

## LANDS ACQUISITION.

### No. 60 of 1936.

## An Act to amend the *Lands Acquisition Act* 1906-1934.

[Assented to 28th November, 1936.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

- 1.—(1.) This Act may be cited as the *Lands Acquisition Act* 1936. Short title and citation.  
 (2.) The *Lands Acquisition Act* 1906-1934\* is in this Act referred to as the Principal Act.  
 (3.) The Principal Act, as amended by this Act, may be cited as the *Lands Acquisition Act* 1906-1936.

2. Section thirty-two of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section :— Claim for compensation.

“(2.) A claim for compensation shall—

- (a) be in accordance with such of the prescribed forms as is applicable to the case ;
- (b) set forth the total amount of compensation claimed and the amount (if any) attributable to each item in that prescribed form ; and
- (c) be served on the Minister.”.

3. Section thirty-four of the Principal Act is amended by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections :— Procedure on claim for compensation being received.

“(2.) After the receipt of the report, the Minister shall—

- (a) notify the claimant that he admits the claim for compensation ;
- (b) notify the claimant that he admits the claim in respect of such items (if any) in the prescribed form as are specified in the notification, and that, in respect of each item in the prescribed form not so admitted, he offers such amount (if any) as is specified in the notification ; or
- (c) notify the claimant that he disputes the claim for compensation.

“(3.) The claimant shall, within sixty days after the receipt of an offer by the Minister in pursuance of paragraph (b) of the last preceding sub-section, by notice in writing notify the Minister whether he does or does not accept the offer.

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\* Act No. 13, 1906, as amended by No. 12, 1916 ; No. 5, 1932 ; and No. 45, 1934.

“(4.) Where the Minister—

(a) notifies the claimant in accordance with paragraph (a) of sub-section (2.) of this section—the compensation claimed shall be paid to the claimant on compliance with this Act; or

(b) notifies the claimant in accordance with paragraph (b) of sub-section (2.) of this section—the whole amount of the compensation shall be paid to the claimant, on compliance with this Act, if he accepts the amounts offered by the Minister as specified in the notification.”.

4. Section thirty-seven of the Principal Act is amended by adding at the end thereof the following sub-sections :—

Action for  
compensation.

“(2.) The plaintiff shall, in his statement of claim, declaration, or other like document, specify the total amount of compensation claimed and the amount (if any) attributable to each item in the claim made in pursuance of section thirty-two of this Act.

“(3.) When an action for compensation has been instituted in respect of the acquisition of any parcel of land, the Court may, on the application of the Commonwealth, by order direct any other person who has claimed compensation in respect of the acquisition of that parcel of land, or who appears to have had, at the date of acquisition, an estate or interest in that parcel of land, to join as a plaintiff in the action within a time specified in the order.

“(4.) If any person so ordered fails to join as a plaintiff in the action within the time specified in the order, he shall be absolutely debarred from thereafter instituting any action against the Commonwealth for compensation in respect of the acquisition of that parcel of land.

“(5.) When, by reason of the joinder of a new plaintiff or otherwise, the total compensation claimed in an action for compensation in a County Court, District Court, or Local Court exceeds the amount up to which that Court has jurisdiction, the action shall, on the application of the Commonwealth—

(a) to the High Court, be removed into the High Court; or

(b) to the Supreme Court, be removed into the Supreme Court, and shall thereafter proceed in the court to which it is removed as if it had been instituted in that court.

“(6.) If, in relation to the acquisition by the Commonwealth of any parcel of land, an action for compensation has been instituted in the High Court, and an action for compensation has also been instituted in another court, the action in that other court shall, on the application of the Commonwealth to the High Court, be removed into the High Court.

“(7.) The proceedings in the action, and such documents (if any) relating thereto as are filed as of record in the court in which the action was instituted, shall be transmitted to the Registry of the High Court in the State or Territory in which the first-mentioned court is situated, or, if there is no such Registry, to the Principal Registry of the High Court.

“(8.) The provisions of sections forty-one and forty-three of the *Judiciary Act* 1903–1934 shall apply in relation to any action which is removed into the High Court in pursuance of sub-section (6.) of this section.

“(9.) On the trial of the action the Court shall—

- (a) determine the total amount of compensation which would be payable by the Commonwealth to the plaintiff for the parcel of land acquired if no amount for enhancement in value were set off in accordance with the provisions of sub-section (2.) of section twenty-eight of this Act ;
- (b) determine the amount (if any) attributable to each item in the prescribed form of claim ;
- (c) determine the amount of any enhancement in value to be set off in accordance with the provisions of sub-section (2.) of section twenty-eight of this Act ; and
- (d) where two or more persons are entitled to share in the compensation, determine the amount payable to each person and the manner in which it shall be paid.”.

5. Section thirty-eight of the Principal Act is amended—

- (a) by omitting sub-section (2.) and inserting in its stead the following sub-sections :—

Determination  
of compensation  
on application  
of the Minister.

“(2.) The Court shall, after such notice to such persons as it directs, hear the application, and—

- (a) determine the total amount of compensation which would be payable by the Commonwealth for the land acquired if no amount for enhancement in value were set off in accordance with the provisions of sub-section (2.) of section twenty-eight of this Act ;
- (b) determine the amount (if any) attributable to each item in the prescribed form of claim ;
- (c) determine the amount of any enhancement in value to be set off in accordance with the provisions of sub-section (2.) of section twenty-eight of this Act ; and
- (d) where two or more persons are entitled to share in the compensation, determine the amount payable to each person and the manner in which it shall be paid.

“(2A.) Where there are two or more claims in respect of the same parcel of land the claims shall be dealt with in the same application.” ; and

- (b) by omitting sub-section (4.) and inserting in its stead the following sub-section :—

“(4.) The determination of the Court shall be final and conclusive and without appeal, and shall be binding upon all persons having any right to compensation in

respect of the acquisition of the parcel of land, whether those persons are represented before the Court on the hearing of the application or not.”.

Procedure to  
determine  
compensation  
where no claim  
made.

6. Section thirty-nine of the Principal Act is amended by omitting sub-section (4.) and inserting in its stead the following sub-section :—

“(4.) The Court shall, after such notice to such persons as it directs, hear the application, and—

- (a) determine the amount of compensation which would be payable by the Commonwealth for the land acquired if no amount for enhancement in value were set off in accordance with the provisions of sub-section (2.) of section twenty-eight of this Act ;
  - (b) determine the amount of any enhancement in value to be set off in accordance with the provisions of sub-section (2.) of section twenty-eight of this Act ; and
  - (c) where two or more persons are entitled to share in the compensation, determine the amount payable to each person and the manner in which it shall be paid.”.
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