

## EXPLANATORY STATEMENT

Statutory Rules 1989 No. 111

### Lands Acquisition Regulations

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

The Lands Acquisition Act 1989 (the Act) replaces the Lands Acquisition Act 1955 and provides for the acquisition of land by the Commonwealth and certain authorities and dealings with land so acquired.

The desirability of major changes to the Commonwealth's land acquisition legislation was identified by the Australian Law Reform Commission (LRC) in a study it undertook at the request of the Attorney-General in 1977. The Government accepted the vast majority of the recommendations made by the LRC and decided to develop a new Act which would achieve the main objectives of:

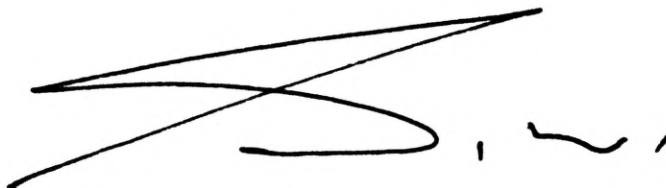
- . more open procedures in the acquisition process
- . greater public accountability for decisions to acquire property and
- . more generous provisions for compensation for persons deprived of their land by the Commonwealth

During passage of the Bill through Parliament extensive public participation occurred and the Bill was amended to incorporate concerns expressed by the several groups of interested people who provided detailed comments.

Section 140 of the Act provides that the Governor-General may make regulations prescribing matters which are required or permitted by the Act to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Regulation 1 cites the name by which these Regulations will be known and Regulation 2 identifies that in these Regulations any reference to "the Act" means the Lands Acquisition Act 1989.

Regulation 3 and Schedule 1 lists those authorities which have been exempt from the requirements of the Lands Acquisition Act 1955 and which still require to be exempted from the requirements of this Act in accordance with section 6. This section defines what is meant by a Commonwealth authority and hence which authorities are bound by the requirements of the Act. However the section also provides that authorities can be declared exempt from the requirements of the Act by regulation.



Regulation 4 identifies that the Aboriginal Development Commission is exempt from the requirements of this Act when undertaking acquisitions of the type identified in sections 27, 28 and 29 of the Aboriginal Development Commission Act 1980 in accordance with paragraph 21(1)(b) which provides for an authority to be partially exempt from the requirements of the Act.

Circumstances can arise within the processes of the Act in which the Commonwealth is required to pay interest on outstanding compensation. Regulations 5 and 6 provide that the interest rate payable on outstanding compensation for which the Commonwealth became liable in a particular month will be the rate assessed in that month by the Reserve Bank as the secondary market yield in respect of 5-year non-rebate Treasury Bonds. This will apply to compensation for both acquisition (subsection 91(2)) or for expenses incurred by temporary entry and occupation of property and failure to acquire a property after owners have been issued a pre-acquisition declaration (subsection 115(2)).

Regulation 7 identifies that the Aboriginal Development Commission is exempt from the requirements of the Act when undertaking disposals of the type identified in sections 27, 28 and 29 of the Aboriginal Development Commission Act 1980 in accordance with paragraph 117(1)(b) which provides for an authority to be partially exempt from the requirements of the Act.

Regulation 8 provides a set of addresses to which documents, which are to be given to the Minister, can be sent as allowed in subsection 137(1) of the Act. The addresses specified are the offices in each capital city of the Australian Property Group of the Department of Administrative Services.

