

EXPLANATORY STATEMENT

Statutory Rules 1990 No 291

Lands Acquisition Regulations (Amendment)

(Issued under the authority of the Minister of State for
Administrative Services)

Section 140 of the Lands Acquisition Act 1989 (the Act) provides that the Governor-General may make regulations for the purposes of the Act.

Paragraphs 21(1) (b) and 117(1) (b) of the Act provide respectively that the regulations may specify circumstances in which the Commonwealth or a Commonwealth authority may acquire or dispose of an interest in land otherwise than in accordance with the Act.

Proposed regulation 1 provides for the amendment of the Lands Acquisition Regulations.

Proposed regulation 2 omits existing regulation 4 which provides that the Act does not apply to acquisitions of interests in land in specified circumstances by the Aboriginal Development Commission (ADC). The ADC has ceased to exist and has been replaced by the Aboriginal and Torres Strait Islander Commission (ATSIC). The Government has decided that ATSIC should be in the same position in relation to the acquisition of interests in land as was the ADC. To achieve this, the proposed Regulations substitute a new regulation 4 to reflect the creation of ATSIC.

Proposed regulation 3 omits existing regulation 7 and substitutes a new one, to reflect the creation of ATSIC and to give it powers of disposal of land that it has acquired.

Section 6 of the Act defines "Commonwealth authority" for the purposes of the Act. However the section also provides that authorities can be declared to be exempt authorities by regulation. Schedule 1 to the the existing Regulations lists those authorities which have been exempted.

Proposed regulation 4 adds eight statutory authorities to the list of exempt authorities in Schedule 1 to the existing Regulations. Proposed regulation 4.2 omits from Schedule 1 existing items 5A and 5B, namely Australian Postal Corporation and Australian Telecommunications Corporation and replaces them in Schedule 1 in alphabetical order as items 5C and 5F. The reasons for the addition of the eight authorities follow.

The Australian Horticultural Corporation, the Australian Horticultural Research and Development Corporation and the Australian Meat and Xivestock Research and Development Corporation are primary industry authorities that have been established recently. The Government previously decided that

authorities in this category should be free to conduct their own property transactions on the open market without reference to the Act. Other primary industry authorities were exempted from the provisions of the Act at the time of its commencement. These authorities now need to be exempted from the provisions of the Act to be consistent with the earlier decision.

The Australian National Railways Commission, the Australian Shipping Commission and the Health Insurance Commission had previously been exempted from the provisions of the Lands Acquisition Act 1955 which was repealed by the Act. That they are not already exempt from the provisions of the Act is an oversight that now needs to be remedied.

The Australian Securities Commission commenced on 1 July 1990 and in keeping with its charter needs to be able to conduct its own property transactions without reference to the Act. It now needs to be exempted from the provisions of the Act.

It has been decided that the Special Broadcasting Service should be in the same position in relation to property matters as the Australian Broadcasting Corporation which is already exempt from the provisions of the Act. It is therefore necessary that the Special Broadcasting Service also be exempted from the provisions of the Act.

The proposed amendments to the existing Regulations will exempt the eight last-mentioned authorities from the provisions of the Act. The authorities will then be free to conduct their own property transactions without reference to the Act. The amendments will also mean that ATSIC will be in the same position as was the ADC in relation to the acquisition and disposal of interests in land.

The proposed regulations will come into effect upon publication in the Gazette.