

NORTHERN TERRITORY OF AUSTRALIA
LANDS ACQUISITION AMENDMENT ACT 1994

No. 25 of 1994

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NORTHERN TERRITORY OF AUSTRALIA

No. 25 of 1994

AN ACT

to amend the *Lands Acquisition Act*

[Assented to 18 May 1994]

BE 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 1994*.

2. COMMENCEMENT

This Act shall come into operation on a date to be 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. DEFINITIONS

Section 4 of the Principal Act is amended by omitting the definition of "interest" and substituting the following:

"'interest', in relation to land, means -

- (a) a legal or equitable estate or interest in the land; or

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- (b) an easement, right, power or privilege in, under, over, affecting or in connection with land,

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

5. SERVICE OF NOTICE OF ACQUISITION

Section 49 of the Principal Act is amended by inserting after subsection (1) the following:

"(1AA) For the purposes of subsection (1)(c)(ii), the proper officer, where the acquired land is a native title right or interest, is the Native Title Registrar under, and the register is the Register of Native Title Claims established and maintained in accordance with, Part 7 of the *Native Title Act 1993* of the Commonwealth."

6. NEW SECTION

The Principal Act is amended by inserting after section 50 the following:

"50A. COMPENSATION, OTHER THAN MONEY, IN RESPECT OF
NATIVE TITLE

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

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

7. NEW PART

The Principal Act is amended by inserting after Part IX the following:

"PART IXA - SPECIAL PROVISIONS RELATING
TO NATIVE TITLE RIGHTS AND INTERESTS

"88A. INTERPRETATION

"(1) In this Part 'Commonwealth Act' means the *Native Title Act 1993* of the Commonwealth.

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"(2) Unless the contrary intention appears, a word or expression used in the Commonwealth Act has the same meaning in this Part (and in the remainder of this Act for the purposes of the application of this Part) as it has in the Commonwealth Act.

"88B. APPLICATION OF PART

"(1) This Part applies to and in relation to permissible future acts involving the compulsory acquisition of native title rights and interests where the purpose of the acquisition is to confer rights or interests in relation to land or waters concerned on persons other than the Government party.

"(2) Except to the extent that they are inconsistent with this Part or the Commonwealth Act in relation to native title rights and interests, but subject to subsection (1), the other provisions of this Act continue to apply, according to their tenor, to and in relation to acts referred to in subsection (1) and all other acts under this Act involving the acquisition of property.

"88C. TRIBUNAL MAY BE 'ARBITRAL BODY' FOR PURPOSE OF COMMONWEALTH ACT

"(1) If the Commonwealth Minister determines that the Lands Acquisition Tribunal is a recognised State/Territory body, that Tribunal as constituted as provided in this Part is, and in pursuance of section 27 of the Commonwealth Act is hereby allowed and has the necessary jurisdiction to be, an arbitral body under Subdivision B of Division 3 of Part 2 of that Act.

"(2) Notwithstanding subsection (1), the Tribunal does not have the power to make a determination of native title but may act on any approved determination of native title as though it were lawfully made by the Tribunal.

"88D. CHAIRMAN TO CONSTITUTE TRIBUNAL FOR PURPOSES CONCERNING NATIVE TITLE

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

"88E. POWERS, &c.

"(1) To ensure that this Act is consistent with and gives effect to the objects and provisions of the Commonwealth Act, this Act applies to native title with the prescribed changes.

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"(2) Without limiting subsection (1), this Act applies to native title with the changes, if any, prescribed by the Regulations that, in the opinion of the Administrator, are necessary or convenient to ensure that -

- (a) the Tribunal becomes a recognised State/Territory body and arbitral body;
 - (b) the Tribunal will have available to it appropriate expertise (including expertise in matters relating to Aboriginal peoples) for performing its functions in relation to native title;
 - (c) an act under this Act may be excluded from the coverage of subsection 26(3) (which deals with acts excluded from the right to negotiate) of the Commonwealth Act in appropriate cases;
 - (d) the expedited procedure in section 32 of the Commonwealth Act may apply in appropriate cases; and
 - (e) this Act may comply with subsection 43(2) (which deals with alternative right to negotiate provisions) of the Commonwealth Act."
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