



New South Wales

Land Acquisition (Just Terms Compensation) Amendment Bill 2016

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Land Acquisition (Just Terms Compensation) Act 1991* to improve the procedure for the acquisition of land on just terms by authorities of the State as a consequence of reviews of the operation of that Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act by proclamation of the Governor.

Schedule 1 Amendment of Land Acquisition (Just Terms Compensation) Act 1991 No 22

Compensation for non-financial disadvantage resulting from relocation

Schedule 1 [1], [4], [14] and [17] rename compensation for *solatium* as compensation for *disadvantage resulting from relocation*.

Schedule 1 [16] adopts, as the definition of *disadvantage resulting from relocation*, the existing definition of *solatium* and entrenches the increase by Ministerial order of the maximum amount of compensation for the disadvantage resulting from relocation to \$75,000. **Schedule 1 [20]** provides that the maximum amount may be increased by regulation and is to be increased annually in line with inflation.

Minimum period of negotiation for acquisition by agreement before compulsory process

Schedule 1 [2] requires authorities of the State, before giving a proposed compulsory acquisition notice, to make a genuine attempt for at least 6 months to acquire the land by agreement. The obligation does not apply to an acquisition of Crown land, an acquisition of easements and rights to use land (or a tunnel) under the surface or an acquisition from an owner who cannot be located or who declines to negotiate. The owner of the land and the authority of the State are able to agree to a shorter or longer period of negotiation, and the Minister responsible for the authority is able to shorten the period in urgent circumstances with the concurrence of the Minister administering the Act. Following the giving of a proposed compulsory acquisition notice, negotiations may continue during the standard minimum period of 90 days before the land can be compulsorily acquired. **Schedule 1 [3]** provides that the standard minimum period of 90 days cannot be shortened in urgent circumstances by the Minister responsible for the authority without the concurrence of the Minister administering the Act.

Merit review of owner-initiated acquisition in case of hardship

Schedule 1 [5] provides for a merits review by an independent person appointed by the Minister of a decision of an authority not to acquire land designated for acquisition at the request of an owner who will suffer hardship if there is any delay in the acquisition.

Removal of obligation to pay rent for continued occupation of principal place of residence

Schedule 1 [6] removes the obligation of former land owners to pay rent to the acquiring authority if they remain in occupation of their principal place of residence for up to 3 months after the land is compulsorily acquired.

Compensation claim procedures

Schedule 1 [7] enables a land owner to make a claim for compensation directly to the Valuer-General instead of to the authority. **Schedule 1 [8]** requires the authority and Valuer-General to provide each other with a copy of a claim for compensation made to them. **Schedule 1 [10]** requires the Valuer-General to provide a copy of the determination of the amount of compensation to both the authority and the former landowner. **Schedule 1 [13]** makes a consequential amendment.

Schedule 1 [9] requires the acquiring authority to provide the Valuer-General, within 7 days of the compulsory acquisition, with a list of issues relevant to the determination of the amount of compensation.

Schedule 1 [11] increases the timeframe in which an acquiring authority must provide a compensation notice to a landowner from 30 days to 45 days.

Schedule 1 [12] enables the Minister administering the Act (instead of the Minister responsible for the acquiring authority) to extend that timeframe if it is necessary to enable a valuation of the land to be made.

Compensation payable on reinstatement basis in certain cases

Schedule 1 [15] provides that, in determining the compensation payable for compulsory acquisition, the market value of land used for a particular purpose for which there is no general market is taken to be the reasonable cost to the owner of equivalent reinstatement in some other area.

Return of acquired land

Schedule 1 [18] and [19] require an authority of the State that no longer requires land it has acquired for the public purpose for which the land was acquired to first offer the land for sale, if practicable, to the former owner at the market value of the land at the time the offer is made. The obligation does not apply if more than 10 years has elapsed since the acquisition, if substantial

improvements have been made to the land by the authority, if it is Crown land or if the land is required for another public purpose. The proposed amendment sets out when land is considered to be no longer required for the purpose for which it was acquired.

Savings and transitional

Schedule 1 [22] contains savings, transitional and other provisions. **Schedule 1 [21]** makes a consequential amendment.