

FACT SHEET

Land Acquisitions Amendment Bill 2018

The purpose of the Bill is to amend the *Land Acquisitions Act 1993* (the Act) which will provide a more streamlined operation of the Act and align the heads of compensation with other Australian jurisdictions.

The Bill is drafted to align the legislation to preferred Court practices. The Bill addresses drafting errors, legal doubts and administrative efficiency issues.

Section 3 amended Interpretation

This section provides that in subsection (1) Commission has the same meaning as in the *Tasmanian Planning Commission Act 1997*.

Section 7D (Content of Order)

This section amends “isto” to “is to”.

Section 12 (Notice of withdrawal)

This section inserts into subsection (1) (a) (1)(b) (2)(b) “part of the land”, after “land”. Clause also amends (4) by adding “or a part of the land”, after “owner of the land”.

Section 13 (Registration of notice to treat and notice of withdrawal)

This section inserts in subsection (1) and (2) “, or a part of the land,” after “land”;

Section 16 (Consent to taking of land)

This section inserts in section 16(2) “ or a part of the land, “after “land”.

Section 17 (Payment into trust fund by promoter)

This section amends section 17(a) by inserting “, or a part of the land” after “take the land”; clause 17(b) by inserting “or part, as the case may be” after “acquisition in respect of that land”; clause 17(c) by inserting n paragraph (a) “or part” after “land”.

Section 18 (Notice of Acquisition)

This amendment will remove the need for an acquiring authority to have to recommence the acquisition process by issuing a new Notice to Treat on the amended area, for land less than the area detailed in the original Notice to Treat.

Section 27(l)(b) amended (Basis of compensation)

The primary amendment here is to remove any consideration for a claimant's personal taxation implications from being factored into the assessment of compensation. A claimant is otherwise protected by roll-over benefits available under taxation law.

Section 27(l)(f) amended (Basis of compensation)

The amendment will widen the assessment of compensations for disturbances.

Section 27(l)(g) removed (Basis of compensation)

All heads of compensation are covered in a 27(l).

Insertion of 27(lA)

The inclusion of a new Section will provide protection to an acquiring authority who has lawfully constructed infrastructure on private land, and subsequently decides to acquire that land. The acquiring authority will not have to pay twice by having to purchase its own infrastructure as part of the land acquisition process.

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

This clause is amended by omitting from subsection (2) "Commissioner for Town and Country Planning" and substituting "Commission", and (b) by omitting from subsection (3) "Commissioner for Town and Country Planning" and substituting "Commission".

Section 37 amended (Time for making claim for compensation)

Section 37 of the Act details the time frame in which to lodge a claim for compensation is 60 days. The amendment extends the time for a property owner to lodge a claim for compensation from 60 days to 6 months.

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".

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".

Section 48 amended (Acquiring authority to pay certain costs)

This clause is amended by adding a determination of costs with the provisions of – (a) the relevant Supreme Court Rules; (b) any regulation made under the *Supreme Court Civil Procedure Act 1932*. In relation to the taxation of costs the relevant Supreme Court rules; and any regulations made under the Supreme Court Civil Procedure Act 1932 apply. All Reference to the “1965 Rules” is omitted from the Principal Act.

Section 54 amended (Power of entry and examination)

This amendment will ensure that acquiring authorities act in the best interests of property owners and remediate any damage caused to the land as a result of the acquiring authorities entering land to investigate its suitability for a proposed scheme of works.

Section 59 amended (Procedure and powers of the Court)

This Clause omits “Rules of Court” and substitutes “relevant Supreme Court Rules”.

Section 60 amended (Costs)

This Clause omits section 60(3)“ either Table A or table B of Appendix M to Part I of the 1965 Rule” and substitutes “the relevant Supreme Court Rules,” and in section 60(4) omits “Table B of Appendix M to Part I of the 1965 Rules” and substitutes “the relevant Supreme Court Rules”.

Section 61 substituted (Review of Costs)

This Clause refers to a 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.

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

This Clause amends section 68(4) of the Principal Act by omitting “ofan” and substituting “of an”.

Section 78 amended (Extension of time or period)

This amendment allows the acquiring authority to extend a time frame under the Act in the event that they are not able, for whatever reason, to obtain the property owner’s request to extend time. This alleviates the need to seek a Court Order.

Section 85 repealed

Schedule 2 repealed

Part 2 – CONCLUDING PROVISIONS

Repeal of Act