

THE NORTHERN TERRITORY OF AUSTRALIA

LANDS ACQUISITION ACT
No. 11 of 1979
TABLE OF PROVISIONS

PART I - PRELIMINARY

Section

1. Short title
2. Commencement
3. Repeals
4. Interpretation
5. Just terms

PART II - LANDS ACQUISITION TRIBUNAL

Division 1 - Establishment of the Lands
Acquisition Tribunal

6. Establishment of Tribunal
7. Members
8. Chairman and Deputy Chairman
9. Appointments
10. Removal from office
11. Vacancies
12. Disclosure of interests
13. Pecuniary interest
14. Exercise of function not invalid
15. Vacancies
16. Fees
17. Public servants
18. Registrar and Deputy Registrar

Division 2 - Hearings

19. Tribunal
20. Summons
21. Representation
22. Oaths
23. Contempt
24. Hearings open to public
25. Practice and procedure
26. Hearings
27. Costs
28. Rules

PART III - TEMPORARY ENTRY ONTO LAND

29. Authorizations
30. Entry and works
31. Interference

PART IV - PRE-ACQUISITION PROCEDURES

Division 1 - Notice of Proposal

32. Notice of proposal
33. Claims
34. Forms
35. Modification or abandonment of proposal

Division 2 - Pre-acquisition Hearings

36. Reference to Tribunal
37. Fixing of preliminary hearing
38. Preliminary hearing
39. Public notification of hearing
40. Hearing
41. Recommendations
42. Service of recommendations

PART V - ACQUISITION OF LAND

Division 1 - Compulsory Acquisition

43. Compulsory acquisition
44. Time limits
45. Acquisition where matter referred to Tribunal
46. Effect of notice of acquisition
47. New interests
48. Land acquired is Crown land

Division 2 - Action after Acquisition

49. Service of notice of acquisition
50. Offers
51. Reference to Tribunal
52. Claims
53. Title documents

PART VI - ENTRY INTO POSSESSION

54. Entry into possession
55. Warrants
56. Protection of persons executing warrants
57. Application for determinations as to occupancy
58. Determinations as to occupancy

PART VII - COMPENSATION

59. Compensation for acquired land
60. Compensation for abandoned proposals
61. Damages
62. Prepayments
63. Offers of resettlement

- 64. Interest
- 65. Rates of interest
- 66. Schedule 2
- 67. Recovery of compensation

PART VIII - ASSESSMENTS OF COMPENSATION
OR DAMAGES

Division 1 - Acquired Land

- 68. Notice of acceptance or dispute
- 69. Reference to Tribunal
- 70. Counter offers
- 71. Reference to Tribunal
- 72. Documents to be transmitted to Tribunal

Division 2 - Abandoned Proposals and Damages

- 73. Claims
- 74. Offers
- 75. Reference to Tribunal
- 76. Documents to be transmitted to Tribunal

Division 3 - Hearings

- 77. Fixing of preliminary hearing
- 78. Preliminary hearing
- 79. Public notification of hearings
- 80. Payment into Tribunal
- 81. Determinations
- 82. Instrument of determinations
- 83. Service of determinations

PART IX - APPEALS

- 84. Appeals
- 85. Notice of appeal
- 86. Powers of Supreme Court
- 87. Costs
- 88. Rules of Court

PART X - MISCELLANEOUS

- 89. Other acquisitions
- 90. Service
- 91. Registrar-General
- 92. Extensions or abridgements of time
- 93. Execution of documents
- 94. Investment
- 95. Regulations

SCHEDULE 1

REPEALED STATUTES

SCHEDULE 2

RULES FOR THE ASSESSMENT OF COMPENSATION

1. Value to the owner
2. (a) Market value
(b) Special value
(c) Severance
(d) Disturbance
3. Market value for use other than existing use
4. Circumstance peculiar to the claimant
5. Restrictions
6. Determinable interests
7. Resettlement
8. Matters not to be taken into account
9. Intangible disadvantages
10. Mortgage debts
11. Loans
12. Interpretation

THE NORTHERN TERRITORY OF AUSTRALIA

No. 11 of 1979

AN ACT

Relating to the Acquisition of Land on
behalf of the Territory

[Assented to 26 January 1979]

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:

PART I - PRELIMINARY

- | | |
|--|----------------|
| 1. This Act may be cited as the <u>Lands Acquisition Act 1978</u> . | Short title |
| 2. This Act shall come into operation on the date fixed by the Administrator by notice published in the <u>Gazette</u> . | Commencement |
| 3. The Acts of the State of South Australia specified in Schedule 1 cease to apply to the Territory as laws of the Territory. | Repeals |
| 4. In this Act, unless the contrary intention appears - | Interpretation |
| "acquired land" means land acquired under this Act; | |
| "affected person", in relation to a proposal, means a person who has been served with a notice of that proposal under section 32(1)(b)(ii) or 33(2); | |
| "Chairman" means the person appointed under section 8(1)(a) as Chairman of the Tribunal; | |
| "claimant" 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; | |

Lands Acquisition

"date of acquisition" means in relation to land acquired under Division 1 of Part V the date upon which the notice of acquisition in relation to that land is published in the Gazette;

"Deputy Chairman" means the person appointed as Deputy Chairman of the Tribunal under section 8(1)(b);

"Deputy Registrar" means a person appointed as Deputy Registrar of the Tribunal under section 18(1)(b);

"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 connexion with land;

"Judge" means a Judge within the meaning of the Northern Territory Supreme Court Act 1961 of the Commonwealth;

"land" includes an interest in land;

"member" means a person appointed as a member of the Tribunal under section 7(1);

"mining interest" means any lease or other interest in land granted under a law of the Territory relating to minerals and includes an exploration licence;

"mortgage" means an interest in land to secure a debt;

"notice of acquisition" means a notice referred to in section 43;

"notice of dispute" means a notice referred to in section 68(2)(b);

"notice of proposal" means a notice referred to in section 34;

"pre-acquisition hearing" means a hearing conducted under Division 2 of Part IV;

"proposal" means a proposal made by the Minister for the acquisition and use or development of land;

Lands Acquisition

"public purpose" means a purpose in relation to the Territory and includes a purpose related to the carrying out of a function by a statutory corporation;

"Registrar" means the person appointed as Registrar of the Tribunal under section 18(1)(a);

"Registrar-General" means the Registrar-General for the purpose of the Real Property Act;

"rules" means the rules of the Tribunal made under section 28;

"Supreme Court" means the Supreme Court of the Northern Territory;

"Tribunal" means the Lands Acquisition Tribunal established by section 6.

5. This Act shall be read so as to provide for the acquisition of land on just terms. Just terms

PART II - LANDS ACQUISITION TRIBUNAL

Division 1 - Establishment of the Lands Acquisition Tribunal

6. There is established a tribunal which shall be known as the Lands Acquisition Tribunal. Establishment

7.(1) The Minister may appoint not less than 11 persons to be members. Members

(2) A person shall not be appointed under subsection (1) unless he is -

- (a) enrolled as a legal practitioner of -
 - (i) the High Court of Australia; or
 - (ii) the Supreme Court of a State or Territory of the Commonwealth;
- (b) registered as a licensed surveyor under the Licensed Surveyors Act;
- (c) a fellow or associate of the Australian Institute of Valuers;
- (d) an architect registered under the Architects Act; or

Lands Acquisition

(e) a member or qualified to be a member of the Institution of Engineers of Australia.

Chairman and Deputy Chairman 8.(1) The Minister shall appoint, by instrument in writing -

- (a) a member to be Chairman; and
 - (b) a member to be Deputy Chairman,
- of the Tribunal.

(2) A person shall not be appointed as Chairman under sub-section (1) unless he is a person referred to in section 7(2)(a).

Appointments 9. An appointment under section 7(1) or 8(1) shall -

- (a) be notified in the Gazette; and
- (b) take effect on -
 - (i) the date of notification; or
 - (ii) if there is a later date specified in the notification - that later date.

Removal from office 10.(1) The Minister may, by notification published in the Gazette, remove a member from office.

(2) The Minister shall remove a member from office under sub-section (1) if that member -

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) reaches the age of 65 years;
- (c) becomes mentally defective within the meaning of the Mental Defectives Act; or
- (d) resigns.

Vacancies 11.(1) Where -

- (a) there is or is expected to be a vacancy in an office of a member; or
- (b) a member is or is expected to be absent or unable to act,

Lands Acquisition

the Minister may, by instrument in writing, authorize a person who is qualified to hold the office of that member to act in the office.

(2) The power of the Minister under sub-section (1) includes the power to authorize a person to act in an office of a member from time to time during the absence or inability to act of the member.

12.(1) A member who has a direct or indirect interest in any matter the subject of any proceedings before the Tribunal shall, as soon as possible after he knows that he has the interest and that the Tribunal is hearing the matter, disclose his interest to the Tribunal.

Disclosure
of interest

(2) A disclosure under sub-section (1) shall be lodged in the office of the Registrar.

(3) A member who makes a disclosure under sub-section (1) shall not serve as a member for the hearing of the matter to which the disclosure relates.

13. For the purposes of section 12, a member who -

Pecuniary
interest

(a) is a member of the governing body of, or is a substantial shareholder within the meaning of section 69C of the Companies Act; or

(b) has a relevant interest within the meaning of section 6A of that Act,

in a company which has a direct or indirect pecuniary interest in any proceedings before the Tribunal, has a direct or indirect pecuniary interest in those proceedings.

14. The exercise of a power or the performance of a function by the Tribunal is not invalid by reason only of there being a vacancy in the membership of the Tribunal hearing the proceedings.

Exercise of
function
not invalid

15. If -

Vacancies

(a) there is or is expected to be a vacancy in the office of Chairman; or

(b) the Chairman is or is expected to be absent or unable to act,

the Deputy Chairman shall have and perform all the powers, authorities, duties and functions of the Chairman during that vacancy, absence or inability to act.

Lands Acquisition

Fees 16.(1) The Chairman and the Deputy Chairman shall -

- (a) be paid such salary, allowances and expenses; and
- (b) hold office on such terms and conditions,

as the Administrator may determine.

(2) A member other than the Chairman or Deputy Chairman shall be paid fees, allowances and expenses at rates determined by the Administrator.

Public servants 17. An employee within the meaning of the Public Service Act shall not be appointed to be a member.

Registrar and Deputy Registrar 18.(1) The Minister shall appoint, by instrument in writing -

- (a) a person to be the Registrar; and
- (b) one or more persons, as the Minister considers appropriate, to be Deputy Registrars,

of the Tribunal.

(2) The Minister shall cause such Registries of the Tribunal to be established as he thinks fit and shall designate one of the Registries to be the Principal Registry.

Division 2 - Hearings

Tribunal 19.(1) The Chairman or Deputy Chairman shall, in respect of each proposal referred to the Tribunal under section 36(1) and each matter referred to it under Division 1 or 2 of Part VIII, select 3 members to hear and consider or hear and determine, as the case may be, that proposal or matter.

(2) For the purposes of hearing and considering or hearing and determining, as the case may be, a proposal or matter referred to in sub-section (1), the Tribunal consists of the 3 members selected under sub-section (1).

(3) Not less than one member of the Tribunal constituted to hear any proceedings shall be a person referred to in section 7(2)(a).

Summons 20.(1) The Chairman or Deputy Chairman may issue an order requiring -

Lands Acquisition

(a) the attendance of any person before the Tribunal; or

(b) the production of documents specified in the order which are in the possession or control of any person to the Tribunal.

(2) An order made under sub-section (1) shall be -

(a) in the form; and

(b) served in the manner,

prescribed by the rules.

(3) A person shall comply with an order under this section.

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

21.(1) A person appearing before the Tribunal may be represented by -

Representation

(a) a legal practitioner; or

(b) an agent.

(2) A legal practitioner or agent appearing before the Tribunal has the same protection and immunity as a legal practitioner has in appearing for a party in proceedings before the Supreme Court.

22.(1) A person appearing before the Tribunal to give evidence may, if required by the Chairman or Deputy Chairman to give sworn evidence, take an oath or make an affirmation.

Oaths

(2) The Chairman or Deputy Chairman may -

(a) administer an oath or affirmation to a person appearing to give evidence before the Tribunal; and

(b) require a person appearing to give evidence to answer any question.

(3) Subject to sub-section (4), a person shall not refuse or fail to comply with a requirement under sub-section (1) or (2)(b).

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

Lands Acquisition

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

Contempt

23. A person shall not -

- (a) insult a member in or in relation to the exercise of his powers or functions as a member;
- (b) interrupt any proceedings of the Tribunal;
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where the Tribunal is sitting; or
- (d) do any other act or thing that would, if the Tribunal were a court of record, constitute contempt of that court.

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

Hearings open to public

24.(1) Unless the Tribunal otherwise directs, proceedings of the Tribunal are open to the public.

(2) The Tribunal shall publish its recommendations and determinations.

Practice and procedure

25.(1) The practice and procedure relating to the hearing of proceedings before the Tribunal shall be -

- (a) as prescribed by the rules; or
 - (b) if no practice or procedure is prescribed by the rules - as determined by the Tribunal.
- (2) Subject to sub-section (1), the Tribunal -
- (a) is not bound by any rules of evidence but may inform itself on any matter in such manner as it thinks fit; and
 - (b) is not bound to act in a formal manner and shall act without regard to legal forms and technicalities.

Hearings

26. The Tribunal may -

- (a) if at the time and place appointed for the hearing, the person who instituted the proceedings the subject of the hearing does not appear - conclude the hearing;
- (b) if at the time and place appointed for the hearing of any proceedings, the person who

Lands Acquisition

instituted the proceedings does, but any other party does not, appear - commence and conclude the hearing and make its determination, in the absence of that other party;

- (c) if all the parties to the hearing of any proceedings consent, make its determination in the absence of the parties having regard to documentary evidence and written submissions exchanged by the parties and lodged with the Tribunal;
- (d) adjourn any proceedings for such period as it thinks fit;
- (e) permit any party to any proceedings to withdraw from the proceedings;
- (f) permit -
 - (i) any minister of the Crown in right of the Territory, a State or the Commonwealth; or
 - (ii) any body constituted by or under an Act or an Act of a State or the Commonwealth,to appear as a party in any proceedings;
- (f) permit any party to any proceedings to cross-examine any witness for any other party to the proceedings;
- (g) appoint one or more of its members to make any inquiry or any inspection which appears to be necessary or expedient for the purposes of any proceedings; or
- (h) refer any question or matter arising upon the hearing of any proceedings (pre-acquisition hearings excepted) to the Supreme Court for hearing and determination.

27.(1) The costs of any proceedings before the Tribunal are in the discretion of the Tribunal. Costs

(2) The Tribunal may at any time during any proceedings order that the Minister pay to a party to the proceedings an amount of money specified in the order, in the circumstances and within the time specified by the order, on account of that person's costs (including valuation and survey fees).

Lands Acquisition

(3) The Chairman or Deputy Chairman may make an order under sub-section (1) during a preliminary hearing under Part IV or Part VIII.

(4) The Tribunal, the Chairman or the Deputy Chairman, shall, before making an order under sub-section (2) or (3), have regard to -

- (a) the expedition with which the person has presented his case;
- (b) any unnecessary or irrelevant evidence or submissions which the person has led before or made to the Tribunal; and
- (c) such other matters as the Tribunal, the Chairman or the Deputy Chairman, as the case may be, considers to be relevant.

Rules

28. The Chairman may make rules, not inconsistent with this Act, for or in respect of the practice and procedure of the Tribunal.

PART III - TEMPORARY ENTRY ONTO LAND

Authorizations

29.(1) The Minister may authorize any person to -

- (a) enter onto and remain upon any land specified in the authorization; and
- (b) perform any works specified in the authorization on or in relation to that land,

for the purpose of formulating a proposal.

(2) An authorization under sub-section (1) shall be in writing.

Entry and works

30.(1) Subject to this section, a person authorized under section 29 may -

- (a) enter and remain upon the land; and
- (b) perform the works,

specified in the authorization.

(2) A person authorized under section 29 shall -

- (a) in performing a work authorized under sub-section (1), do as little damage as possible to -

Lands Acquisition

- (i) the land; and
- (ii) anything on or growing on the land;
- (b) unless an agreement in that regard has been made with the owner of the land, remove from the land at the conclusion of the period during which he has remained on the land all plant, machinery or equipment brought upon 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. A person shall not -

Interference

- (a) wilfully and without authority interfere with anything established or placed on or in land; or
- (b) wilfully obstruct a person acting,

in accordance with an authorization under section 29.

Penalty: \$500.

PART IV - PRE-ACQUISITION PROCEDURES

Division 1 - Notice of Proposal

32.(1) The Minister shall not acquire land for public purposes unless -

Notice of
proposal

- (a) the acquisition is by agreement with the owner of the land; or
- (b) he has -
 - (i) caused diligent inquiry to be made to ascertain who has an interest in that land;
 - (ii) served a notice of proposal on each of the persons so ascertained whose interest in that land will be divested or modified by the acquisition of that land;
 - (iii) caused a notice in the prescribed form to be published in a newspaper circulating in the area in which the land the subject of the proposal is situated; and
 - (iv) if the land, or if only an interest in the land is proposed to be acquired - the land

Lands Acquisition

or the land in respect of which it is proposed to acquire that interest, is registered under the Real Property Act - caused a copy of that notice to be lodged with the Registrar-General.

(2) The serving of a notice of proposal under sub-section (1)(b) does not constitute -

- (a) an offer; or
- (b) a binding agreement,

to acquire the land the subject of the notice.

Claims

33.(1) Any person who has an interest in any land the subject of a proposal may, before the date of acquisition, lodge with the Minister a claim that he is affected by the proposal.

(2) The Minister shall, within 7 days of the lodgement of a claim under sub-section (1), serve a notice of proposal on the person who lodged the claim.

Forms

34.(1) A notice of proposal shall -

- (a) be in the prescribed form; and
- (b) contain -

(i) the description of the land proposed to be acquired; and

(ii) details of the manner in which it is proposed that the land, if acquired, will be used or developed.

(2) The Minister shall cause to be served on each person served with a notice of proposal a statement in the prescribed form setting out the rights of persons under this Act.

(3) The serving of a notice of proposal under section 32(1)(b)(ii) or 33(2) does not constitute -

- (a) an offer; or
- (b) a binding agreement,

to acquire the land the subject of the notice.

Modification

35.(1) The Minister may, at any time -

Lands Acquisition

- (a) modify a proposal; or
- (b) abandon a proposal.

or abandon-
ment of
proposal

(2) The Minister shall not modify a proposal which has been referred to the Tribunal under section 36(1) except by leave of the Chairman or Deputy Chairman.

(3) The Minister shall cause notice of any modification or abandonment of a proposal to be lodged with-

- (a) each affected person; and
- (b) if the notice of proposal was served on the Registrar-General under section 32(1)(b)(iv) - the Registrar-General.

Division 2 - Pre-acquisition Hearings

36.(1) An affected person may refer a proposal to the Tribunal within 28 days of the date of service on him of the notice of proposal.

Reference to
Tribunal

(2) A reference under sub-section (1) shall be -

- (a) in the form; and
- (b) accompanied by the fee,

prescribed.

(3) A reference under sub-section (1) shall be served on the Minister by the Registrar.

37.(1) The Registrar shall, as soon as is reasonably practicable after receiving a proposal under section 36(1), fix a date, time and place for a preliminary hearing of the proposal by the Chairman or Deputy Chairman.

Fixing of
preliminary
hearing

(2) The Registrar shall cause notice of the preliminary hearing of a proposal to be given to -

- (a) all affected persons; and
- (b) the Minister.

38.(1) The Chairman or Deputy Chairman may, at a preliminary hearing of a proposal, make such orders as are necessary for the expeditious hearing of the proposal.

Preliminary
hearing

Lands Acquisition

(2) Without limiting the generality of sub-section (1), the Chairman or Deputy Chairman may make orders for or with respect to -

- (a) if more than one affected person has referred a proposal to the Tribunal under section 36(1) -
 - (i) the consolidation of hearings; and
 - (ii) the appointment of a person or persons to represent all or some of the persons who referred the proposal;
- (b) public notification of the date, place and time for the pre-acquisition hearing;
- (c) the exchange of reports or other documents or proofs of evidence between persons who intend to tender reports or other documents or evidence at the pre-acquisition hearing; or
- (d) further preliminary hearings.

(3) The Chairman or Deputy Chairman shall not make an order under sub-section (2)(a)(ii) without the consent of the persons who will be represented by the person appointed under that sub-section.

(4) If the Chairman or Deputy Chairman is satisfied that the reference to the Tribunal of a proposal is trivial or not genuine, he may, without holding a pre-acquisition hearing, recommend to the Minister that the land be acquired and used or developed in the manner proposed.

Public notification of hearing 39. If the Chairman or Deputy Chairman makes an order under section 38(2)(b) for the public notification of the pre-acquisition hearing, the Registrar shall cause a notice to be published in a newspaper circulating in the area in which the land the subject of the proposal is situated, specifying -

- (a) a date after which no further references under section 36(1) may be made to the Tribunal;
- (b) the date, time and place fixed for any further preliminary hearing, if any; and
- (c) the date, time and place fixed for the pre-acquisition hearing,

Lands Acquisition

in relation to that proposal.

40.(1) Subject to this Act the Tribunal shall conduct a hearing in relation to each proposal referred to it under section 36(1).

Hearing

(2) The Tribunal shall consider, having regard to the evidence placed before it, whether the proposal in respect of which it is conducting a pre-acquisition hearing should be -

- (a) implemented by the acquisition of the land the subject of the proposal or a part of that land;
- (b) modified; or
- (c) abandoned.

(3) The Tribunal may consider, in addition to the matters referred to in sub-section (2), whether the use or development of the land in the manner proposed -

- (a) would have a detrimental effect on the environment of the area in which the land is situated and, in particular, whether it would -
 - (i) seriously impair an area of scenic beauty;
 - (ii) destroy or adversely affect a site of architectural, historic or scientific interest;
 - (iii) create conditions seriously harmful to the conservation of flora and fauna that should, in the public interest, be preserved; or
 - (iv) affect, either directly or indirectly, the amenity of the neighbourhood by the emission of fumes, smoke, noise, odours, gases or other substances or by interfering with the reception or transmission of radio or television signals; and
- (b) is, in all the circumstances, desirable.

41.(1) The Tribunal shall, within 30 days of the conclusion of a pre-acquisition hearing, make a recommendation in relation to the proposal to the Minister.

Recommendations

(2) If the Tribunal recommends that land be acquired and used or developed it may also recommend

Lands Acquisition

measures to be taken to prevent or lessen any detrimental effect of the use or development of that land referred to in section 40(3)(a).

(3) The Tribunal shall give written reasons for each recommendation it makes under sub-section (1).

Service of
recommend-
ations

42. The Tribunal shall cause to be served on -

(a) the Minister; and

(b) each affected person who referred a proposal to it under section 36(1),

a copy of any recommendation, and the reasons for that recommendation, in relation to that proposal.

PART V - ACQUISITION OF LAND

Division 1 - Compulsory Acquisition

Compulsory
acquisition

43. Subject to this Act, the Minister may acquire land for public purposes by causing a notice declaring that land to be acquired to be published in the Gazette.

Time
limits

44.(1) Subject to sub-section (2), the Minister shall not acquire any land under section 43 before the expiration of 28 days from the date of service of the notice of proposal under section 32(1)(b)(ii) or 33(2).

(2) Sub-section (1) does not apply if the Minister certifies that -

(a) the interest to be acquired is an interest referred to in section 47; or

(b) having regard to -

(i) the urgency of the case; or

(ii) any other exceptional circumstances,

it is not practicable to -

(iii) delay the acquisition for the 28 days referred to in sub-section (1); or

(iv) have the proposal referred to the Tribunal for a pre-acquisition hearing.

(3) If land is acquired under this Division before the expiration of the 28 days referred to in sub-section (1), the Minister shall cause to be tabled in the Legislative Assembly within 3 sitting days of the

Lands Acquisition

publication of the notice of acquisition in the Gazette, a statement of his reasons for the acquisition.

(4) The Tribunal shall not hold or continue to hold a pre-acquisition hearing in respect of a proposal in relation to which the Minister has given a certificate under sub-section (2).

45.(1) Subject to this section, if a proposal has been referred to the Tribunal under section 36(1), the Minister shall not acquire any land the subject of the proposal under section 43 unless -

Acquisition
where matter
referred to
Tribunal.

- (a) all affected persons who referred the proposal to the Tribunal have withdrawn from the pre-acquisition hearing; or
- (b) the Tribunal has made a recommendation under section 41 in relation to the proposal.

(2) The Minister shall not acquire land under section 43 in pursuance of a proposal after the expiration of 6 months from the date of the recommendation of the Tribunal under section 41 in relation to that proposal.

(3) If the Tribunal has made a recommendation under section 41 that land the subject of a proposal should not be acquired and developed or used in the manner proposed, the Minister shall not acquire that land under section 43 before the expiration of 28 days from the date of the recommendation.

46.(1) Subject to this section, upon publication in the Gazette of a notice of acquisition -

Effect of
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 shall be divested or modified to the extent necessary to give effect to this sub-section.

(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. An interest in land acquired under this Division may be an interest which did not previously exist as such.

New interests

Lands Acquisition

Land
acquired
is Crown
land

48.(1) The Minister may, by notice published in the Gazette, declare that any land acquired under this Act is no longer required for the public purpose for which it was acquired.

(2) Land referred to in a notice under sub-section (1) may be dealt with as unalienated Crown land under a law in force in the Territory.

Division 2 - Action after Acquisition

Service of
notice of
acquisition

49.(1) Within 28 days of the date of acquisition of land under Division 1, the Minister shall cause diligent inquiry to be made to ascertain who had an interest in the acquired land at the date of acquisition and shall cause a copy of the notice of acquisition -

(a) to be served on each person whose interest in that land was divested or modified by the acquisition of that land;

(b) to be published in a newspaper circulating in the area in which the acquired land is situated; and

(c) if the acquired land -

(i) is under the provisions of the Real Property Act - to be lodged with the Registrar-General; or

(ii) has not been brought under the provisions of that Act - to be lodged with the proper officer controlling any official register or record of the land.

(2) Upon lodgement of a copy of the notice of acquisition with the Registrar-General or proper officer under sub-section (1)(c), the Registrar-General or that proper officer 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 shall cause to be served on each person served with a notice of acquisition a statement in the prescribed form setting out the rights of persons whose land has been acquired under this Act.

Offers

50.(1) If the Minister is of the opinion that a person on whom he is required to serve a notice under section 49(1)(a) has a claim for compensation under this Act, he shall cause to be served with that notice an offer of -

Lands Acquisition

- (a) the amount of compensation which he considers appropriate for the acquisition of that person's interest in the acquired land; or
 - (b) resettlement, either with or without compensation.
- (2) An offer of resettlement made under sub-section (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 resettlement referred to in sub-section (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 sub-section (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.

Lands Acquisition

Reference to Tribunal 51. If the Minister has not served an offer under section 50 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 that interest into the Tribunal; and
- (b) he shall, at the expiration of 28 days from the date of acquisition, refer the matter to the Tribunal.

Claims 52.(1) Any person who, immediately before the date of acquisition, had an interest in acquired land may, at any time before the expiration of 3 years from the date of acquisition, lodge with the Minister a claim for compensation in the prescribed form.

(2) The Minister shall, within 7 days of the lodgement of a claim under sub-section (1), if he is of the opinion that that person has a claim for compensation, cause to be served on the person who lodged the claim an offer of compensation for his interest in the acquired land in accordance with section 50(1).

Title documents 53.(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 sub-section (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 sub-section (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.

Penalty: \$200.

PART VI - ENTRY INTO POSSESSION

Entry into possession 54.(1) Subject to this Part, the Territory shall not enter into possession of acquired land before the expiration of 3 months from the date of acquisition.

Lands Acquisition

(2) Sub-section (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 sub-section (1);

(b) the Minister and the occupant of the land enter into an agreement in relation to the entry by the Territory 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 sub-section (1) may be extended by agreement between the Minister and the occupant of the acquired land.

55.(1) A Magistrate may, on the application of the Minister, issue a warrant under this section.

Warrants

(2) A warrant issued under this section shall be addressed to a member of the Police Force.

(3) A warrant issued under this section authorizes 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. 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.

Protection
of persons
executing
warrants

57.(1) The Minister may, at any time, apply to the Chairman for a determination as to occupancy in relation to any acquired land.

Application
for determin-
ations as to
occupancy

Lands Acquisition

- (2) An application under sub-section (1) shall be -
 - (a) in the form prescribed; and
 - (b) served on the occupant of the acquired land.

Determinations as to occupancy 58.(1) The Chairman or Deputy Chairman shall hear and determine each application under section 57(1).

(2) In determining an application under section 57(1), the Chairman or Deputy Chairman may -

- (a) order that a person in occupation of the acquired land occupies that land under licence from the Territory;
- (b) determine the rent payable by that person to the Territory; and
- (c) determine any other terms or conditions in relation to a licence determined under paragraph (a).

(3) A determination under this section that a person is a licensee of the Territory is binding on that person and the terms and conditions of the licensee may be enforced and the rent recovered by the Territory in a court of competent jurisdiction.

PART VII - COMPENSATION

Compensation for acquired land

59. 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.

Compensation for abandoned proposals

60. 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.

Lands Acquisition

61. A person who - Damages
- (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.
- 62.(1) Upon the service on a person of an offer under section 50, there shall be payable to that person out of moneys appropriated for the purpose an amount of money equal to 90 per cent of the amount of compensation offered. Prepayments
- (2) If the amount of money paid under sub-section (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 sub-section (1) and the amount of compensation determined under this Act in respect of his interest.
- 63.(1) Where an offer of resettlement 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. Offers of
resettlement
- (2) Where an offer of resettlement 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.(1) Subject to this section, compensation bears Interest
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.

Lands Acquisition

(4) Subject to sub-section (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.

Rates of interest

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

(2) In fixing the rate of interest under sub-section (1) the Minister shall have regard to the rate of interest payable from time to time by the Commonwealth Trading Bank of Australia in respect of money owed to that bank upon a current account overdraft.

Schedule 2

66. Compensation shall be assessed in accordance with the rules set out in Schedule 2.

Recovery of compensation

67. 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.

PART VIII - ASSESSMENT OF COMPENSATION OR DAMAGES

Division 1 - Acquired Land

Notice of acceptance or dispute

68.(1) A claimant served with a notice of acquisition under section 49(1)(a) and an offer under section 50(1) 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 sub-section (1) shall -

(a) be in writing; and

(b) if it is a notice of dispute -

(i) be in the prescribed form; and

Lands Acquisition

- (ii) specify the amount of compensation or additional compensation claimed.

69. If a claimant does not comply with section 68(1) within the time prescribed by that sub-section, the Minister may refer the matter to the Tribunal.

Reference
to
Tribunal

70. If the Minister is served with a notice of dispute under section 68(1)(b), he shall, within 28 days of being served with that notice -

Counter
offers

- (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. A claimant served with an offer under section 70(b) shall, within 28 days of being served with that offer -

Reference
to
Tribunal

- (a) agree that the amount of compensation offered is the appropriate amount of compensation; or
- (b) refer the matter to the Tribunal.

72. A person who refers a matter to the Tribunal under this Division shall transmit to the Tribunal a copy of -

Documents to
be transmitted
to Tribunal

- (a) the notice of acquisition;
- (b) any offer under section 50(1); and
- (c) any notice of dispute.

Division 2 - Abandoned Proposals and Damages

73.(1) A person who has a claim for compensation under section 60 (which relates to abandoned proposals) or 61 (which relates to damages for entry onto land) may, within 28 days of -

Claims

- (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 authorized under Part III to enter and remain on the land left the land,

Lands Acquisition

as the case may be, lodge with the Minister a claim for compensation.

(2) A claim under sub-section (1) shall -

(a) be in the prescribed form; and

(b) specify the amount of compensation claimed.

Offers

74. If the Minister is served with a claim under section 73, he shall, within 28 days of being served with that claim -

(a) agree that the amount of compensation or damages claimed is the appropriate amount of compensation or damages;

(b) 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.

Reference
to
Tribunal

75. A person served with an offer under section 74(b) shall, within 28 days of being served with the offer -

(a) agree that the amount of compensation offered is the appropriate amount of compensation; or

(b) refer the matter to the Tribunal.

Documents
to be
transmitted
to Tribunal

76. 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 offer under section 74.

Division 3 - Hearings

Fixing of
preliminary
hearing

77.(1) The Registrar shall, on request of a party to proceedings under this Part, fix a date, time and place for a preliminary hearing by the Chairman or Deputy Chairman of the matter.

(2) The Registrar shall cause notice of the preliminary hearing to be given to -

(a) the claimant; and

Lands Acquisition

(b) the Minister.

78.(1) The Chairman or Deputy Chairman may, at a preliminary hearing, make such orders as are necessary for the expeditious hearing of the matter.

Preliminary
hearing

(2) Without limiting the generality of sub-section (1), the Chairman or Deputy Chairman may make orders for or with respect to -

(a) if more than one claimant has referred a matter involving the same land to the Tribunal -

(i) the consolidation of matters; and

(ii) the appointment of a person or persons to represent all or some of those claimants;

(b) public notification of the date and time for the hearing of the matter;

(c) the exchange of reports or proofs of evidence between persons who intend to tender reports or other evidence or documents at the hearing of the matter; or

(d) further preliminary hearings.

(3) The Chairman or Deputy Chairman shall not make an order under sub-section (2)(a)(ii) without the consent of the persons who will be represented by the person appointed under that sub-section.

79. If the Chairman or the Deputy Chairman makes an order under section 78(2)(b) for the public notification of the hearing of the matter, the Registrar shall cause a notice in the prescribed form to be published in a newspaper published and circulating in the area in which the land the subject of the proceedings is situated, specifying -

Public
notification
of hearings

(a) the date, time and place fixed for any further preliminary hearing; and

(b) the date, time and place fixed for the hearing.

80. 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 is entitled under this Act into the Tribunal, in the manner prescribed in the rules.

Payment into
Tribunal

81. The Tribunal shall hear and determine, in relation to each matter referred to it under this Part -

Determinations

Lands Acquisition

- (a) whether the claimant 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.

Instrument
of deter-
minations

82.(1) The Tribunal shall, within 28 days of the conclusion of a hearing under section 81, 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 sub-section (1) or (2).

Service of
determina-
tions

83. The Tribunal shall cause to be served on -

- (a) the Minister; and
- (b) each claimant 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 IX - APPEALS

Appeals

84. A person aggrieved by a determination of the Tribunal under section 58 or 81 may appeal to the Supreme Court.

Notice of
appeal

85. An appeal may be instituted by lodging a notice of appeal in the Supreme Court -

- (a) in the form; and
- (b) accompanied by the fee,

prescribed by the Rules of Court.

Powers of
Supreme
Court

86.(1) The Supreme Court has jurisdiction to hear and determine appeals under this Part and may -

- (a) confirm the determination of the Tribunal;

Lands Acquisition

- (b) vary that determination;
- (c) substitute its own determination for that determination; or
- (d) dismiss the appeal.

(2) The Supreme Court has jurisdiction to hear and determine matters or questions referred to it under section 26(h).

(3) A determination under this section has effect as if it were a determination of the Tribunal.

87.(1) Subject to this section, the costs of any appeal under this Part are in the discretion of the Supreme Court.

Costs

(2) The Supreme Court has the powers conferred on the Tribunal under section 27(2).

(3) The Supreme Court shall have regard to the matters referred to in section 27(4) in exercising its discretion under this section.

88.(1) The Chief Judge may make Rules of Court under the Northern Territory Supreme Court Act 1961 of the Commonwealth prescribing the practice and procedure applicable to the hearing of -

Rules of
Court

- (a) references under section 26(h); and
- (b) appeals under this Part.

(2) Subject to the Rules of Court, a Judge may give such directions as to the practice and procedure applicable to the hearing of an appeal or reference referred to in sub-section (1) as he thinks fit.

PART X - MISCELLANEOUS

89. Nothing in this Act affects -

Other
acquisitions

- (a) the acquisition by the Territory of land by agreement;
- (b) the payment and acceptance under any agreement of valuable consideration in satisfaction for compensation; or
- (c) the acquisition of land by the Territory under any other law of the Territory.

Lands Acquisition

Service 90.(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 Crown Solicitor.

(2) The Crown Solicitor is authorized to accept service of any document served on or lodged with him under sub-section (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; or
- (d) by affixing a copy of that notice or other document in a prominent place on the land to which it relates.

Registrar-General 91. The Registrar-General shall, when served with a notice under section 32(1)(b)(iv) or 35(3)(b), enter particulars of the notice on the register maintained by him under the Real Property Act.

Extensions or abridgements of time 92.(1) Where it is provided in this Act that an act or thing may be or is required to be done -

- (a) within a specified time; or
- (b) not before the expiration of a specified time,

the Chairman or Deputy Chairman may, in his discretion, extend or abridge that time.

(2) The Chairman or Deputy Chairman may extend time under sub-section (1) notwithstanding that the

Lands Acquisition

time prescribed by this Act for the doing of an act or thing has expired.

93. 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.

Execution
of
documents

94. The Chairman or Deputy Chairman may authorize the investment of money paid into the Tribunal under this Act in any investment in which a trustee may invest under the Trustee Act.

Investment

95.(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 or Rules of Court may be made).

Regulations

(2) Without limiting the generality of sub-section (1), the regulations may include provisions -

(a) prescribing forms to be used for the purposes of this Act; and

(b) prescribing fees payable to witnesses.

SCHEDULE 1

Section 3

REPEALED STATUTES

Land Clauses Consolidation Act 1847
Land Clauses Consolidation Act 1855-6
Land Clauses Consolidation Act 1881

Lands Acquisition

SCHEDULE 2

Section 66

RULES FOR THE ASSESSMENT OF
COMPENSATION

Value to the owner 1. Subject to this Schedule, the compensation payable to a claimant 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.

2. Subject to this Schedule, in assessing the compensation payable to a claimant in respect of acquired land the Tribunal may take into account -

Market value (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 seller to a willing buyer;

Special value (b) the value of any additional advantage to the claimant incidental to his ownership, or occupation of, the acquired land;

Severance (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

Disturbance (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.

Market value for use other than existing use 3. 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

Lands Acquisition

(b) costs that would have been incurred,
in adapting the land for use for that other purpose.

4. 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 -

Circumstance
peculiar to
the claimant

- (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.

5. If, at the date of acquisition, the acquired land was proposed to be or was zoned or reserved under a town planning scheme under the Town Planning Act for existing or future public purposes -

Restrictions

- (a) any limitation on the use or development of the land imposed by or as a consequence of that zoning or reservation shall be disregarded; and
- (b) it shall be assumed that the use and development of the land was, at the date of acquisition, controlled in such manner as would have been likely if there had been no such zoning or reservation.

6. If, at the date of acquisition, the interest of the claimant in the land was -

Determinable
interests

- (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.(1) If -

Resettlement

- (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

Lands Acquisition

(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 sub-rule (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.

Matters not
to be taken
into
account

8. 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 Administration and Audit Act applies, or a council or community government council within the meaning of the Local Government Act;

(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,

Lands Acquisition

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.(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 -

Intangible
disadvantages

- (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 sub-rule (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. 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 compen-

Mortgage
debts

Lands Acquisition

sation that would be payable for the acquisition of all interests in the land if there had been no mortgage secured over that land.

Loans

11.(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 sub-rule (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 sub-rule (3) -

Lands Acquisition

- (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 cease to use the land as a principal place of residence; or
 - (iii) if both the claimant and his spouse have died; and
- (b) shall contain such other terms and conditions as the Minister thinks fit to secure the repayment of the loan.

12. In rules 9 and 11, a reference to a claimant includes a reference to a spouse and to a bona fide de facto spouse.

Interpretation



