

TASMANIA

LAND ACQUISITION AMENDMENT BILL 2018

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LAND ACQUISITION AMENDMENT BILL 2018

*(Brought in by the Minister for Primary Industries and Water,
the Honourable Guy Barnett)*

A BILL FOR

An Act to amend the *Land Acquisition Act 1993*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Land Acquisition Amendment Act 2018*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

3. Principal Act

In this Act, the *Land Acquisition Act 1993** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

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- (a) by inserting the following definition after the definition of *clerk* in subsection (1):

Commission has the same meaning as in the *Tasmanian Planning Commission Act 1997*;

- (b) by omitting subsection (3) and substituting the following subsection:

(3) In this Act, a reference to the relevant Supreme Court Rules is a reference to the *Supreme Court Rules 2000* made under the *Supreme Court Civil Procedure Act 1932*, as those rules are amended from time to time, and to any rules made in substitution for those rules.

5. Section 7D amended (Content of order)

Section 7D(1) of the Principal Act is amended by omitting “isto” and substituting “is to”.

6. Section 12 amended (Notice of withdrawal)

Section 12 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(a) “, or a part of the land,” after “land”;
- (b) by inserting in subsection (1)(b) “, or a part of the land,” after “land”;

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- (c) by inserting in subsection (2)(b) “, or a part of the land,” after “land”;
- (d) by inserting in subsection (3) “or a part of the land” after “land”;
- (e) by inserting in subsection (4) “, or a part of the land,” after “owner of the land”;
- (f) by inserting in subsection (4) “or part of the land, as the case may be” after “that land”.

7. Section 13 amended (Registration of notice to treat and notice of withdrawal)

Section 13 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, or a part of the land,” after “land”;
- (b) by inserting in subsection (2) “, or a part of the land,” after “any of the land”.

8. Section 14 amended (Lapse of notice to treat)

Section 14(b) of the Principal Act is amended by inserting “, or a part of the land,” after “land”.

9. Section 16 amended (Consent to taking of land)

Section 16(2) of the Principal Act is amended by inserting “, or a part of the land,” after “land”.

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10. Section 17 amended (Payment into trust fund by promoter)

Section 17 of the Principal Act is amended as follows:

- (a) by inserting “, or a part of the land” after “take that land”;
- (b) by inserting “or part, as the case may be” after “acquisition in respect of that land”;
- (c) by inserting in paragraph (a) “or part” after “land”.

11. Section 18 amended (Notice of acquisition)

Section 18 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(a) “in relation to the land, or the part of the land to be acquired,” after “treat”;
- (b) by inserting in subsection (1)(d) “, or a part of the land,” after “land”;
- (c) by inserting the following subsection after subsection (1):
 - (1A) If a notice to treat has been served on an owner of subject land, a notice of acquisition may relate to all of the land, or a part of the land, that is within the boundaries of the subject land shown in the notice to treat.

12. Section 27 amended (Basis of compensation)

Section 27 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(b)(i) “, which financial advantage is not to be taken to include the lessening of a tax liability” after “estate”;
- (b) by inserting in subsection (1)(f) “or the operation of a business, or other undertaking, on the subject land” after “land”;
- (c) by omitting from subsection (1)(fa) “acquired;” and substituting “acquired.”;
- (d) by omitting paragraph (g) from subsection (1);
- (e) by inserting the following subsection after subsection (1):
 - (1A) In determining compensation under this Act in relation to the subject land, regard is not to be had to any infrastructure or structure, situated on or in the subject land, that has been, under an Act, lawfully installed by or on behalf of the Crown, a public authority, a local authority or a promoter.

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13. Section 29 amended (Provisions applicable where land is zoned or reserved for public purpose)

Section 29 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “Commissioner for Town and Country Planning” and substituting “Commission”;
- (b) by omitting from subsection (3) “Commissioner for Town and Country Planning” and substituting “Commission”;
- (c) by omitting from subsection (4)(a) “Commissioner” and substituting “Commission”.

14. Section 37 amended (Time for making claim for compensation)

Section 37 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “60 days” and substituting “6 months”;
- (b) by omitting from paragraph (b) “60 days” and substituting “6 months”;
- (c) by omitting from paragraph (c) “60 days” and substituting “6 months”;
- (d) by omitting from paragraph (d) “60 days” and substituting “6 months”.

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15. Section 38 amended (Effect of failure to make claim for compensation)

Section 38(3) of the Principal Act is amended by omitting “claimfor” and substituting “claim for”.

16. Section 40 amended (Procedure on receipt of claim for compensation in respect of amount claimed)

Section 40(8) of the Principal Act is amended by omitting “mustobtain” and substituting “must obtain”.

17. Section 48 amended (Acquiring authority to pay certain costs)

Section 48 of the Principal Act is amended as follows:

(a) by omitting subsection (2) and substituting the following subsection:

(2) For the purposes of subsection (1), the fees of the claimant’s legal practitioner payable by the acquiring authority are to be determined in accordance with the provisions of –

(a) the relevant Supreme Court Rules; and

(b) any regulations made under the *Supreme Court Civil Procedure Act 1932* –

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in relation to the fees of legal practitioners.

- (b) by omitting from subsection (4) “1965 Rules” and substituting “relevant Supreme Court Rules”;
- (c) by omitting subsection (5) and substituting the following subsection:

(5) The claimant or the acquiring authority may apply under –

(a) the relevant Supreme Court Rules; and

(b) any regulations made under the *Supreme Court Civil Procedure Act 1932* –

in relation to the review of the taxation of costs of legal practitioners for an order to review the taxation of costs, and those rules and regulations apply in relation to the making of such an order.

18. Section 54 amended (Powers of entry and examination)

Section 54 of the Principal Act is amended by inserting after subsection (3) the following subsection:

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- (3A) A person authorized to enter on land to ascertain whether other land is suitable for an authorized purpose or to obtain information in relation to other land, and any person assisting such a person on the land, must ensure that all reasonable steps are taken to ensure that –
- (a) activities on the land taken by the person are in accordance with contemporary best practice in relation to reducing the spread of pests and disease; and
 - (b) so far as is reasonably practicable, activities on the land taken by the person do not conflict with the interests of the owner or occupier of the land; and
 - (c) any damage to the land caused by the person is remediated.

19. Section 59 amended (Procedure and powers of the Court)

Section 59(1) of the Principal Act is amended by omitting “Rules of Court” and substituting “relevant Supreme Court Rules”.

20. Section 60 amended (Costs)

Section 60 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (3) “either Table A or Table B of Appendix M to Part I of the 1965 Rules” and substituting “the relevant Supreme Court Rules,”;
- (b) by omitting from subsection (4) “Table B of Appendix M to Part I of the 1965 Rules” and substituting “the relevant Supreme Court Rules”.

21. Section 61 substituted

Section 61 of the Principal Act is repealed and the following section is substituted:

61. Procedure relating to review of costs

Where an application is made to the Court under section 48 or 60 for an order to review the taxation of costs, the review of the taxation of costs is to occur in accordance with the relevant Supreme Court Rules.

22. Section 68 amended (Apportionment of rent where part of leased land taken)

Section 68(4) of the Principal Act is amended by omitting “ofan” and substituting “of an”.

23. Section 78 amended (Extension of time or period)

Section 78 of the Principal Act is amended by inserting after subsection (1) the following subsection:

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- (1A) An acquiring authority may, by notice in writing to an owner of subject land, a claimant, or a former owner of land, (the *relevant person*), extend a time or period referred to in subsection (1), without an agreement between the acquiring authority and the relevant person, if the acquiring authority has been –
- (a) unable to contact the relevant person; or
 - (b) unable to obtain the agreement of the relevant person to an extension of the time or period.

24. Section 85 repealed

Section 85 of the Principal Act is repealed.

25. Schedule 2 repealed

Schedule 2 to the Principal Act is repealed.

26. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.