

**NORTHERN TERRITORY OF AUSTRALIA**

**LANDS ACQUISITION ACT 1978**

As in force at 1 May 2016

**Table of provisions**

<b>Part I</b>	<b>Preliminary</b>	
1	Short title .....	1
2	Commencement .....	1
3	Repeals .....	1
4	Interpretation .....	1
5	Just terms .....	4
5A	Application in relation to native title .....	4
<b>Part III</b>	<b>Temporary entry onto land</b>	
28A	Certain land not to be acquired.....	5
29	Authorisations.....	6
30	Entry and works.....	6
31	Interference .....	6
<b>Part IIIA</b>	<b>Acquisition by agreement</b>	
31A	Agreement with owner, &c.....	7
<b>Part IV</b>	<b>Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes</b>	
<b>Division 1A</b>	<b>Application</b>	
31B	Application above highwater mark etc. ....	7
31C	Acquisition of native title valid if procedures complied with .....	8
<b>Division 1</b>	<b>Proposal</b>	
32	Notification of proposal .....	8
33	Form of notices.....	10
34	Lodgement of objections .....	12
35	Modification or abandonment of proposal.....	13
<b>Division 2</b>	<b>Consideration of objections</b>	
35A	Agreement is anticipated and strongly encouraged.....	14
36	Invitation to consult.....	15

37	Consultation and mediation .....	15
38	Application to Tribunal .....	16
38AA	Criteria for making recommendation.....	17
38A	Procedure if no objections lodged, objections withdrawn, &c. ....	18
38B	Consultations may continue.....	19

### **Division 3      Right to negotiate, &c.**

39	Agreement and determination under Subdivision P made before 30 September 1998 .....	19
40	Compulsory acquisition where right to negotiate applies .....	20
41	Abandonment of proposal .....	21

### **Part IVA      Pre-acquisition procedures: certain acquisitions below highwater mark**

42	Application .....	21
42A	Notification of proposal .....	22
42B	Form of notices .....	23
42C	Comments on acquisition .....	24
42D	Minister to have regard to comments .....	25

### **Part V      Acquisition of land**

#### **Division 1      Acquisition**

43	Acquisition generally .....	25
44	Acquisition on urgency .....	26
45	Recommendations of Tribunal.....	27
45AA	Where acquisition may be done subject to conditions .....	30
45A	Judicial review .....	30
46	Effect of notice of acquisition .....	31
47	New interests.....	32
48	Land acquired is crown land .....	32

#### **Division 2      Action after acquisition**

49	Service of notice of acquisition .....	33
50	Offers.....	34
50A	Compensation other than money in respect of native title .....	37
51	Reference to Tribunal .....	37
52	Claims .....	38
53	Title documents .....	39

### **Part VI      Entry into possession**

54	Entry into possession .....	40
55	Warrants.....	40
56	Protection of persons executing warrants.....	41

---

<b>Part VII</b>	<b>Compensation</b>	
59	Compensation for acquired land.....	41
60	Compensation for abandonment of proposals.....	42
61	Damages .....	42
62	Prepayments .....	43
63	Offers of resettlement.....	43
64	Interest .....	44
65	Rates of interest .....	44
66	Assessment of compensation.....	44
67	Recovery of compensation .....	45
67A	Compensation payable without objection .....	45
<b>Part VIII</b>	<b>Assessment of compensation or damages</b>	
<b>Division 1</b>	<b>Acquired land</b>	
68	Notices.....	45
69	Reference to Tribunal after first offer .....	46
70	Counter offers.....	46
71	Reference to Tribunal after further offer .....	46
72	Documents to be transmitted to Tribunal.....	46
<b>Division 2</b>	<b>Abandoned proposals and damages</b>	
73	Claims .....	46
74	Offers.....	47
75	Reference to Tribunal.....	47
76	Documents to be transmitted to Tribunal.....	47
<b>Division 3</b>	<b>Proceedings before Tribunal</b>	
80	Payment into Tribunal.....	48
81	Determinations .....	48
81A	Reconsideration of determination where determination of native title revised.....	48
82	Instrument of determination .....	48
83	Service of determinations .....	49
<b>Part VIIIA</b>	<b>Lands Trust Fund</b>	
83A	Establishment of Trust Fund.....	49
83B	Payments into Trust Fund.....	49
83C	How trust amounts to be dealt with.....	50
<b>Part X</b>	<b>Miscellaneous</b>	
89	Acquisition by agreement under this Act .....	52
89A	Other acquisitions.....	52

---

90	Service.....	52
91	Registrar-General .....	53
93	Execution of documents .....	53
94A	Delegation .....	54
95	Regulations.....	54

**Part XI**            **Transitional matters for Northern Territory  
Civil and Administrative Tribunal  
(Conferral of Jurisdiction Amendments)  
(No. 2) Act 2014**

96	Applications before former Tribunal.....	55
----	--	----

**Schedule 1**        **Repealed Statutes**

**Schedule 2**        **Rules for the assessment of compensation**

**ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

---

As in force at 1 May 2016

---

## LANDS ACQUISITION ACT 1978

An Act relating to the acquisition of land by the Territory

### Part I Preliminary

#### 1 Short title

This Act may be cited as the *Lands Acquisition Act 1978*.

#### 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 Interpretation

(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 notice of the proposal under section 32(1)(b) or (f) or (2A).

***alternative provision area*** has the meaning given in section 43A(2) of the Native Title Act.

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

***approved form*** means a form approved by the Minister for the purposes of the provision in which the expression occurs.

**claimant** and **complainant for compensation** 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**, in relation to land, means:

- (a) in the case of land acquired or to be acquired by agreement under this Act – the date agreed between the parties; and
- (b) in any other case – the date on which a notice of acquisition of the land is published in the *Gazette*.

**future act** has the meaning given in section 233 of the Native Title Act.

**indigenous land use agreement** means an indigenous land use agreement within the meaning of section 253 of the Native Title Act:

- (a) details of which are entered on the Register of Indigenous Land Use Agreements established and maintained under Part 8A of the Native Title Act; and
- (b) that contains statements to the effect described in section 24EB(1)(b), (c) and (d) of the Native Title Act as applicable.

**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.

**land** means land (including the seabed) within the limits of the Territory and includes an interest in land.

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

**mortgage** means an interest in land to secure a debt.

**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.

**Native Title Registrar** has the meaning given in section 253 of the Native Title Act.

**notice of acquisition** means a notice referred to in section 43(1)(b).

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

**notice of proposal** means a notice referred to in section 33.

**notice of proposed acquisition** means a notice referred to in section 32(1)(e).

**onshore place** has the meaning given in section 253 of the Native Title Act.

**owner**, in relation to land, means the owner of an estate or interest in the land, but does not include a person whose interest or claimed interest in the land cannot be identified by or as a result of an examination of the Register kept by the Registrar-General under Part 3 of the *Land Title Act 2000*.

**previous exclusive possession act** has the meaning given in section 23B of the Native Title Act.

**proposal** means a proposal to compulsorily acquire land under this Act.

**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.

**representative Aboriginal/Torres Strait Islander body** has the meaning given in section 253 of the Native Title Act.

**Tribunal** means the Civil and Administrative Tribunal.

- (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 Application in relation to native title**

- (1) This Act applies in relation to an acquisition of an interest in land that comprises native title rights and interests:
  - (a) that is an act to which the consequences in section 24MD(6A) or (6B) of the Native Title Act apply; or
  - (b) where:
    - (i) the acquisition:
      - (A) is an act to which Subdivision P of Division 3 of Part 2 of the Native Title Act would have otherwise applied; and
      - (B) relates, to any extent, to an area of land that is an alternative provision area; and
    - (ii) there is a determination in force under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of this Act.

- (2) Where section 40 applies in relation to a compulsory acquisition of an interest in land, this Act (other than Divisions 1 and 2 of Part IV) applies in respect of the acquisition.
- (2A) If, on or after 30 September 1998 but before a determination under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of this Act comes into force, a notice under section 29 of the Native Title Act is given in respect of a compulsory acquisition of native title rights and interests that relates to an alternative provision area, then section 40 of this Act applies.
- (3) To avoid doubt, any requirement of this Act relating to the service of a notice on a representative Aboriginal/Torres Strait Islander body does not apply if the compulsory acquisition is not a future act.

### **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 Act 2003* 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 1992* 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 1992* 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 subsection (1)(b).

## **29 Authorisations**

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

## **30 Entry and works**

- (1) Subject to this section, a person authorised under section 29 may enter and remain on the land specified in the authorisation for the minimum period necessary for the reasonable investigation of the suitability of the land for the proposal.
- (2) A person authorised under section 29 shall:
- (a) ensure that any work performed for the purposes of a survey or investigation authorised under subsection (1) has as little impact as possible on the land and on anything on or growing on the land;
  - (b) subject to any agreement that has been entered into with the owner of the land or the registered native title body corporate in respect of the land, at the end of the survey or investigation, remove from the land anything that person brought onto 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,

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 1A	Application

---

in accordance with an authorisation under section 29.

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

## **Part IIIA Acquisition by agreement**

### **31A Agreement with owner, &c.**

The Minister may acquire land under this Act by agreement if the agreement is:

- (a) in the case of the acquisition of a native title right or interest – in accordance with an indigenous land use agreement; or
- (b) in the case of any other interest in land – with the owner of the land.

## **Part IV Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes**

### **Division 1A Application**

#### **31B Application above highwater mark etc.**

- (1) Subject to subsections (2) and (3), this Part applies in relation to:
  - (a) the compulsory acquisition of an interest in land to the extent that the acquisition relates to an onshore place on the landward side of the mean highwater mark of the sea; and
  - (b) the compulsory acquisition of an interest in land to the extent that the acquisition relates to an onshore place on the seaward side of the mean highwater mark of the sea where the compulsory acquisition is an act to which the consequences of section 24MD(6B) of the Native Title Act apply.
- (1A) The compulsory acquisition of an interest in land on an onshore place on the seaward side of the mean highwater mark of the sea (other than a compulsory acquisition that is an act to which the consequences of section 24MD(6B) apply) is dealt with under Part IVA.

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 1	Proposal

---

- (2) Where, in relation to the compulsory acquisition of land:
- (a) this Part would, but for this subsection, apply in relation to the compulsory acquisition of so much of the land as is on the landward side of the mean highwater mark of the sea; and
  - (b) Part IVA would, but for this subsection, apply in relation to the compulsory acquisition of so much of the land as is on the seaward side of the mean highwater mark of the sea,
- the compulsory acquisition is to be taken to consist of 2 separate acts of compulsory acquisition as follows:
- (c) the compulsory acquisition of land on the landward side of the mean highwater mark of the sea;
  - (d) the compulsory acquisition of land on the seaward side of the mean highwater mark of the sea.
- (3) Divisions 1 and 2 of this Part do not apply in relation to a compulsory acquisition to which section 40 applies.

### **31C Acquisition of native title valid if procedures complied with**

A compulsory acquisition of native title rights and interests to which this Part applies is only valid if in relation to the compulsory acquisition the procedures of this Part are complied with, and it is invalid if they are not.

## **Division 1 Proposal**

### **32 Notification of proposal**

- (1) The Minister may compulsorily acquire land in relation to which this Part applies if the Minister has:
- (a) caused a search to be made of:
    - (i) the Register maintained by the Registrar-General under the *Land Title Act 2000*; and
    - (ii) the Register of Native Title Claims and the National Native Title Register maintained under the Native Title Act;

- (b) caused a notice of proposal to be served on each person ascertained as a result of that search or otherwise as having or claiming to have an interest in the land that will be divested, modified or affected by the acquisition of the land, including:
    - (i) the registered native title claimants (if any) in relation to any of the land; and
    - (ii) the registered native title bodies corporate (if any) in relation to any of the land;
  - (c) if native title rights and interests may be affected by the proposal – caused a copy of the notice to be served on the representative Aboriginal/Torres Strait Islander body or bodies in relation to any of the land;
  - (d) if the land is registered on the register referred to in paragraph (a)(i) – caused a copy of the notice to be lodged with the Registrar-General;
  - (da) if native title rights and interests will or may be affected by the proposal – caused a copy of the notice to be lodged with the Native Title Registrar;
  - (e) caused a notice of proposed acquisition to be published in a newspaper circulating in the area in which the land is situated; and
  - (f) caused a notice of proposal in the approved form to be served on the other persons the Minister is satisfied have an interest in the land that will be divested, modified or affected by the acquisition and on the other persons the Minister thinks necessary.
- (2) A notice of proposal or notice of proposed acquisition under subsection (1) may relate to the acquisition of more than one area of land or more than one interest in the same area of land.
- (2A) If the Minister:
- (a) receives an application in accordance with the statement referred to in section 33(3)(c) and is satisfied that the applicant may have an interest in the land proposed to be acquired; or
  - (b) is advised in accordance with the statement referred to in section 33(3)(d) that a person has a claim for registration pending as described in section 33(3)(d),

within 14 days after receiving the application or being so advised, the Minister must cause a notice of proposal to be served on the applicant or person.

- (3) The serving of a notice of proposal under subsection (1)(b) or (f) or (2A) does not constitute:
- (a) an offer or binding agreement to acquire the land the subject of the notice; or
  - (b) a recognition by the Territory that the person on whom it is served has an interest in the land proposed to be acquired.

### **33 Form of notices**

- (1) A notice of proposal is to be in the approved form and contain:
- (a) a description of the land proposed to be acquired;
  - (b) details of the manner in which it is proposed that the land, if acquired, will be dealt with;
  - (c) an invitation to the person on whom the notice is served to negotiate with the Minister the conditions of the acquisition of the person's interest by agreement under this Act and advice to the person that in the absence of agreement the land will be compulsorily acquired but that the land will only be acquired (whether by agreement or compulsorily) after all objections lodged in accordance with section 34 have been dealt with under this Part; and
  - (d) a statement:
    - (i) specifying, in accordance with section 34(1), the period within which the person served with the notice of proposal may lodge with the Minister an objection to the acquisition so far as it affects the person's interest in the land and the date on which that period commences (being 10 days after the date of publication of the notice of proposed acquisition); and
    - (ii) to the effect that, if the person is a registered native title claimant or registered native title body corporate or has a claim for registration pending as described in subsection (3)(d) in relation to any of the land, the person may lodge an objection to the acquisition so far as it affects the person's native title right and interests.

- (2) The Minister must cause to be served on each person served with a notice of proposal under section 32(1)(b) or (f) or (2A) a statement in the approved form summarising the rights of such persons under this Act.
- (3) A notice of proposed acquisition is to be in the approved form and contain:
- (a) a description of the land proposed to be acquired;
  - (b) details of the manner in which it is proposed that the land, if acquired, will be dealt with;
  - (c) a statement indicating that a person who has or claims to have an interest in the land that will be divested, modified or affected by the acquisition may, within 21 days of the date of publication of the notice, apply to the Minister for a notice of proposal and must indicate in the application the nature of the interest held or claimed;
  - (d) a statement indicating that if:
    - (i) within 3 months after the date specified in the notice of proposal referred to in paragraph (e), a person (other than a person served under section 32(1)(b)(i) or (ii)) advises the Minister in writing that the person has made an application to the Federal Court for a determination of native title in respect of any of the land proposed to be acquired; and
    - (ii) the Native Title Registrar has not yet decided whether or not to accept the claim for registration in the Federal Court application,the person may, within 4 months from the date specified in the notice of proposal referred to in paragraph (e), lodge an objection to the acquisition so far as it affects the native title rights and interests specified in the claim; and
  - (e) a statement indicating that a person referred to in paragraph (c) or (d) is not entitled under this Act to lodge an objection to the acquisition unless the person has been served with a notice of proposal under section 32(2A).

### **34 Lodgement of objections**

(1) Where a person is served with a notice of proposal under section 32, the person may:

(a) if the person has a claim for registration pending as described in subsection 33(3)(d) – within 4 months after the date specified in the notice of proposal (being 10 days after the date of publication of the notice of proposed acquisition); or

(b) in any other case – within 2 months after the date specified in the notice of proposal (being 10 days after the date of publication of the notice of proposed acquisition) or within the further period allowed in writing by the Minister,

lodge with the Minister an objection to the acquisition so far as it affects that interest.

(1A) Subject to subsection (1)(a), a person who claims to have native title rights and interests in land the subject of a proposal may only lodge an objection under subsection (1) if the person is a registered native title claimant in respect of those rights and interests.

(1B) An objection lodged under subsection (1)(a) is to be taken not to have been lodged if, by the end of 4 months after the date specified in the notice of proposal (being 10 days after the date of publication of the notice of proposed acquisition), the Native Title Registrar:

(a) has not accepted the claim for registration; or

(b) has not yet decided whether or not to accept the claim for registration.

(2) For the purposes of subsection (1), the objection of a registered native title claimant or registered native title body corporate in relation to any of the land proposed to be acquired may include an objection to the acquisition so far as it affects their registered native title rights and interests.

(3) An objection:

(a) is to be in the approved form;

(b) is to contain particulars of the effect that the acquisition would have on the interest that the person objecting has or claims to have in the land; and

- (c) is to be accompanied by the prescribed fee, unless payment of the fee has been waived by the Minister.
- (4) Subject to section 89A, compensation is payable to a person whose interest in land is acquired under this Part whether or not the person lodged an objection to the acquisition under section (1).
- (5) If there are no registered native title claimants or registered native title bodies corporate in relation to any of the land proposed to be acquired and either:
  - (a) the purpose of the acquisition is to confer rights or interests in relation to the land proposed to be acquired on the Territory and the Minister makes a statement in writing to that effect before the acquisition takes place;
  - (b) the purpose of the acquisition is to provide an infrastructure facility within the meaning of section 253 of the Native Title Act; or
  - (c) the acquisition relates solely to land or waters within a town or city within the meaning of section 251C of the Native Title Act, the representative Aboriginal/Torres Strait Islander body in relation to any of the land proposed to be acquired may, within 2 months after being served with a copy of the notice of proposal under section 32(1)(c) or within the further time allowed in writing by the Minister, lodge in writing with the Minister comments on the acquisition.
- (6) In addition to any other requirements of this Act relating to the consideration of objections and comments about a proposal, the Minister must consider any comments lodged under subsection (5) before determining whether or not to proceed with the proposal.

### **35 Modification or abandonment of proposal**

- (1) The Minister may, at any time before the date of acquisition, modify or abandon a proposal.
- (2) The Minister must cause notice of any modification or abandonment of a proposal to be lodged with:
  - (a) each affected person; and

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 2	Consideration of objections

---

- (c) if a copy of the notice of proposal was lodged with the Registrar-General or the Native Title Registrar under section 32(1)(d) – the Registrar-General or the Native Title Registrar, as the case may be.
- (3) The abandonment of a proposal under this section does not prevent the Minister from entering into negotiations to acquire the land the subject of the proposal by agreement under this Act or otherwise or prevent the acquisition of that land by such agreement.
- (4) A reference in this section to the modification of a proposal is to be read as a reference to a modification that results in either or both of the following:
  - (a) a reduction in the area of land proposed to be acquired;
  - (b) an alteration to the manner in which it is proposed to deal with the land if acquired, but not so as to have a greater impact (which, in the case of a proposal to deal with the land in a manner that affects native title rights and interests, means a greater impact or affect on native title) than the manner in which it was originally proposed to deal with the land.

## **Division 2            Consideration of objections**

### **35A            Agreement is anticipated and strongly encouraged**

It is anticipated that the parties concerned will only have recourse to the provisions of this Act relating to the procedure for dealing with an objection to a proposal or determining compensation payable for the acquisition of an interest in acquired land if they are unable to resolve those objections by agreement or to reach an agreement about that compensation, and the parties concerned are strongly encouraged to resolve objections by agreement and to reach agreement about compensation; it being noted that the parties may enter into one or more agreements relating to the resolution of objections, compensation or both and that agreement may be reached, in the case of objections, at any time before the Minister decides to compulsorily acquire the land and, in the case of compensation, at any time before compensation is paid and, in either case, as a result of discussions held at any time and whether as part of the consultations under section 37 or otherwise than under this Act.

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 2	Consideration of objections

---

### **36 Invitation to consult**

Subject to section 34(1B), within 14 days after the last day on which any person was entitled under section 34 to lodge an objection to a proposal, the Minister must invite each person who lodged an objection in accordance with section 34 to consult with the Minister in accordance with section 37.

### **37 Consultation and mediation**

- (1) Subject to section 34(1B), the Minister must consult with a person who lodged an objection in accordance with section 34 about the acquisition.
- (2) Where under subsection (1) the Minister consults with any registered native title claimant or registered native title body corporate who objects to the acquisition, the consultation is to include consultation with the claimant or body about ways of minimising the impact of the acquisition on registered native title rights and interests in relation to the land, including (if section 24MD(6B)(e) of the Native Title Act applies in relation to the acquisition and it is relevant to do so) about any access to that land or the way in which anything authorised by the acquisition might be done.
- (3) For the purposes of subsection (1), consultation is to take place over a period of:
  - (a) if the proposal relates to less than 5 hectares of land – 3 months; or
  - (b) if the proposal relates to 5 or more hectares of land – 4 months,
 commencing at the end of 14 days after the last day on which any person is entitled under section 34 to lodge an objection to the proposal.
- (4) Subject to subsection (4A) and section 38, at any time within the relevant consultation period referred to in subsection (3), the Minister and the person objecting to the acquisition may agree to refer the matter to mediation and the matter is to be taken to have been referred accordingly.
- (4A) Subject to section 38, in the case of an acquisition to which section 5A(1)(b) applies, either the Minister or the person objecting to the acquisition may, after inquiring in writing of the other party as to that party's attitude towards mediation, refer the matter to

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 2	Consideration of objections

---

mediation and the matter is to be taken to have been referred accordingly.

- (5) For the purposes of subsections (4) and (4A):
  - (a) the parties may agree on the appointment of a mediator; or
  - (b) if the parties agree to mediation under subsection (4) but cannot agree on the mediator or one of the parties refers the matter to mediation.
- (6) Nothing in this section is to be taken to prevent the parties from commencing consultations before the period referred to in subsection (3) commences.
- (7) The parties are encouraged to consult with a view to resolving objections and nothing in this section is to be taken to prevent the parties from doing so.

### **38 Application to Tribunal**

- (1) At any time:
  - (a) after:
    - (i) the end of the relevant consultation period referred to in section 37(3); or
    - (ii) if a matter was referred to mediation under section 37(4) or (4A) and the parties have agreed to the mediation being conducted or continuing to be conducted during a further period of 30 days after the relevant consultation period referred to in section 37(3) – the end of that further period; or
  - (b) if the Minister and the person objecting have agreed in writing that neither party may take action under this section until after a longer period has expired – after that longer period,
 

either the Minister or the person objecting to the acquisition may apply to the Tribunal to have the objection to the acquisition heard.
- (2) The Tribunal must not proceed to hear and make recommendations about the objection unless the parties to the proceeding have complied with sections 36, 37 and 38.

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 2	Consideration of objections

---

- (3) For subsection (2), the non-participation in the consultation process by the party objecting to the acquisition is not a ground for refusal by the Tribunal to hear and make recommendations about the objection.

### **38AA Criteria for making recommendation**

- (1) In making a recommendation in relation to the acquisition of land, the Tribunal must take into account all matters that the Tribunal considers relevant.
- (2) Where registered native title rights and interests will be or may be affected by the acquisition, the matters that the Tribunal must take into account under subsection (1) include:
- (a) all objections in relation to the effect that the acquisition will have or is likely to have on registered native title rights and interests that were referred to the Tribunal and all submissions made to the Tribunal about those objections, which may include objections and submissions about those objections as to the effect of the acquisition on any of the following:
    - (i) the enjoyment by the native title claim group of those registered native title rights and interests;
    - (ii) the way of life, culture and traditions of the native title claim group;
    - (iii) the development of the social, cultural and economic structures of the native title claim group;
    - (iv) the freedom of access by the native title claim group to the land or waters concerned and their freedom to carry out rites, ceremonies or other activities of cultural significance on the land or waters in accordance with their traditions;
    - (v) any area or site, on the land or waters concerned, of particular significance to the native title claim group in accordance with their traditions;
  - (b) ways of minimising the impact of the acquisition on registered native title rights and interests, including in relation to access to the land the subject of the acquisition;

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 2	Consideration of objections

---

- (c) the economic or other significance of the acquisition to the Territory and to the region in which the land the subject of the acquisition is located, including the Aboriginal peoples who live in that region; and
  - (d) the public interest in the acquisition.
- (3) Before making a recommendation in relation to the acquisition of land:
- (a) the Tribunal must inquire of the parties to the proceeding whether there are any issues relevant to its recommendation in relation to which the parties have reached agreement; and
  - (b) if such an agreement has been reached and the parties consent to the Tribunal doing so, the Tribunal must (if relevant) take the agreement into account.
- (4) In subsection (2)(a), **native title claim group**, in relation to registered native title rights and interests, means:
- (a) the registered native title claimants and the persons on whose behalf the claim in respect of those native title rights and interests is made; or
  - (b) the persons in respect of whom there is an approved determination of native title to the effect that those persons hold native title, including the members of a registered native title body corporate.

**38A Procedure if no objections lodged, objections withdrawn, &c.**

- (1) An objection lodged under section 34 may be withdrawn at any time by notice in writing given to the Minister.
- (2) If:
  - (a) at the end of the last day on which any person is entitled under section 34 to lodge an objection to a proposal, no such objections have been lodged; or
  - (b) after the last day on which any person was entitled under section 34 to lodge an objection to a proposal but immediately before the Minister determines whether or not to proceed with the proposal in respect of each objection lodged, either:
    - (i) the objection has been withdrawn; or

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 3	Right to negotiate, &c.

---

- (ii) 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 an approved determination of native title that the claimant holds native title in any of the land proposed to be acquired has been made or the claimant has been replaced under section 66B of the Native Title Act,

the Minister may proceed to compulsorily acquire the land.

- (3) If, after an objection to a proposal has been referred to the Tribunal under section 38, the circumstances in subsection (2)(b)(i) or (ii) occur in relation to the proposal:
  - (a) the Minister must notify the Tribunal in writing of that fact; and
  - (b) on being so notified, the Tribunal must not proceed to make a determination in respect of the matter.
- (4) If the circumstances in subsection (2)(b)(i) or (ii) occur in relation to a proposal after the Tribunal has made a recommendation in relation to the proposal, section 45 does not apply and the Minister may proceed to compulsorily acquire the land.

### **38B Consultations may continue**

Nothing in this Act is to be taken to affect the ability of the parties to continue efforts to resolve an objection to an acquisition lodged under section 34 until such time as the Minister decides whether or not to compulsorily acquire the land the subject of the proposal, including while the objection is before the Tribunal.

## **Division 3 Right to negotiate, &c.**

### **39 Agreement and determination under Subdivision P made before 30 September 1998**

- (1) Where, immediately before 30 September 1998:
  - (a) an agreement under section 31(1)(b) of the old Native Title Act had been made; or
  - (b) a determination under section 38(1) of the old Native Title Act had been made,

the agreement or determination is saved and applies instead of the pre-acquisition procedures under Divisions 1 and 2 of this Part.

Part IV	Pre-acquisition procedures: acquisitions above highwater mark and acquisitions of native title below highwater mark for non-government purposes
Division 3	Right to negotiate, &c.

---

- (2) In subsection (1), ***old Native Title Act*** means the *Native Title Act 1993* of the Commonwealth as in force immediately before 30 September 1998.

#### **40 Compulsory acquisition where right to negotiate applies**

- (1) This section applies in relation to the following:
- (a) a proposal to compulsorily acquire native title rights and interests where:
    - (i) the proposal relates to an alternative provision area;
    - (ii) the proposed acquisition is an act to which Subdivision P of Division 3 of Part 2 of the Native Title Act applies; and
    - (iii) a notice under section 29 of the Native Title Act is given before a determination under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of this Act comes into force;
  - (b) a proposal to compulsorily acquire native title rights and interests where the proposed acquisition is an act to which Subdivision P of Division 3 of Part 2 of the Native Title Act applies (other than an acquisition that relates to an alternative provision area) and a notice under section 29 of the Native Title Act is given at any time;
  - (c) a proposal to compulsorily acquire native title rights and interests where:
    - (i) the proposal relates to an alternative provision area; and
    - (ii) a notice of proposal is given after a determination under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of this Act comes into force but, before those procedures are completed or the compulsory acquisition is done, that determination ceases to be in force.
- (2) Divisions 1 and 2 of this Part do not apply in relation to a proposal to which this section applies.
- (3) Subject to section 41(6) of this Act and to Subdivision P of Division 3 of Part 2 of the Native Title Act, native title rights and interests that are the subject of a proposal to which this section applies may only be compulsorily acquired under section 43(1)(b) of this Act after the Minister has complied with the procedures in that

Subdivision.

#### **41 Abandonment of proposal**

- (1) The Minister may, at any time before the date of acquisition, abandon a proposal in relation to which section 39 or 40 applies.
- (2) The Minister must cause notice of the abandonment of a proposal to be given to the persons to whom notice of the proposal was given under section 29 of the Native Title Act.
- (3) The abandonment of a proposal does not prevent the Minister from entering into negotiations to acquire the native title rights and interests the subject of the proposal by agreement under this Act or otherwise or prevent the acquisition of those rights and interests by such agreement.
- (5) The abandonment of a proposal in relation to which section 40(1)(b) or (c) applies does not prevent the Minister from compulsorily acquiring the native title rights and interests the subject of the proposal if in doing so the Minister complies with Subdivision P of Division 3 of Part 2 of the Native Title Act.
- (6) The abandonment of a proposal in relation to which section 40(1)(a) applies does not prevent the Minister from compulsorily acquiring the native title rights and interests the subject of the proposal once a determination under section 43A(1)(b) of the Native Title Act in respect of the relevant provisions of this Act comes into force if in doing so the Minister complies with Divisions 1 and 2 of this Part and in so complying the Minister causes the relevant notices of proposal to be served under section 32(1) at least 12 months after notice of the abandonment is given under subsection (2).

### **Part IVA Pre-acquisition procedures: certain acquisitions below highwater mark**

#### **42 Application**

- (1) Subject to section 31B(2), this Part applies in relation to the compulsory acquisition of land to the extent that the acquisition relates to an onshore place on the seaward side of the mean highwater mark of the sea, other than a compulsory acquisition that is an act to which the consequences of section 24MD(6B) of the Native Title Act apply.

- (2) To avoid doubt:
  - (a) this Part applies in relation to:
    - (i) the compulsory acquisition of an interest in land (other than a native title right or interest) for any purpose; and
    - (ii) the compulsory acquisition of native title rights and interests for a purpose other than the purpose described in section 24MD(6B) of the Native Title Act; and
  - (b) Part IV applies in relation to the compulsory acquisition of native title rights and interests for the purpose described in section 24MD(6B) of the Native Title Act.
- (3) Where it is proposed to compulsorily acquire an interest of a type described in paragraph (a) and an interest of a type described in paragraph (b), this Part applies in relation to the firstmentioned interest and Part IV applies in relation to the secondmentioned interest.

#### **42A Notification of proposal**

- (1) The Minister may compulsorily acquire land in relation to which this Part applies if the Minister has:
  - (a) caused a search to be made of:
    - (i) the Register maintained by the Registrar-General under the *Land Title Act 2000*; and
    - (ii) the Register of Native Title Claims and the National Native Title Register maintained under the Native Title Act;
  - (b) caused a notice of proposal to be served on each person ascertained as a result of that search or otherwise as having or claiming to have an interest in the land that will be divested, modified or affected by the acquisition of the land, including:
    - (i) the registered native title claimants (if any) in relation to any of the land; and
    - (ii) the registered native title bodies corporate (if any) in relation to any of the land;
  - (c) if native title rights and interests may be affected by the acquisition – caused a copy of the notice of proposal to be served on the representative Aboriginal/Torres Strait Islander body or bodies in relation to the land;

- (d) if the land is registered on a register referred to in paragraph (a) – caused a copy of the notice to be lodged with the Registrar-General or the Native Title Registrar, as the case may be;
  - (e) caused a notice of proposed acquisition in the approved form to be published in a newspaper circulating in the area in which the land is situated; and
  - (f) caused a notice of proposal in the approved form to be served on the other persons the Minister is satisfied have an interest in the land that will be divested, modified or affected by the acquisition and on the other persons the Minister thinks necessary.
- (2) A notice of proposal or notice of proposed acquisition under subsection (1) may relate to the acquisition of more than one area of land or more than one interest in the same area of land.
- (2A) If the Minister receives an application in accordance with the statement referred to in section 42B(3)(c) and is satisfied that the applicant may have an interest in the land proposed to be acquired, within 14 days after receiving the application, the Minister must cause a notice of proposal to be served on the applicant.
- (3) The serving of a notice of proposal under subsection (1)(b) or (f) or (2A) does not constitute:
- (a) an offer or binding agreement to acquire the land the subject of the notice; or
  - (b) a recognition by the Territory that the person on whom it is served has an interest in the land proposed to be acquired.

#### **42B Form of notices**

- (1) A notice of proposal is to be in the approved form and contain:
- (a) a description of the land proposed to be acquired;
  - (b) details of the manner in which it is proposed that the land, if acquired, will be dealt with;
  - (c) an invitation to the person on whom the notice is served to negotiate with the Minister the conditions of the acquisition of the person's interest by agreement under this Act and advising the person that in the absence of agreement the land will be compulsorily acquired;

- (d) a statement indicating the period within which a person served with a notice of proposal may lodge with the Minister comments on the acquisition; and
  - (e) where the proposal is for the acquisition of native title rights and interests – a statement to the effect that, if there are no registered native title claimants or registered native title bodies corporate in relation to the land the subject of the proposal, the representative body or bodies in relation to that land may, within 2 months after being served with a copy of a notice of proposal under section 42A(1)(c), lodge in writing with the Minister comments on the acquisition.
- (2) The Minister must cause to be served on each person served with a notice of proposal under section 42A(1)(b) or (f) or (2A) a statement in the approved form summarising the rights of such persons under this Act.
- (3) A notice of proposed acquisition is to be in the approved form and contain:
- (a) a description of the land proposed to be acquired;
  - (b) details of the manner in which it is proposed that the land, if acquired, will be dealt with;
  - (c) a statement indicating that a person who has or claims to have an interest in the land that will be divested, modified or affected by the acquisition may, within 21 days of the date of publication of the notice, apply to the Minister for a notice or proposal and must indicate in the application the nature of the interest held or claimed; and
  - (d) a statement indicating that a person referred to in paragraph (c) is not entitled under this Act to lodge comments on the acquisition unless the person has been served with a notice of proposal under section 42A(2A).

#### **42C      Comments on acquisition**

- (1) Where a person is served with a notice of proposal under section 42A, the person may:
- (a) if the person was served under section 42A(1)(b) – within 2 months after the date of the notice of proposal or within the further period allowed in writing by the Minister; or
  - (b) in any other case – within 2 months after the date of publication of the notice of acquisition or within the further period allowed in writing by the Minister,

lodge with the Minister comments on the acquisition.

(2) Where:

- (a) the proposal is for the acquisition of native title rights and interests (if any); and
- (b) there are no registered native title claimants or registered native title bodies corporate in relation to any of the land the subject of the proposal,

the representative Aboriginal/Torres Strait Islander body or bodies in relation to that land who were served with a copy of the notice of proposal under section 42A(1)(c) may, within 2 months after the date of the notice of proposal or such further period as the Minister in writing allows, lodge in writing with the Minister comments on the acquisition.

- (3) Subject to section 89A, compensation is payable to a person whose interest in land is acquired under this Part whether or not comments on the acquisition were lodged under subsection (1) or (2).

#### **42D        Minister to have regard to comments**

The Minister must not compulsorily acquire land in relation to which this Part applies unless the Minister has taken into account the comments (if any) lodged in accordance with section 42C.

## **Part V            Acquisition of land**

### **Division 1        Acquisition**

#### **43            Acquisition generally**

- (1) Subject to this Act, the Minister may acquire land under this Act for any purpose whatsoever:
  - (aa) if the acquisition is under an indigenous land use agreement as referred to in section 31A(a) – in accordance with the terms of the agreement and by causing a notice declaring the land to be acquired to be published in the *Gazette*;
  - (a) if the acquisition is by agreement with the owner of the land as referred to in section 31A(b) – by causing an instrument of transfer or other document evincing title to the land in the Territory to be registered under the *Land Title Act 2000* by the Registrar-General; or

- (b) if the pre-acquisition procedures in Parts IV and IVA as applicable have been complied with – by compulsory acquisition by causing a notice declaring the land to be acquired to be published in the *Gazette*.
- (2) Where an application has been made under section 38 to have an objection to the acquisition heard by the Tribunal, subject to sections 44 and 45, the Minister must not acquire land the subject of the proposal until he or she has received and considered the recommendation of the Tribunal.

#### **44            Acquisition on urgency**

- (1) Despite sections 34, 36, 37, 38, 42C and 42D, if subsection (2) or (3) applies, the Minister may compulsorily acquire land under section 43(1)(b):
- (a) before the period for lodging an objection to the acquisition under section 34 has expired;
  - (b) where an objection to the acquisition has been lodged in accordance with section 34 – without considering the objection or consulting with the person who lodged the objection;
  - (c) where an application to have an objection to the acquisition heard by the Tribunal has been made – without the Tribunal hearing the objection or making a recommendation about the objection and without the Minister receiving or considering the recommendation of the Tribunal;
  - (d) before the period for lodging comments about the objection under section 42C has expired; or
  - (e) where comments on the acquisition have been lodged in accordance with section 42C – without considering those comments.
- (2) The Minister may compulsorily acquire land in accordance with subsection (1) if:
- (a) the compulsory acquisition is not a future act; and
  - (b) the Minister certifies in accordance with subsection (3A) that it is not practicable to delay the acquisition.

- (3) The Minister may compulsorily acquire land in accordance with subsection (1) where native title rights and interests may exist if:
- (a) the purpose of the acquisition is to confer rights or interests in relation to the land proposed to be acquired on the Territory and the Minister makes a statement in writing to that effect before the acquisition takes place; and
  - (b) the Minister certifies in accordance with subsection (3A) that it is not practicable to delay the acquisition.
- (3A) Land is not to be acquired in accordance with subsection (1) unless the Minister certifies in writing that, having regard to:
- (a) the urgency of the case; or
  - (b) any other exceptional circumstances,
- it is not practicable to delay the acquisition until after the pre-acquisition procedures in Part IV or IVA (as applicable) have been complied with.
- (4) On being served with a copy of the certificate required under subsection (3A), the Tribunal must terminate any proceedings before the Tribunal relating to the acquisition to which the certificate applies.
- (5) Where the Minister acquires land under this Division (other than by agreement) in the circumstances described in subsection (1), the Minister must table in the Legislative Assembly, within 3 sitting days of the Assembly after the publication of the notice of acquisition in the *Gazette*, a statement of the reasons for the acquisition.

#### **45            Recommendations of Tribunal**

- (1) Where the Tribunal makes a recommendation in relation to a proposal to acquire an interest in land other than native title rights and interests, the Minister must not compulsorily acquire the interest unless the Minister has taken the Tribunal's recommendation into account.
- (1A) Where, in relation to a proposal to acquire native title rights and interests, the Tribunal recommends that those rights and interests must not be compulsorily acquired, the Minister must comply with the recommendation unless the conditions specified in subsection (2) are satisfied.

(1B) Where, in relation to a proposal to acquire native title rights and interests:

- (a) the Tribunal recommends that those rights and interests may be compulsorily acquired, whether or not subject to specified conditions; and
- (b) the Minister wishes to compulsorily acquire those rights and interests,

the Minister must comply with the recommendation unless the conditions specified in subsection (2) are satisfied.

(2) The Minister must comply with a recommendation of the Tribunal referred to in subsection (1A) or (1B) unless:

- (a) the Minister has consulted with the Minister responsible for indigenous affairs (being the Minister to whom responsibility for Aboriginal development is allotted under an Administrative Arrangements Order) about the proposal by the Minister to reject or accept the recommendation and any proposal to reject, vary, substitute or add to the conditions in the recommendation;
- (b) the Minister has taken that consultation into account; and
- (c) it is in the interests of the Territory not to comply with the recommendation.

(2AA) Prior to consultations under section (2)(a):

- (a) the Minister must ensure that the submissions (if any) made to the Tribunal by the registered native title claimant or registered native title body corporate objecting to the acquisition, the Tribunal's recommendation and the Tribunal's reasons for making the recommendation are provided to the Minister responsible for indigenous affairs; and
- (b) the Minister responsible for indigenous affairs must ensure that he or she is aware of the content of the submissions, recommendation and reasons.

(2A) Where:

- (a) the Minister has complied with subsections (2)(a) and (b) and (2AA); and
- (b) subsection (2)(c) applies,

the Minister may:

- (c) reject the recommendation that the rights and interests not be compulsorily acquired and determine to compulsorily acquire those rights and interests subject to the conditions (if any) imposed by the Minister; or
- (d) accept the recommendation that the rights and interests may be compulsorily acquired and:
  - (i) reject any of the conditions in the recommendation, with or without imposing his or her own conditions;
  - (ii) vary any of the conditions in the recommendation;
  - (iii) substitute his or her own conditions for any of the conditions in the recommendation; or
  - (iv) add his or her own conditions to the recommendation,

and compulsorily acquire the rights and interests accordingly.

(2B) Within 28 days after being notified under section 49 of the compulsory acquisition of land that was done in accordance with a decision of the Minister of a kind referred to in subsection (2A)(c) or (d), any of the following persons may in writing request the Minister for reasons for that decision:

- (a) a registered native title claimant or registered native title body corporate who lodged an objection to the acquisition under section 34;
- (b) a registered native title body corporate that is registered on the National Native Title Register maintained under the Native Title Act and holds native title on trust for a person who lodged an objection to the acquisition under section 34 in his or her capacity as a registered native title claimant;
- (c) a person who lodged an objection to the acquisition under section 34 in his or her capacity as a registered native title claimant where, in respect of the relevant native title determination application, an approved determination that the claimant holds native title in the affected land has since been made;
- (d) a person who under section 66B of the Native Title Act replaced a registered native title claimant who lodged an objection to the acquisition under section 34,

unless the objection was subsequently withdrawn.

- (2C) Within 28 days after receiving a request in accordance with subsection (2B), the Minister must provide written reasons for the decision to the person who requested them.
- (2D) Nothing in this section is to be taken to affect the Minister's discretion to decide not to compulsorily acquire native title rights and interests, including where that discretion is exercised as a result of consultations with the Minister responsible for indigenous affairs.
- (3) In subsection (1), ***in the interests of the Territory*** includes:
- (a) for the social or economic benefit of the Territory (including of Aboriginal peoples and Torres Strait Islanders); and
  - (b) in the interests of the relevant region or locality in the Territory.

**45AA    Where acquisition may be done subject to conditions**

- (1) Where under this Act land in respect of which native title rights and interests exist or may exist may be acquired subject to conditions relating to those rights and interests being complied with by the parties, the conditions have effect and may be enforced as if they were terms of a contract among the parties.
- (2) If a registered native title claimant lodges an objection to the acquisition in accordance with section 34, any other person in the native title claim group concerned is taken to be a party for the purposes of subsection (1).

**45A     Judicial review**

- (1) A person aggrieved by a decision of the Minister to acquire land under this Division may apply to the Supreme Court for judicial review of the decision.
- (2) On receipt of an application under subsection (1), the Supreme Court may review the Minister's decision.
- (2A) To avoid doubt, judicial review under subsection (2) does not extend to a review of the decision on its merits.
- (2B) Where the decision being reviewed complies in whole or in part with a recommendation of the Tribunal, the recommendation, that part of the decision of the Tribunal to make the recommendation and the Tribunal's reasons for that part of its decision are all to be taken to form part of both the decision being reviewed and the record of the decision being reviewed.

(2C) Where in pursuance of section 45(2C) the Minister has provided reasons for the decision being reviewed, those reasons are to be taken to form part of both that decision and the record of that decision.

(3) In this section ***person aggrieved*** means a person:

- (a) who, immediately before the date of acquisition, had an interest in the acquired land that was divested, modified or affected by the acquisition; and
- (b) who lodged an objection to the acquisition under section 34 that was not subsequently withdrawn,

and includes:

- (c) a registered native title claimant or registered native title body corporate whose registered native title rights and interests were affected by the acquisition and who lodged an objection to the acquisition under section 34;
- (d) a registered native title body corporate that is registered on the National Native Title Register maintained under the Native Title Act and holds native title on trust for a person who lodged an objection to the acquisition under section 34 in his or her capacity as a registered native title claimant;
- (e) a person who lodged an objection to the acquisition under section 34 in his or her capacity as a registered native title claimant where, in respect of the relevant native title determination application, an approved determination that the claimant holds native title in the affected land has since been made; and
- (f) a person who under section 66B of the Native Title Act replaced a registered native title claimant who lodged an objection to the acquisition under section 34,

unless the objection was subsequently withdrawn.

#### **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 is divested, modified or affected 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 1992* or Part IV of the *Crown Land Act 1992* 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 1992*; and
- (ii) a mineral title, or any other right or interest, under the *Mineral Titles Act 2010* or a reservation of land under Part 6, Division 1 of that Act; and
- (b) is granted as prescribed property within the meaning of the *Associations Act 2003*,
- 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 one month after the date of acquisition of land compulsorily acquired under section 43(1)(b), the Minister:
- (a) must cause a search to be made of:
    - (i) the Register maintained by the Registrar-General under the *Land Title Act 2000*; and
    - (ii) if native title rights and interests have been acquired – the Register of Native Title Claims and the National Native Title Register maintained under the Native Title Act;
  - (b) may make other inquiries to ascertain who, in the Minister's opinion, had an interest in the acquired land at the date of the acquisition; and
  - (c) must cause a copy of the notice of acquisition:
    - (i) to be served on the persons specified in subsection (1A);
    - (ii) to be published in a newspaper circulating in the area in which the acquired land is situated;
    - (iii) if the acquired land is under the provisions of the *Land Title Act 2000* – to be lodged with the Registrar-General; and
    - (iv) if the acquired land has not been brought under that Act – to be lodged with the proper officer controlling any official register or record of that land.
- (1A) For the purposes of subsection (1)(c)(i), the following persons are to be served with a copy of the notice of acquisition:
- (a) each person whose interest in the land was or may have been, in the opinion of the Minister, divested, modified or affected by the acquisition of the land, including:
    - (i) the registered native title claimants (if any) in relation to any of the land; and

- (ii) the registered native title body or bodies corporate (if any) in relation to any of the land;
  - (b) if native title rights and interests have been acquired – the representative Aboriginal/Torres Strait islander body or bodies in relation to any of the land acquired.
- (1AA) For the purposes of subsection (1)(c)(iv), where the acquired land is a native title right or interest:
- (a) the proper officer is the Native Title Registrar under the Native Title Act; and
  - (b) the register is the Register of Native Title Claims, the National Native Title Register or the Register of Indigenous Land Use Agreements maintained under that Act, as the case requires.
- (1AB) Where land is compulsorily acquired under section 43(1)(b) subject to conditions relating to native title rights and interests, the copy of the notice of acquisition served on the persons referred to in subsection (1A)(a)(i) and (ii) is to be accompanied by:
- (a) a copy of those conditions; and
  - (b) if the Tribunal recommended that the land may be compulsorily acquired subject to conditions relating to native title rights and interests that are different from the conditions referred to in paragraph (a) – a statement to the effect that there is a difference.
- (2) Upon lodgement of a copy of the notice of acquisition with the Registrar-General, the Registrar-General 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 must cause to be served on each person served under subsection (1)(c)(i) a statement in the approved form summarising the rights of persons whose land has been acquired under this Act.
- (4) Service of a notice under subsection (1) does not of itself constitute a recognition by the Territory that the person on whom it is served has an interest in the land to which it relates.

## **50            Offers**

- (1) If the Minister is of the opinion that:
- (aa) a person specified in section 49(1A)(a) who has been served with a notice under section 49(1)(c)(i); or

(ab) a person who has lodged a claim for compensation under section 52(1) and in relation to whom section 52(2) applies,

has a claim for compensation under this Act that is reasonably capable of being assessed, unless the person is a registered native title claimant, the Minister must cause to be served on the person:

(a) an offer of compensation that the Minister considers appropriate for the acquisition of that person's interest in the acquired land; or

(b) an offer of the transfer of land and, if the transfer is instead of part only of that compensation, compensation.

(1AA) If the Minister is of the opinion that:

(a) a person specified in section 49(1A)(a) who has been served with a notice under section 49(1)(c)(i); or

(b) a person who has lodged a claim for compensation under section 52(1) and in relation to whom section 52(2) applies,

has a claim for compensation under this Act that is not reasonably capable of being assessed, unless the person is a registered native title claimant, the Minister must cause to be served on the person a notice to the effect that the Minister proposes to refer the matter of compensation to the Tribunal under section 51(b).

(1A) The Minister must cause to be served on a registered native title claimant specified in section 49(1A)(a)(i) who has been served with a notice under section 49(1)(c)(i) a notice to the effect that, at any time within 3 years after the date of acquisition, or within the further time the Tribunal allows under section 52(1A), the claimant may lodge a claim for compensation for the acquisition of the claimant's native title rights and interests in relation to the acquired land.

(1AB) Nothing in this section prevents the Minister from making an offer other than in accordance with this section to a person with a view to reaching agreement about compensation claimed.

(1B) Nothing in subsection (1) or (1A) is to be taken to affect the power of the Minister under section 89A to enter into an agreement with a registered native title claimant about compensation payable to the claimant.

(1C) In the absence of agreement, the compensation that may be payable to a person asserting the acquisition of an interest (other than a native title right or interest) in the acquired land that is not shown on the Register maintained by the Registrar-General under the *Land Title Act 2000* is not determinable by the Tribunal until it is

established in a court of competent jurisdiction that the person holds or, but for the acquisition, would have held the interest asserted in the acquired land.

- (1D) In the absence of agreement, compensation that may be payable to a native title holder or a person who asserts to have had a native title right or interest (including a person who held or asserts to have held that right or interest on behalf of a group among whose members any compensation paid would be distributed but not including a registered native title body corporate on whom a copy of a notice of acquisition under section 49(1A)(a)(ii) has been served) is not determinable by the Tribunal until an approved determination of native title to the effect of any of the following has been made:
- (a) that the person holds native title;
  - (b) that native title does not exist but did exist immediately before the acquisition and was held by the person;
  - (c) 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;
  - (d) 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 section 50(1D)(b) or (c) rather than the kind referred to in section 50(1D)(d).*

- (2) An offer of the transfer of land 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 the transfer of land 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, the person or persons who are 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 served a notice under section 50(1AA) 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 the interest acquired into the Tribunal; and
- (b) whether or not the Minister has paid an amount into the Tribunal under paragraph (a), the Minister must, at the expiration of one month from the date on which the notice under section 50(1AA) is served, refer the matter to the Tribunal to be dealt with under Division 3 of Part VIII.

## 52            Claims

(1) Where a person had, or asserts to have had, an interest in acquired land immediately before the date of acquisition, including:

- (a) a registered native title body corporate;
- (b) a person asserting an interest (other than a native title right or interest) that is not shown on the Register maintained by the Registrar-General under the *Land Title Act 2000*; and
- (c) a registered native title claimant or any other person asserting a native title right or interest,

the person may, at any time within 3 years after the date of acquisition or within the further time the Tribunal allows under subsection (1A), lodge with the Minister a claim for compensation in the approved form.

(1A) The Tribunal has the jurisdiction to extend the time for making a claim referred to in subsection (1) as if the claim were an action to which section 44 of the *Limitation Act 1981* applies and the Tribunal were a court for the purposes of that section.

(2) Where a person lodges a claim for compensation under subsection (1), the Minister must:

- (aa) if the person holds or, but for the acquisition, would have held an interest in the acquired land, including a registered native title body corporate who holds or would have held native title – within one month after the claim is lodged;
- (a) if the person is asserting the acquisition of an interest (other than a native title right or interest) in the acquired land that is not shown on the Register maintained by the Registrar-General under the *Land Title Act 2000* – within one month after being notified by the person that it has been established in a court of competent jurisdiction that the person holds or, but for the acquisition, would have held the interest asserted in the acquired land; or
- (b) if the person was a registered native title claimant or otherwise had or asserts to have had a native title right or interest (including a person who held or asserts to have held that right or interest on behalf of a group among whose members any compensation paid would be distributed but not including a registered native title body corporate on whom a copy of a notice of acquisition under section 49(1A)(a)(ii) has been served) – within one month after being notified by the person that an approved determination of native title to the effect of

any of the following has been made:

- (i) that the person holds native title;
- (ii) that native title does not exist but did exist immediately before the acquisition and was held by the person;
- (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;
- (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 section 52(2)(b)(ii) or (iii) rather than the kind referred to in section 52(2)(b)(iv).*

cause to be served on the person an offer under section 50(1)(a) or (b) or a notice under section 50(1AA) (as the case requires) in respect of the interest that the person had or asserts to have had in the acquired land.

- (2A) Nothing in subsection (2) prevents the Minister from making an offer to a person mentioned in that subsection with a view to reaching an agreement about compensation claimed.
- (3) If no claim is lodged within the 3 years referred to in subsection (1) or any further time allowed by the Tribunal under subsection (1A), 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.

Maximum penalty:        8 penalty units.

## **Part VI            Entry into possession**

### **54            Entry into possession**

- (1) Subject to this Part, neither the Territory nor any person for whom the land is acquired is to 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 former owner of the land or former native title holder in relation to the land enter into an agreement in relation to the entry by the Territory or other person 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 former owner of the acquired land or former native title holder in relation to the acquired land.

### **55            Warrants**

- (1) A Local Court Judge 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 authorises 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.

**Part VII Compensation**

**59 Compensation for acquired land**

- (1) Subject to section 63, the interest of any person in land acquired under Division 1 of Part V is, at the date of acquisition, converted into a claim for compensation against the Territory.
- (1A) A person who has a claim for compensation under subsection (1) may lodge that claim under section 52(1).
- (2) In the absence of agreement, compensation that may be payable to a native title holder or a person who asserts to have had a native title right or interest (including a person who held or asserts to have held that right or interest on behalf of a group among whose members any compensation paid would be distributed but not including a registered native title body corporate on whom a copy of a notice of acquisition under section 49(1A)(a)(ii) has been served) is not determinable by the Tribunal until an approved determination of native title to the effect of any of the following has been made:
  - (a) that the person holds native title;
  - (b) that native title does not exist but did exist immediately before the acquisition and was held by the person;
  - (c) 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;

- (d) 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 section 59(2)(b) or (c) rather than the kind referred to in section 59(2)(d).*

## **60 Compensation for abandonment of 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, other than costs incurred as a result of attending, participating in or being represented at consultations for the purposes of section 37(1) or mediation under section 37(4).

## **61 Damages**

- (1) An owner of land, a native title holder or a person who asserts to have had native title right or interest 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.

- (1A) Nothing in this section prevents the payment by the Territory and acceptance by a person referred to in subsection (1) under an agreement of valuable consideration in satisfaction for damages to which that person is or may be entitled under this section.

- (2) In the absence of agreement, damages that may be payable to a native title holder or a person who asserts to have had a native title right or interest (including a person who held or asserts to have held that right or interest on behalf of a group among whose

members any damages recovered would be distributed) is not determinable by the Tribunal until an approved determination of native title to the effect of any of the following has been made:

- (a) that the person holds native title;
- (b) that native title does not exist but did exist immediately before the acquisition and was held by the person;
- (c) that native title does not exist and it is apparent from the terms of or the reasons for the determination whether native title did exist immediately before the acquisition and was held by the person;
- (d) 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 section 61(2)(b) or (c) rather than the kind referred to in section 61(2)(d).*

## **62 Prepayments**

- (1) Upon the service on a person of an offer of compensation under section 50(1)(a), unless an amount of compensation for the person's interest has been paid into the Tribunal under section 51(a), 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 the transfer of land 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 the transfer of land 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**

The rate of interest payable under section 64(1) is the rate from time to time fixed by the Minister after consultation with the Treasurer.

#### **66 Assessment of compensation**

- (1) Subject to this section, in assessing compensation under this Act, the Tribunal must have regard to, but is not bound by, the rules set out in Schedule 2.
- (2) The Chairperson of the Tribunal 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 Tribunal must have regard to, but is not bound by, the rules set out in Schedule 2 as modified under subsection (2).
- (4) Nothing in this section derogates from the requirement that compensation under this Act is to be on just terms.

**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.

**67A      Compensation payable without objection**

Subject to section 89A, compensation is payable to a person whose interest in land is acquired under this Part whether or not the person lodged an objection to the acquisition under section 34(1) or comments on the acquisition under section 42C.

**Part VIII      Assessment of compensation or damages**

**Division 1      Acquired land**

**68      Notices**

- (1) A claimant for compensation served with an offer under section 50(1)(a) or (b) 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 approved form; and
    - (ii) specify the amount of compensation or additional compensation claimed.

**69      Reference to Tribunal after first offer**

If a claimant for compensation 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 one month 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 after further offer**

A claimant for compensation served with an offer under section 70(b) shall, within one month of being served with that offer:

- (a) in writing 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) (including any further offer referred to in section 70(b)); 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 one month 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 authorised 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 approved 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 one month of being served with that claim:

- (a) in writing agree that the amount of compensation or damages claimed is the appropriate amount of compensation or damages;
- (b) by notice in writing 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 a notice of offer under section 74(b) shall, within one month of being served with the notice:

- (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 notice of offer under section 74.

### **Division 3 Proceedings before Tribunal**

#### **80 Payment into Tribunal**

- (1) 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 for compensation is entitled under this Act into the Tribunal.
- (2) An amount paid into the Tribunal under subsection (1) may be paid out in accordance with an order of the Tribunal.

#### **81 Determinations**

The Tribunal shall hear and determine, in relation to each matter referred to it under section 51(b) or this Part:

- (a) whether the claimant for compensation 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.

#### **81A Reconsideration of determination where determination of native title revised**

If:

- (a) on an application under section 61 of the Native Title Act, an approved determination of native title has been revised; and
- (b) the revocation, variation or other order made as a consequence of that revision affects native title rights or interests acquired under this Act,

the relevant native title body corporate or the Minister may refer any determination of the Tribunal relating to that acquisition that was made before the revision referred to in paragraph (a) back to the Tribunal for reconsideration and the Tribunal may consider the matter and, if it thinks fit, revise the determination accordingly.

#### **82 Instrument of determination**

- (1) The Tribunal shall, within 2 months after hearing a matter referred to it under section 51(b) or this Part, 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 for compensation 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 VIII A Lands Trust Fund**

**83A Establishment of Trust Fund**

- (1) The Minister must establish and maintain the Lands Trust Fund.
- (2) For the purposes of subsection (1), an Accountable Officer's Trust Account is to be established under section 7 of the *Financial Management Act 1995*.

**83B Payments into Trust Fund**

- (1) If the Minister decides to compulsorily acquire land in respect of which native title rights and interests exist or may exist subject to a condition that a specified amount be paid into trust in respect of compensation that will or may be payable for the effect of the acquisition on those native title rights and interests, the Territory must pay that amount into the Lands Trust Fund.
- (2) Moneys paid into the Lands Trust Fund under subsection (1) and interest earned on those moneys are to be used to pay amounts in respect of the compensation payable by the Territory to the native title holder.

**83C How trust amounts to be dealt with**

- (1) This section applies if an amount (in this section called ***the trust amount***) is being held in the Lands Trust Fund in respect of a compulsory acquisition and any of the following happen:
- (a) an approved determination of native title that native title does not exist in the land the subject of the acquisition is made;
  - (b) the Minister informs the trustee in writing that he or she is not going to compulsorily acquire the land;
  - (c) the following requirements are satisfied:
    - (i) an approved determination of native title that native title in the land the subject of the acquisition exists has been made;
    - (ii) the relevant registered native title body corporate advises the trustee in writing that it wishes to accept the trust amount instead of any compensation to which the native title holder may be entitled under this Act for the effect of the acquisition;
    - (iii) the Minister advises the trustee in writing of his or her agreement to the registered native title body corporate accepting the trust amount instead of any compensation to which the native title holder may be entitled under this Act for the effect of the acquisition;
  - (d) a determination is made by the Tribunal, on a claim for compensation in respect of the acquisition, that a person is entitled to compensation or that no compensation is payable to any person;
  - (e) none of paragraphs (a), (b), (c) and (d) applies and, on the application of any person, the Supreme Court decides that it would be just and equitable in all the circumstances to pay the trust amount to that person or another person (it not however being a sufficient ground for the purposes of this paragraph that a person has made or is required to make an application to the Federal Court for a determination of native title in respect of any of the land the subject of the acquisition).
- (2) Where subsection (1)(a) or (b) applies, the trustee must repay the trust amount to the Territory.

- (3) Where subsection (1)(c) applies:
  - (a) the trustee must pay the trust amount to the registered native title body corporate; and
  - (b) the native title holder has no further entitlement to compensation for the effect of the acquisition under this Act.
- (4) Where subsection (1)(d) applies and the determination is that a person is entitled to an amount of monetary compensation:
  - (a) if the trust amount is the same as the amount determined – the trustee must pay the trust amount to the person;
  - (b) if the trust amount is less than the amount determined – the trustee must pay the trust amount to the person and the Territory must pay the shortfall to the person; or
  - (c) if the trust amount is more than the amount determined, the trustee must:
    - (i) pay the person so much of the trust amount as equals the amount determined; and
    - (ii) refund the excess to the Territory.
- (5) Where subsection (1)(d) applies and the transfer of property or the provision of goods or services constitutes some or all of the compensation, the trustee must apply to the Supreme Court for a direction as to the payment of the trust amount.
- (6) Where subsection (1)(d) applies and the determination is that no compensation is payable or to be given to any person, the trustee must repay the trust amount to the Territory.
- (7) Where subsection (1)(e) applies, the trustee must pay the trust amount in accordance with the decision of the Supreme Court.
- (8) If the Minister enters into a written agreement with a registered native title claimant that the claimant accepts the trust amount or part thereof on behalf of the native title holders who are signatories to the agreement, being all the native title holders in relation to the land the subject of the acquisition, instead of any compensation to which those native title holders may be entitled under this Act for the effect of the acquisition, the trustee:
  - (a) must pay the trust amount or part thereof in accordance with the agreement to the registered native title claimant; and

- (b) if applicable – must pay the remainder of the trust amount to the Territory; and
  - (c) the native title holders who are signatories to the agreement have no further entitlement to compensation for the effect of the acquisition under this Act.
- (9) The Minister must not enter into an agreement under subsection (8) unless satisfied that, having regard to the information (if any) provided by the Aboriginal/Torres Strait Islander body or bodies in relation to any of the land the subject of the acquisition and any other relevant matter, the signatories to the agreement are the only native title holders in relation to that land and that it is unlikely that there are any other native title holders in relation to that land.

## **Part X            Miscellaneous**

### **89            Acquisition by agreement under this Act**

The provisions of this Act apply in relation to an acquisition of land by agreement under this Act except to the extent:

- (a) otherwise provided in those provisions or by the agreement; or
- (b) of any inconsistency with the agreement.

### **89A          Other acquisitions**

- (1) Nothing in this Act prevents:
  - (a) the acquisition by the Territory of land by agreement; or
  - (b) the payment and acceptance under any agreement of valuable consideration in satisfaction for compensation, where the agreement (including an indigenous land use agreement) expressly provides that this Act (other than this section) does not or is not to apply.
- (2) Nothing in this Act prevents the acquisition of land by the Territory under another 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 authorised 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;
  - (d) by affixing a copy of that notice or other document in a prominent place on the land to which it relates; or
  - (e) where:
    - (i) it relates to a native title right or interest; and
    - (ii) there is no registered native title claimant or registered native title body corporate in relation to the land to which the notice or other document relates,

by leaving the notice or document at the address of the representative Aboriginal/Torres Strait Islander body in relation to the land.

## **91 Registrar-General**

The Registrar-General shall, when served with a notice under section 32(1)(d) or 35(2)(c), enter particulars of the notice on the register maintained by him under the *Land Title Act 2000*.

## **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.

#### **94A Delegation**

- (1) The Minister may, by instrument, delegate to a specified person or to a person for the time being holding, acting in or performing the duties of a specified office, designation or position any of his or her functions or powers under this Act, other than this power of delegation.
- (2) A function performed or a power exercised in pursuance of a delegation under subsection (1) is to be taken to have been performed or exercised by the Minister.
- (3) A delegation under subsection (1) does not prevent the Minister performing a function or exercising a power.

#### **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 of Court may be made).
- (2) Without limiting the generality of subsection (1), the Regulations may include provisions:
  - (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.

**Part XI Transitional matters for Northern Territory Civil  
and Administrative Tribunal (Conferral of  
Jurisdiction Amendments) (No. 2) Act 2014**

**96 Applications before former Tribunal**

- (1) This section applies if, before the commencement:
  - (a) a person had made an application to the former Tribunal; and
  - (b) the former Tribunal had not decided the application.
- (2) The former Tribunal must continue to deal with the application in accordance with the former legislation.
- (3) In this section:

**application** includes a referral or objection.

**commencement** means the commencement of Part 12 of the *Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014*.

**former legislation** means the following as in force immediately before the commencement:

- (a) this Act;
- (b) the *Lands, Planning and Mining Tribunal Act 1998*.

**former Tribunal** means the Lands, Planning and Mining Tribunal as in existence under the *Lands, Planning and Mining Tribunal Act 1998* immediately before the commencement of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

**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 for compensation 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.

### **1A. RULES TO EXTEND TO NATIVE TITLE RIGHTS AND INTERESTS**

To the extent possible, these rules, with the necessary modifications, are to be read so as to extend to and in relation to native title rights and interests.

### **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 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 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, other than costs incurred as a result of attending, participating in or being represented at consultations for the purposes of section 37(1) or mediation under section 37(4).

**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. COST OF ACQUIRING OTHER LAND**

(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 1995* applies, or a council constituted under the *Local Government Act 2008*;
- (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**

In rules 9 and 11, a reference to a claimant includes a reference to any spouse or de facto partner of the claimant.

---

**ENDNOTES**
**1****KEY**

Key to abbreviations

**amd = amended**  
**app = appendix**  
**bl = by-law**  
**ch = Chapter**  
**cl = clause**  
**div = Division**  
**exp = expires/expired**  
**f = forms**  
**Gaz = Gazette**  
**hdg = heading**  
**ins = inserted**  
**lt = long title**  
**nc = not commenced**

**od = order**  
**om = omitted**  
**pt = Part**  
**r = regulation/rule**  
**rem = remainder**  
**renum = renumbered**  
**rep = repealed**  
**s = section**  
**sch = Schedule**  
**sdiv = Subdivision**  
**SL = Subordinate Legislation**  
**sub = substituted**

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

Assent date            26 January 1979  
 Commenced            1 August 1979 (*Gaz G29*, 20 July 1979, p 1)

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

Assent date            14 May 1979  
 Commenced            3 August 1979 (*Gaz G31*, 3 August 1979, p 4)

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

Assent date            10 August 1979  
 Commenced            26 October 1979 (*Gaz G43*, 26 August 1979, p 1)

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

Assent date            14 January 1980  
 Commenced            8 February 1980 (*Gaz G6*, 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

***Lands Acquisition Amendment Act (No. 2) 1998 (Act No. 50, 1998)***

Assent date 28 August 1998  
 Commenced 1 October 1998 (*Gaz S37*, 1 October 1998)

***Lands Acquisition Amendment Regulations (SL No. 42, 1998)***

Date Notified 1 October 1998  
 Commenced 1 October 1998

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

Assent date 23 December 1998  
 Commenced pts: 2 – 5, 7, 8, 10 – 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

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

Assent date 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

---

***Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)***

Assent date 12 September 2000  
 Commenced 1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz G38*, 27 September 2000, p 2)

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

Assent date 11 December 2001  
 Commenced 11 December 2001

***Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)***

Assent date 7 January 2004  
 Commenced 17 March 2004 (*Gaz G11*, 17 March 2004, p 8)

***Statute Law Revision Act 2004 (Act No. 18, 2004)***

Assent date 15 March 2004  
 Commenced 5 May 2004 (s 2(1), s 2 *Associations Act 2003* (Act No. 56, 2003) and *Gaz G18*, 5 May 2004, p 2)

***Statute Law Revision Act 2007 (Act No. 4, 2007)***

Assent date 8 March 2007  
 Commenced 8 March 2007

***Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)***

Assent date 14 November 2008  
 Commenced 1 July 2008 (s 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)

***Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)***

Assent date 12 July 2013  
 Commenced 28 August 2013 (*Gaz G35*, 28 August 2013, p 2)

***Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014 (Act No. 35, 2014)***

Assent date 13 November 2014  
 Commenced pts 4, 9, 10 and 19: 1 June 2015 (*Gaz S53*, 29 May 2015, p 2); rem: 1 January 2015 (*Gaz G51*, 24 December 2014, p 7)

***Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)***

Assent date 6 April 2016  
 Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz S34*, 29 April 2016)

**3**

**SAVINGS AND TRANSITIONAL PROVISIONS**

s 50 *Lands Acquisition Amendment Act (No. 2) 1998* ((Act No. 50 of 1998) (amd s 71 *Lands and Mining (Miscellaneous Amendments) Act 1998* (Act No. 93 of 1998))

r 22 *Lands Acquisition Amendment Regulations 1999* (SL No. 12, 1999)

s 73 *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003* (Act No. 1, 2004).

---

## 4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: ss 1, 4, 28A, 32, 42A, 43, 46, 49, 50, 52, 83A, 91 and 96 and Sch 2.

## 5 LIST OF AMENDMENTS

lt	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; No. 50, 1998, s 4; SL No. 42, 1998, r 4; No. 93, 1998, s 18; No. 26, 1999, s 3; No. 45, 2000, s 11; No. 4, 2007, s 7; No. 37, 2010, s 13; No. 35, 2014, s 67
s 5A	ins No. 31, 1998, s 2 sub No. 50, 1998, s 5; SL No. 42, 1998, r 5 amd No. 93, 1998, s 19; No. 1, 1999, s 4; No. 62, 2001, s 15
pt II hdg	rep No. 50, 1998, s 6
s 6	rep No. 50, 1998, s 6
s 7	amd No. 75, 1994, s 4 sub No. 56, 1995, s 5 rep No. 50, 1998, s 6
s 8	amd No. 75, 1994, s 5 sub No. 56, 1995, s 6 rep No. 50, 1998, s 6
s 9	sub No. 56, 1995, s 6 rep No. 50, 1998, s 6
s 10	amd No. 56, 1995, s 7 rep No. 50, 1998, s 6
s 11	amd No. 75, 1994, s 6 rep No. 50, 1998, s 6
s 12	rep No. 50, 1998, s 6
s 13	amd No. 6, 1981, s 4; No. 18, 1986 s 3; No. 59, 1990, s 4 rep No. 50, 1998, s 6
s 14	rep No. 50, 1998, s 6
s 15	amd No. 75, 1994, s 7 rep No. 50, 1998, s 6
s 16	rep No. 9, 1980, s 6
s 17	amd No. 28, 1993, s 3 rep No. 50, 1998, s 6
s 18	rep No. 50, 1998, s 6
s 18A	ins No. 68, 1985, s 2 rep No. 50, 1998, s 6
s 19	sub No. 75, 1994, s 8 rep No. 50, 1998, s 6
ss 20 – 28	rep No. 50, 1998, s 6
s 28A	ins No. 78, 1989, s 9 amd No. 39, 1992, s 3; No. 67, 1993, s 3; No. 93, 1998, s 20; No. 18, 2004, s 3
s 29	amd No. 93, 1998, s 21
s 30	amd No. 93, 1998, s 22
s 31	amd No. 50, 1998, s 7; No. 23, 2013, s 12
pt IIIA hdg	ins SL No. 42, 1998, r 6
s 31A	ins No. 53, 1979, s 5 rep No. 56, 1995, s 8 ins SL No. 42, 1998, r 6 amd No. 93, 1998, s 23

## ENDNOTES

---

pt IV hdg	sub No. 50, 1998, s 8; SL No. 42, 1998, r 7 amd No. 93, 1998, s 24
pt IV	
div 1A hdg	ins SL No. 42, 1998, r 8
s 31B	ins SL No. 42, 1998, r 8 amd No. 93, 1998, s 25; No. 1, 1999, s 5
s 31C	ins No. 26, 1999, s 4
pt IV	
div 1 hdg	sub No. 50, 1998, s 8
s 32	amd No. 45, 1982, s 5; No. 56, 1995, s 9 sub No. 50, 1998, s 8 amd SL No. 42, 1998, r 9; No. 93, 1998, s 26; SL No. 12, 1999, r 3; No. 45, 2000, s 11
s 33	amd No. 56, 1995, s 10 sub No. 50, 1998, s 8 amd SL No. 42, 1998, 10; No. 93, 1998, s 27; SL No. 12, 1999, r 4; No. 26, 1999, s 5
s 34	amd No. 45, 1982, s 6; No. 56, 1995, s 11 sub No. 50, 1998, s 8 amd SL No. 42, 1998, r 11; No. 93, 1998, s 28; SL No. 12, 1999, r 5; No. 26, 1999, s 6
s 35	amd No. 56, 1995, s 12 sub No. 50, 1998, s 8 amd SL No. 42, 1998, r 12; No. 93, 1998, s 29; SL No. 12, 1999, r 6; No. 26, 1999, s 7
pt IV	
div 2 hdg	sub No. 50, 1998, s 8
s 35A	ins No. 26, 1999, s 8
s 36	sub No. 50, 1998, s 8; No. 93, 1998, s 30
s 37	sub No. 50, 1998, s 8 amd No. 93, 1998, s 31; SL No. 12, 1999, r 7; No. 26, 1999, s 9; No. 4, 2007, s 7; No. 35, 2014, s 68
s 38	amd No. 45, 1982, s 7 sub No. 50, 1998, s 8; SL No. 42, 1998, r 38 amd No. 93, 1998, s 32; No. 26, 1999, s 10; No. 35, 2014, s 69
s 38AA	ins SL No. 12, 1999, r 8 amd No. 26, 1999, s 11
s 38A	ins No. 93, 1998, s 33 amd No. 26, 1999, s 12
s 38B	ins SL No. 12, 1999, r 9
pt IV	
div 3 hdg	ins SL No. 42, 1998, r 14
s 38A	ins SL No. 42, 1998, r 14 rep No. 93, 1998, s 34
s 39	rep No. 50, 1998, s 8 ins SL No. 42, 1998, r 14 sub No. 93, 1998, s 34
s 40	amd No. 53, 1979, s 6; No. 45, 1982, s 8 rep No. 50, 1998, s 8 ins SL No. 42, 1998, r 14 amd No. 1, 1999, s 6; SL No. 12, 1999, r 10
s 41	amd No. 45, 1982, s 9 rep No. 50, 1998, s 8 ins SL No. 42, 1998, r 14 amd No. 1, 1999, s 7; SL No. 12, 1999, r 11
pt IVA hdg	ins SL No. 42, 1998, r 15 sub No. 93, 1998, s 35

## ENDNOTES

---

- s 42 rep No. 50, 1998, s 8  
ins SL No. 42, 1998, r 15  
amd No. 93, 1998, s 36
- s 42A ins SL No. 42, 1998, r 15  
amd No. 93, 1998, s 37; No. 45, 2000, s 11
- s 42B ins SL No. 42, 1998, r 15  
amd No. 93, 1998, s 38; No. 62, 2001, s 15
- s 42C ins SL No. 42, 1998, r 15  
amd No. 93, 1998, s 39
- s 42D ins SL No. 42, 1998, r 15
- pt V
- div 1 hdg
- s 43 sub No. 50, 1998, s 9  
amd No. 45, 1982, s 10  
sub No. 50, 1998, s 10  
amd No. 93, 1998, s 40; No. 45, 2000, s 11
- s 44 amd No. 53, 1979, s 7; No. 56, 1995, s 13  
sub No. 50, 1998, s 10  
amd SL No. 42, 1998, r 16; No. 93, 1998, s 41
- s 45 amd No. 45, 1982, s 11  
sub No. 50, 1998, s 10  
amd SL No. 42, 1998, r 17; No. 93, 1998, s 42; SL No. 12, 1999, r 12; No. 26, 1999, s 13
- s 45AA ins No. 93, 1998, s 43  
amd SL No. 12, 1999, r 13
- s 45A ins No. 50, 1998, s 10  
amd SL No. 42, 1998, r 18; No. 93, 1998, s 44; SL No. 12, 1999, r 14
- 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; No. 50, 1998, s 11; No. 18, 2004, s 3; No. 37, 2010, s 13
- 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; No. 50, 1998, s 12; SL No. 42, 1998, r 19; No. 93, 1998, s 45; No. 1, 1999, s 8; No. 26, 1999, s 14; No. 45, 2000, s 11
- s 50 amd No. 53, 1979, s 10; No. 56, 1995, s 16; No. 50, 1998, s 13; SL No. 42, 1998, r 20; No. 93, 1998, s 46; No. 1, 1999, s 9; SL No. 12, 1999, r 15; No. 45, 2000, s 11
- s 50A ins No. 25, 1994, s 6  
amd No. 93, 1998, s 47
- s 51 amd No. 56, 1995, s 17; No. 50, 1998, s 14; No. 93, 1998, s 48; No. 1, 1999, s 10; SL No. 12, 1999, r 16
- s 52 amd No. 56, 1995, s 18; No. 50, 1998, s 15; SL No. 42, 1998, r 21; No. 93, 1998, s 49; No. 1, 1999, s 11; SL No. 12, 1999, r 17; No. 45, 2000, s 11
- s 53 amd No. 50, 1998, s 16; No. 23, 2013, s 12
- s 54 amd No. 50, 1998, s 17; No. 93, 1998, s 50
- s 55 amd No. 8, 2016, s 45
- ss 57 – 58 rep No. 50, 1998, s 18
- s 59 amd No. 53, 1979, s 11; No. 50, 1998, s 19; No. 93, 1998, s 51; No. 1, 1999, s 12; SL No. 12, 1999, r 18
- s 60 amd No. 93, 1998, s 52
- s 61 amd No. 93, 1998, s 53; SL No. 12, 1999, r 19; No. 26, 1999, s 15
- s 62 amd No. 50, 1998, s 20; No. 93, 1998, s 54; SL No. 12, 1999, r 20
- s 63 amd No. 50, 1998, s 21; SL No. 42, 1998, r 22
- s 65 sub No. 50, 1998, s 22

s 66	amd No. 75, 1994, s 9 sub No. 50, 1998, s 22 amd No. 93, 1998, s 55
s 67A	ins No. 50, 1998, s 23 amd No. 93, 1998, s 56
s 68	amd No. 53, 1979, s 12; No. 56, 1995, s 19; No. 50, 1998, s 24; SL No. 42, 1998, r 23; No. 93, 1998, s 57; SL No. 12, 1999, r 21
s 69	amd No. 93, 1998, s 58
s 70	amd No. 50, 1998, s 25
s 71	amd No. 50, 1998, s 26; No. 93, 1998, s 59
s 72	amd No. 50, 1998, s 27
s 73	amd No. 53, 1979, s 13; No. 50, 1998, s 28
s 74	amd No. 50, 1998, s 29
s 75	amd No. 50, 1998, s 30
s 76	amd No. 50, 1998, s 31
pt VIII	
div 3 hdg	sub No. 50, 1998, s 32
ss 77 – 79	rep No. 50, 1998, s 33
s 80	amd No. 50, 1998, s 34; No. 93, 1998, s 60
s 81	amd No. 93, 1998, s 61; No. 1, 1999, s 13
s 81A	ins No. 93, 1998, s 62
s 82	amd No. 50, 1998, s 35; No. 93, 1998, s 63; No. 1, 1999, s 14
s 83	amd No. 93, 1998, s 64
pt VIIIA hdg	ins No. 26, 1999, s 16
ss 83A – 83C	ins No. 26, 1999, s 16
pt IX hdg	rep No. 35, 2014, s 70
s 84	sub No. 50, 1998, s 36 amd No. 93, 1998, s 65 rep No. 35, 2014, s 70
s 85	amd No. 50, 1998, s 37 rep No. 35, 2014, s 70
s 86	amd No. 50, 1998, s 38 rep No. 35, 2014, s 70
s 87	rep No. 50, 1998, s 39
s 88	amd No. 33, 1990, s 9; No. 50, 1998, s 40 rep No. 35, 2014, s 70
pt IXA hdg	ins No. 25, 1994, s 7 rep No. 50, 1998, s 41
ss 88A – 88C	ins No. 25, 1994, s 7 rep No. 50, 1998, s 41
s 88D	ins No. 25, 1994, s 7 amd No. 75, 1994, s 10 rep No. 50, 1998, s 41
s 88E	ins No. 25, 1994, s 7 amd No. 14, 1995, s 12 rep No. 50, 1998, s 41
s 89	sub No. 50, 1998, s 42
s 89A	ins No. 50, 1998, s 42 amd SL No. 42, 1998, r 24; No. 93, 1998, s 66
s 90	amd No. 48, 1986, s 9; No. 50, 1998, s 43; No. 93, 1998, s 67
s 91	amd No. 50, 1998, s 44; SL No. 42, 1998, r 25; No. 45, 2000, s 11
s 92	rep No. 50, 1998, s 45
s 94	amd No. 8, 1996, s 3; No. 50, 1998, s 46 rep No. 93, 1998, s 68
s 94A	ins No. 50, 1998, s 47
s 95	amd No. 75, 1994, s 11; No. 50, 1998, s 48

## ENDNOTES

---

pt XI hdg ins No. 35, 2014, s 71  
s 96 ins No. 35, 2014, s 71  
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; No. 50,  
1998, s 49; SL No. 42, 1998, r 26; No. 93, 1998, s 69; No. 1, 2004, s 62;  
No. 28, 2008, s 3