

NORTHERN TERRITORY OF AUSTRALIA  
LANDS ACQUISITION AMENDMENT ACT (NO. 2) 1998

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**No. 50 of 1998**

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# NORTHERN TERRITORY OF AUSTRALIA

No. 50 of 1998

## AN ACT

to amend the *Lands Acquisition Act*

[Assented 28 August 1998]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Lands Acquisition Amendment Act (No. 2) 1998*.

2. COMMENCEMENT

(1) Sections 3 to 7 (inclusive) and sections 11 to 50 (inclusive) come into operation on the date fixed by the Administrator by notice in the *Gazette*.

(2) Sections 8, 9, 10 and 51, to the extent those sections apply in relation to the acquisition of land in relation to which there are no native title rights and interests, come into operation on the date fixed by the Administrator by notice in the *Gazette*.

(3) Sections 8, 9, 10 and 51, to the extent those sections apply in relation to the acquisition of land to which Subdivision M of Division 3 of Part 2 of the *Native Title Act 1993* of the Commonwealth applies (which includes acts to which section 26(1)(iii)(A) or (B),

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26(2)(f) or 26(3) of that Act applies), come into operation on the date fixed by the Administrator by notice in the *Gazette*.

(4) Sections 8, 9, 10 and 51, to the extent those sections apply in relation to the acquisition of land to which section 43A of the *Native Title Act 1993* of the Commonwealth applies, come into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Lands Acquisition Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 4 of the Principal Act is amended -

(a) by omitting from the definition of "affected person" in subsection (1) "or 33(2)";

(b) by omitting from subsection (1) the definition of "Chairman" and substituting the following:

"'approved form' means a form approved by the Minister for the purposes of the provision in which the expression occurs;"

(c) by omitting from subsection (1) the definitions of "date of acquisition", "Deputy Chairman" and "Deputy Registrar" and substituting the following:

"'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*;

'indigenous land use agreement' has the meaning given in section 253 of the *Native Title Act*;"

(d) by omitting from the definition of "interest" in subsection (1) "within the meaning of the *Native Title Act 1993* of the Commonwealth";

(e) by omitting from subsection (1) the definition of "member";

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(f) by inserting after the definition of "mortgage" in subsection (1) the following:

"'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;";

(g) by omitting from the definition of "notice of acquisition" in subsection (1) "section 43" and substituting "section 43(1)(b)";

(h) by omitting from the definition of "notice of proposal" in subsection (1) "section 34" and substituting "section 33";

(j) by omitting from subsection (1) the definition of "pre-acquisition hearing" and substituting the following:

"'owner', in relation to land, includes a native title holder in relation to the land;"; and

(k) by omitting from subsection (1) the definitions of "Registrar", "rules" and "Tribunal" and substituting the following:

"'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;

'registered native title rights and interests' has the meaning given in section 30(3) 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 Lands and Mining Tribunal established by the *Lands and Mining Tribunal Act*."

5. REPEAL AND SUBSTITUTION

Section 5A of the Principal Act is repealed and the following substituted:

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"5A. APPLICATION IN RELATION TO NATIVE TITLE

"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 Subdivision M of Division 3 of Part 2 of the Native Title Act applies (which includes acts to which section 26(1)(iii)(A) or (B), 26(2)(f) or 26(3) of that Act applies); or
- (b) that —
  - (i) is an act to which Subdivision P of Division 3 of Part 2 of the Native Title Act applies; and
  - (ii) relates, to any extent, to an area of land that is an alternative provision area within the meaning of section 43A(2) of the Native Title Act."

6. REPEAL

Part II of the Principal Act is repealed.

7. INTERFERENCE

Section 31 of the Principal Act is amended by omitting "\$500" and substituting "\$2,500 or imprisonment for 6 months".

8. REPEAL AND SUBSTITUTION

Part IV of the Principal Act is repealed and the following substituted:

"PART IV — PRE-ACQUISITION PROCEDURES

*"Division 1 — Proposal*

"32. NOTIFICATION OF PROPOSAL

"(1) The Minister must not acquire land under this Act unless —

- (a) the acquisition is by agreement —
  - (i) in the case of the acquisition of a native title right or interest only — with the native title holder or in accordance with an indigenous land use agreement; or



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- (ii) in any other case – with the owner of the land; or
- (b) the Minister has –
  - (i) caused a search to be made of the Register maintained by the Registrar-General under the *Real Property Act* and of the Register of Native Title Claims, the National Native Title Register and the Register of Indigenous Land Use Agreements maintained under the Native Title Act;
  - (ii) caused to be served a notice of proposal on each person ascertained as a result of that search or otherwise as having or claiming to have in the land an interest that will be divested, modified or affected by the acquisition of the land, including –
    - (A) the registered native title claimants (if any) in relation to any of the land; and
    - (B) the registered native title bodies corporate (if any) in relation to any of the land;
  - (iii) caused a copy of the notice to be served on the representative Aboriginal/Torres Strait Islander body or bodies in relation to the land;
  - (iv) if the land is registered on a register referred to in subparagraph (i) – caused a copy of the notice to be lodged with the Registrar-General or the Native Title Registrar, as the case may be;
  - (v) caused a notice of proposal in the approved form to be served on the other persons (who may be or include a person lodging an objection under section 34(1)) the Minister is satisfied have or has in the land an interest that will be divested, modified or affected by the acquisition and on the other persons the Minister thinks necessary; and
  - (vi) caused a notice in the approved form to be published in a newspaper circulating in the area in which the land is situated.

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"(2) A notice of proposal under subsection (1)(b) may relate to the acquisition of 2 or more areas of land or 2 or more interests in the same area of land.

"(3) The serving of a notice of proposal under subsection (1)(b) 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 NOTICE OF PROPOSAL

"(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 for all persons on whom the notice is served to negotiate with the Minister an amount of compensation for the acquisition (after all objections lodged in accordance with section 34 have been dealt with under this Part) of their interests by agreement under the Act and advising those persons that in the absence of agreement the land will be compulsorily acquired; and
- (d) a statement to the effect —
  - (i) that any person on whom the notice is served may, within 2 months after service of the notice, lodge with the Minister in the approved form an objection to the acquisition; and
  - (ii) that, if the person is a registered native title claimant or registered native title body corporate in relation to any of the land, the objection may include an objection to the acquisition so far as it affects their registered native title rights and interests.

"(2) The Minister must cause to be served on each person served with a notice of proposal a statement in the approved form summarising the rights of such persons under this Act.

"34. LODGEMENT OF OBJECTIONS

"(1) A person who has or claims to have an interest in land the subject of a proposal may, within the objection period or such further period as the Minister in writing allows, lodge with the Minister an objection to the acquisition.

"(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) if it includes an objection to the acquisition so far as it affects registered native title rights and interests - is to state the manner in which it is said that the doing of the act would affect those registered native title rights and interests; and
- (c) is to be accompanied by the prescribed fee.

"(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) In subsection (1), 'objection period', in relation to a person claiming to have an interest in land the subject of a proposal, means -

- (a) if the person is served with a notice in pursuance of section 32(1) - 2 months after the service of the notice; or
- (b) in any other case - 40 days after publication of the notice referred to in section 32(1)(b)(vi).

"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;

- (b) each person who has lodged an objection under section 34(1); and
- (c) if a copy of the notice of proposal was lodged with the Registrar-General or the Native Title Registrar under section 32(1)(b)(iv) — the Registrar-General or the Native Title Registrar, as the case may be.

"(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.

*"Division 2 — Consideration of Objections*

"36. INVITATION TO CONSULT

"Within one month after receiving an objection in accordance with section 34, the Minister must invite the person who lodged the objection to consult with the Minister in accordance with section 37.

"37. CONSULTATION AND MEDIATION

"(1) 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) or 43A(4)(d) 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), the Minister is to be taken to have consulted with a person if the Minister schedules and attends at least 2 meetings (the scheduled date of the second meeting being at least 14 days after the scheduled date of the first meeting) for the purpose of consulting the person about the acquisition.

"(4) Subject to section 38, at any time after the second scheduled meeting 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.

"(5) For the purposes of subsection (4) —

- (a) the parties may agree on the appointment of a mediator; or
- (b) if no agreement is reached — either party may apply to the Tribunal for the appointment of a mediator under section 36 of the *Lands and Mining Tribunal Act*.

"38. APPLICATION TO TRIBUNAL

"At any time after —

- (a) the second scheduled meeting referred to in section 37(3); or
- (b) the expiry of one month from the date on which a matter was referred to mediation under section 37(4),

either the Minister or the person objecting to the acquisition may apply to the Tribunal to have the objection to the acquisition heard."

9. HEADING TO DIVISION 1 OF PART V

The heading to Division 1 of Part V of the Principal Act is omitted and the following substituted:

*"Division 1 — Acquisition"*.

10. REPEAL AND SUBSTITUTION

Sections 43, 44, and 45 of the Principal Act are repealed and the following substituted:

"43. ACQUISITION GENERALLY

"(1) Subject to this Act, the Minister may acquire land under this Act for any purpose whatsoever —

- (a) by causing an instrument of transfer or other document evincing title to the land in the Territory to be registered under the *Real Property Act* by the Registrar-General; or
- (b) 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 WITHOUT OBJECTION OR RECOMMENDATION

"(1) Despite sections 34, 36 and 37, if subsection (2) or (3) applies, the Minister may acquire land under this Division —

- (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; or
- (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.

"(2) The Minister may acquire an interest in land in accordance with subsection (1) if —

- (a) the acquisition does not affect native title rights and interests; and
- (b) the interest to be acquired is an interest referred to in section 47.

"(3) The Minister may acquire land in accordance with subsection (1) if —

- (a) the acquisition —
  - (i) does not affect native title rights and interests; or
  - (ii) is an act to which section 26(1)(c)(iii)(A) or (B) of the Native Title Act applies, other than an act to which section 24MD(6B)(a) of that Act applies; and
- (b) the Minister certifies that, having regard to —
  - (i) the urgency of the case; or

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(ii) any other exceptional circumstances,

it is not practicable to delay the acquisition until after the Tribunal has made a recommendation.

"(4) On being served with a copy of a certificate under subsection (3), 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. COMPLIANCE WITH RECOMMENDATIONS OF TRIBUNAL IN CERTAIN CIRCUMSTANCES

"(1) Where the Tribunal makes a recommendation -

- (a) upholding an objection to the acquisition of land so far as it affects registered native title rights and interests; or
- (b) that contains conditions about the acquisition of land that relate to registered native title rights and interests,

the Minister is to comply with the recommendation unless the Minister -

- (c) 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;
- (d) has taken that consultation into account; and
- (e) is satisfied that it is in the interests of the Territory not to comply with the recommendation.

"(2) Where the Minister is satisfied under subsection (1)(e) that it is in the interests of the Territory not to comply with the recommendation of the Tribunal, the Minister may -

- (a) reject the recommendation; or

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- (b) accept the recommendation and reject, vary, or substitute his or her own conditions for, any of the conditions contained in the recommendation,

and may acquire the land accordingly.

"(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.

"45A. JUDICIAL REVIEW

"(1) A person aggrieved by a decision of the Minister to acquire land under this Division (other than a decision to acquire land under section 44) 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 on questions of law only.

"(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, including a registered native title claimant or registered native title body corporate whose registered native title rights and interests were affected by the acquisition; and
- (b) who lodged an objection to the acquisition under section 34."

11. EFFECT OF NOTICE OF ACQUISITION

Section 46 of the Principal Act is amended by omitting from subsection (1)(b) "shall be divested or modified" and substituting "is divested, modified or affected".

12. SERVICE OF NOTICE OF ACQUISITION

Section 49 of the Principal Act is amended -



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- (a) by omitting subsections (1) and (1AA) and substituting the following:

"(1) Within one month after the date of acquisition of land under Division 1, the Minister -

- (a) must cause a search to be made of -
- (i) the Register maintained by the Registrar-General under the *Real Property Act*; and
  - (ii) the Register of Native Title Claims, the National Native Title Register and the Register of Indigenous Land Use Agreements 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 *Real Property Act* - 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;

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- (b) the representative Aboriginal/Torres Strait Islander body or bodies in relation to 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.";
- (b) by omitting from subsection (2) "subsection (1)(c)" and substituting "subsection (1)(c)(iii) or (iv)";
- (c) by omitting subsection (3) and substituting the following:

"(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."; and

- (d) by omitting subsection (5).

13. OFFERS

Section 50 of the Principal Act is amended by omitting subsection (1) and substituting the following:

"(1) If the Minister is of the opinion that a person specified in section 49(1A)(a) who has been served with a notice under section 49(1)(c)(i) has a claim for compensation under this Act, the Minister must cause to be served on that person -

- (a) unless the person is a registered native title claimant, 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 resettlement, either with or without compensation.

"(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

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section 49(1)(c)(i) a notice to the effect that, at any time within 3 years after the date of acquisition, the claimant may lodge a claim for compensation for the acquisition of their native title rights and interests in relation to the acquired land.

"(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 if the native title claimed by the claimant is determined to exist."

14. REFERENCE TO TRIBUNAL

Section 51 of the Principal Act is amended by omitting from paragraph (b) "28 days" and substituting "one month".

15. CLAIMS

Section 52 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following:

"(1) A person who, immediately before the date of acquisition, had an interest in acquired land (including a registered native title claimant whose registered native title rights and interests are affected by the acquisition) may, at any time within 3 years after the date of acquisition, lodge with the Minister a claim for compensation in the approved form.

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

(a) if —

(i) the person is not a registered native title claimant — within one month after lodgement of the claim; or

(ii) the person is a registered native title claimant — within one month after being notified by the claimant that the native title claimed by the claimant is determined to exist; and

(b) if the Minister is of the opinion that the person has a claim for compensation,

cause to be served on the person an offer of compensation for the person's interest in the acquired land in accordance with section 50(1)."

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16. TITLE DOCUMENTS

Section 53 of the Principal Act is amended by omitting from subsection (3) "\$200" and substituting "\$1,000".

17. ENTRY INTO POSSESSION

Section 54 of the Principal Act is amended —

- (a) by omitting from subsection (1) "the Territory shall not" and substituting "neither the Territory nor any person for whom the land is required is to"; and
- (b) by inserting in subsection (2)(b) "or other person" after "Territory".

18. REPEAL

Sections 57 and 58 of the Principal Act are repealed.

19. COMPENSATION FOR ACQUIRED LAND

Section 59 of the Principal Act is amended —

- (a) by omitting "Subject" and substituting "(1) Subject";
- (b) by omitting "or 1A"; and
- (c) by adding at the end the following:

"(2) Subject to section 89A, compensation is not payable to a registered native title claimant unless and until the native title claimed by the claimant is determined to exist."

20. PREPAYMENTS

Section 62 of the Principal Act is amended by adding at the end the following:

"(3) This section does not apply in relation to a registered native title claimant."

21. OFFERS OF RESETTLEMENT

Section 63 of the Principal Act is amended by adding at the end the following:

"(3) Subject to section 89A, where an offer of resettlement made under section 50(1)(b) to a registered native title claimant is accepted, the resettlement does

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not take effect unless and until the native title claimed by the claimant is determined to exist."

22. REPEAL AND SUBSTITUTION

Sections 65 and 66 of the Principal Act are repealed and the following substituted:

"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)."

23. NEW SECTION

The Principal Act is amended by inserting after section 67 in Part VII the following:

"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)."

24. NOTICES

Section 68 of the Principal Act is amended by omitting from subsection (2)(b)(i) "prescribed" and substituting "approved".

25. COUNTER OFFERS

Section 70 of the Principal Act is amended by omitting "28 days" and substituting "one month".

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26. REFERENCE TO TRIBUNAL

Section 71 of the Principal Act is amended –

- (a) by omitting "28 days" and substituting "one month"; and
- (b) by omitting from paragraph (a) "agree" and substituting "in writing agree".

27. DOCUMENTS TO BE TRANSMITTED TO TRIBUNAL

Section 72 of the Principal Act is amended by omitting paragraph (b) and substituting the following:

- "(b) any offer under section 50(1) (including any further offer referred to in section 70(b)); and."

28. CLAIMS

Section 73 of the Principal Act is amended –

- (a) by omitting from subsection (1) "28 days" and substituting "one month"; and
- (b) by omitting from subsection (2)(a) "prescribed" and substituting "approved".

29. OFFERS

Section 74 of the Principal Act is amended –

- (a) by omitting "28 days" and substituting "one month";
- (b) by omitting from paragraph (a) "agree" and substituting "in writing agree"; and
- (c) by omitting from paragraph (b) "make an offer" and substituting "by notice in writing make an offer".

30. REFERENCE TO TRIBUNAL

Section 75 of the Principal Act is amended –

- (a) by omitting "an offer" and substituting "a notice of offer";
- (b) by omitting "28 days" and substituting "one month"; and
- (c) by omitting "the offer" and substituting "the notice".

31. DOCUMENTS TO BE TRANSMITTED TO TRIBUNAL

Section 76 of the Principal Act is amended by omitting from paragraph (b) "any offer" and substituting "any notice of offer".

32. HEADING TO DIVISION 3 OF PART VIII

The heading to Division 3 of Part VIII of the Principal Act is omitted and the following substituted:

*"Division 3 - Proceedings before Tribunal".*

33. REPEAL

Sections 77, 78 and 79 of the Principal Act are repealed.

34. PAYMENT INTO TRIBUNAL

Section 80 of the Principal Act is amended by omitting "the Tribunal, in the manner prescribed in the rules" and substituting "the Tribunal".

35. INSTRUMENTS OF DETERMINATION

Section 82 of the Principal Act is amended by omitting from subsection (1) "28 days of the conclusion of a hearing under section 81" and substituting "one month after hearing a matter referred to it under this Part".

36. REPEAL AND SUBSTITUTION

Section 84 of the Principal Act is repealed and the following substituted:

"84. APPEALS

"(1) A person aggrieved by a determination of the Tribunal under section 81 may appeal to the Supreme Court.

"(2) An appeal under this Part is an appeal in the strict sense."

37. NOTICE OF APPEAL

Section 85 of the Principal Act is amended by omitting paragraphs (a) and (b) and substituting the following:

"(a) within the time;

(b) in the form; and

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(c) accompanied by the fee,".

38. POWERS OF SUPREME COURT

Section 86 of the Principal Act is amended —

(a) by omitting all the words before paragraph (a) and substituting the following:

"(1) At the hearing of an appeal, the Supreme Court may consider the evidence that was presented to the Tribunal and any question of law and may —"; and

(b) by omitting subsection (2).

39. REPEAL

Section 87 of the Principal Act is repealed.

40. RULES OF COURT

Section 88 of the Principal Act is amended by omitting from subsection (1) all the words after "hearing" and substituting "of appeals under this Part".

41. REPEAL

Part IXA of the Principal Act is repealed.

42. REPEAL AND SUBSTITUTION

Section 89 of the Principal Act is repealed and the following substituted:

"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,



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otherwise than under this Act where the agreement expressly provides that this Act (other than this section) does not or is not to apply.

"(2) Subject to subsection (3), nothing in this Act prevents the acquisition of land by the Territory under another law of the Territory.

"(3) This Act applies in relation to the acquisition of an interest in land by the Territory under another law of the Territory if —

- (a) the acquisition consists of the renewal, re-grant, re-making, or extension of the term of, a lease (in this subsection called 'the old lease'); and
- (b) either —
  - (i) the term of the lease as renewed, re-granted, re-made or extended (in this subsection called 'the new lease') is longer than the term of the old lease; or
  - (ii) the new lease is a perpetual lease."

43. SERVICE

Section 90 of the Principal Act is amended —

- (a) by omitting from subsection (3)(c) "Territory; or" and substituting "Territory;"; and
- (b) by omitting subsection (3)(d) and substituting the following:

"(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 it relates to a native title right or interest — as provided in the Native Title Act."

44. REGISTRAR-GENERAL

Section 91 of the Principal Act is amended by omitting "or 35(3)(b)" and substituting "or 35(2)(c)".

45. REPEAL

Section 92 of the Principal Act is repealed.

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46. INVESTMENT

Section 94 of the Principal Act is amended by omitting "Chairman or Deputy Chairman" and substituting "Chairperson of the Tribunal".

47. NEW SECTION

The Principal Act is amended by inserting after section 94 the following:

"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."

48. REGULATIONS

Section 95 of the Principal Act is amended —

- (a) by omitting from subsection (1) "rules or"; and
- (b) by omitting subsection (2)(a) and (b).

49. SCHEDULE 2

Schedule 2 to the Principal Act is amended —

- (a) by inserting in rule 2(a) "but not anxious" after "willing" (wherever occurring); and
- (b) by inserting in rule 11(1)(a) "or a native title right or interest" after "in fee simple".

50. TRANSITIONAL ARRANGEMENTS

- (1) In this section —

"amended Act" means the Principal Act as amended by this Act;

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"existing claim for compensation" means a claim for compensation under Part VII of the former Act;

"existing proposal" means a proposal to acquire land in respect of which a notice of proposal has been served under section 32(1)(b) of the former Act;

"former Act" means the Principal Act as in force immediately before the commencement of this section.

(2) The former Act continues to apply in relation to existing proposals in respect of land in relation to which there are no native title rights or interests until the Minister, by notice in the *Gazette*, declares that the former Act no longer applies in relation to those proposals.

(3) The amended Act applies in relation to -

(a) existing proposals in respect of land in relation to which there are native title rights and interests; and

(b) existing proposals in respect of land in relation to which, by virtue of a declaration under subsection (2), the former Act has ceased to apply.

(4) The former Act continues to apply in relation to existing claims for compensation in respect of which a date for a preliminary hearing has been fixed under section 77 of the former Act until the Minister, by notice in the *Gazette*, declares that the former Act no longer applies in relation to those claims.

(5) The amended Act applies in relation to -

(a) existing claims for compensation to which subsection (4) does not apply; and

(b) existing claims for compensation in relation to which, by virtue of a declaration under subsection (2), the former Act has ceased to apply.

(6) An application to the Lands Acquisition Tribunal in relation to an existing claim for compensation that was pending immediately before the application of the amended Act to that claim is, on the application of the amended Act to that claim, to be taken to be an application to the Lands and Mining Tribunal.

51. REGULATIONS

- (1) The Administrator may make regulations —
- (a) amending this Act (other than this section), the *Lands Acquisition Act* or any other Act in relation to any matter arising from, connected with or consequential upon the enactment of the *Native Title Amendment Act 1998* of the Commonwealth in so far as that Commonwealth Act affects the acquisition of land in the Territory; or
  - (b) containing savings or transitional provisions connected with or consequential upon the enactment of this Act or an amendment under paragraph (a).

(2) Regulations made under subsection (1) may be expressed to have taken effect on a day earlier than the day on which the regulations are made, other than a day earlier than the day on which this section commences.

(3) The Administrator may only make regulations under subsection (1) during the 12 months commencing on the day on which this section commences.