



Serial 317
Native Title
(Consequential
Amendments)
Mr Perron

NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend various Act consequential on the passing
of the *Native Title Act 1993* of the Commonwealth

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 *Native Title (Consequential Amendments) 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. AMENDMENTS TO ACTS

The Acts specified in the Schedule are amended in the manner there indicated.

SCHEDULE

ACTS AMENDED

Section 3

Petroleum Act

Section 5 INTERPRETATION

Omit from subsection (1) the definition of "private land" and substitute the following:

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"'private land' means -

- (a) land other than Aboriginal land, that is alienated from the Crown for an estate of freehold or is the subject of a conditional purchase agreement or of a lease or concession, with or without a right of acquiring the fee simple, other than a lease or concession for pastoral or timber purposes; or
- (b) land in respect of which a determination of native title has been made and registered in the National Native Titles Register established under section 192 of the *Native Titles Act 1993* of the Commonwealth,

but does not include land held or occupied for purposes under the *Mining Act*, this Act or the repealed Act;".

Section 81 COMPENSATION TO OWNERS

Insert in subsection (1), after "legal or equitable", the words "and includes native title rights and interests within the meaning of the *Native Title Act 1993* of the Commonwealth".

Insert in subsection (3), after "an amount", the words "or other benefit".

Insert in subsection (3), after "that amount", the words "or benefit".

Omit from subsection (4) all words after "and that payment" and substitute "or other arrangements for compensation under subsection (1) or in pursuance of section 82A has or have been made or an enforceable agreement for making such payments or in relation to such arrangements has been entered into".

Insert in subsection (5)(a), after "subsection (1)", the words "or in pursuance of section 82A".

Omit from subsection (5)(b) all words after "to determine" and substitute "the compensation to which the owner or occupier is entitled".

Insert at the end of subsection (8) "and includes a person determined to be the holder of any native title right or interest registered in the National Native Title Register established under section 192 of the *Native Title Act 1993* of the Commonwealth".

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Section 82 COMPENSATION FOR RIGHT OF ACCESS

Insert in subsection (1), after "legal or equitable", the words "and includes native title rights and interests within the meaning of the *Native Title Act 1993* of the Commonwealth".

Omit subsection (2) and substitute the following:

"(2) Where for the purposes of subsection (1) compensation cannot be agreed upon, either party may refer the matter to a warden who shall determine the compensation to which the owner or occupier is entitled."

NEW SECTION

Insert after section 82 the following:

"82A. COMPENSATION OTHER THAN MONEY IN RESPECT OF NATIVE TITLE

"Where private land in respect of which compensation is payable under section 65, 81 or 82 comprises native title rights or interests, 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 other party involved in the negotiations -

(a) must consider the request; and

(b) must negotiate in good faith in relation to the request."

Section 83 APPLICATION OF MINING ACT

Insert in paragraph (b), after "and 82", the words "and, where a matter involves compensation in respect of a native title right or interest, the warden's court shall be constituted by a magistrate".

Soil Conservation and Land Utilization Act

Section 3 DEFINITIONS

Omit the definition of "land" and substitute the following:

"'land' means all land in the Territory of whatever title or tenure, and includes native title rights and interests in land, within the meaning of the *Native Title Act 1993* of the Commonwealth;"

Insert in the definition of "landholder", after "owner" the words "(including a native title holder within the meaning of the *Native Title Act 1993* of the Commonwealth)".

Section 43 ACQUISITION OF PROPERTY

Insert before subsection (1) the following:

"(1A) To the extent that the exercise of a power conferred by or under this Act results in the acquisition by the Territory of property (including land), that acquisition is hereby permitted and the property is compulsorily acquired."

Insert after subsection (2) the following:

"(2A) Where property in respect of which compensation is payable under section 43 comprises native title rights or interests, 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, in considering the application -

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

Insert at the end of subsection (3) "or any compensation other than money agree on in pursuance of section (2A) or, where no such agreement is reached, such other compensation as the Minister thinks fit".

Omit from subsection (4) "to the applicant the amount" and substitute "or provide to the applicant the amount or other compensation".

Omit subsection (5) and substitute the following:

"(5) If the Minister rejects the application or the applicant rejects the offer of payment or compensation made by the Minister -

- (a) in the case of compensation for land or land and improvements - the Minister may within 60 days after to rejection of the application or the offer, and shall is so requested in writing by the applicant, refer the matter to the Lands Acquisition Tribunal established under the *Lands Acquisition Act* which shall deal with the matter under that Act as though it were referred to it under section 69 of that Act and the *Lands Acquisition Act*, with the necessary changes applies accordingly; or

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- (b) in any other case, the applicant may institute proceedings against the Territory in a court of competent jurisdiction for payment to the applicant of an amount as compensation for the acquired property.".
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