

South Australia

Land Acquisition Act 1969

An Act about the acquisition of land.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Land Acquisition Act 1969*.

3—Object of this Act

The object of this Act is to provide for the acquisition of land on just terms.

6—Interpretation

- (1) In this Act, unless the contrary intention appears—

acquisition project means—

- (a) the acquisition or proposed acquisition of land under this Act; and
- (b) the development or use (or the proposed or expected development or use) of the land following its acquisition;

Authority means the person authorised by the special Act to acquire land;

claimant means a person who has or asserts a claim to compensation under this Act;

Commonwealth Registrar means the Native Title Registrar appointed under Part 5 of the *Native Title Act 1993* (Cwth);

compensation means compensation to which a person is entitled under this Act, and includes the purchase price of land purchased by agreement, but does not include a payment under Part 4 Division 4;

Court means the Supreme Court;

ERD Court means the *Environment, Resources and Development Court* constituted under the *Environment, Resources and Development Court Act 1993*;

infrastructure facility has the same meaning as in the *Native Title Act 1993* (Cwth);

interest in 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 connection with, the land; or
- (c) native title in the land;

interested in relation to land, means having an interest in the land;

land includes an interest in land;

native title—for definitions relating to native title see the *Native Title (South Australia) Act 1994*;

owner includes a person who holds native title in land;

prescribed private acquisition means—

- (a) an acquisition by the Crown or an instrumentality of the Crown of native title in land for the purpose of conferring rights or interests in relation to the land on a person other than the Crown or an instrumentality of the Crown so that an infrastructure facility may be provided; or
- (b) an acquisition by the Crown or an instrumentality of the Crown of native title in land wholly within a town or city for the purpose of conferring rights or interests on a person other than the Crown or an instrumentality of the Crown; or
- (c) an acquisition by the Crown or an instrumentality of the Crown of native title in land situated on the seaward side of the mean high-water mark of the sea for the purpose of conferring rights or interests on a person other than the Crown or an instrumentality of the Crown; or
- (d) an acquisition of native title in land that is neither made by the Crown or an instrumentality of the Crown nor made for the purpose of conferring rights or interests on the Crown or an instrumentality of the Crown;

Registrar means—

- (a) for all interests in land except native title—the Registrar-General;
- (b) for native title—the Registrar of the ERD Court;

registered representative of native title holders—see *Native Title (South Australia) Act 1994*;

special Act means the Act authorising the compulsory acquisition of land;

subject land means land acquired or subject to acquisition under this Act;

town or city means an area in South Australia that is a town or city for the purposes of the *Native Title Act 1993* (Cwth).¹

- (2) An explanatory note to a provision of this Act forms part of the provision to which it relates.
- (3) A reference to the Crown or an instrumentality of the Crown in this Act is taken to have the same meaning as a reference to the State (so far as applicable to South Australia) in the *Native Title Act 1993* (Cwth).

Explanatory Note—

- 1 See section 251C of that Act.

7—Application

- (1) This Act applies to and in relation to every acquisition of land authorised by a special Act.
- (1a) A special Act that authorises the compulsory acquisition of land will be taken to authorise the acquisition of land as defined by this Act (including, to avoid doubt, underground land).
- (2) This Act is hereby incorporated with every special Act authorising the acquisition of land, and shall be read with any such Act as one Act.

- (3) In its application to the acquisition of native title, this Act operates subject to the provisions of any relevant registered indigenous land use agreement under the *Native Title Act 1993* (Cwth).

8—Real Property Act does not derogate from application of Act

The provisions of this Act apply notwithstanding the provisions of the *Real Property Act 1886*.

9—Act does not apply to resumption of land

This Act does not apply to, or in relation to, the resumption of land pursuant to any provision of the *Crown Lands Act 1929* or the *Pastoral Act 1936*.

9A—Operation of section 26B to be set out in certain communications

Without limiting any other provision of this Act, the Authority must ensure that any written communication of the Authority to an owner of land that is, or is to be, acquired under this Act contains information setting out the operation of section 26B.

Part 2—Proposal to acquire land

10—Notice of intention to acquire land

- (1) Subject to this Act, if the Authority proposes to acquire land (other than native title), the Authority must give a notice of intention to acquire the land to each person whose interest in the land is subject to acquisition, or such of those persons as, after diligent inquiry, become known to the Authority.
- (2) If the Authority proposes to acquire native title in land, the Authority must—
- (a) if there is a native title declaration for the land—give notice of intention to acquire the land to the registered representative of the native title holders and the relevant representative Aboriginal body;
 - (b) if there is no native title declaration for the land—
 - (i) give a notice of intention to acquire the land to all persons who hold, or may hold, native title in the land;¹ and
 - (ii) in a case to which Part 4 Division 1 applies—
 - (A) give a copy of the notice of intention to acquire the land to the Registrar of the ERD Court and the Commonwealth Registrar; and
 - (B) as soon as practicable after completing all requirements for service of the notice, give the Registrar of the ERD Court, the Commonwealth Registrar, the relevant representative Aboriginal body and any other prescribed persons a statutory declaration—
 - specifying the steps that have been taken to effect service, the date of each step, and when the requirements for service were completed; and
 - exhibiting any supporting materials required under the regulations.

- (3) The notice of intention to acquire the land must comply with the following requirements:
- (a) it must define the subject land with reasonable particularity; and
 - (ab) it must set out the operation of section 26B; and
 - (b) if Part 4 Division 1 applies to the proposed acquisition—it must include a statement that Aboriginal groups who are not registered, and have not applied for registration, under the law of the State or the Commonwealth as holders of or claimants to native title in the land but want to participate in the negotiations must take the necessary steps under that law to become native title parties in relation to the relevant land within three months after service of the notice; and
 - (c) if—
 - (i) the Authority is the Crown or an instrumentality of the Crown; and
 - (ii) the Authority proposes to acquire native title; and
 - (iii) the Authority does not propose to acquire the land for the purpose of conferring rights or interests on someone other than the Crown or an instrumentality of the Crown,it must state that the purpose of the acquisition is to confer rights or interests in relation to the land on the Crown or an instrumentality of the Crown.
- (4) If the Authority changes the boundaries of the land it proposes to acquire in any respect, the Authority must immediately serve a notice of amendment to the notice of intention to acquire the land on the same persons as the notice of intention to acquire.
- (4a) To avoid doubt, a notice under subsection (4)—
- (a) need not be given to a person in the same way as the notice of intention to acquire land was given to the person; and
 - (b) does not constitute a new notice of intention to acquire the relevant land.
- (5) However, a notice of amendment need not be given to a person who was given notice of intention to acquire the land if—
- (a) the notice of intention to acquire was given because the person held an interest in the land and the person no longer holds that interest; or
 - (b) the notice of intention to acquire was given because the person claimed to hold an interest in the land and—
 - (i) the claim has been abandoned; or
 - (ii) a court has determined the claim and found that the claimant has no interest in the land.
- (6) A notice of intention to acquire land does not bind the Authority to acquire the subject land.

Explanatory Note—

- 1 For method of service see Part 5 *Native Title (South Australia) Act 1994*.

10A—Obligation to notify Authority of other interests in land

- (1) An owner of land to whom a notice of intention to acquire the land is given must, no later than 14 days after receiving the notice, notify the Authority of—
 - (a) any other person who, to the person's knowledge, has an interest in the land; and
 - (b) the nature of that person's interest.
- (2) A person who, without reasonable excuse, refuses or fails to comply with subsection (1) is guilty of an offence.
Maximum penalty: \$5 000.

11—Explanation of acquisition scheme may be required

- (1) A person who has an interest in the subject land may, within 30 days after notice of intention to acquire the land is given, require the Authority, by written notice—
 - (a) to give an explanation of the reasons for acquisition of the land; and
 - (b) to provide reasonable details of any statutory scheme in accordance with which the land is to be acquired.
- (2) For the purposes of this section—
 - (a) the registered representative of claimants to, or holders of, native title in land is taken to have an interest in that land; and
 - (b) the relevant representative Aboriginal body is taken to have an interest in the land if—
 - (i) the land is native title land; and
 - (ii) there is no native title declaration for the land; and
 - (iii) —
 - (A) there are no registered representatives of claimants to native title in the land; or
 - (B) an Aboriginal group that claims to hold native title in the land and for which there is no registered representative has, in accordance with the regulations, authorised the representative Aboriginal body to act on its behalf.
- (3) The Authority may furnish the explanation and details by letter, or by making available models, plans, specifications or other relevant materials relating to the statutory land acquisition scheme.

12—Right to object

- (1) A person who has an interest in the subject land may within 30 days after notice of intention to acquire the land is given or, if an explanation of the reasons for the acquisition is required, within 30 days after the explanation was provided, by written notice—
 - (a) request the Authority not to proceed with the acquisition of the subject land; or
 - (b) request an alteration in the boundaries of the subject land; or

- (c) request that a particular part of the subject land be not acquired, or that further land be acquired.
- (2) For the purposes of this section—
 - (a) the registered representative of claimants to, or holders of, native title in land is taken to have an interest in that land; and
 - (b) the relevant representative Aboriginal body is taken to have an interest in the land if—
 - (i) the land is native title land; and
 - (ii) there is no native title declaration for the land; and
 - (iii) —
 - (A) there are no registered representatives of claimants to native title in the land; or
 - (B) an Aboriginal group that claims to hold native title in the land and for which there is no registered representative has, in accordance with the regulations, authorised the representative Aboriginal body to act on its behalf.
- (3) A request may be made under subsection (1)—
 - (aa) on the ground that acquisition of the land or a particular part of the land is not necessary for the purposes of carrying out the undertaking to which the acquisition relates; or
 - (a) on the ground that acquisition of the land or carrying out the purposes for which the acquisition is proposed would—
 - (i) seriously impair an area of scenic beauty; or
 - (ii) destroy, damage or interfere with an Aboriginal site within the meaning of the *Aboriginal Heritage Act 1988*; or
 - (iii) destroy or impair a site of architectural, historic or scientific interest; or
 - (iv) prejudice the conservation of flora or fauna that should be conserved in the public interest; or
 - (v) prejudice some other public interest; or
 - (b) on some other ground stated in the request.
- (4) The Authority must consider any request made to it under this section and must, within 14 days after receipt of the request, serve notice in writing on the person by whom the request was made, indicating whether it accedes to, or refuses, the request.

12A—Right of review

- (1) A person who makes a request under section 12 in relation to a proposed acquisition which is refused by the Authority under that section may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for a review of the Authority's decision.

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- (2) An application for review under subsection (1) must be made within 7 days of service on the person of the notice of the Authority's decision to refuse.
 - (3) The Tribunal must complete its proceedings on a review within 21 days of the application being made under subsection (1).
 - (4) The merits or otherwise of the undertaking to which the proposed acquisition relates cannot be called into question in a review under this section.
 - (5) Section 71 of the *South Australian Civil and Administrative Tribunal Act 2013* does not apply to or in relation to a decision of the Tribunal under this section.
 - (6) In this section—

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

12B—Additional right to object to prescribed private acquisition

- (1) Native title parties may, by written notice to the Minister, object to a prescribed private acquisition so far as it affects their registered native title rights.
- (2) An objection under subsection (1) must be made within two months after notice of intention to acquire the land is given or, if an explanation of the reasons for the acquisition is required, within two months after the explanation is provided.
- (3) The Minister must consult any native title parties who object under subsection (1) about ways of minimising the impact of the acquisition project on registered native title rights and, if relevant, access to the land.
- (4) The Attorney-General must, at the request of a native title party who has made an objection under this section, appoint an independent person or body to hear the objection.

Example—

The Attorney-General might appoint a Judge of the ERD Court or a native title commissioner to hear the objection.

- (5) Before making such an appointment, the Attorney-General must consult the Minister and the native title party.
- (6) If the independent person or body hearing an objection under this section makes a determination upholding the objection, or that contains conditions about the acquisition that relate to registered native title rights, the determination must be complied with unless—
 - (a) the Minister responsible for indigenous affairs is consulted; and
 - (b) the consultation is taken into account; and
 - (c) it is in the interests of the State not to comply with the recommendation.
- (7) For the purposes of this section—

determination includes recommendation;

in the interests of the State includes—

- (a) for the social or economic benefit of the State (including Aboriginal peoples); and

- (b) in the interests of the relevant region or locality in the State;

Minister means the Minister responsible for the administration of the Act under which the Authority in question is empowered to make the proposed acquisition.

Explanatory Note—

Compare section 24MD(6B) of the *Native Title Act 1993* (Cwth).

13—Notice that land is subject to acquisition

- (1) This section applies only in respect of land that—
- (a) has not been brought under the provisions of the *Real Property Act 1886*; and
 - (b) is not native title land.
- (2) Where a notice of intention to acquire land has been served upon any person, that person shall not enter into any transaction in respect of the subject land without first disclosing the fact that the notice of intention to acquire the land has been served upon him.
- (3) If any contract or agreement in relation to the land is entered into without disclosure as required by subsection (2) of this section, the contract or agreement shall be voidable at the option of the person to whom disclosure should have been made.
- (4) The Authority may lodge a copy of a notice of intention to acquire land at the General Registry Office and may, by instrument in writing served upon any person, require him to deliver up to the Registrar any instrument evidencing his interest in the subject land.
- (5) If a person upon whom a notice has been served under subsection (4) of this section, fails, without reasonable excuse, to deliver up within the time specified in the notice, any instrument that he is required by the notice to deliver up to the Registrar, he shall be guilty of an offence and liable to a penalty, not exceeding one hundred dollars, and whether or not he is convicted of an offence under this subsection, he shall not be entitled to receive any compensation until the instrument has been delivered up to the Registrar.

14—Notice where land is under the Real Property Act

- (1) This section applies only in respect of land that has been brought under the provisions of the *Real Property Act 1886*.
- (2) The Authority shall cause a copy of each notice of intention to acquire land to be served upon the Registrar who shall thereupon enter a caveat upon the title to the subject land forbidding all dealings with the land without the consent in writing of the Authority.
- (3) The Authority shall, where it has determined not to proceed with the acquisition of land, or is presumed so to have determined under the provisions of this Act, forthwith make written application to the Registrar for withdrawal of a caveat entered pursuant to this section and the Registrar shall withdraw the caveat accordingly.

Part 3—Acquisition of land

15—Acquisition by agreement etc

- (1) The Authority may, at any time after the service of a notice of intention to acquire land, and before the publication of a notice of acquisition in respect of the land, acquire the subject land by agreement.¹
- (2) Notwithstanding the fact that a notice of intention to acquire land has been served upon any person, the Authority may decline to proceed with the acquisition of the subject land.
- (3) If the Authority decides not to proceed with the acquisition of land, it must give notice of the decision to the same persons as the notice of intention to acquire the land but notice need not be given to a person who was given notice of intention to acquire the land if—
 - (a) the notice was given because the person held an interest in the land and the person no longer holds that interest; or
 - (b) the notice was given because the person claimed to hold an interest in the land and—
 - (i) the claim has been abandoned; or
 - (ii) a court has determined the claim and found that the claimant has no interest in the land.
- (3a) To avoid doubt, a notice under subsection (3) need not be given to a person in the same way as the notice of intention to acquire land was given to the person.
- (4) If the Authority does not acquire land within 18 months or a longer period fixed under subsection (4a), it will be presumed that the Authority has decided not to proceed with the acquisition and the land cannot then be acquired by the Authority unless a further notice of intention to acquire the land is given.
- (4a) The period for acquisition of the land may be extended as follows:
 - (a) the Authority may, by agreement with the interested parties, extend the period by agreement;
 - (b) the Supreme Court may, on application by the Authority or an interested party, extend the period;
 - (c) in the case of a proposed acquisition of native title—
 - (i) the ERD Court may, on application by the Authority or an interested party, extend the period;
 - (ii) the Minister may, by notice in the Gazette, extend the period if satisfied that the extension is necessary to allow adequate time for negotiation.
- (5) If the Authority decides, or is presumed to have decided, not to proceed with the acquisition of land, a person interested in the land may, within 6 months after notice of the decision is given, or the decision is presumed to have been made, by written notice to the Authority, claim compensation.

- (5a) A native title party registered as a claimant to native title in land has sufficient interest in the land to bring a claim for compensation under subsection (5).
- (6) If, three months after notice is given under subsection (5), the Authority and the claimant are not agreed on whether the claimant is entitled to compensation, or the amount of the compensation, either party may refer the matter to the Court for determination.
- (7) On reference of a matter under subsection (6), the Court may determine whether the claimant has an interest in the subject land and, if so, the amount of compensation that should be paid for—
 - (a) disturbance to the use or enjoyment of the land resulting from the proposed acquisition; and
 - (b) costs and expenses reasonably incurred by the claimant in consequence of the proposed acquisition.

Explanatory Note—

- 1 If, in a case to which Part 4 Division 1 applies, the Authority is to acquire native title in land by agreement, the agreement may include a statement to the effect that the surrender of native title under the agreement is intended to extinguish the native title. See section 24MD(2A) of the *Native Title Act 1993* (Cwth).

16—Notice of acquisition

- (1) Subject to this Act¹, the Authority may, at least three months after the first occasion on which any notice of intention to acquire was given but before the period for acquisition of the land comes to an end², publish a notice of acquisition in the Gazette.
- (2) On publication of the notice of acquisition—
 - (a) the land vests in the Authority to the extent of the interest specified in the notice; and
 - (b) a mortgage, charge, encumbrance, trust or other interest affecting the land (except native title) is, to the extent it affects the land subject to the acquisition, discharged; and
 - (c) if a residual interest remains after the acquisition, the interest is modified to the extent required by the acquisition.³
- (3) The land acquired under this section may be an easement, right, power, or privilege that did not previously exist as such in, under, over, or in connection with, land.
- (4) A notice of acquisition must define the subject land as accurately as is reasonably practicable.
- (5) The Authority must have the notice of acquisition published in a newspaper circulating generally throughout the State.
- (5a) The Authority must also give notice of the acquisition to the same persons as the notice of intention to acquire the land but notice need not be given to a person who was given notice of intention to acquire the land if—
 - (a) the notice was given because the person held an interest in the land and the person no longer holds that interest; or

- (b) the notice was given because the person claimed to hold an interest in the land and—
 - (i) the claim has been abandoned; or
 - (ii) a court has determined the claim and found that the claimant has no interest in the land.
- (5b) To avoid doubt, a notice under subsection (5a) need not be given to a person in the same way as the notice of intention to acquire land was given to the person.
- (6) If the acquisition may result in the extinguishment of the native title of persons who have not yet been registered under the law of the Commonwealth or the State as holders of, or claimants to, native title in land, general notice of the acquisition must be given to all persons who hold or may hold native title in the land⁴ and the notice must include a statement of the special rights of native title holders to claim compensation under this Act.

Explanatory Notes—

- 1 See in particular Division 1 of Part 4 which imposes limitations on the acquisition of native title in land in certain circumstances.
- 2 The period for acquisition of the land is the period of 18 months after the notice of intention to acquire was given (see section 15(4)) or a longer period fixed under section 15(4a).
- 3 The acquisition of land under this section extinguishes native title to the extent permitted by the *Native Title Act 1993*(Cwth) (see sections 24MD(2), (2A) and (3)).
- 4 For method of service see Part 5 *Native Title (South Australia) Act 1994*.

17—Modification of instruments of title

- (1) The Authority shall forthwith after publication of a notice of acquisition cause a copy of the notice to be served on the Registrar and the Registrar shall withdraw any caveat entered pursuant to this Act and cause such alterations to, or endorsements upon, any instrument of title to the land in his possession or power (whether or not the land has been brought under the provisions of the *Real Property Act 1886*) to be made as may be required in consequence of the acquisition of the land.
- (2) If a notice of acquisition of native title in land is published, the Authority must give a copy of the notice of acquisition to any authority that maintains a register of native title under the law of the State or the Commonwealth.

Part 4—Negotiation, compensation and other payments

Division 1—Acquisition of native title in land for private purpose

18—Application of Division

- (1) This Division applies to a proposed acquisition of native title in the following circumstances:
 - (a) the acquisition is to be made by the Crown or an instrumentality of the Crown for the purpose of conferring rights or interests on a person other than the Crown or an instrumentality of the Crown; and
 - (b) the proposed acquisition is not a prescribed private acquisition.

- (2) A proposed acquisition of native title to which this Division applies may only proceed subject to this Division.

19—Negotiation about acquisition of native title in land

- (1) If native title in land is to be acquired, the Authority must, after giving notice of intention to acquire land and before publishing a notice of acquisition of the land, negotiate in good faith with the appropriate native title parties (if any) in an attempt to reach agreement about the acquisition of the native title in the land.
- (2) The obligation to negotiate does not extend to matters unrelated to the effect of the acquisition project on the registered native title rights of the native title parties.
- (3) If any of the negotiating parties requests the ERD Court to do so, the Court must mediate between the parties to assist in obtaining their agreement.
- (4) If agreement is reached, the agreement must be filed in the Court.
- (5) The parties to an agreement filed in the Court under subsection (4) may direct that the agreement or a particular part of the agreement be kept confidential and, if such a direction is given, the agreement or the relevant part of the agreement is not to be available for inspection except by permission of the Court.
- (6) If the appropriate native title parties have made or established distinct claims or entitlements to native title in relation to the land to which the proposed agreement is to relate, the agreement may consist of—
- (a) a single agreement with all the appropriate native title parties; or
 - (b) a series of agreements with one or more of the appropriate native title parties so that they are all party to at least one of the agreements.
- (7) In this section—

appropriate native title parties are the native title parties registered as holders of, or claimants to, native title in the land on the relevant date who continue to be so registered throughout the course of the negotiations including such native title parties registered initially as claimants to native title but later registered as holders of native title during the course of the negotiations, but not including native title parties whose application for a native title declaration was made less than one month before the relevant date;

relevant date means the date falling four months after notice of intention to acquire the land is given under section 10(2).

20—Application for determination if no agreement

- (1) If agreement is not reached between the Authority and the native title parties within six months after notice of intention to acquire the land is given, any party may apply to the ERD Court for a resolution of the matter.
- (2) On an application under this section, the ERD Court may determine whether the Authority may acquire the land and, if so, the conditions on which the acquisition is to proceed (but a final determination of compensation cannot be made at this stage).¹
- (3) A determination may, if the parties agree—
- (a) reserve a question that is not reasonably capable of being determined immediately for further negotiation between the parties; or

- (b) provide for determination of such a question by arbitration or in some other specified manner.
- (4) If a question is referred to arbitration or some other form of non-judicial dispute resolution, and procedural or other difficulties arise, the ERD Court may—
 - (a) give directions to resolve the difficulties; or
 - (b) remove the dispute into the ERD Court and resolve the question itself.
- (5) If, on an application under this section, the ERD Court is satisfied that the Authority has not negotiated in good faith, the Court must not make a determination on the application in favour of the Authority.
- (6) An application under this section does not prevent negotiations from continuing between the Authority and the native title parties and, if agreement is reached between them before the ERD Court makes its determination, the application lapses.
- (7) The ERD Court must make its determination under this section as quickly as practicable.

Explanatory Note—

- 1 Compensation is determined under Division 2 of Part 4.

20A—Constitution of trust

- (1) If—
 - (a) negotiations under this Division lead to an agreement that an amount is to be paid by the Authority and held in trust under this section for those who ultimately establish a claim to native title in the subject land; or
 - (b) a determination under this Division (by the Court or the Minister) requires that an amount is to be paid by the Authority and held in trust under this section for those who ultimately establish a claim to native title in the subject land,

the relevant amount is to be paid into the ERD Court.
- (2) On receipt of an amount paid into court under this section, the ERD Court is to establish, by order, a trust under which the relevant amount is to be held in trust for those who ultimately establish a claim to native title in the subject land.
- (3) Subject to any order of the ERD Court under subsection (4), the amount held on trust is to be dealt with as follows:
 - (a) if native title is established and compensation is awarded or agreed that is equal to, or greater than, the amount held in trust—that amount is to be paid out, in its entirety, to the holders (or former holders) of native title in the subject land;
 - (b) if native title is established and compensation is awarded or agreed that is less than the amount held in trust—the compensation is to be paid out of the amount held on trust and the balance is to be paid to the Authority;
 - (c) if a native title declaration establishes that the land was not (before the acquisition) subject to native title—the amount is to be paid out, in its entirety, to the Authority;
 - (d) if—

- (i) at least 6 years (or a longer period determined by the ERD Court in a particular case) have passed since the constitution of the trust; and
 - (ii) a balance remains in the trust fund to which no native title party has established an entitlement; and
 - (iii) there is no claim to native title in the subject land,
- the balance is to be paid to the Authority.
- (4) The ERD Court may, on its own initiative or on application by an interested person—
 - (a) make orders for the disposition of money held on trust under this section; or
 - (b) resolve any question about payment of an amount held on trust under this section.

21—Criteria for making determination

- (1) In making its determination, the ERD Court must take into account the following:
 - (a) the effect of the acquisition project on—
 - (i) the enjoyment by the native title parties of their registered native title rights; and
 - (ii) the way of life, culture and traditions of any of those parties; and
 - (iii) the development of the social, cultural and economic structures of any of those parties; and
 - (iv) the freedom of access by any of those parties to the land concerned and their freedom to carry out rites, ceremonies or other activities of cultural significance on the land in accordance with their traditions; and
 - (v) any area or site, on the land concerned, of particular significance to the native title parties in accordance with their traditions;
 - (b) the interests, proposals, opinions or wishes of the native title parties in relation to the management, use or control of the land in relation to which the native title parties hold or claim registered native title rights that will be affected by the acquisition project;
 - (c) the economic or other significance of the acquisition project to Australia, to the State, to the area in which the land is located and to Aboriginal peoples who live in that area;
 - (d) any public interest in the acquisition project proceeding;
 - (e) any other matter the ERD Court considers relevant.
- (2) In determining the effect of the acquisition project as mentioned in subsection (1)(a), the ERD Court must take into account the nature and extent of—
 - (a) existing non-native title rights and interests in the land; and
 - (b) existing use of the land by persons other than the native title parties.
- (3) This section does not affect the operation of another law of the State or the Commonwealth for the preservation or protection of areas or sites of particular significance to Aboriginal people.

- (4) Before making its determination, the ERD Court must ascertain whether there is agreement between the parties on issues relevant to the determination and, if all the parties consent, the ERD Court—
 - (a) must take into account the agreement of the parties on issues relevant to the determination; and
 - (b) need not take into account the matters mentioned in subsection (1) to the extent they raise issues on which agreement has been reached.

22—Overruling of determinations

- (1) If the Minister considers it to be in the interests of the State or in the national interest to overrule a determination of the ERD Court under this Division, the Minister may, by notice in writing given to the ERD Court and the parties to the proceedings before the Court, overrule the determination and substitute another determination that might have been made by the Court.
- (2) The Minister cannot overrule a determination if more than two months have elapsed from the date of the determination.

Division 1A—Notice to be given of certain prescribed private acquisitions

22A—Notice on behalf of State for prescribed private acquisition

When an Authority that is neither the Crown nor an instrumentality of the Crown is required to give a notice under this Act in relation to a prescribed private acquisition, the Authority must, on behalf of the State, give any additional notice required under the *Native Title Act 1993* (Cwth).

Explanatory Note—

See section 24MD(6B).

Division 2—Compensation

22B—Entitlement to compensation

- (1) Subject to this Act, a person who has an alienable interest in land is entitled to compensation for the acquisition of the land under this Act if—
 - (a) the person's interest in the land is divested or diminished by the acquisition; or
 - (b) the enjoyment of the person's interest in the land is adversely affected by the acquisition.
- (2) However, the requirement under subsection (1) that an interest be alienable does not apply in relation to an interest consisting of native title.

23—Negotiation of compensation

- (1) The Authority and the claimant must negotiate in good faith in relation to the compensation payable for the acquisition of land under this Act.

- (3) If a party to the negotiations holds or held, or claims to hold or to have held, native title in the land, and either the party or the Authority requests the ERD Court to do so, the Court must mediate between the parties to assist in obtaining their agreement on the matters at issue between them.
- (4) The Authority may offer non-monetary compensation.

Example—

The non-monetary compensation might take the form of a transfer of land, the provision of goods or services, or the carrying out of work for the re-instatement or improvement of land remaining in the claimant's ownership after the acquisition.

- (5) A party to the negotiations who is the holder of native title in the land may request non-monetary compensation, and the Authority must give due consideration to any such request.
- (6) The Authority's liability to pay compensation under this Act for the acquisition of land is reduced by the value of non-monetary compensation provided at the request of, or by agreement with, the person to whom the liability is owed.
- (7) The Authority must, at the request of the claimant and in accordance with any requirements set out in the regulations, convene a conference (a **valuers conference**) between valuers who have made a valuation of the subject land (and the Authority may convene such a conference at any other time the Authority considers appropriate).
- (8) The primary purpose of a valuers conference is to determine, if possible, a valuation of the subject land that is acceptable to both valuers (having regard to any factors that may affect the original valuations of the land), and to determine those matters of fact and opinion on which they agree and those on which they disagree, and the reasons for any disagreement.
- (9) Subject to this Act and the regulations, a valuers conference is to be conducted in accordance with procedures determined by the Authority.
- (10) The regulations may make further provision in relation to a valuers conference (including, to avoid doubt, requiring a report of the valuers conference to be prepared and provided to the Authority and the claimant).

23A—Offer of compensation and payment into court

- (1) Subject to this section, if the Authority gives notice of the acquisition of land, it must make an offer to the person or persons whom it believes to be entitled to compensation for the acquisition, stating the amount of compensation the Authority is prepared to pay.
- (1a) However, the Authority need not make an offer under subsection (1) in the following circumstances:
 - (a) if the Authority considers that the amount of compensation is unable to be determined at the time the notice of acquisition is given, in which case the Authority must, as soon as is reasonably practicable after the amount of compensation is able to be determined, make an offer in accordance with subsection (1);
 - (b) in any other circumstances prescribed by the regulations, in which case the Authority must make an offer in accordance with any requirements set out in the regulations.

- (2) The offer must (where appropriate) differentiate between, and quantify, the component of compensation representing the value of the acquired land and the component referable to disturbance or other compensable matters.
- (3) The Authority must, within seven days after making an offer of compensation, pay the amount offered into the Court.
- (3a) However, if the Authority has already paid an amount into the ERD Court under Division 1 in relation to the proposed acquisition, the Authority is required only to pay into the Court the amount (if any) by which the amount of the offer exceeds the amount already paid into the ERD Court.
- (4) Until compensation paid into Court under this section is applied by order of the Court, the money must be invested by the proper officer of the Court in an authorised trustee investment (bearing interest that compounds at intervals of one month or less) and the interest and other accretions accruing on the investment—
 - (a) must be paid to—
 - (i) the person who would, but for the acquisition of the land, have been entitled to the rents and profits of the land; or
 - (ii) a body constituted under the law of the State or the Commonwealth as trustee for the claimants to whom the compensation is offered; or
 - (b) must be dealt with in some other manner specified by the Court.
- (5) In relation to an offer of compensation made under this section, the Authority may—
 - (a) if after making the offer the Authority becomes aware of information that negatively affects the value of the relevant land—apply to the Court for an order that the offer be decreased by a specified amount (and the Court may make such an order); or
 - (b) in any case—increase the offer by a specified amount by notice to the person or persons to whom the original offer was made.
- (6) If an offer is decreased in accordance with subsection (5)(a), the Authority may apply to the Court for (and the Court may make) an order that the difference between the original offer and the decreased offer, together with any accrued interest, be paid to the Authority (whether by the claimant or the Registrar, as the case may be).
- (7) If an offer is increased in accordance with subsection (5)(b), the difference between the original offer and the increased offer, together with any accrued interest—
 - (a) if the amount offered has been withdrawn by, or on behalf of, the claimant—may be paid directly to the claimant; or
 - (b) if the amount offered has not been withdrawn by, or on behalf of, the claimant—must be paid into the Court.

23AB—Responding to an offer of compensation

- (1) A person to whom an offer of compensation is made under section 23A must respond to the offer in accordance with this section.
- (2) The response must—
 - (a) be made within the prescribed period; and

- (b) be in writing; and
 - (c) indicate whether the person accepts or rejects the offer; and
 - (d) comply with any other requirements set out in the regulations.
- (3) A response must be made under this section whether or not an amount of money paid into the Court in relation to an acquisition has been withdrawn by, or on behalf of, the person to whom the offer is made.
- (4) If a person does not respond in accordance with this section within the prescribed period, any money paid into the Court under section 23A in respect of the relevant acquisition (being money that has not been withdrawn by, or on behalf of, the person) will, by force of this subsection, be paid to the Authority.
- (5) To avoid doubt, nothing in subsection (4) affects an entitlement of a person to compensation in respect of an acquisition of land.
- (6) Money paid to the Authority under subsection (4) will be taken not to accrue interest to which the person to whom the offer was made is entitled.
- (7) To avoid doubt, nothing in this section creates a contractual relationship between the Authority and the person to whom an offer is made.
- (8) In this section—

Authority means the Authority who paid the relevant money into Court under section 23A;

prescribed period means—

- (a) 6 months from the date of the offer of compensation; or
 - (b) if the Authority, on the application of the person, specifies a longer period—that period.
- (9) A person who is aggrieved by a decision of the Authority to refuse to specify a longer period under subsection (8) may refer the matter to the Court for review and, on the matter being so referred, the Court may make such orders as it considers necessary to resolve the matter.

23AC—Reversion of compensation moneys

- (1) This section applies to an amount or amounts of money paid into the Court under section 23A (being an amount of money equal to the amount of compensation offered in respect of the acquisition of the relevant land).
- (2) Subject to this section, money to which this section applies must be withdrawn by, or on behalf of, the claimant within 24 months after the money is paid into the Court.
- (3) If amounts of money to which this section applies are paid into the Court on different dates, the period referred to in subsection (2) will be calculated from the latest date the money was paid into the Court.
- (4) The Authority must, not later than 30 days before the day on which money to which this section applies is to be paid to the Authority, give written notice to the claimant setting out—
 - (a) the effect of this section; and
 - (b) the date on which the money will be paid to the Authority; and

- (c) any other information required by the regulations.
- (5) If money to which this section applies is not withdrawn in accordance with subsection (2), the money, together with any accrued interest, will, by force of this subsection, be paid to the Authority (however, nothing in this subsection affects an entitlement of the claimant to compensation in respect of the acquisition of the relevant land).
- (6) Money paid to the Authority pursuant to subsection (5) will be taken not to accrue interest to which a claimant is entitled.
- (7) Subsection (2) does not apply to such portion of money required to give effect to any orders under section 26.
- (8) In this section—
Authority means the Authority who paid the relevant money into the Court under section 23A.

23B—Agreement

- (1) If agreement about compensation is reached by the negotiating parties, the Authority must file a copy of the agreement in the Court.
- (2) The Court may, on application by a party to an agreement filed in the Court under this section, make orders to give effect to the agreement.

23BA—Settlement conference

- (1) The Authority—
 - (a) may, before referring a matter to Court under section 23C; and
 - (b) must, on an application by a claimant under section 23C(1a),convene a conference under this section (a ***settlement conference***) in relation to the relevant matter.
- (2) The following provisions apply in relation to a settlement conference:
 - (a) the Authority must appoint a conference coordinator to conduct the settlement conference;
 - (b) the conference coordinator must hold qualifications prescribed by the regulations;
 - (c) the conference coordinator must—
 - (i) fix a time and place for the settlement conference; and
 - (ii) advise the persons referred to in paragraph (f) of the time and place of the settlement conference;
 - (d) the conference coordinator may, by notice in writing, give such directions as the coordinator considers necessary for the purposes of the settlement conference (including, to avoid doubt, directions to attend at the time and place fixed under paragraph (c));
 - (e) the Authority and the claimant must provide to each other party any valuation reports in relation to the matter within the period specified by the conference coordinator;

- (f) the following persons are entitled to attend a settlement conference:
 - (i) the conference coordinator;
 - (ii) a representative of the Authority;
 - (iii) the claimant and the claimant's legal representative (if any),
(however, nothing in this paragraph prevents other persons from attending the settlement conference);
 - (g) the conference coordinator, and the settlement conference, must comply with any other requirements set out in the regulations.
- (3) Evidence of anything said or done in the course of a settlement conference is inadmissible in proceedings before a court (other than proceedings under section 36) except by consent of all parties to the proceedings.
 - (4) The reasonable costs of a claimant in relation to a settlement conference (determined in accordance with the regulations) are to be met by the Authority.
 - (5) A person who, without reasonable excuse, refuses or fails to comply with a direction of the conference coordinator under this section is guilty of an offence.
Maximum penalty: \$2 500.

23C—Reference of matters into court

- (1) The Authority or a claimant may refer a question arising in the course of negotiations into Court.
- (1a) However, before referring a matter to Court under this section, a claimant must apply to the Authority to convene a settlement conference under section 23BA, and take part in such a conference, in relation to the matter.
- (2) On the reference of a matter into the Court, the Court may—
 - (a) if of the opinion that the question should be the subject of further negotiation—adjourn the matter to allow further negotiation to take place; or
 - (b) make any order necessary to resolve the question.
- (3) In particular—
 - (a) if there is a dispute about whether the claimant is interested in the subject land, or the nature of the claimant's interest—the Court may, subject to subsection (4), declare whether the claimant has an interest in the subject land and, if so, the nature of the interest; and
 - (b) the Court may make orders for compensation that the Court finds to be justified on the claim; and
 - (c) the Court may make other orders that may be just in the circumstances of the case.

- (4) If a claimant claims compensation on the basis that native title exists or existed in the subject land but the existence of the native title has not been established by a native title declaration, the Court will not itself proceed to determine the native title question but—
- (a) if the Authority does not dispute that native title exists or exists in the subject land as claimed—determine the claim for compensation on the basis that native title exists or existed as the claimant asserts; or
 - (b) if the claim to native title in the subject land is disputed—defer consideration of the matter—
 - (i) to allow the claimant a reasonable opportunity to make a native title claim under the appropriate law of the Commonwealth or the State; and
 - (ii) if a native title claim is made, to allow time for the resolution of the claim.
- (5) If a claimant fails to avail itself of an opportunity allowed under subsection (4), the Court may reject the claim for compensation (but the rejection of a claim under this subsection does not preclude a further claim for compensation if the claimant's claim to hold native title in the subject land is later established).

24—Entry into possession

- (1) Subject to this section, if the Authority acquires an interest in land that confers a right of possession, the Authority must, as soon as is reasonably practicable after a notice of acquisition is published in relation to the land, give written notice to the occupier of the land of the date on which the Authority will enter into possession of the land (the *possession date*), being—
- (a) in the case of land relating to a declared acquisition project—the date specified by the Authority (being a day on or after the date on which notice is given under this subsection); or
 - (b) in any other case—a date not less than 90 days after the date on which the notice of acquisition is published.
- (2) If the Authority acquires an interest in land consisting of an easement or other interest that does not confer a right of possession, the Authority must, as soon as is reasonably practicable after a notice of acquisition is published in relation to the land, give written notice to the occupier of the land of the date from which the Authority may enter onto the land.
- (3) Subject to subsection (3a), if the relevant land is vacant at the time the notice of acquisition is published, the Authority may enter into possession from the date the notice is so published.
- (3a) If at the time the notice of acquisition is published there are chattels or other personal property (not being a fixture) on vacant land, the Authority may enter into possession 30 days after the date the notice is so published.
- (4) If an occupier of land to whom a notice was given under subsection (1) ceases to occupy the land before the date specified in the notice, the Authority may enter into possession of the relevant land from the time the occupier ceases to occupy the land.

- (5) A notice under subsection (1) may be varied to fix an earlier or later possession date on the application, or with the agreement, of the person to whom the notice was given.
- (6) If an occupier to whom a notice under subsection (1) is given remains in occupation of the relevant land after the date on which the notice of acquisition is published, the occupier will be taken to occupy the land pursuant to a tenancy, the terms and conditions of which are as determined by the Authority from time to time.
- (6a) Except where the Authority determines otherwise, rent is payable in relation to a tenancy referred to in subsection (6) from 90 days after the date on which the notice of acquisition is published (however, nothing in this subsection authorises the Authority to charge rent for the 90 days immediately following the date on which the notice of acquisition is published).
- (7) The terms and conditions determined by the Authority under subsection (6) must—
 - (a) fix the amount of rent payable to the Authority in relation to the tenancy (not exceeding a reasonable market rate); and
 - (b) comply with any requirements set out in the regulations.
- (7a) To avoid doubt, the *Residential Tenancies Act 1995* or the *Retail and Commercial Leases Act 1995* (as the case requires) does not apply in relation to a tenancy referred to in subsection (6).
- (8) The Authority or a person to whom a notice is given under subsection (1) may refer 1 or more of the following matters into the Court:
 - (a) a refusal by the Authority to fix a later possession date;
 - (b) a matter relating to the amount of rent payable in relation to the relevant tenancy;
 - (c) a matter relating to any other term or condition of the relevant tenancy determined under subsection (6).
- (8a) A matter referred to in subsection (8)(a) may only be referred into the Court within a period of 60 days after—
 - (a) the date on which the notice of acquisition is published; or
 - (b) the date on which written notice of the possession date is given to a person under subsection (1),whichever is the later.
- (8b) Subsection (8) does not apply to, or in relation to, a declared acquisition project.
- (9) On the reference of a matter into the Court, the Court may—
 - (a) if of the opinion that the question should be the subject of further negotiation—adjourn the matter to allow further negotiation to take place; or
 - (b) make such orders as the Court considers appropriate to resolve the matter (including, to avoid doubt, orders fixing the amount of rent payable in relation to the relevant tenancy).
- (10) The Authority may enter into possession of the relevant land on or after the possession date despite the commencement of proceedings under this section.

- (11) Without limiting the ways in which the Authority may recover rent owed to the Authority, the Authority may deduct rent owed by a person to the Authority under this section from compensation payable to the person under this Act.
- (12) Despite any other Act or law, the Authority is not liable for injury, damage or loss occurring on, or in relation to, land acquired under this Act prior to the Authority entering into possession of the land.
- (13) For the purposes of this section, land will be taken to be ***vacant*** at a particular time if the land—
 - (a) is residential land on which no person is lawfully residing at the time; or
 - (b) is non-residential land that is not genuinely being used for income producing purposes at the time; or
 - (c) is primary production land that is not actively being used for grazing, cropping, horticultural, horse keeping, intensive animal keeping, animal husbandry or other primary production purposes at the time; or
 - (d) is land, or land of a class, prescribed by the regulations for the purposes of this paragraph.
- (14) For the purposes of this section, the storage of chattels or other personal property on land by a person does not, of itself, constitute the person residing on the property, the use of the property for income producing purposes or the use of the land for a primary production purpose.
- (15) In this section—

declared acquisition project means an acquisition project, or acquisition project of a class, declared by the relevant Minister by notice in the Gazette to be included in the ambit of this definition;

relevant Minister means—

 - (a) in the case of an acquisition of land authorised by a special Act, the administration of which is committed to a Minister—that Minister; or
 - (b) in any other case—the Minister.

24A—Court orders in relation to entry into possession etc

- (1) The Authority may apply to the Court for 1 or more of the following orders:
 - (a) if the Authority is entitled to enter into possession of land acquired under this Act—an order that a person be ejected from that land;
 - (b) an order that a person who owes rent to the Authority under section 24 pay the rent owed to the Authority;
 - (c) such other orders as the Authority considers appropriate.
- (2) The Court may, on an application under this section, make such orders as it considers appropriate.

25—Principles of compensation

- (1) The compensation payable under this Act in respect of the acquisition of land shall be determined according to the following principles:
- (a) the compensation payable to a claimant shall be such as adequately to compensate him for any loss that he has suffered by reason of the acquisition of the land; and
 - (b) in assessing the amount referred to in paragraph (a) of this section consideration may be given to—
 - (i) the actual value of the subject land; and
 - (ii) the loss occasioned by reason of severance, disturbance or injurious affection; and
 - (c) compensation shall be fixed as at the date of acquisition of the land; and
 - (d) where the claimant's interest in the subject land was liable to expire or be determined, any reasonable prospect of renewal or continuation of the interest must be taken into account; and
 - (e) any special suitability or adaptability of the land for any purpose shall not be taken into account if it could be applied to that purpose in pursuance only of statute, or if the suitability or adaptability is peculiar to the purposes or requirements of a particular person or of any Governmental or local governing authority but any *bona fide* offer to acquire the land made before the passing of the special Act shall be taken into account; and
 - (f) where the value of the land is enhanced by reason of its use, or the use of any premises on the land, in a manner that may be restrained by any court, or is contrary to law, or is detrimental to the health of any persons, the amount of that enhancement shall not be taken into account; and
 - (g) no allowance shall be made on account of the fact that the acquisition is effected without the consent, or against the will, of any person; and
 - (h) no allowance shall be made for any enhancement or diminution in the value of the land in consequence of—
 - (a) the passing of the special Act; or
 - (b) the acquisition under this Act of any other land; or
 - (c) any proposed or expected development of the land after its acquisition; and
 - (i) where the land is, and but for acquisition would continue to be, devoted to a particular purpose, and there is no general demand or market for land devoted to that purpose, the compensation may, if reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement; and
 - (j) allowance shall be made in favour of the Authority for any enhancement in value of land adjoining the subject land in which the claimant is interested by reason of development of the land after its acquisition, but in no case shall the claimant be liable to make any payment to the Authority in respect of such enhancement in value; and

- (k) where a notice of intention to acquire land has been served upon a person interested in the land, any sales, transactions, arrangements, licences or approvals effected or obtained with respect to the land, and any improvements to the land effected, after service of the notice, shall not be taken into account unless it is proved that they were effected or obtained *bona fide*.
- (2) The reference to **loss** in subsection (1)(a) extends, in the case of acquisition of native title, to diminution, impairment or other adverse effect on native title that results or will result from the acquisition project.¹
- (3) Subject to subsections (1) and (2), the total compensation payable for the acquisition of native title must not exceed the amount that would be payable for the acquisition of an estate in fee simple in the relevant land.
- (4) A reference in this section to a claimant is limited to a claimant who is entitled to compensation.²

Explanatory Notes—

- 1 Compare section 51(1) of the *Native Title Act 1993* (Cwth).
- 2 See section 22B.

25A—Solatium

- (1) The Authority may increase the amount of compensation payable to a person in relation to the acquisition of land by the prescribed amount by way of solatium if—
 - (a) at the time the notice of intention to acquire land was given in relation to the land, the person was an owner and occupier of the land; and
 - (b) as a result of the acquisition of the land, the person's principal place of residence was acquired.
- (2) A payment of solatium under this section is to be made on final resolution of the amount of compensation payable under this Act in respect of the acquisition of the relevant land.
- (3) Despite any other provision of this Act, or any other Act or law, no interest is payable in relation to a payment of solatium under this section.
- (4) In this section—

prescribed amount means—

- (a) 10% of the market value of the land; or
- (b) —
 - (i) if the regulations prescribe an amount for the purposes of this paragraph—that amount; or
 - (ii) if the regulations do not prescribe an amount for the purposes of this paragraph—\$50 000,

whichever is the lesser amount.

26—Application of compensation

The Court may by order direct that any moneys paid into Court, or compensation ordered, under this Act be applied—

- (a) in the purchase, redemption or discharge of any tax, debt, mortgage or encumbrance affecting the subject land; or
- (b) in the purchase of other land or securities to be conveyed or settled upon or towards the same uses, trusts or purposes as the subject land; or
- (c) in removing or replacing any buildings or substituting others in their stead, in such manner as the Court may direct; or
- (d) in payment to any persons absolutely entitled to the moneys, or in the case of incapacity or disability to their trustees or guardians; or
- (e) in such other manner as the Court thinks fit.

Division 3—Direct payments of compensation

26A—Payments of compensation not exceeding prescribed amount may be made directly to claimant

- (1) Despite any other provision of this Act, a payment of compensation under this Act not exceeding the prescribed amount may be paid directly to the claimant in a manner determined by the Authority.
- (2) The regulations may make further provision in relation to payments under this section (including, to avoid doubt, limiting the circumstances in which such payments can be made).

Division 4—Other payments

26B—Payments relating to professional costs

- (1) The Authority may pay a prescribed person an amount (not exceeding the prescribed amount) towards payment of professional costs relating to an acquisition, or a proposed acquisition.
- (2) However, nothing in this section authorises the Authority to make more than 1 payment under this section in relation to a particular acquisition or proposed acquisition.
- (3) Nothing in subsection (1) affects any other amount payable by the Authority in relation to professional costs (however, any amount paid to a person under this section is to be taken into account in determining any other amount payable in relation to professional costs).
- (4) In this section—
prescribed person means—
 - (a) a person who is an owner of the fee simple in the land in relation to which a notice of intention to acquire land is given; or
 - (b) any other person prescribed by the regulations;

professional costs means—

- (a) legal costs; and
- (b) valuation costs; and
- (c) any other costs prescribed by the regulations.

26C—Payments to residential tenants

- (1) The Authority may, after a notice of intention to acquire land is given to a person who is a residential tenant of land, but before the relevant land is acquired, pay the person an amount (not exceeding the prescribed amount) towards payment of the person's relocation costs.
- (2) If a residential tenant accepts a payment under subsection (1), no further compensation or other payment is payable to them under this Act in relation to their interest as a residential tenant of the relevant land.
- (3) A payment under this section may be conditional or unconditional.
- (4) The Authority may vary or revoke a condition of a payment under this section.
- (5) If a person, without reasonable excuse, refuses or fails to comply with a condition of a payment under this section, the payment will, by force of this subsection, become a debt owing to the Authority.

26D—Payment of transfer costs

- (1) This section applies in circumstances where—
 - (a) the Authority has acquired land under this Act (being the whole of the fee simple land contained in a particular certificate of title); and
 - (b) a person who was an owner of the land so acquired has, within the prescribed period, purchased other land (the *replacement land*) to replace the acquired land; and
 - (c) the replacement land satisfies any requirements set out in the regulations for the purposes of this paragraph.
- (2) The Authority may, on application under this section or on its own motion, and in accordance with any requirements set out in the regulations, pay the prescribed transfer costs of a person in relation to the purchase of replacement land.
- (3) An application under subsection (2) must—
 - (a) be in a manner and form determined by the Authority; and
 - (b) be made within 24 months after the relevant land is acquired under this Act (or such longer period as may be specified by the Authority); and
 - (c) be accompanied by such documents or information as may be specified by the Authority.
- (4) The regulations may make further provision in relation to payments under this section.

(5) In this section—

prescribed transfer costs, in relation to the purchase of replacement land, means the sum of the following costs payable in relation to the purchase or transfer of the replacement land:

- (a) stamp duty payable under the *Stamp Duties Act 1923*;
 - (b) registration fees payable to the Registrar-General under the *Real Property Act 1886*;
 - (c) any other costs, or costs of a kind, prescribed by the regulations,
- but, to avoid doubt, does not include an amount payable by way of capital gains tax.

Part 4A—Special provisions relating to acquisition of underground land

26DA—Application of Part to native title

- (1) The provisions of this Part do not apply to an acquisition of underground land in which native title exists.
- (2) To avoid doubt, an acquisition of native title in underground land may only proceed in accordance with Part 4 Division 1.

26E—Application of Act to acquisition of underground land

The following provisions of this Act do not apply to the acquisition of underground land under this Part:

- (a) Part 2;
- (b) Part 3 (other than section 17);
- (c) Part 4 Division 2.

26EA—Special provisions applying where acquisition of underground land for certain tunnel construction

- (1) Despite any other provision of this Act, a special Act or any other Act or law, the following provisions apply to a proposed acquisition of underground land under this Part where the land is to be acquired for a purpose related to the construction of a tunnel (however described) to be constructed less than 10 metres below the surface of the underground land:
 - (a) the Authority must prepare and submit a report to the Public Works Committee of the Parliament in respect of the proposed acquisition and tunnel construction (and the function of inquiring into and making recommendations will, for the purposes of the *Parliamentary Committees Act 1991*, be taken to be imposed on the Committee under this Act);
 - (b) the report under paragraph (a) must be accompanied by—
 - (i) an engineers' report prepared in accordance with any requirements set out in the regulations; and
 - (ii) such other information as may be required by the Public Works Committee,

- and must comply with any other requirements under the regulations;
- (c) a dilapidation report in respect of any premises on surface land under which the underground land is located must be prepared in accordance with any requirements set out in the regulations.
- (2) The Authority or a person authorised in writing by the Authority may, for the purpose of preparing a report under subsection (1)(a), (b) or (c)—
 - (a) exercise a power referred to in section 27 or the relevant special Act; and
 - (b) take such other action as may be reasonably necessary for the preparation of the report.
 - (3) Subsection (2) is in addition to, and does not derogate from, section 27 or any other provision of this Act or a special Act.
 - (4) Nothing in this section prevents an Authority from acquiring land under Part 3.

26F—Acquisition of underground land

- (1) The Authority may, at any time, publish a notice of acquisition of underground land in the Gazette.
- (2) On publication of a notice of acquisition of underground land under this section—
 - (a) the underground land specified in the notice vests in the Authority to the extent of the interest specified; and
 - (b) any mortgage, charge, encumbrance, trust or other interest affecting the land is discharged; and
 - (c) if a residual interest in the underground land remains after the acquisition, the interest is modified to the extent required by the acquisition.
- (3) The Authority will enter into possession of underground land in relation to which a notice of acquisition of underground land is published under this section—
 - (a) if a date is specified in the notice—on that date; or
 - (b) if a date is not specified in the notice—on the date the notice is published.
- (4) The Authority must, as soon as is reasonably practicable after a notice of acquisition of underground land is published, give notice of that fact to the person who was the owner of the relevant land immediately before the land was acquired.
- (5) Except as is provided by section 26H, and despite any other Act or law, no compensation is payable in relation to an acquisition of underground land under this section (including, to avoid doubt, in relation to the discharge or modification of an interest or right under subsection (2)).

26G—Obligation to notify Authority of other interest in underground land

- (1) If the Authority has acquired, or is proposing to acquire, underground land under section 26F, the Authority may, by notice in writing, require a person from whom the land was, or is to be, acquired to notify the Authority within the period specified in the notice of—
 - (a) any person who, to the person's knowledge, has an interest in the land, or who had an interest in the land immediately before the acquisition, and the nature of that person's interest (including, to avoid doubt, the person to whom the notice is given); and
 - (b) the existence of any well, bore or other infrastructure located within the underground land, or on surface land under which the underground land is located, and any entitlement (whether of the person or otherwise) that exists to take water by means of that infrastructure; and
 - (c) such other information as may be specified by the Authority in the written notice.
- (2) A person who, without reasonable excuse, refuses or fails to comply with subsection (1) is guilty of an offence.

Maximum penalty: \$5 000.

26H—Limited entitlement to compensation where certain water infrastructure or rights affected

- (1) Subject to this section, a person (the *interest holder*) who—
 - (a) holds a prescribed interest in underground land; and
 - (b) notifies the Authority of the prescribed interest in accordance with section 26G,is, on an application under this section, entitled to compensation in relation to the acquisition of the underground land to the extent that the acquisition—
 - (c) involves the acquisition of the prescribed interest; or
 - (d) results in the discharge of the prescribed interest; or
 - (e) results in the interest holder being unable to take water by means of, or pursuant to, the prescribed interest.
- (2) An application under this section—
 - (a) must be made within 6 months after publication of a notice of acquisition in relation to the relevant underground land; and
 - (b) must be made in a manner and form determined by the Authority; and
 - (c) must be accompanied by such information or documents as may reasonably be required by the Authority; and
 - (d) must comply with any other requirements set out in the regulations.
- (3) On receiving an application under this section, the Authority must assess the application and must make a written offer of compensation (not exceeding the prescribed amount) to the interest holder.

- (4) The following provisions apply in relation to the payment of compensation under this section:
- (a) the Authority and the interest holder must negotiate in good faith in relation to the compensation;
 - (b) the Authority may offer non-monetary compensation to the interest holder (including, to avoid doubt, compensation consisting of relocation of any infrastructure affected by the acquisition);
 - (c) the Authority's liability to pay compensation under this section is reduced by the value of any non-monetary compensation provided at the request of, or by agreement with, the interest holder;
 - (d) the amount of compensation payable under this section is to be determined on the basis that the interest holder is to be compensated for loss occasioned by reason of disturbance (and regard is to be had to such of the principles set out in section 25 as may be relevant to such a loss);
 - (e) the Authority or the interest holder may refer a question arising in the course of negotiations into Court (and the matter may be dealt with as if it had been a matter referred into Court under section 23C);
 - (f) compensation under this section may be paid directly to the interest holder in a manner determined by the Authority;
 - (g) the payment of compensation must comply with any other requirements set out in the regulations.
- (5) In this section—
- prescribed interest***, in underground land, means—
- (a) ownership of a lawful well that provides access to underground water in the underground land, and any underground infrastructure associated with the well; or
 - (b) a right to take underground water from the underground land by means of such a well,

in each case being an interest existing immediately before a notice of acquisition is published in relation to the underground land;

underground water has the same meaning as in the *Natural Resources Management Act 2004*;

well has the same meaning as in the *Natural Resources Management Act 2004* and includes, to avoid doubt, a bore.

Part 5—Powers of entry and temporary occupation

27—Powers of entry

- (1) For the purposes of this Act, or the special Act, the Authority or any person authorised in writing by the Authority, may—
- (a) enter and remain upon any land with any assistants, vehicles, machinery or equipment; and

- (b) affix or establish any trigonometrical stations, survey pegs, marks or poles and from time to time alter, remove, re-instate, or remove them; and
 - (c) dig or bore into the land.
- (2) The Authority must, at least 7 days before entering land under subsection (1), give notice to the owner and occupier of the land.¹
- (3) A person who—
 - (a) wilfully and without authorisation from the Authority, interferes with any trigonometrical stations, survey pegs, marks or poles; or
 - (b) wilfully obstructs any person acting in accordance with this section,shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Explanatory Note—

- ¹ For the procedure for giving notice in relation to native title land see Part 5 of the *Native Title (South Australia) Act 1994*.

28—Temporary occupation

- (1) The Authority may temporarily occupy and use any land to which this section applies for purposes authorised by an Act and may—
 - (a) take therefrom any stone, gravel, earth or other material; or
 - (b) deposit any material on the land; or
 - (c) make cuttings or excavations on the land; or
 - (d) make and use roads on the land; or
 - (e) manufacture on the land any materials required for those purposes; or
 - (f) erect workshops, sheds and buildings of a temporary character on the land.
- (1a) However, the Authority is not authorised to take stone, gravel, earth or other material from land for the purpose of—
 - (a) extracting, producing or refining minerals from it; or
 - (b) processing it by non-mechanical means.¹
- (2) The Authority must, at least 7 days before entering into temporary occupation of land under subsection (1), give notice to the owner and occupier of the land.²
- (3) A person interested in the land may apply to the Court for an order that the Authority acquire his interest in the land.
- (4) The Court, if it is satisfied that it is just to do so may order the Authority to acquire the interest upon such terms and conditions as may be determined by the Court, and may make such incidental or consequential orders as the Court thinks fit.
- (5) The land to which this section applies is land that is—
 - (a) within 500 metres of the boundaries of land acquired under this Act; and
 - (b) is not a garden, orchard or plantation attached or belonging to a house, or a park, planted walk, avenue or ground ornamentally planted; and
 - (c) is not within 500 metres of a place genuinely used as a place of residence.

Explanatory Notes—

- 1 The purpose of this paragraph is to ensure that the authorisation conferred by subsection (1)(a) does not amount to an authorisation to mine within the meaning of the *Native Title Act 1993* (Cwth). See the definition of mine in section 253 of that Act.
- 2 For the procedure for giving notice in relation to native title land see Part 5 of the *Native Title (South Australia) Act 1994*.

29—Compensation for entry or temporary occupation

- (1) A person interested in land that is entered or temporarily occupied pursuant to this Part may, at any time before the expiration of three months from the day on which the Authority, or any person authorised by the Authority, was last in occupation of, or upon, the land, by notice in writing served upon the Authority, claim compensation.
- (2) If after the expiration of three months from the day on which a notice was served under subsection (1) of this section, the Authority and the claimant are not agreed upon the amount of compensation that should be paid, either the Authority or the claimant may refer the matter to the Court for determination.
- (3) The Court shall, upon the reference of any such matter, determine the amount of compensation that should be paid by the Authority, and order the payment of that amount to the claimant.

Part 6—Miscellaneous

30—Powers of inspection

- (1) The Authority may, by notice in writing served upon any person, require him to deliver up for the inspection of the Authority, any specified document in his possession or power evidencing the interest of any person in land required for purposes authorised by an Act or any other specified record, account, or document in his possession or power relating to any such land.
- (2) A person who fails to comply with a notice served under subsection (1) of this section within the time specified in the notice shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

31—Giving of notice and other documents

- (1) A notice or other document is validly given to, or served on, a person under this Act if—
 - (a) served personally or by post on the person; or
 - (b) if the identity or whereabouts of the person is not known to the Authority—
 - (i) by publication of the contents of the notice or document in a newspaper circulating generally throughout the State; or
 - (ii) by affixing the notice or document in a prominent position on the land to which it relates.¹
- (3) A notice or other document may be served upon the Authority by sending it by post to the Authority at its office, or to the office of such person as the Authority may authorise to receive the notice or document on its behalf.

Explanatory Note—

- 1 For method of service on persons who hold or may hold native title in land see Part 5 *Native Title (South Australia) Act 1994*.

32—Persons of limited juristic capacity

- (1) Where the juristic capacity of a claimant (not being a body corporate) is limited in any way, any amount of compensation payable in respect of land in which he was interested must be approved by the Court.
- (2) If an amount of compensation is not approved as required by subsection (1) of this section, an application may, notwithstanding any other provision of this Act, be made at any time to the Court by or on behalf of the claimant, and the Court may order the Authority to pay further compensation to the claimant.

33—Interest

Where the Authority agrees with a claimant or is ordered to pay a greater amount of compensation than the amount paid into Court in respect of the acquisition of any land, the Authority must also pay the additional sum that would have accrued (whether as interest or otherwise) had the amount agreed or ordered been paid into Court instead.

35—Authority may dispose of surplus land

The Authority may sell, lease, or otherwise deal with or dispose of any land acquired pursuant to this Act that it does not require for purposes authorised by an Act.

36—Costs

In any proceedings under this Act the Court may award such costs as it thinks proper, but, in making an order for costs, shall, where it is, in the opinion of the Court, appropriate to do so, take into consideration—

- (a) the amount of compensation awarded by the Court as compared with the amount (if any) offered by the Authority; and
- (b) the extent to which, in the opinion of the Court, the proceedings have arisen from, or been affected by—
 - (i) unreasonable conduct on the part of the claimant or the Authority; or
 - (ii) an excessive claim by the claimant or unduly depressed offer by the Authority; or
 - (iii) a failure on the part of the Authority or the claimant to negotiate in good faith.

36A—Recovery of compensation from Authority

Compensation payable under this Act may be recovered from the Authority as a debt.

37—Summary of procedure

Proceedings for offences against this Act shall be disposed of summarily.

38—Regulations

The Governor may make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act, and, without limiting the generality of the foregoing, those regulations may—

- (a) prescribe the form of any notice or document for the purposes of this Act; and
- (b) prescribe any rate of interest or rate of rental for the purposes of this Act; and
- (c) prescribe the terms and conditions of any tenancy at will under section 24 of this Act; and
- (d) provide for a penalty, not exceeding one hundred dollars, recoverable summarily, for breach of, or non-compliance with, any regulation.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *Land Acquisition Act 1969* repealed the following:

Compulsory Acquisition of Land Act 1925

Compulsory Acquisition of Land Act Amendment Act 1959

Compulsory Acquisition of Land Act Amendment Act 1966

Principal Act and amendments

New entries appear in bold.

| Year | No | Title | Assent | Commencement |
|-------------|----------|--|------------------|---|
| 1969 | 93 | <i>Land Acquisition Act 1969</i> | 11.12.1969 | 28.5.1970 (<i>Gazette</i> 28.5.1970 p1954) |
| 1972 | 126 | <i>Land Acquisition Act Amendment Act 1972</i> | 30.11.1972 | 8.2.1973 (<i>Gazette</i> 8.2.1973 p439) |
| 1990 | 71 | <i>Land Acquisition Act Amendment Act 1990</i> | 20.12.1990 | 1.7.1991 (<i>Gazette</i> 20.6.1991 p1918) |
| 1994 | 87 | <i>Land Acquisition (Native Title) Amendment Act 1994</i> | 15.12.1994 | 9.5.1996 (<i>Gazette</i> 9.5.1996 p2440) |
| 1997 | 5 | <i>Land Acquisition (Right of Review) Amendment Act 1997</i> | 20.3.1997 | 10.4.1997 (<i>Gazette</i> 10.4.1997 p1456) |
| 1998 | 59 | <i>Statutes Amendment (Attorney-General's Portfolio) Act 1998</i> | 3.9.1998 | Pt 6 (s 10)—13.12.1998 (<i>Gazette</i> 3.12.1998 p1676) |
| 2001 | 53 | <i>Land Acquisition (Native Title) Amendment Act 2001</i> | 1.11.2001 | 1.9.2003 (<i>Gazette</i> 21.8.2003 p3274) |
| 2017 | 51 | <i>Statutes Amendment (SACAT No 2) Act 2017</i> | 28.11.2017 | Pt 24 (ss 122 & 123)—5.7.2018 (<i>Gazette</i> 28.6.2018 p2618) |
| 2019 | 45 | <i>Supreme Court (Court of Appeal) Amendment Act 2019</i> | 19.12.2019 | Sch 1 (c11 53 & 54)—1.1.2021 (<i>Gazette</i> 10.12.2020 p5638) |
| 2019 | 50 | <i>Land Acquisition (Miscellaneous) Amendment Act 2019</i> | 19.12.2019 | 2.7.2020 (<i>Gazette</i> 2.7.2020 p3699) |
| 2021 | 5 | <i>Statutes Amendment and Repeal (Budget Measures) Act 2021</i> | 25.2.2021 | Pt 6 (s 15)—25.2.2021: s 2(1) |

Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 5 of The Public General Acts of South Australia 1837-1975 at page 462.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

| Provision | How varied | Commencement |
|--------------------------------|--|-----------------|
| Long title | substituted by 87/1994 s 3 | 9.5.1996 |
| Pt 1 | | |
| s 2 | omitted under <i>Legislation Revision and Publication Act 2002</i> | 1.9.2003 |
| s 3 | substituted by 87/1994 s 4 | 9.5.1996 |
| <i>ss 4 and 5</i> | <i>deleted by 87/1994 s 4</i> | <i>9.5.1996</i> |
| s 6 | | |
| s 6(1) | s 6 redesignated as s 6(1) by 87/1994 s 5(f) | 9.5.1996 |
| acquisition project | inserted by 53/2001 s 3(a) | 1.9.2003 |
| <i>authorised undertaking</i> | <i>deleted by 87/1994 s 5(a)</i> | <i>9.5.1996</i> |
| Authority | inserted by 87/1994 s 5(a) | 9.5.1996 |
| claimant | substituted by 53/2001 s 3(b) | 1.9.2003 |
| Commonwealth Registrar | inserted by 53/2001 s 3(b) | 1.9.2003 |
| compensation | amended by 50/2019 s 4 | 2.7.2020 |
| Court | inserted by 87/1994 s 5(b) | 9.5.1996 |
| | amended by 45/2019 Sch 1 cl 53 | 1.1.2021 |
| ERD Court | inserted by 87/1994 s 5(b) | 9.5.1996 |
| infrastructure facility | inserted by 53/2001 s 3(c) | 1.9.2003 |
| interest | substituted by 87/1994 s 5(c) | 9.5.1996 |
| <i>native title</i> | <i>inserted by 87/1994 s 5(d)</i> | <i>9.5.1996</i> |
| | <i>deleted by 53/2001 s 3(d)</i> | <i>1.9.2003</i> |
| <i>native title holder</i> | <i>inserted by 87/1994 s 5(d)</i> | <i>9.5.1996</i> |
| | <i>deleted by 53/2001 s 3(d)</i> | <i>1.9.2003</i> |
| <i>native title land</i> | <i>inserted by 87/1994 s 5(d)</i> | <i>9.5.1996</i> |
| | <i>deleted by 53/2001 s 3(d)</i> | <i>1.9.2003</i> |
| native title | inserted by 53/2001 s 3(d) | 1.9.2003 |
| owner | inserted by 53/2001 s 3(d) | 1.9.2003 |
| prescribed private acquisition | inserted by 53/2001 s 3(d) | 1.9.2003 |
| Registrar | inserted by 87/1994 s 5(d) | 9.5.1996 |
| registered representative | inserted by 87/1994 s 5(d) | 9.5.1996 |
| special Act | inserted by 87/1994 s 5(d) | 9.5.1996 |
| town or city | inserted by 53/2001 s 3(e) | 1.9.2003 |

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| | | |
|------------------------|----------------------------------|-----------|
| <i>the Authority</i> | <i>deleted by 87/1994 s 5(e)</i> | 9.5.1996 |
| <i>the Court</i> | <i>deleted by 87/1994 s 5(e)</i> | 9.5.1996 |
| <i>the Registrar</i> | <i>deleted by 87/1994 s 5(e)</i> | 9.5.1996 |
| <i>the special Act</i> | <i>deleted by 87/1994 s 5(e)</i> | 9.5.1996 |
| <i>undertaking</i> | <i>deleted by 87/1994 s 5(e)</i> | 9.5.1996 |
| s 6(2) | inserted by 87/1994 s 5(f) | 9.5.1996 |
| s 6(3) | inserted by 53/2001 s 3(f) | 1.9.2003 |
| s 7 | | |
| s 7(1) | amended by 87/1994 s 6(a) | 9.5.1996 |
| s 7(1a) | inserted by 87/1994 s 6(b) | 9.5.1996 |
| | amended by 50/2019 s 5 | 2.7.2020 |
| s 7(2) | amended by 87/1994 s 6(c) | 9.5.1996 |
| | amended by 53/2001 s 4(a) | 1.9.2003 |
| s 7(3) | inserted by 53/2001 s 4(b) | 1.9.2003 |
| s 9A | inserted by 50/2019 s 6 | 2.7.2020 |
| Pt 2 | | |
| s 10 | amended by 87/1994 s 7 | 9.5.1996 |
| | substituted by 53/2001 s 5 | 1.9.2003 |
| s 10(1) | amended by 50/2019 s 7(1) | 2.7.2020 |
| s 10(3) | amended by 50/2019 s 7(2) | 2.7.2020 |
| s 10(4) | amended by 50/2019 s 7(3) | 2.7.2020 |
| s 10(4a) | inserted by 50/2019 s 7(4) | 2.7.2020 |
| s 10A | inserted by 50/2019 s 8 | 2.7.2020 |
| s 11 | substituted by 87/1994 s 8 | 9.5.1996 |
| s 11(2) | amended by 53/2001 s 6 | 1.9.2003 |
| s 12 | substituted by 87/1994 s 9 | 9.5.1996 |
| s 12(2) | amended by 53/2001 s 7 | 1.9.2003 |
| s 12(3) | amended by 5/1997 s 3 | 10.4.1997 |
| s 12A | inserted by 5/1997 s 4 | 10.4.1997 |
| | substituted by 51/2017 s 122 | 5.7.2018 |
| s 12A(3) | amended by 50/2019 s 9 | 2.7.2020 |
| s 12B | inserted by 53/2001 s 8 | 1.9.2003 |
| s 13 | | |
| s 13(1) | substituted by 53/2001 s 9 | 1.9.2003 |
| Pt 3 | | |
| s 15 | | |
| s 15(1) | amended by 53/2001 s 10(a) | 1.9.2003 |
| s 15(3) | substituted by 87/1994 s 10 | 9.5.1996 |
| | substituted by 53/2001 s 10(b) | 1.9.2003 |
| | amended by 50/2019 s 10(1) | 2.7.2020 |
| s 15(3a) | inserted by 50/2019 s 10(2) | 2.7.2020 |
| s 15(4) | substituted by 87/1994 s 10 | 9.5.1996 |
| | amended by 53/2001 s 10(c) | 1.9.2003 |

| | | |
|-------------------|--|----------|
| s 15(4a) | inserted by 53/2001 s 10(d) | 1.9.2003 |
| | amended by 45/2019 Sch 1 cl 54 | 1.1.2021 |
| s 15(5) | substituted by 87/1994 s 10 | 9.5.1996 |
| | amended by 53/2001 s 10(e) | 1.9.2003 |
| s 15(5a) | inserted by 53/2001 s 10(f) | 1.9.2003 |
| s 15(6) and (7) | substituted by 87/1994 s 10 | 9.5.1996 |
| s 16 | | |
| s 16(1) | substituted by 87/1994 s 11(a) | 9.5.1996 |
| | substituted by 53/2001 s 11(a) | 1.9.2003 |
| | amended by 50/2019 s 11(1) | 2.7.2020 |
| s 16(1a) | <i>inserted by 87/1994 s 11(a)</i> | 9.5.1996 |
| | <i>deleted by 53/2001 s 11(a)</i> | 1.9.2003 |
| s 16(2) | substituted by 87/1994 s 11(a) | 9.5.1996 |
| | amended by 53/2001 s 11(b) | 1.9.2003 |
| s 16(3a) and (3b) | <i>inserted by 87/1994 s 11(b)</i> | 9.5.1996 |
| | <i>deleted by 53/2001 s 11(c)</i> | 1.9.2003 |
| s 16(5) | substituted by 87/1994 s 11(c) | 9.5.1996 |
| | substituted by 53/2001 s 11(d) | 1.9.2003 |
| s 16(5a) | inserted by 53/2001 s 11(d) | 1.9.2003 |
| | amended by 50/2019 s 11(2) | 2.7.2020 |
| s 16(5b) | inserted by 50/2019 s 11(3) | 2.7.2020 |
| s 16(6) | inserted by 87/1994 s 11(c) | 9.5.1996 |
| s 17 | | |
| s 17(1) | s 17 redesignated as s 17(1) by 87/1994 s 12 | 9.5.1996 |
| s 17(2) | inserted by 87/1994 s 12 | 9.5.1996 |
| | amended by 53/2001 s 12 | 1.9.2003 |
| Pt 4 | heading substituted by 87/1994 s 13 | 9.5.1996 |
| | heading substituted by 50/2019 s 12 | 2.7.2020 |
| Pt 4 Div 1 | heading inserted by 87/1994 s 14 | 9.5.1996 |
| | amended by 53/2001 s 13 | 1.9.2003 |
| s 18 | substituted by 87/1994 s 14 | 9.5.1996 |
| | substituted by 53/2001 s 14 | 1.9.2003 |
| s 19 | substituted by 87/1994 s 14 | 9.5.1996 |
| | substituted by 53/2001 s 15 | 1.9.2003 |
| s 20 | amended by 71/1990 s 3 | 1.7.1991 |
| | substituted by 87/1994 s 14 | 9.5.1996 |
| s 20(2) | amended by 53/2001 s 16(a) | 1.9.2003 |
| s 20(3) | substituted by 53/2001 s 16(b) | 1.9.2003 |
| s 20(4)—(7) | inserted by 53/2001 s 16(b) | 1.9.2003 |
| s 20A | inserted by 53/2001 s 17 | 1.9.2003 |
| s 21 | substituted by 87/1994 s 14 | 9.5.1996 |
| | substituted by 53/2001 s 18 | 1.9.2003 |
| s 22 | substituted by 87/1994 s 14 | 9.5.1996 |

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| | | |
|-------------------|---|------------------|
| s 22(1) | amended by 53/2001 s 19 | 1.9.2003 |
| Pt 4 Div 1A | inserted by 53/2001 s 20 | 1.9.2003 |
| Pt 4 Div 2 | heading inserted by 87/1994 s 14 | 9.5.1996 |
| s 22B | inserted by 53/2001 s 21 | 1.9.2003 |
| s 22B(1) | s 22B amended and redesignated by 50/2019 s 13(1)—(4) | 2.7.2020 |
| s 22B(2) | inserted by 50/2019 s 13(4) | 2.7.2020 |
| s 23 | substituted by 87/1994 s 14 | 9.5.1996 |
| s 23(1) | substituted by 50/2019 s 14(1) | 2.7.2020 |
| s 23(2) | <i>deleted by 53/2001 s 22(a)</i> | 1.9.2003 |
| s 23(4) | amended by 53/2001 s 22(b) | 1.9.2003 |
| s 23(5) | inserted by 53/2001 s 22(c) | 1.9.2003 |
| | substituted by 50/2019 s 14(2) | 2.7.2020 |
| s 23(6) | inserted by 53/2001 s 22(c) | 1.9.2003 |
| s 23(7)—(10) | inserted by 50/2019 s 14(3) | 2.7.2020 |
| s 23A | inserted by 87/1994 s 14 | 9.5.1996 |
| s 23A(1) | amended by 50/2019 s 15(1) | 2.7.2020 |
| s 23A(1a) | inserted by 50/2019 s 15(2) | 2.7.2020 |
| s 23A(3a) | inserted by 53/2001 s 23 | 1.9.2003 |
| s 23A(5)—(7) | inserted by 50/2019 s 15(3) | 2.7.2020 |
| ss 23AB and 23AC | inserted by 50/2019 s 16 | 2.7.2020 |
| s 23B | inserted by 87/1994 s 14 | 9.5.1996 |
| | substituted by 53/2001 s 24 | 1.9.2003 |
| s 23BA | inserted by 50/2019 s 17 | 2.7.2020 |
| s 23C | inserted by 87/1994 s 14 | 9.5.1996 |
| s 23C(1) | substituted by 53/2001 s 25(a) | 1.9.2003 |
| s 23C(1a) | inserted by 50/2019 s 18 | 2.7.2020 |
| s 23C(2) | substituted by 53/2001 s 25(a) | 1.9.2003 |
| s 23C(3) | amended by 53/2001 s 25(b) | 1.9.2003 |
| s 23C(4) and (5) | inserted by 53/2001 s 25(c) | 1.9.2003 |
| s 23D | <i>inserted by 87/1994 s 14</i> | 9.5.1996 |
| | <i>deleted by 53/2001 s 26</i> | 1.9.2003 |
| s 24 | substituted by 50/2019 s 19 | 2.7.2020 |
| s 24(1) | amended by 5/2021 s 15(1) | 25.2.2021 |
| s 24(3) | amended by 5/2021 s 15(2) | 25.2.2021 |
| s 24(3a) | inserted by 5/2021 s 15(3) | 25.2.2021 |
| s 24(6) | amended by 5/2021 s 15(4) | 25.2.2021 |
| s 24(6a) | inserted by 5/2021 s 15(5) | 25.2.2021 |
| s 24(7a) | inserted by 5/2021 s 15(6) | 25.2.2021 |
| s 24(8a) and (8b) | inserted by 5/2021 s 15(7) | 25.2.2021 |
| s 24(13)—(15) | inserted by 5/2021 s 15(8) | 25.2.2021 |
| s 24A | inserted by 50/2019 s 19 | 2.7.2020 |
| s 25 | | |

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|---------------------------------------|--|------------|
| s 25(1) | s 25 amended and redesignated as s 25(1) by 87/1994 s 15 | 9.5.1996 |
| s 25(2) | inserted by 87/1994 s 15(c) | 9.5.1996 |
| | substituted by 53/2001 s 27 | 1.9.2003 |
| s 25(3) and (4) | inserted by 53/2001 s 27 | 1.9.2003 |
| s 25A | inserted by 50/2019 s 20 | 2.7.2020 |
| Pt 4 Div 3 | inserted by 50/2019 s 21 | 2.7.2020 |
| Pt 4 Div 4 | inserted by 50/2019 s 21 | 2.7.2020 |
| <i>Pt 4A before insertion 50/2019</i> | <i>amended by 87/1994 ss 16, 17</i> | 9.5.1996 |
| | <i>deleted by 59/1998 s 10</i> | 13.12.1998 |
| Pt 4A | inserted by 50/2019 s 22 | 2.7.2020 |
| Pt 5 | | |
| s 27 | | |
| s 27(2) | substituted by 87/1994 s 18 | 9.5.1996 |
| | substituted by 53/2001 s 28 | 1.9.2003 |
| s 28 | | |
| s 28(1) | amended by 87/1994 s 19(a), (b) | 9.5.1996 |
| s 28(1a) | inserted by 53/2001 s 29(a) | 1.9.2003 |
| s 28(2) | substituted by 87/1994 s 19(c) | 9.5.1996 |
| | substituted by 53/2001 s 29(b) | 1.9.2003 |
| s 28(5) | amended by 87/1994 s 19(d), (e) | 9.5.1996 |
| s 28A | <i>inserted by 87/1994 s 20</i> | 9.5.1996 |
| | <i>deleted by 53/2001 s 30</i> | 1.9.2003 |
| Pt 6 | | |
| s 30 | | |
| s 30(1) | amended by 87/1994 s 21 | 9.5.1996 |
| s 31 | | |
| s 31(1) | substituted by 87/1994 s 22 | 9.5.1996 |
| s 31(2) | <i>deleted by 87/1994 s 22</i> | 9.5.1996 |
| s 33 | substituted by 71/1990 s 4 | 1.7.1991 |
| s 34 | <i>deleted by 87/1994 s 23</i> | 9.5.1996 |
| s 35 | amended by 87/1994 s 24 | 9.5.1996 |
| s 36 | amended by 50/2019 s 23 | 2.7.2020 |
| s 36A | inserted by 53/2001 s 31 | 1.9.2003 |

Transitional etc provisions associated with Act or amendments

Statutes Amendment (SACAT No 2) Act 2017, Pt 24

123—Transitional provisions

- (1) A right of review under section 12A of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than by making application to the Minister under that section.
- (2) Nothing in subsection (1) affects any proceedings arising from an application made under section 12A of the principal Act before the relevant day.
- (3) In this section—

principal Act means the *Land Acquisition Act 1969*;

relevant day means the day on which this Part comes into operation;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

Historical versions

Reprint No 1—1.10.1991

Reprint No 2—9.5.1996

Reprint No 3—10.4.1997

Reprint No 4—13.12.1998

Reprint No 5—1.9.2003

5.7.2018

2.7.2020

1.1.2021