

Serial 104
Lands
Acquisition
Amendment
(No.2)
Mr Reed

NORTHERN TERRITORY OF AUSTRALIA

LANDS ACQUISITION AMENDMENT ACT (No. 2) 1995.

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A BILL for AN ACT

to amend the Lands Acquisition Act

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 (No. 2) 1995*.

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. Interpretation

Section 4 of the Principal Act is amended -

- (a) by omitting the definition of "reserved land"; and
- (b) by adding at the end the following:

"(2) For the avoidance of doubt, 'land' as used in this Act shall be taken to include, and to have always included, water covering land."

5. Repeal and substitution

Section 7 of the Principal Act is repealed and the following substituted:

"7. Members

"(1) The Minister shall, by notice in the *Gazette*, appoint not less than 11 persons to be members of the Tribunal, not less than 2 of whom shall have qualifications for appointment referred to in subsection (2)(a).

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

- (a) enrolled as a legal practitioner of the High Court of Australia or the Supreme Court of a State or a Territory of the Commonwealth and has been so enrolled for not less than 5 years;
- (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*;
- (e) a member or person qualified to be a member of the Institute of Engineers of Australia;
- (f) a member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants; or
- (g) in the opinion of the Minister, a person who has special knowledge in relation to Aboriginal societies or any other class of matters considered by the Minister to have substantial relevance to the question of native title rights and interests within the meaning of the *Native Title Act 1993* of the Commonwealth."

6. Repeal and substitution

Section 8 and 9 of the Principal Act is repealed and the following substituted:

"8. Chairman and Deputy Chairman

"(1) The Minister shall, by notice in the *Gazette* and for such period, not exceeding 3 years as is specified in the notice, appoint a member having qualifications for appointment referred to in section 7(2)(a) to be the Chairman of the Tribunal and another such member to be the Deputy Chairman.

"(2) A member appointed as Chairman or Deputy Chairman of the Tribunal is eligible for reappointment.

"9. Term of office

"(1) Subject to subsection (2) and section 10, a member holds office for such period, not exceeding 5 years, as is specified in his notice of appointment, but is eligible for reappointment.

"(2) Where at the expiration of the term of office of a member, or of the Chairman or Deputy Chairman, he was a member or presiding member of the Tribunal constituted for the hearing of a particular matter that had not then been finally disposed of, he shall continue to be a member or the presiding member in respect of that matter until it is finally disposed of, as if his office had never expired."

7. Removal from office

Section 10(1) of the Principal Act is amended by omitting paragraph (b).

8. Repeal

Section 31A of the Principal Act is repealed.

9. Notice of proposal

Section 32 of the Principal Act is amended -

(a) by omitting from subsection (1) "The Minister" and substituting "Subject to subsection (3), the Minister";

(b) by omitting from subsection (1)(b) subparagraph (i) and (ii) and substituting the following:

"(i) caused a search to be made of the Register maintained by the Registrar-General under the *Real Property Act* and also that part of the National Native Title Register, within the meaning of the *Native Title Act 1993* of the Commonwealth, relating to approved determinations of native title;

- (ii) served a notice of proposal on each person ascertained as a result of such a search as having in the land an interest that will be divested or modified by the acquisition of the land;"
- (c) by omitting from subsection (1)(b)(iii) "situated; and" and substituting "situated;"
- (d) by omitting from subsection (1)(b) subparagraph (iv) and substituting the following:
 - "(iv) if the land proposed to be acquired, or the land an interest in which is proposed to be acquired, 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 copy of the notice to be served on the body or bodies, if any, determined under section 202(1) of the *Native Title Act 1993* of the Commonwealth to be the representative Aboriginal body or bodies for the area in which the land is situated; and
 - (vi) caused a notice of proposal, in such form as he thinks fit, to be served on such other persons he is satisfied have in the land an interest that will be divested or modified by the acquisition, and on such other persons as he, in his discretion, thinks necessary.";
- (e) by inserting in subsection (2), after "subsection (1)(b)", the words "or section 33(2)";
- (f) by inserting at the end of subsection (2) "or a recognition by the Territory that the person on whom it is served has an interest in the land it is proposed should be acquired"; and
- (g) by adding at the end the following:

"(3) Subject to compliance with subsection (1)(b)(iii), a failure to serve a notice under this section or section 33(2) does not invalidate a proposal to acquire land or an acquisition of land."

10. Claims

Section 33 of the Principal Act is amended by inserting in subsection (1), after "who has", the words "or claims to have".

11. Forms

Section 34 of the Principal Act is amended by omitting subsection (3).

12. Modification or abandonment of proposal

Section 35(3) of the Principal Act is amended by omitting paragraph (b) and substituting the following:

"(b) if the notice of proposal was served on 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."

13. Time limits

Section 44 of the Principal Act is amended by omitting from subsections (1) and (3) "(reserved land excepted)".

14. Repeal

Division 1A of Part V of the Principal Act is repealed.

15. Service of notice of acquisition

Section 49 of the Principal Act is amended -

(a) by omitting from subsection (1) all words before paragraph (b) and substituting the following:

"(1) Within 28 days after the date of acquisition of land under Division 1, the Minister shall cause a search to be made of the Register maintained by the Registrar-General under the *Real Property Act* and also that part of the National Native Title Register, within the meaning of the *Native Title Act 1993* of the Commonwealth, relating to approved determinations of native title, and may in his discretion make such other inquiries as he thinks fit to be made to ascertain who, in his opinion, had an interest in the acquired land at the date of the acquisition, and shall cause a copy of the notice of acquisition -

(a) to be served on each person whose interest in the land, in the Minister's opinion, was or may have been divested or modified by the acquisition of the land;"

(b) by omitting subsection (1A);

(c) by omitting from subsection (2) "or (1A)";

(d) by omitting from subsection (3) "or a notice under subsection (1A); and

(e) by adding at the end the following:

"(4) A notice under subsection (1) does not constitute a recognition by the Territory that the person on whom it is served has an interest in the land to which it relates.

"(5) Subject to compliance with subsection (1)(b), a failure to serve a notice under this section does not invalidate the acquisition of land."

16. Offers

Section 50(1) of the Principal Act is amended -

- (a) by omitting "on whom he is required to serve a notice" and substituting "who has been served with a notice"; and
- (b) by omitting "or (1A)".

17. Reference to Tribunal

Section 51(b) of the Principal Act is amended by inserting at the end "to be dealt with under Division 3 of Part VIII".

18. Claims

Section 52 of the Principal Act is amended by adding at the end the following:

"(3) If no claim is lodged within the 3 years referred to in subsection (1), claims for compensation and interest are, by virtue of this subsection, statute barred."

19. Notices

Section 68(1) of the Principal Act is amended by omitting "or (1A)".

20. Schedule 2

Omit rule 5.

21. Transitional

(1) The Minister may, within 12 months after the commencement of this Act, by notice in the *Gazette*, declare the membership of the Lands Acquisition Tribunal to be vacant and, subject to subsection (2), the membership shall be vacant accordingly.

(2) Where at the time of a declaration under subsection (1) there was a matter before the Tribunal which was not finally disposed of by the Tribunal as constituted for the hearing of the matter, the Tribunal as so constituted shall continue to hear and dispose of the matter as if the declaration under subsection (1) had never been made.
