

# **NORTHERN TERRITORY OF AUSTRALIA**

## **FEDERAL HOTELS CASINOS (COMPENSATION) ACT**

As in force at 19 December 1986

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 19 December 1986

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## FEDERAL HOTELS CASINOS (COMPENSATION) ACT

**An Act to acquire on just terms from The Federal Hotels Limited and subsidiary companies, and others, certain property in Darwin and Alice Springs, and for other purposes**

### Part I Preliminary

#### 1 Short title

This Act may be cited as the *Federal Hotels Casinos (Compensation) Act*.

#### 2 Commencement

- (1) Subject to subsections (2) and (3), this Act shall come into operation on a date and at a time to be fixed by the Administrator by notice in the *Gazette*.
- (2) Sections 1, 2, 3, 5 and 32(3) shall come into operation on the day on which the Administrator's assent to this Act is given.
- (3) Section 32(1) and (2) shall be deemed to have come into operation on 22 August 1984.

#### 3 Definitions

In this Act, unless the contrary intention appears:

***acquired property*** means the casino and hotel complexes or other property acquired by this Act.

***casino and hotel complexes*** means the land comprised in the leases listed in Schedule 1 and all improvements forming part of that land.

***Companies*** means The Federal Hotels Limited, The Federal Hotels (Darwin) Pty. Ltd., The Federal Hotels (Alice Springs) Pty. Ltd. and The Federal Hotel (N.T.) Pty. Ltd., who are parties to the agreements in Schedule 1 to the *Casino Licence and Control Act* and includes any corporation that is a related corporation, within the

meaning of the Companies (Northern Territory) Code, to any of those Companies.

**consumables** includes food, beverages, tobacco and tobacco products, crockery, cutlery, household linen and guest rooms supplies.

**date of acquisition** means the date and time fixed under section 2(1) by the Administrator.

**interest**, in relation to acquired property, means:

- (a) a legal or equitable estate or interest in the property; or
- (b) a right, power or privilege over, or in connection with, the property.

**mortgage**, in relation to acquired property, includes any encumbrance, charge or other security whatsoever over that property to secure a loan, obligation or liability, whether contingent or otherwise.

**Tribunal** means the Tribunal established by section 21.

## **Part II                      Acquisition and compensation**

### **Division 1                Acquisition**

#### **4                          Acquisition**

- (1) There is hereby acquired and vested in the Territory, freed and discharged from all interests, mortgages, trusts, restrictions, dedications, reservations, obligations, encumbrances, contracts, licences, charges and rates of any kind, the casino and hotel complexes together with all other property, by whomsoever owned, used in or in connection with the businesses conducted by the Companies, or any of them, in the casino and hotel complexes:

(a) including:

- (i) all plant and equipment and other chattels owned, leased or hired by any of them; and
- (ii) the property listed in Schedule 2; but

(b) not including:

- (i) plant and equipment not owned, leased or hired by any of them; or

(ii) the property listed in Schedule 3.

- (2) The interest of any person in a casino and hotel complex or other property acquired by subsection (1) is, at the date of acquisition, converted into a claim for compensation against the Territory.

## **5                      Additional property included in or excluded from acquisition**

Notwithstanding section 4, the Minister may, at any time before the date of acquisition, by notice in the *Gazette*, declare that any property used in or in connection with the businesses conducted by the Companies, or any of them, in the casino and hotel complexes and listed in that notice is property to be acquired by this Act, or to be excluded from such acquisition, on the date of acquisition and, on that date, section 4 shall apply accordingly.

## **6                      Registrar-general to cancel leases**

The Registrar-General shall, on or after the date of acquisition, on the production to him of a copy of this Act, without application and without charge, cancel in the Register Book of Crown Leases kept under Part IX of the *Real Property Act* the leases registered in relation to the casino and hotel complexes.

# **Division 2                      Claims for compensation**

## **7                      Making, acceptance and rejection of claims**

- (1) A person who has a right to compensation under section 4(2) may make a claim for compensation in accordance with a form approved by the Minister, stating the amount of compensation claimed.
- (2) Compensation is not payable to a person in respect of an interest acquired under this Act if:
- (a) a claim for compensation in accordance with subsection (1) is not served on the Minister by that person in respect of that interest within 4 months after the date of acquisition or within such further time as the Minister allows; or
  - (b) the interest is inconsistent with an interest claimed by another person in respect of which the Minister has, in good faith, paid or agreed to pay compensation.
- (3) Where a claim for compensation is duly made, the Minister shall:
- (a) except where compensation is not payable by reason of subsection (2)(b), consider the claim; and

- (b) if he is satisfied that the claimant has produced undisputed evidence proving that he had, immediately before the date of acquisition, the interest claimed by him in the acquired property, accept the claim for determination, but, if the Minister is not so satisfied, he shall reject the claim.
- (4) The Minister shall, within 28 days after a claim for compensation is made, notify the claimant whether he accepts the claim for determination or rejects the claim and, if the Minister fails to notify the claimant accordingly, he shall be deemed to have accepted the claim.
- (5) The acceptance under this section of a claim for determination does not entitle the claimant to payment of compensation otherwise than in accordance with Division 5.

## **8                      Proceedings where claim rejected**

- (1) Where a claim for compensation has been rejected by the Minister, the claimant may apply to the Tribunal for a declaration that he was, immediately before the date of acquisition, entitled to the interest specified in the claim.
- (2) The Tribunal, after notice to such persons as it thinks fit, shall hear an application under subsection (1) and may declare that the claimant was entitled to the interest specified in his claim to the Minister or to some other interest, or may dismiss the application.
- (3) For the purposes of this Act, a declaration under this section is binding on the Territory and on all persons who had interests in the acquired property immediately before the date of acquisition, whether or not they were represented before the Tribunal on the hearing of the application.
- (4) Where the Tribunal, in pursuance of this section, declares that a claimant had an interest in acquired property, compensation in respect of that interest shall be determined in accordance with this Act as if the claim had been accepted by the Minister and, if the interest declared by the Tribunal differs from the interest specified in the claim to the Minister, the claim shall be deemed to be amended accordingly.
- (5) Where, in relation to a claim for compensation that has been rejected by the Minister:
  - (a) the claimant does not, within 30 days after service on him of the notice of rejection of the claim or within such further time as the Minister allows, make an application under this section in relation to the claim; or

- (b) the claimant has so applied and the application has been dismissed by the Tribunal,

the Territory may pay compensation in respect of the acquisition on the basis that the claimant was not, at the date of acquisition, entitled to the interest the subject of the claim and, where compensation is paid in respect of an interest which is inconsistent with the interest the subject of the claim, no compensation is payable in respect of that last-mentioned interest.

- (6) Where an application under subsection (2) has been made to the Tribunal, the Tribunal may, on the application of the Territory, the claimant or any other person appearing to have a sufficient interest to justify that application, and whether the application is made before or after the making of a declaration under that subsection, order that the first-mentioned application shall be treated as including proceedings duly instituted under section 10 for determination of the amount of compensation under this Act in respect of the interest (if any) which the Tribunal declares the claimant to have had.
- (7) Section 10 (other than subsections (1) and (2)) applies to and in relation to proceedings consequent upon the making of an order under subsection (6).

### **Division 3                      Principles upon which compensation is to be assessed**

#### **9                      Assessment of compensation**

- (1) For the purposes of, but subject to, this Act, compensation for acquired property shall be assessed as at the date of acquisition and in accordance with the rules set out in Schedule 4.
- (2) In determining under this Act the compensation to be paid, the Tribunal shall not take into account anything contained in, or done in pursuance of, the document entitled "Heads of Agreement Relating to Federal Hotel – Casinos in the Northern Territory" executed on behalf of the Northern Territory of Australia and The Federal Hotels Limited, The Federal Hotels (Darwin) Pty. Ltd. and The Federal Hotels (Alice Springs) Pty. Ltd. on 16 April 1984 or any offers made or negotiations entered into by or on behalf of the Territory or the Northern Territory Development Corporation or any other person on or before the date of acquisition to or with the Companies or any of them.

## **Division 4                      Determination of compensation by the Tribunal**

### **10                      Proceedings for determination of compensation**

- (1) Where, in the case of a claim for compensation which has been accepted by the Minister:
- (a) a period of 3 months has elapsed since the claim was made, but the compensation has not been determined by agreement; or
  - (b) before that period has elapsed, the Minister has made an offer in writing to the claimant of an amount as compensation but the claimant has not accepted that amount or any other amount offered by the Minister,

the claimant may apply to the Tribunal for determination of the amount of compensation under this Act in respect of the interest the subject of the claim.

- (2) An application under subsection (1) shall state the amount of compensation which the claimant claims and the interest in respect of which it is claimed.
- (3) Where an application under this section has been made in relation to an interest in acquired property, the Tribunal may, on the application of the Minister, by order, direct any other person who has claimed compensation arising out of the acquisition of that interest or of another interest in that acquired property that has been acquired at the same time, or who appears or claims to have had, immediately before the date of acquisition, an interest in that property that has been acquired at the same time, to be joined as an applicant in the proceedings within a time specified in the order.
- (4) If a person so directed under subsection (3) fails to join as an applicant within the time specified in the order, he is absolutely debarred from thereafter applying under this section to the Tribunal or instituting an action against the Territory for determination or recovery of compensation arising out of the acquisition of the interest that was the original subject of the application or any other interest in the same property that was acquired at the same time.
- (5) The determination of the Tribunal in proceedings under this section is binding on the parties to the proceedings.



## **11                      Determination of compensation on the application of Territory**

(1) Where:

- (a) 6 months have elapsed since the date of acquisition and a claim for compensation has not been made in respect of an interest in acquired property; or
- (b) the Minister has made an offer in writing to the claimant of an amount of compensation in respect of an interest claimed by the claimant in acquired property and:
  - (i) the compensation has not, within 2 months after the making of the offer or within such further time as the Minister, on the application of the claimant, has allowed, been determined by agreement or by the Tribunal; and
  - (ii) an application by the claimant for determination of compensation under this Act is not pending,

the Minister may apply to the Tribunal for a determination under this section in respect of the interest concerned.

- (2) The Tribunal, after notice to such persons as it directs, shall hear an application made under subsection (1) and determine the amount of compensation payable in respect of the interest the subject of the application.
- (3) The Minister may, in an application under subsection (1), request the Tribunal to determine the person or persons who, immediately before the date of acquisition, had an interest or interests in the acquired property, and the nature of the interest or interests, and the Tribunal shall, after notice to such persons as it directs, determine those matters accordingly.
- (4) A determination under this section of the Tribunal is binding on the Territory and the claimant and on all persons who had interests in the acquired property at the date of acquisition, whether or not they were represented before the Tribunal on the hearing of the application.

## **12                      Payment of compensation determined**

Nothing in this Part, or in a determination under this Part of the Tribunal, entitles a person to receive payment of compensation otherwise than in accordance with Division 5.

**13 Tribunal to ensure that acquisition is made on just terms**

Where the Tribunal is of the opinion that the application of any of the provisions of this Act would result in an acquisition having been made otherwise than on just terms, the Tribunal may, and has the necessary jurisdiction to, determine such compensation or make such orders (whether against the Territory or against another person) as, in its opinion, is necessary to ensure that the acquisition has been made on just terms.

**Division 5 Payment of Compensation**

**14 Prepayments**

- (1) As soon as practicable after the date of acquisition, the Minister shall cause an estimate of the value of the acquired property to be made by a valuer employed by him for that purpose and, on completion of that valuation, the Territory shall pay to the persons from whom it was acquired for their respective interests, on account of compensation to be agreed or otherwise determined under this Act, 90% of the value of those interests so estimated less any amount estimated to be payable under a mortgage over that property.
- (2) Any amount paid under subsection (1) that is in excess of an amount agreed or otherwise determined under this Act as the value of the interests acquired shall be a debt due and payable to the Territory by the person to whom the amount was paid.

**15 Payment of compensation**

- (1) Subject to section 14, when the amount of compensation to which a person is entitled under this Act has been determined, that amount shall be paid to that person when he has:
  - (a) made out, to the satisfaction of the Solicitor for the Northern Territory, a title, as at the date of acquisition, to the interest in respect of which the compensation is payable;
  - (b) produced or surrendered all deeds and documents relating to, or evidencing, that title which the Solicitor for the Northern Territory reasonably requires to be produced or surrendered, as the case may be; and
  - (c) executed such documents as the Solicitor for the Northern Territory reasonably requires.

- (2) Subsection (1)(a) does not apply where the Tribunal has, under section 8, 11 or 18, declared or determined that the claimant had, immediately before the date of acquisition, the interest in respect of which the compensation is payable.

## **16                      Deposit of compensation in trust account**

- (1) If, at the expiration of 3 months after the determination of an amount of compensation, the person entitled to the compensation has not, by reason of some default or delay on his part, received payment of the compensation, the Minister may deposit the amount of compensation in a trust account, within the meaning of the *Financial Administration and Audit Act*, opened for the purpose.
- (2) If, before the amount of compensation is deposited in the trust account referred to in subsection (1), the Minister has notice of any rates, taxes or assessments charged upon the relevant acquired property and due at the date of acquisition, he may pay the amount of those rates, taxes or assessments out of the amount of compensation, and deposit the balance in the trust account.

## **17                      Payment out of trust account**

An amount of compensation deposited under section 16 in a trust account may be paid, on the direction of the Solicitor for the Northern Territory, to a person who complies with the requirements of section 15.

## **18                      Order that claimant is entitled to compensation**

- (1) Notwithstanding sections 15, 16 and 17, where a person claims to be entitled to an amount of compensation determined in respect of any acquired property by agreement or by the Tribunal (including an amount which has been deposited in the trust account referred to in section 16(1)) the Tribunal may, on the application of that person and on proof, to its satisfaction, of his title, immediately before the date of acquisition, to the interest in respect of which the compensation was payable, declare that that person is entitled to the compensation, and may order the payment of the compensation to that person, subject to such conditions as it thinks fit.
- (2) Where the Tribunal orders payment to a claimant of an amount of compensation which has been deposited in the trust account referred to in section 16(1), it may, if it thinks fit, order payment of interest in respect of the whole or any part of the period from the date of that deposit to the date of payment at a rate not exceeding the rate that would have been applicable under section 19 if the amount of compensation had not been deposited in the trust account.

## **19                      Interest on compensation**

- (1) Subject to this Division, an amount of compensation payable in respect of an acquisition under this Act (other than an amount payable to a mortgagee upon which interest is payable under section 20) bears interest from the date of acquisition to the date on which payment is made to the claimant or, where the amount is deposited in the trust account in accordance with section 16(1), to the date on which the amount is so deposited.
- (2) The rate at which interest is payable under subsection (1) is:
  - (a) if the period for which the interest is payable is less than 3 years – the short term interest rate; and
  - (b) in any other case – the long term interest rate.
- (3) Where the amount of compensation determined by the Tribunal does not exceed an amount offered by the Minister, interest is payable only up to the date on which the offer of the Minister was received by the claimant.
- (4) Where compensation (not being compensation deposited in the trust account referred to in section 16(1)) is determined, or ordered to be paid, by the Tribunal, interest continues to be payable under this section and not otherwise.
- (5) In this section:

***loan*** means a borrowing of moneys by the Commonwealth by public subscription in Australia under the authority of an Act of the Commonwealth and in accordance with a prospectus.

***long term interest rate***, in relation to an amount of compensation, means the rate of interest payable on the long term securities having a term nearest to 10 years offered in connection with the last loan for which a prospectus relating to long term securities was issued before the date of acquisition.

***long term securities*** means securities the term of which exceeds 6 years but does not exceed 15 years.

***public subscription*** includes the conversion of securities into other securities.

***securities*** means stock, bonds or other securities under the Commonwealth *Inscribed Stock Act 1911* of the Commonwealth.

**short term interest rate**, in relation to an amount of compensation, means the rate of interest payable on the short term securities having a term nearest to 3 years offered in connection with the last loan for which a prospectus relating to short term securities was issued before the date of acquisition.

**short term securities** means securities the term of which does not exceed 6 years.

**term**, in relation to securities included in a particular class of securities offered in connection with a loan, means the period between:

- (a) the date specified in the prospectus relating to the loan as:
    - (i) the date on and after which applications for securities included in that class will be received; or
    - (ii) if such a date is not so specified, the date on which conversion of other securities into securities included in that class will be effected; and
  - (b) the date specified in that prospectus as the date of maturity of securities included in that class.
- (6) Where prospectuses were issued on the one day for 2 or more loans, those loans shall, for the purposes of subsection (5), be deemed to be one loan.

## **20                      Mortgages over acquired property**

Part VI of the *Lands Acquisition Act 1955* of the Commonwealth, with the necessary changes, applies to and in relation to acquired property as if:

- (a) a reference in that Part:
  - (i) to the Commonwealth were a reference to the Territory;
  - (ii) to land were a reference to property; and
  - (iii) to the Supreme Court were a reference to the Tribunal;
- (b) a reference in section 41 of that Act to "Division 1 of Part IV" were a reference to "this Act"; and
- (c) a reference in section 45 of that Act to "subsection (8) of section 28" and "section 29" were a reference to "section 10(5)" and "section 11" of this Act respectively.

**Part III                      Tribunal****21                      Tribunal**

- (1) There is hereby established a tribunal to determine the just compensation to be paid to the Companies and other persons for their respective interests in property acquired by the Territory by this Act and their entitlement to such compensation, and to perform such other functions as are required by or under this Act to be performed by the Tribunal.
- (2) The Tribunal shall be constituted by a judge or former judge of the Supreme Court or the Federal Court or of a Supreme Court of a State or another Territory of the Commonwealth, or one of Her Majesty's Council for the Territory, appointed by the Administrator.
- (3) The Master, within the meaning of the *Supreme Court Act*, shall be the registrar of the Tribunal.

**22                      Terms and conditions of appointment**

The person constituting the Tribunal shall be appointed on such terms and conditions as the Administrator thinks fit.

**23                      Sittings of Tribunal**

The Tribunal shall sit from time to time and at such times and places in the Territory as it thinks fit in order to carry out its functions.

**24                      Procedure**

- (1) The practice and procedure of the Tribunal shall be as determined by it.
- (2) The person from time to time constituting the Tribunal may make such rules, including rules relating to the form and method of making applications to the Tribunal, preliminary conferences with the parties to an application and the awarding of costs, as he thinks fit.
- (3) A notice of the making of rules under subsection (2), indicating where copies of the rules may be obtained, shall be published in the *Gazette*, and the rules shall come into operation on the date on which the notice is so published or such later date as is specified in the notice.

**25 Powers, &c., of Tribunal**

Subject to this Act, in the carrying out of its functions the Tribunal and the person constituting it have the same powers, privileges and immunities as the Supreme Court or a Judge have respectively in and in relation to a civil proceedings before the Supreme Court.

**26 Power to conciliate**

- (1) Without limiting the generality of section 25, where an application under this Act has been made to the Tribunal and it appears to the Tribunal at any time before or during the hearing of the application that there is a reasonable possibility of agreement on any matter in dispute being reached by the parties to the application, the Tribunal may take whatever action it thinks necessary to facilitate that agreement being reached and any agreement so reached shall, on the Tribunal so ordering, be deemed to be the decision of the Tribunal on the matter in dispute.
- (2) Nothing said or done in the course of an attempt to facilitate an agreement in a manner provided by subsection (1) shall subsequently be given in evidence in any proceeding before the Tribunal or a court nor disqualify the person constituting the Tribunal from sitting to continue the hearing of an application.

**27 Representation**

A person appearing before the Tribunal may be represented by a legal practitioner or an agent.

**28 Rights, &c., of witnesses, &c.**

All witnesses and other persons (including legal practitioners and agents representing parties) before the Tribunal have the same rights, duties, protections and immunities as witnesses and other persons in their respective capacities in civil proceedings before the Supreme Court.

**29 Oaths**

- (1) A person appearing before the Tribunal to give evidence may, if required by the person constituting the Tribunal to give sworn evidence, take an oath or make an affirmation.
- (2) A person appearing before the Tribunal to give evidence who is required by the Tribunal to answer any question shall not refuse or fail to comply with the requirement.

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

**30 Contempt**

A person shall not:

- (a) insult the person constituting the Tribunal in or in relation to the exercise of his powers or functions as the Tribunal;
- (b) interrupt 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.

**31 Valuations to be exchanged**

- (1) Subject to subsection (2), the Tribunal shall not determine an application for compensation under this Act unless it is satisfied that a copy of each valuation to be presented at the hearing of the application and the proofs of evidence of each person to be called to give evidence at the hearing as to the value of acquired property has been made available for examination by or on behalf of the Territory or the applicant, as the case requires, not less than 21 days before the hearing of the application, and the Tribunal may postpone or adjourn a hearing to enable this to be done and make such orders as to costs in relation thereto as it thinks fit.
- (2) The Tribunal may make such orders and give such directions as it thinks fit relating to the exchange of valuations and proofs of evidence referred to in subsection (1).
- (3) Without limiting the generality of subsections (1) and (2), the Tribunal may, by order, direct the degree of particularity required in a valuation for the purposes of this section.

**Part IV Miscellaneous****32 Continuation of business and mitigation of cost of acquisition**

- (1) The Companies shall, until the date of acquisition, continue in a good and businesslike manner to conduct, and allow the continued operation of, the businesses normally conducted in and in relation to the casino and hotel complexes, notwithstanding the acquisition contemplated by this Act.



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- (2) The Companies shall, on and from the commencement of this section, refrain from taking any action in relation to the casino and hotel complexes or other property proposed by this Act to be acquired that has or would tend to have the effect of unreasonably increasing the amount of compensation payable or likely to be payable under this Act.
  - (3) If required in writing by the Minister so to do, the Companies shall allow a person nominated in writing by the Minister to enter and remain on a casino and hotel complex to observe the Companies' compliance with the requirements of this section and shall give to that person reasonable access to the books and other records of the Companies, and such other assistance as is necessary, to enable the person so nominated to do so.

### **33 Cancellation of licences, &c.**

- (1) All licences issued under the *Casino Licence and Control Act* and the *Liquor Act* to the Companies or any of them in respect of the casino and hotel complexes, notwithstanding anything in those Acts, cease to have force or effect on the date of acquisition.
- (2) All licence or other fees or charges for or under a licence which, by virtue of subsection (1), ceases to have force or effect shall be apportioned to the relevant Company or other person who, under those Acts referred to in subsection (1), would be liable to pay them, up to the date of acquisition, and that Company or other person shall, notwithstanding anything in those Acts, be liable to pay the amounts so apportioned to it or him as a debt due and payable on that date.
- (3) Where the Registrar, within the meaning of the *Liquor Act*, is unable to calculate the amount to be apportioned under subsection (2) in respect of a licence under that Act due to the failure of the former licensee to disclose records sufficient to enable the Registrar reasonably to do so, the Registrar may:
  - (a) make such inquiries as he thinks fit; and
  - (b) determine a notional fee,and the notional fee so determined shall be the fee to be so apportioned.
- (4) The Commission, within the meaning of the *Liquor Act*, shall, on the date of acquisition, without application or inquiry, issue to a person nominated in writing by the Minister (which nomination shall, where the person nominated is a body corporate, nominate a person to be the body corporate's manager of the licensed premises) a licence under that Act, in the same form and subject to the same conditions

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as obtained immediately before the date of acquisition, in respect of the licence under that Act which, by virtue of subsection (1), ceased to have force or effect.

- (5) For the purposes of section 4(1) of the *Casino Licensing and Control Act*, a licence granted under the *Casino Licence and Control Act* which, by virtue of subsection (1) of this section, ceases to have force or effect shall be deemed to be surrendered under section 44 of the *Casino Licence and Control Act*.

### **34 Cancellation of business names**

All business names registered under the *Business Names Act* in respect of the businesses carried on in or in relation to the casino and hotel complexes by the Companies or any of them shall, by force of this section, be cancelled, and the Registrar within the meaning of that Act shall make such entries in the register kept under that Act, and do such other things, as are necessary to record and give effect to those cancellations.

### **35 Entry into possession**

The Territory shall, on and from the date of acquisition, be deemed to have entered onto and taken possession of the acquired property and the Companies and their employees and agents shall do all things necessary to facilitate that entry and possession by the Territory, its successor in title or any person duly authorized by the Territory or its successor in title and execute all transfers, applications, permits and other documents necessary to effect the registration in any public register or other record, of the acquisition or subsequent transfer.

### **36 Redemption of gambling chips**

- (1) The Territory hereby guarantees the redemption by the operators from time to time of the casino and hotel complexes, at their face value, of all gambling chips issued by the Companies in either of the casino and hotel complexes before the date of acquisition and outstanding at that date, to the extent that that value is deducted from the compensation paid or payable under this Act to the Companies.
- (2) The Companies shall jointly and severally indemnify the operators referred to in subsection (1) and the Territory against loss by them or it in respect of the redemption of gambling chips referred to in that subsection in excess of the value disclosed by the Companies as having not been redeemed at the date of acquisition.

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**37 Pre-bookings guaranteed**

The Territory hereby guarantees the honouring by the operators from time to time of the casino and hotel complexes of all pre-bookings of accommodation and other facilities disclosed to the Territory by the Companies at the date of acquisition and the setting-off against the cost of the accommodation or facilities of all fees paid in advance in respect of those bookings, to the extent that the value of such fees is deducted from the compensation paid or payable under this Act to the Companies.

**38 Access to records**

The Companies shall, at all reasonable times, make available to the Territory and such other persons as the Minister, by notice in writing to the Companies, nominates, all records of the Companies reasonably necessary to enable the Territory or that person to identify and assess the value of the assets and liabilities of the Companies in relation to businesses conducted in and in relation to the casino and hotel complexes to the date of acquisition or efficiently to continue to operate those businesses after the date of acquisition.

**39 Inventory evidence of condition, &c., of property**

- (1) On or as soon as practicable after the date of acquisition, the Minister shall cause to be prepared an inventory of acquired property describing the condition of that property at that date.
- (2) An inventory prepared under subsection (1) shall, in any proceedings before the Tribunal, be prima facie evidence of the property acquired and its age and condition on the date of acquisition.

**40 Vesting of acquired property**

Property vested by this Act in the Territory may, if the Minister thinks fit, and upon such terms as he directs, be transferred to and vested in a body corporate incorporated under the Companies (Northern Territory) Code or by a law of the Territory.

**41 Payment of costs**

Costs awarded under rules providing for the awarding of costs made under section 24(2) are a debt due and payable by the person against whom, to the person in whose favour, they are awarded.

## **Schedule 1**

section 3

### **CASINO AND HOTEL COMPLEXES**

#### **Alice Springs Casino and Hotel Complex**

All that piece or parcel of land being Lots No. 923, 924 and 2436 Town of Alice Springs, being the whole of the land entered in Register Book of Crown Leases Volume 166 folio 39; and

All that piece or parcel of land being Lot No. 2435 Town of Alice Springs, being the whole of the land comprised in Miscellaneous Lease 535 and entered in Register Book of Crown Leases Volume 73 folio 50.

#### **Darwin Casino and Hotel Complex**

All that piece or parcel of land being Lot No. 5244 Town of Darwin, being the whole of the land entered in Register Book of Crown Leases Volume 166 folio 38.

## **Schedule 2**

### section 4

#### PROPERTY INCLUDED IN ACQUISITION

All liquor licences and casino licences granted to The Federal Hotels (Darwin) Pty. Ltd. and The Federal Hotel (Alice Springs) Pty. Ltd. respectively in respect of the casino and hotel complexes.

Good and readily usable or saleable consumables.

The right to use in the casino and hotel complexes (but not otherwise) the trademark owned by the Companies (or any one or more of them) used in connection with the said businesses and in particular which is imprinted, depicted, embossed, interwoven or otherwise shown on or incorporated in carpets, tiles, crockery, cutlery, linen, glassware, gambling chips or chattels forming part of the acquired property including the rights to have carpet or tiles manufactured incorporating such trademark to replace any existing carpet or tiles and with power to assign the right acquired hereunder to any person for use in connection with businesses conducted in either of the casino and hotel complexes.

The right to use the registered design of Two-up tables owned by the Companies (or any one or more of them) for the purpose of repairing or replacing or adding to the Two-up tables in the casino and hotel complexes (but not otherwise) and with power to assign the right acquired hereunder to any person for use in connection with any businesses conducted in either of the casino and hotel complexes.

## **Schedule 3**

section 4

### PROPERTY EXCLUDED FROM ACQUISITION

Keno system software

Trade debts

Unusable or unsaleable consumables

## **Schedule 4**

section 9(1)

### **RULES FOR THE ASSESSMENT OF COMPENSATION**

#### **1. Value to the owner**

Subject to section 13 of the Act and to this Schedule, the compensation payable to a claimant in respect of the acquisition of acquired property is the amount that fairly compensates the claimant for the loss he has suffered, or will suffer, by reason of the acquisition of the property.

#### **2. Market value, special value, severance, disturbance**

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

- (a) the consideration that would have been paid for the acquired property if it had been sold on the open market on the date of acquisition by a willing but not anxious seller to a willing but not anxious buyer;
- (b) the value of any additional advantage to the claimant incidental to his ownership, or occupation of, the acquired property; and
- (c) any loss sustained, or cost incurred, by the claimant as a natural and reasonable consequence of the acquisition of the acquired property for which provision is not otherwise made under the Act.

#### **3. Circumstances peculiar to the claimant**

For the purposes of rule 2(c), in determining whether a particular loss sustained, or cost incurred, by a claimant is a natural and reasonable consequence of the acquisition of the acquired property, the Tribunal shall take into account any circumstances peculiar to the claimant.

#### **4. Determinable interests**

If, at the date of acquisition, the interest of the claimant in the acquired property 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.

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**5. Matters not to be taken into account**

The Tribunal shall not take into account:

- (a) any special suitability or adaptability of the acquired property for a purpose for which it could only be used in pursuance of a power conferred by law;
- (b) any increase in value of the acquired property 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 the acquisition; or
- (d) any increase in the value of the acquired property caused by construction, on or after the date on which the Administrator's assent to the Act was given, of any improvements on or to the acquired property without the approval of the Minister.

**6. Mortgage debts**

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



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## 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
<b>Gaz</b> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

### 2 LIST OF LEGISLATION

***Federal Hotels Casinos (Compensation) Act 1984 (Act No. 37, 1984)***

Assent date	7 September 1984
Commenced	ss 1 to 3, 5, 32(3): 7 September 1984; s 32(1) and (2): 22 August 1984; rem: 1 October 1984 (Gaz S51, 27 September 1984)

***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)

### 3 LIST OF AMENDMENTS

s 3	amd No. 18, 1986, s 3
s 15	amd No. 48, 1986, s 9
s 17	amd No. 48, 1986, s 9
s 40	amd No. 18, 1986, s 3