, 2006, s 54
s 3	amd No. 93, 1998, s 74; No. 13, 2006, s 62
s 4	amd No. 93, 1998, s 75; No. 13, 2006, s 62
s 5	amd No. 93, 1998, s 76; No. 1, 1999, s 16; SL No. 12, 1999, r 23(1); No. 26, 1999, s 18; No. 25, 2009, s 10; No. 37, 2010, s 6; No. 34, 2011, s 164
s 7	amd No. 93, 1998, s 77
s 8	amd No. 26, 1999, s 19
s 12	amd No. 93, 1998, s 78; No. 25, 2009, s 10; No. 37, 2010, s 6; No. 34, 2011, s 165
s 14	amd No. 93, 1998, s 79; No. 3, 2010, s 3; No. 40, 2010, s 67
s 15	amd No. 26, 1999, s 20; No. 3, 2010, s 3
s 17	amd No. 93, 1998, s 80; No. 26, 1999, s 21 sub No. 13, 2006, s 55 amd No. 25, 2009, s 10; No. 37, 2010, s 6; No. 34, 2011, s 166
s 20	amd No. 26, 1999, s 22
s 21	amd No. 12, 2010, s 3
pt 3	
div 1A hdg	ins No. 34, 2011, s 167
pt 3	
div 1A	
sdiv 1 hdg	ins No. 34, 2011, s 167
s 21A	ins No. 34, 2011, s 167
pt 3	
div 1A	
sdiv 2 hdg	ins No. 34, 2011, s 167
ss 21B – 21F	ins No. 34, 2011, s 167

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pt 3	
div 1A	
sdiv 3 hdg	ins No. 34, 2011, s 167
ss 21G – 21J	ins No. 34, 2011, s 167
s 22	amd No. 93, 1998, s 81; No. 26, 1999, s 23; No. 25, 2009, s 10; No. 37, 2010, s 6
s 22A	ins No. 93, 1998, s 82 amd No. 1, 1999, s 17; SL No. 11, 1999, r 18; SL No. 12, 1999, r 23(2); SL No. 13, 1999, r 18; No. 37, 2010, s 6
s 22B	ins No. 93, 1998, s 82 amd No. 1, 1999, s 18
s 22C	ins No. 93, 1998, s 82
s 24	amd No. 13, 2006, s 56
ss 24A – 24B	ins No. 93, 1998, s 83
s 25	amd No. 93, 1998, s 84
s 26A	ins No. 93, 1998, s 85
s 27	amd No. 13, 2006, s 57
s 27A	ins No. 93, 1998, s 86
ss 28 – 29	sub No. 13, 2006, s 58
s 30	rep No. 13, 2006, s 58
s 31	amd No. 62, 2001, s 15; No. 13, 2006, s 59
s 32	rep No. 13, 2006, s 60
s 33	amd No. 13, 2006, s 62
s 35	amd No. 62, 2001, s 15; No. 3, 2010, s 3
s 36	amd No. 93, 1998, s 87; No. 37, 2010, s 6
s 37A	ins No. 93, 1998, s 88
pt 6 hdg	ins No. 13, 2006, s 61
s 40	ins No. 13, 2006, s 61