

Authorised Version No. 052
Land Acquisition and Compensation
Act 1986

No. 121 of 1986

Authorised Version incorporating amendments as at
1 May 2018

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
Part 1—Preliminary	1
1 Purpose	1
2 Commencement	1
3 Definitions	1
Part 2—Acquisition of interests in land	6
Division 1—General	6
4 Authority to acquire or purchase in accordance with Part	6
Division 2—Reservation of land	6
5 Reservation or certification of land required before acquisition	6
Division 3—Notice of intention to acquire	7
6 Notice of intention to acquire	7
7 Cases where notice of intention to acquire not required	8
8 Form of notice	9
9 Copy of notice to be served on particular authorities	12
10 Notice to Registrar of Titles	12
11 Effect of notice	14
12 Restrictions on dealings with land	14
13 Sale of interest in land voidable if notice not given	15
14 Amendment of notice	15
15 Cancellation of notice	15
16 Lapse of notice	16
17 Extension of operation of notice by agreement	16
18 Acquisition by agreement	17
Division 4—Acquisition of interests in land	17
19 Notice of acquisition	17
20 Time limits	17

<i>Section</i>	<i>Page</i>
21 Form of notice	17
22 Service of notice on persons interested in land	18
23 Publication of notice in newspaper	18
24 Effect of notice of acquisition	19
25 New interests	20
Division 5—Entry into possession	20
26 Entry into possession	20
27 Recovery of rent	23
28 Proceedings where refusal to deliver possession	23
29 Residential Tenancies Act 1997 not to apply	24
Part 3—Compensation for acquisition	25
30 Right to compensation on acquisition	25
31 Initial offer of compensation	25
32 Offer to pay total amount of compensation	27
33 Response by claimant	28
34 Form of notice of acceptance	28
35 Form of notice of claim	29
36 Authority's reply to claim	30
37 Claim for compensation where no offer made	31
38 No compensation for gold, minerals or pastoral licences	33
39 Apportionment of rent when part only of land leased is acquired	35
Part 4—Measure of compensation	36
40 Definitions	36
41 General principles on which compensation is to be based	37
42 Reinstatement in particular circumstances	39
43 Matters affecting compensation	40
44 Solatium	43
45 Loans to dispossessed home owners	44
Part 5—Compensation where no interest in land is acquired	47
46 Compensation for abandoned acquisition	47
47 Compensation for entry or temporary occupation	48
48 Form of claim	48
Part 6—Payment of compensation and interest on compensation	51
49 Compensation to be paid to persons entitled or empowered to sell and convey	51
50 Claimants to produce title	51
51 Advances of compensation	51
52 Determination of rate of interest	53
53 Interest on compensation for acquisition	53
54 Interest on compensation where no land taken	54
55 Penalty interest	54

<i>Section</i>	<i>Page</i>
56 Interest in respect of expenses	55
57 Interest where claimant seeks extension of time	55
58 Compensation may in certain cases be paid to the Treasurer	56
59 Payment out of Trust Fund at direction of Authority	56
60 Investment of money deposited in Trust Fund	56
61 Court or judge may dispose of money paid to Trust Fund	57
62 Costs of application	58
63 Expenses of conveyance to be borne by Authority	58
64 Taxation of expenses of conveyance	59
Part 7—Persons with limited powers to deal with land	60
65 Restrictions in other laws not to apply	60
66 Application of compensation	60
67 Power to agent to negotiate in certain cases	61
Part 8—Mortgages over acquired land	63
68 Power to redeem mortgages	63
69 Deposit of mortgage money on refusal to accept	64
70 Sum to be paid when mortgage exceeds value of land	65
71 Deposit of money when refused on tender under section 70	66
72 Sum to be paid where part only of mortgaged land taken	67
73 Deposit of money when refused on tender under section 72	69
Part 9—Powers of entry and temporary occupation	71
74 Powers of entry	71
75 Temporary occupation	72
76 Obligations in relation to the occupation of land	73
77 Liability of Authority for nuisance	74
78 Obstruction an offence	74
79 Authority to fence lands before using them	74
Part 10—Determination of disputes	76
Division 1—Application to the Tribunal or the Court	76
80 Application or referral of disputed claim	76
81 Jurisdiction	76
82 Form of notice of referral	77
83 Service of notice of referral on other parties	77
84 Adjournment or withdrawal application	77
84A Discretionary transfer of proceeding	78
Division 2—Compulsory conference in the Court	80
85 Compulsory conference	80
86 Objects of compulsory conference	80
87 Parties may vary offer or claim	81
88 Settlement	81

<i>Section</i>	<i>Page</i>
Division 3—Determinations	81
89 Determination of claim	81
90 Principles to be applied in determining compensation	82
91 Costs	82
94 Payment of compensation	84
Division 4—General	84
95 Power to inspect land	84
96 Tribunal or Court to nominate valuer	84
97 Valuer to make declaration	85
98 Consequence of striking out a claim	86
Part 11—Miscellaneous	87
103 Power to inspect documents	87
104 Service	87
105 Minor misdescription not to invalidate documents	88
106 Extension or abridgement of time	88
107 Time not to expire until notice given	88
108 Payments to be good discharge	89
109 Authority may dispose of acquired land	89
109A Supreme Court—Limitation of jurisdiction	90
110 Regulations	90
111 Transitional provisions—Justice Legislation Amendment (Court Security, Juries and Other Matters) Act 2017	91
<hr style="border-top: 3px double #000;"/>	
Endnotes	92
1 General information	92
2 Table of Amendments	94
3 Amendments Not in Operation	99
4 Explanatory details	100

Authorised Version No. 052
Land Acquisition and Compensation
Act 1986

No. 121 of 1986

Authorised Version incorporating amendments as at
1 May 2018

The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purpose

The main purposes of this Act are—

- (a) to establish a new procedure for the acquisition of land for public purposes; and
- (b) to provide for the determination of the compensation payable in respect of land so acquired.

2 Commencement

This Act comes into operation on a day to be proclaimed.

3 Definitions

(1) In this Act—

acquire, in relation to an interest in land, means to acquire that interest—

- (a) by compulsory process; or
- (b) by agreement if the person acquiring that interest is empowered to acquire it by compulsory process.

* * * * *

**S. 3(1) def. of
Board
repealed by
No. 91/1994
s. 20(a).**

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 1—Preliminary

S. 3(1) def. of
*building
approval*
repealed by
No. 126/1993
s. 264(Sch. 5
item 12.1).

* * * * *

S. 3(1) def. of
*building
permit*
inserted by
No. 126/1993
s. 264(Sch. 5
item 12.1).

building permit has the same meaning as it has in
the **Building Act 1993**;

claimant means a person who makes or is entitled
to make a claim for compensation under this
Act;

compensation means compensation to which a
person is entitled under this Act and includes
the payment of money for land acquired by
agreement;

S. 3(1) def. of
Court
amended by
No. 57/1989
s. 3(Sch.
item 110.1).

Court means the Supreme Court;

date of acquisition, in relation to an interest in
land acquired pursuant to the procedures
contained in this Act, means the date on
which a notice of acquisition in relation to
that interest is published in the Government
Gazette or, if an interest is acquired by
agreement, the date on which the interest
vests in the Authority pursuant to the
agreement;

domestic partner of a person means—

- (a) a person who is in a registered relationship with the person; or
- (b) a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

S. 3(1) def. of *domestic partner* inserted by No. 27/2001 s. 3(Sch. 1 item 5.1), substituted by No. 12/2008 s. 73(1)(Sch. 1 item 32.1).

interest, in relation to land, means—

- (a) a legal or equitable estate or interest in the land; or
- (b) an easement, right, charge, power or privilege in, under, over, affecting or in connexion with land;

judge means a judge of the Supreme Court;

lease includes an agreement for a lease;

notice of acquisition means a notice referred to in section 19;

notice of intention to acquire means a notice referred to in section 6;

planning instrument means a planning scheme under the **Planning and Environment Act 1987**;

S. 3(1) def. of *planning instrument* substituted by No. 45/1987 s. 205(Sch. item 40(a)).

planning permit means a permit granted under a planning instrument;

* * * * *

S. 3(1) def. of *registered valuer* repealed by No. 91/1994 s. 36(5)(a).

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 1—Preliminary

S. 3(1) def. of
Registrar
substituted by
No. 91/1994
s. 20(b),
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.1(a)).

* * * * *

S. 3(1) def of
*responsible
authority*
amended by
No. 45/1987
s. 205(Sch.
item 40(b)).

responsible authority has the same meaning as it
has in the **Planning and Environment Act
1987**;

S. 3(1) def. of
spouse
inserted by
No. 27/2001
s. 3(Sch. 1
item 5.1).

spouse of a person means a person to whom the
person is married;

S. 3(1) def. of
Taxing Master
inserted by
No. 24/2008
s. 83(1),
repealed by
No. 78/2008
s. 27(1).

* * * * *

the Authority means a person or body who or
which—

- (a) is authorized by or under the special
Act to acquire land; and
- (b) in the special Act is expressed to be the
Authority for the purposes of this Act;

the special Act means an Act or a provision of an
Act which is expressed to be a special Act
for the purposes of this Act;

this Act includes the regulations;

Tribunal means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 3(1) def. of *Tribunal* inserted by No. 91/1994 s. 20(c), substituted by No. 52/1998 s. 311(Sch. 1 item 47.1(b)).

Trust Fund means the account kept under the **Financial Management Act 1994** and known as "The Trust Fund";

S. 3(1) def. of *Trust Fund* amended by No. 18/1994 s. 66(Sch. 2 item 11).

Valuer-General means the Valuer-General under the **Valuation of Land Act 1960**.

- (1A) For the purposes of the definition of ***domestic partner*** in subsection (1)—
- (a) ***registered relationship*** has the same meaning as in the **Relationships Act 2008**; and
 - (b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case.
- (2) This Act applies to any Act or provision of an Act to which it is expressed in that Act or provision to apply.
- (3) If a provision of the special Act is inconsistent with a provision of this Act, the provision of this Act prevails.

S. 3(1A) inserted by No. 27/2001 s. 3(Sch. 1 item 5.2), substituted by No. 12/2008 s. 73(1)(Sch. 1 item 32.2).

Part 2—Acquisition of interests in land

Division 1—General

4 Authority to acquire or purchase in accordance with Part

An Authority which is empowered under a special Act to acquire an interest in land by compulsory process must not acquire that interest by compulsory process or by agreement except in accordance with this Part.

Division 2—Reservation of land

5 Reservation or certification of land required before acquisition

- (1) The Authority must not commence to acquire any interest in land under the provisions of the special Act unless the land has been first reserved by or under a planning instrument for a public purpose.
- (2) Subsection (1) does not apply in respect of prescribed land or land in a prescribed class of land.
- (3) Subsection (1) does not apply in respect of land which has been certified by the Governor in Council on the recommendation of the Minister, as land for which reservation is unnecessary, undesirable or contrary to the public interest.
- (4) Subsection (1) does not apply to an interest in land if the Authority is not required to serve a notice of intention to acquire that interest because of section 7(1)(a) or (b).

- (4A) Subsection (1) does not apply to any land in an area in respect of which a declaration under section 172(2) of the **Planning and Environment Act 1987** is in force.

S. 5(4A)
inserted by
No. 45/1987
s. 205(Sch.
item 41) (as
amended by
No. 5/1988
s. 9(b)).

- (4B) Subsection (1) does not apply to any land which is special project land under section 201I(3) of the **Planning and Environment Act 1987**. **S. 5(4B) inserted by No. 103/1997 s. 6.**
- (4C) Subsection (1) does not apply to any land specified in an application order under the **Project Development and Construction Management Act 1994** where the Transport Infrastructure Development Agent established under section 40 of the **Transport Integration Act 2010** is the facilitating agency. **S. 5(4AA) inserted by No. 6/2010 s. 204(2), renumbered as s. 5(4C) by No. 29/2011 s. 3(Sch. 1 item 49).**
- (4D) Subsection (1) does not apply to any land that is to be acquired under a work-in-kind agreement within the meaning of Part 9B of the **Planning and Environment Act 1987**. **S. 5(4D) inserted by No. 31/2011 s. 28.**
- (5) A certification by the Governor in Council under subsection (3) lapses after three months from the date of its making unless within this period the Authority has served a notice of intention to acquire an interest in the land to which the certification applies in accordance with section 6.

Division 3—Notice of intention to acquire

6 Notice of intention to acquire

Subject to section 7, if the Authority intends to acquire an interest in land for the purposes of the special Act, the Authority must serve upon each person who has an interest in the land, or is empowered by this Act to sell and convey or grant and release or lease such an interest, or such of those persons as, after diligent inquiry, become known to the Authority, a notice of intention to acquire the first-mentioned interest.

7 Cases where notice of intention to acquire not required

- (1) The Authority is not required to serve a notice of intention to acquire under section 6 if—
 - (a) the interest or the land in which the interest subsists has been publicly advertised for sale and the Authority believes in good faith that the interest is still available for sale at the time the Authority proposes to acquire the interest; or
 - (b) the Authority serves on the person interested in the land—
 - (i) a statement in writing that it does not intend to acquire the interest by compulsory process; and
 - (ii) a statement in the prescribed form setting out the principal rights and obligations of that person under this Act; or
 - (c) the Minister certifies that to require the service of a notice of intention to acquire would be unnecessary, undesirable or contrary to the public interest.
- (2) Subject to subsection (3), if the Authority has served a statement under subsection (1)(b)(i) in respect of any land the Authority is prohibited from acquiring an interest in that land by compulsory process until the expiration of twelve months after the day on which the statement was served.
- (3) The Minister may, by notice in writing given under the hand of the Minister, revoke any statement made under subsection (1)(b)(i) if—
 - (a) the Minister has consulted with the Minister administering the special Act; and

- (b) in the view of both Ministers it is in the public interest that the statement be revoked.
- (4) The Minister must cause a copy of a certificate under subsection (1)(c) to be tabled in the Legislative Assembly and the Legislative Council within three sitting days after the certificate is signed by the Minister.
- (5) If the Authority acquires or intends to acquire an interest in land which is the subject of a certificate under subsection (1)(c) the Authority must, no later than the date of service of the notice of acquisition in respect of that interest or the date on which an agreement to acquire the interest is made (as the case may be), serve a copy of the certificate upon each person who has an interest in the land, or such of those persons as, after diligent inquiry, become known to the Authority.
- (6) If the Authority has commenced negotiations to acquire an interest in land, the person interested in the land may by notice in the prescribed form require the Authority to determine—
- (a) to serve a notice of intention to acquire the interest; or
 - (b) to serve statements under subsection (1)(b) in relation to the interest.
- (7) Subject to section 106(1), the Authority—
- (a) must make its determination within 60 days after service of the notice of the interested person under subsection (6); and
 - (b) is bound by its determination.

8 Form of notice

- (1) A notice of intention to acquire an interest in land must—
- (a) be in the prescribed form; and

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 2—Acquisition of interests in land

- (b) contain title particulars and a description (including, if appropriate, a sketch) sufficient to identify the interest to be acquired and the location of the land; and
- (c) give details of the purpose for which the interest is to be acquired; and
- (d) specify the reasons why the land is thought to be suitable for that purpose; and
- (e) state whether or not—
 - (i) the land is reserved for a public purpose under a planning instrument; or
 - (ii) any interest proposed to be acquired is an interest in land which has been prescribed under section 5(2) or which is land in a class of land prescribed under section 5(2); or
 - (iii) the land has been certified by the Governor in Council under section 5(3); and
- (f) if appropriate, state the approximate date upon which the Authority wishes to take possession of the land; and
- (g) request the person interested in the land to advise the Authority of—
 - (i) any other persons who, to the knowledge of that person, may have an interest in the land described in the notice; and
 - (ii) any unexpired planning permit or building permit existing in respect of the land which has not been acted upon either wholly or in part and of which that person is aware; and

S. 8(1)(g)(ii)
amended by
No. 126/1993
s. 264(Sch. 5
item 12.2).

- (iii) any sales, transactions, licences or approvals relating to the land or any interest in the land which that person was proposing to make or obtain immediately prior to the date of service of the notice of intention to acquire or which any other person was so proposing to make or obtain and of which the first-mentioned person is aware; and
 - (iv) any other information which that person may have which would be relevant to the assessment of compensation in respect of the acquisition of interests in the land.
- (2) A notice of intention to acquire must be accompanied by a statement in the prescribed form setting out the principal rights and obligations under this Act of persons interested in the land proposed to be acquired.
- (3) If a notice of intention to acquire contains a description of land or an interest in land which makes reference to a document (not being a folio of the Register kept under the **Transfer of Land Act 1958** or a memorial registered with the Registrar-General) the Authority must without delay—
- (a) make a copy of that document available at its office for inspection by any person during ordinary office hours free of charge; and
 - (b) lodge a copy of that document with the Registrar of Titles.
- S. 8(3) amended by No. 18/1989 s. 13(Sch. 2 item 40(a)).
- S. 8(3)(b) substituted by No. 85/1998 s. 24(Sch. item 36.1).

9 Copy of notice to be served on particular authorities

- (1) The Authority must without delay after the service of a notice of intention to acquire under section 6 and the lodging of a copy of any document under section 8(3) serve a copy of that notice and document upon—
 - (a) the responsible authority for the area in which the land to which the notice relates is situated; and
 - (b) the council of the municipality in which the land is situated; and
 - (c) if the land is situated within the region of a prescribed regional authority, that regional authority.
- (2) Upon receipt of a request in writing by the Authority, the responsible authority and municipal council must without delay give the Authority in writing any prescribed information so requested.
- (3) Upon receipt of an application for a planning permit or building permit which relates to land in respect of which a notice of intention to acquire has been served, the responsible authority or municipal council (as the case may be) must forward a copy of the application to the Authority without delay.

S. 9(3)
amended by
No. 126/1993
s. 264(Sch. 5
item 12.3).

10 Notice to Registrar of Titles

- (1) The Authority must, without delay after the service of a notice of intention to acquire under section 6 or amendment of such a notice under section 14, lodge with the Registrar of Titles notice in the form approved under the **Transfer of Land Act 1958** of the notice of intention to acquire or the amended notice (as the case may be) together with the prescribed fee.

S. 10(1)
substituted by
No. 85/1998
s. 24(Sch.
item 36.2).

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 2—Acquisition of interests in land

- | | |
|--|---|
| (2) Upon receipt of a copy of a notice of intention to acquire, the Registrar of Titles must make a recording of the notice in the Register or (if this is not practicable) must by displaying a map or other appropriate means make the notice of intention to acquire available for inspection. | S. 10(2)
amended by
Nos 18/1989
s. 13(Sch. 2
item 40(b)),
85/1998
s. 24(Sch.
item 36.3). |
| (3) Upon being notified by the Authority of any amendment agreed upon between the Authority and the person interested in the land under section 14 in respect of the interest proposed to be acquired or the extent of the land affected, the Registrar of Titles must amend any recording made under subsection (2) or give notice of the amendment in any other manner referred to in that subsection. | S. 10(3)
amended by
No. 18/1989
s. 13(Sch. 2
item 40(c)). |
| (4) If a notice lapses or is cancelled, the Authority must give the Registrar of Titles notice in writing of the lapse or cancellation. | S. 10(4)
substituted by
No. 85/1998
s. 24(Sch.
item 36.4). |
| (5) Upon being notified by the Authority of the lapsing or cancellation in whole or in part of any notice of intention to acquire, the Registrar of Titles must delete from the Register any recordings of the notice or make a recording in the Register of the lapsing or cancellation, or remove the map or other relevant document referred to in subsection (2) accordingly. | S. 10(5)
amended by
Nos 18/1989
s. 13(Sch. 2
item 40(d)),
85/1998
s. 24(Sch.
item 36.5). |
| (6) After deleting a recording under subsection (5), the Registrar of Titles must in writing advise the registered proprietor of the land that the registered proprietor may apply under section 32(2) of the Transfer of Land Act 1958 for a new certificate of title to be produced. | S. 10(6)
amended by
No. 18/1989
s. 13(Sch. 2
item
40(e)(i)(ii)). |

S. 10(7)
amended by
No. 18/1989
s. 13(Sch. 2
item 40(f)).

(7) If the registered proprietor applies under section 32(2) for the production of a new certificate, the Authority must pay the fees prescribed for the purpose of that provision.

S. 10(8)
amended by
Nos 18/1989
s. 13(Sch. 2
item 40(g)
(i)(ii)), 85/1998
s. 24(Sch.
item 36.6).

(8) Any notice of intention to acquire so made available for inspection has effect for the purposes of section 42 of the **Transfer of Land Act 1958** as if it were recorded in the Register.

(9) A person is not entitled to receive from the Authority any damages or compensation resulting from compliance by the Authority with this section or anything arising from that compliance.

11 Effect of notice

The service of a notice of intention to acquire does not constitute—

- (a) an offer; or
- (b) a binding agreement—

to acquire the interest in land to which the notice applies.

12 Restrictions on dealings with land

(1) If a notice of intention to acquire has been served upon a person under section 6, that person must not, while the notice is in force, without the consent of the Authority—

- (a) enter into any sale, transaction or arrangement, or obtain or grant any licence or approval with respect to the land; or
- (b) make any improvements of a durable nature to the land.

- (2) Upon receipt of any document relating to any dealings with an interest in land in respect of which a notice of intention to acquire has been served, the Registrar of Titles must notify the Authority of this fact.
- (3) Nothing in this section prevents—
 - (a) any person from discharging the land from any mortgage affecting the land; or
 - (b) a mortgagee from exercising a power of foreclosure or sale in respect of the land.

13 Sale of interest in land voidable if notice not given

If an Authority enters into an agreement to acquire an interest in land in contravention of section 6, the acquisition is voidable at the option of the person whose interest in land is or is being acquired and the exercise of that option is effected by the service on the Authority of a notice in writing signed by that person.

14 Amendment of notice

- (1) The Authority and the person upon whom a notice of intention to acquire is served under section 6 may agree to amend the notice to alter the description of the interest to be acquired or the land to which the notice relates or any other matter contained in the notice.
- (2) An amendment made under subsection (1) to a notice does not affect the validity or operation of the notice.

15 Cancellation of notice

- (1) Subject to section 106(1), the Authority may at any time after the service of a notice of intention to acquire an interest in land and before—
 - (a) the publication of a notice of acquisition of that interest; or

- (b) the lapsing of the notice under section 16—
determine not to proceed with the acquisition of
the whole or part of that interest.
- (2) If the Authority makes a determination under
subsection (1), the Authority must serve a
statement cancelling the notice of intention to
acquire upon all persons interested in the land to
which that notice relates and upon whom that
notice was served under section 6.
- (3) If the Authority makes a determination under
subsection (1) in relation to part only of land to
which a notice of intention to acquire relates, that
determination does not affect the operation of that
notice in so far as it applies to an interest in the
remaining part of that land.
- (4) A statement under subsection (2) must—
- (a) be in the prescribed form; and
 - (b) be accompanied by a statement in the
prescribed form setting out the rights and
obligations under this Act of persons upon
whom a statement under subsection (2) is
served.

16 Lapse of notice

If the Authority has not acquired an interest in
land to which a notice of intention to acquire
applies at the expiration of six months after the
service of that notice or at the expiration of the
further period or periods agreed upon under
section 17, the notice lapses.

17 Extension of operation of notice by agreement

The period of operation of a notice of intention to
acquire may be extended for a period or periods of
up to three months each by agreement in writing
between the Authority and the owner of the
interest.

18 Acquisition by agreement

- (1) The Authority may, at any time after the service of a notice of intention to acquire an interest in land and before the notice has lapsed or been withdrawn and before the publication of a notice of acquisition in respect of that interest, acquire that interest by agreement.
- (2) The compensation paid by the Authority pursuant to an agreement referred to in subsection (1) may take into account the compensation which would have been payable in respect of the interest if a notice of acquisition had been published in respect of the interest on the date of the agreement.
- (3) An interest in land which has been acquired by an agreement referred to in subsection (1) is to be treated as having been compulsorily acquired for the purpose of any matter arising under any other Act after the acquisition.

Division 4—Acquisition of interests in land

19 Notice of acquisition

Subject to this Act, the Authority may acquire an interest in land for the purposes of the special Act by causing a notice declaring that interest to be acquired to be published in the Government Gazette.

20 Time limits

Subject to section 106(1), the Authority must not acquire any interest in land in respect of which a notice of intention to acquire has been served before the expiration of two months after the service of that notice.

21 Form of notice

A notice of acquisition must—

- (a) be in the prescribed form; and

- (b) contain a description sufficient to identify the interest in land acquired and the land in which that interest subsists.

22 Service of notice on persons interested in land

Subject to section 106(1), the Authority within fourteen days after the date of acquisition must cause—

- (a) a copy of the notice of acquisition; and
- (b) a statement in the prescribed form setting out the rights and obligations under this Act of the person whose interest has been acquired—

to be served—

- (c) if a notice of intention to acquire has been served under section 6, upon all persons upon whom the notice of intention to acquire was served and upon any other person of whom the Authority is aware who immediately before the date of acquisition had an interest in the land described in the notice of acquisition; and
- (d) in any other case, upon each person who immediately before the date of acquisition had an interest in the land described in the notice or such of those persons as, after diligent inquiry, become known to the Authority.

23 Publication of notice in newspaper

The Authority must as soon as practicable after publication of the notice of acquisition in the Government Gazette cause a copy of the notice in the prescribed form to be published in a newspaper circulating generally in the area in which the land is situated.

24 Effect of notice of acquisition

- (1) Subject to this section, upon publication in the Government Gazette of a notice of acquisition—
 - (a) the interest in land described in the notice vests in the Authority without transfer or conveyance freed and discharged from all trusts, restrictions, dedications, reservations, obligations, mortgages, encumbrances, contracts, licences, charges and rates of any kind; and
 - (b) any interest that a person has in that land is divested or diminished to the extent necessary to give effect to this subsection.
- (2) If immediately before the publication of a notice of acquisition a public statutory authority had or possessed (whether by virtue of any easement or grant or by force of any Act) any right, title, power, authority or interest to which this subsection applies, the public statutory authority continues after that publication to have and possess that same right, title, power, authority or interest unless the notice of acquisition provides specifically that the interest in land described in the notice vests in the Authority freed and discharged from that right, title, power, authority or interest.
- (3) Subsection (2) applies to any right, title, power, authority or interest in land with respect to or in connexion with any drains, pipes, channels, wires or cables laid or erected in on or over the land or a part of the land for the purpose of drainage, sewerage, salinity mitigation, river improvement, river management, flood mitigation or flood protection or for the supply of water, gas or electricity or for telegraph or telephone or other like purpose.

25 New interests

An interest in land acquired under section 19 may be an interest which did not previously exist as such.

Division 5—Entry into possession

26 Entry into possession

(1) If an interest in land is vested in the Authority pursuant to this Act, the Authority must diligently endeavour to obtain agreement with the owner or occupier as to the terms on which it will enter into possession of the land, in this section referred to as the *acquired land*, in which that interest subsists.

(2) Subject to this Division, if—

- (a) an interest in land is vested in the Authority pursuant to this Act; and
- (b) at the date of acquisition the acquired land or part of that land is used by a person as the principal place of residence or business of that person—

the Authority must not enter into possession of—

- (c) the part of the acquired land so used; or
- (d) if the whole of the acquired land is so used, that land—

before the expiration of three months after the date of acquisition and unless the Authority has given seven days' notice in writing of its intention to enter into possession to the person in occupation of that land.

(3) A person referred to in subsection (2) is not liable for the payment of rent in respect of the occupation by that person of that part of the acquired land which is used as the principal place

of residence or business of that person during the period specified in that subsection.

- (4) Subsection (2) does not apply if—
- (a) the Governor in Council certifies that having regard to—
 - (i) the urgency of the case or any other exceptional circumstances; and
 - (ii) the public interest—
it is not practicable for the Authority to delay entry into possession of the acquired land until after the expiration of the period referred to in subsection (2); or
 - (b) the Authority and the person in occupation of the acquired land have, with the consent of the Minister administering the special Act, entered into an agreement in relation to the time of entry into possession of the acquired land by the Authority.
- (5) If—
- (a) an interest is vested in the Authority pursuant to this Act; and
 - (b) at the date of acquisition the acquired land is not used by any person as the principal place of residence or business of that person—
the Authority may enter into possession of the land at any time after the date of acquisition after giving seven days' notice in writing of its intention to enter into possession to the person in occupation of that land.
- (6) The period of occupation of acquired land after the date of acquisition (including the period referred to in subsection (2)) may be extended by agreement in writing between the Authority and the person in occupation of the acquired land.

- (7) An agreement under subsection (6) must provide for the payment of rent by the person in occupation of the acquired land to the Authority.
- (8) If a person continues to occupy acquired land after the period referred to in subsection (2) or the date of acquisition (as the case may be) and an agreement has not been entered into under subsection (6) in respect of that occupation, that person is to be taken to be in possession of the land in pursuance of a tenancy determinable at will by the Authority and is liable to pay to the Authority a fair market rent in respect of that continued occupation.
- (9) If a person referred to in subsection (2) ceases of the person's own accord to occupy the acquired land before the expiration of the period referred to in that subsection, the entitlement of that person under this Act to occupy the land without payment of rent to the Authority also ceases.
- (10) A certificate under subsection (4)(a) must specify the date on which the Authority is to take possession.
- (11) The Authority must serve a copy of a certificate under subsection (4)(a) upon the person in occupation of the land.
- (12) The person whose period of occupation of the acquired land was abridged under subsection (4)(a) is entitled to claim compensation under this Act for any loss or damage which is incurred as a direct, natural and reasonable consequence of that abridgement and for which the person could not otherwise make a claim under this Act.
- (13) Section 49 applies to and in relation to a claim for compensation under subsection (12) as if it were a claim for compensation under Part 5.

27 Recovery of rent

Any rent payable to the Authority under section 26 may be recovered as a debt due to the Authority in any court of competent jurisdiction.

28 Proceedings where refusal to deliver possession

(1) If, in any case in which under this Act or the special Act the Authority is authorized to enter into possession of any land, the owner or occupier of the land or any other person—

(a) refuses to give up the possession of the land;
or

(b) hinders the Authority from entering upon and taking possession of the land—

the Authority may issue its warrant under this section to the sheriff.

(2) A warrant issued under this section authorizes the sheriff to—

(a) enter onto the land specified in the warrant;
and

(b) deliver possession of the land to the Authority or the person appointed in the warrant to receive possession of the land;
and

(c) use such force as is reasonably necessary to execute the warrant.

(3) Upon receipt of a warrant issued under this section, the sheriff must deliver possession of the land to the Authority or the person appointed in the warrant to receive possession of the land.

(4) The costs incurred in the issuing and execution of a warrant must be paid by the person refusing to give up possession.

S. 28(6)
amended by
No. 57/1989
s. 3(Sch. item
110.2(a)(b)).

(5) The amount of the costs and the amount of any rent owed by that person must be deducted and retained by the Authority from the compensation (if any) payable under this Act to that person.

(6) If no compensation is payable to that person or if the compensation payable is less than the amount of the costs and rent (if any) then payment of the amount or the amount in excess of the compensation must if not paid on demand be enforced by a warrant to seize property.

S. 28(7)
amended by
No. 57/1989
s. 3(Sch. item
110.3).

(7) Upon application by the Authority, a magistrate must issue a warrant for the purposes of subsection (6).

S. 28(8)
repealed by
No. 87/2009
s. 29.

* * * * *

S. 29
amended by
No. 109/1997
s. 533(Sch. 2
item 5.1).

29 Residential Tenancies Act 1997 not to apply

Nothing in the **Residential Tenancies Act 1997** applies to or in relation to any matter provided for or any proceedings under this Division.

Part 3—Compensation for acquisition

30 Right to compensation on acquisition

Subject to this Act, every person who, immediately before the publication of a notice of acquisition, had an interest in land that is divested or diminished by the acquisition of the interest to which that notice relates has a claim for compensation.

31 Initial offer of compensation

- (1) After the notice of acquisition has been published in the Government Gazette the Authority must make an offer in writing to each claimant of whose entitlement to compensation it is aware.
- (2) An offer under this section must be made—
 - (a) within fourteen days after the date of acquisition; or
 - (b) within such further period as—
 - (i) may be agreed upon in writing between the Authority and the claimant; or
 - (ii) the Minister administering the special Act may certify.
- (3) The offer must set out the amount that the Authority, on the information available to it, has assessed as a fair and reasonable estimate of the amount of compensation payable to the claimant under this Act on the assumption that the claimant held the interest in respect of which the offer is made.
- (4) An offer under this section must be accompanied by—
 - (a) a copy of the certificate of valuation to which the Authority has had regard in making its offer; and

S. 31(5)
amended by
Nos 91/1994
s. 36(5)(b),
94/2009
s. 32(1).

- (b) a statement explaining the difference between its offer and the valuation referred to in paragraph (a) if these differ; and
 - (c) a statement in the prescribed form setting out the principal rights and obligations of persons whose interests in land have been acquired under this Act.
- (5) In making its offer the Authority must have regard to a valuation of the land carried out by the Valuer-General or a person who holds the qualifications or experience specified under section 13DA(2) of the **Valuation of Land Act 1960**.
- (6) A valuation under subsection (5) may be made in respect of the specific interest acquired or in respect of the freehold interest in the land whichever appears to the Authority to be appropriate in the circumstances.
- (7) If an offer of compensation is made under this section in respect of an acquired interest and immediately prior to the date of acquisition—
- (a) the interest was affected by another interest in the land; or
 - (b) rates, taxes or other charges were charged upon the land in which the interest subsists—
- the Authority may reduce the amount of its offer by an amount equal to the amount that it considers is necessary to provide for that other interest or to pay those rates, taxes or other charges.
- (8) To the extent that an amount of compensation offered under this section, or any part thereof, is not disputed, the amount offered is binding upon the Authority unless the Authority can demonstrate that the information contained in the

offer and relied upon by the Authority in making the offer was incorrect.

32 Offer to pay total amount of compensation

- (1) If the Minister administering the special Act certifies that it is not appropriate in the circumstances to set out in an offer under section 31 the information referred to in subsection (3) of that section, the Authority in such an offer instead of that information—
 - (a) must set out the total amount of compensation that the Authority proposes to pay in respect of the value of all interests in the acquired land; and
 - (b) may set out the amounts of compensation which the Authority proposes to pay for any other matters in respect of which compensation is payable under this Act.
- (2) Subject to section 106(1), the Authority, within seven days after it makes an offer in accordance with subsection (1), must pay the total amount of compensation offered into Court.
- (3) The Court may provide for the investment of any money paid into Court under subsection (2) in the same manner as it may invest money paid into Court under the **Supreme Court Act 1958**.
- (4) As soon as practicable after the payment of money into Court in accordance with subsection (2), the Authority must apply to the Tribunal or the Court (as the case may be) for a determination of the amount of compensation which is payable by the Authority and the person or persons to whom the compensation is payable, and that application must be dealt with by the Tribunal or Court as a disputed claim for compensation under this Act.

S. 32(4)
amended by
No. 91/1994
s. 21(a)(b).

S. 32(5)
amended by
No. 91/1994
s. 21(a).

- (5) Subject to section 58, any money paid into Court under subsection (2) and any interest earned thereon must be paid out in accordance with an order of the Court or the Tribunal to the persons entitled thereto under this Act.

33 Response by claimant

- (1) Subject to section 106(1), before the expiration of three months after the date of service on a claimant of an offer under section 31, the claimant must—
- (a) serve a notice of acceptance on the Authority stating that the claimant accepts the amount of compensation offered in respect of the acquisition; or
 - (b) serve a notice of claim upon the Authority.
- (2) If the claimant fails to serve on the Authority a notice under subsection (1)(a) or (b), the matter becomes a disputed claim for the purposes of this Act.

34 Form of notice of acceptance

- (1) A notice of acceptance under section 33(1)(a) must—
- (a) be in the prescribed form; and
 - (b) state the interest which the claimant had in the acquired land immediately before the date of acquisition and, in the case of an interest which did not come into existence until on or after the date of acquisition, the details of that interest; and
 - (c) give details of the claimant's entitlement to that interest.

- (2) If the claimant accepts the amount of compensation offered in respect of the acquisition, that acceptance is without prejudice to any matter which is stated in the offer as being subject to negotiation.
- (3) The claimant may accept the offer in part and leave specified matters as being subject to negotiation or claim.

35 Form of notice of claim

- (1) A notice of claim served on the Authority under section 33(1)(b) must—
 - (a) be in the prescribed form; and
 - (b) state the amount of compensation to which the claimant claims to be entitled under this Act; and
 - (c) if the claimant accepts the amount of compensation offered in respect of the acquisition by the Authority but claims to be entitled to a further amount of compensation in respect of that acquisition under this Act, state—
 - (i) that the claimant accepts the amount of compensation offered; and
 - (ii) the amount of further compensation to which the claimant claims to be entitled; and
 - (d) state the interest which the claimant had in the acquired land immediately before the date of acquisition and, in the case of an interest which did not come into existence until on or after the date of acquisition, the details of that interest; and
 - (e) give details of the claimant's entitlement to that interest; and

S. 35(1)(f)(i)
amended by
Nos 91/1994
s. 36(5)(b),
94/2009
s. 32(2).

- (f) if the claimant disputes the valuation to which the Authority had regard in making its offer, be accompanied by—
- (i) a copy of the certificate of valuation of a person who holds the qualifications or experience specified under section 13DA(2) of the **Valuation of Land Act 1960** upon which the claim is based; and
 - (ii) a statement setting out the method and basis of that valuation.
- (2) A notice of claim may specify any further matter which the claimant regards as being subject to negotiation.

36 Authority's reply to claim

- (1) Subject to section 106(1), the Authority must, before the expiration of three months after the date of service upon it of a notice of a claim under section 33, serve upon the claimant a statement in writing replying to the notice of claim.
- (2) The Authority may in that statement—
- (a) admit the claim as to whole or to part; or
 - (b) offer to vary the amount of the compensation previously proposed in relation to the claimant's interest; or
 - (c) reject the claim and repeat its offer under section 31.
- (3) If the claimant has provided the Authority with a certificate of valuation and the information required in section 35(f), the Authority, if it has not already done so, must forward to the claimant with its statement of reply a statement setting out the method and basis of its valuation.

- (4) The Authority is liable to satisfy the claim to the extent that it admits the claim.
- (5) If the Authority fails to reply to the notice of claim within the time prescribed in subsection (1), it is to be taken to have rejected the claim and repeated its offer and the claim becomes a disputed claim for the purposes of this Act.
- (6) Subject to section 106(1), if the Authority offers to increase or vary the compensation previously offered, the claimant must within two months after the date of service of this revised offer—
 - (a) accept the offer; or
 - (b) reject the offer.
- (7) A revised offer under subsection (6) may leave specified matters to be determined by negotiation.
- (8) If the claimant accepts a revised offer under subsection (6), the claimant may accept this in part leaving specified matters to be determined by negotiation.
- (9) To the extent that the claimant rejects the revised offer of the Authority, or the Authority rejects the claim by the claimant, the claim becomes a disputed claim for the purposes of this Act.

S. 36(6)(a)
amended by
No. 66/1997
s. 9(3).

37 Claim for compensation where no offer made

- (1) If a person is entitled to claim compensation under this Part, and the Authority has not made an offer to that person under section 31, that person may make a claim for compensation under this section.
- (2) Subject to section 106(1), a claim for compensation under this section must be made within two years after the date of acquisition.

- (3) A claim for compensation under this section must be in the same form and contain the same particulars as a notice under section 35.
- (4) Subject to section 106(1), the Authority must, before the expiration of three months after the day on which a notice of claim is served upon it under subsection (1), serve upon the claimant a statement in writing replying to the notice of claim.
- (5) The Authority may in that statement—
 - (a) admit the claim; or
 - (b) make an alternative offer of compensation; or
 - (c) reject the claim.
- (6) If the Authority makes an offer under subsection (5), the offer must be accompanied by—
 - (a) the information referred to in section 31(4); and
 - (b) if the claimant has provided the Authority with a copy of a certificate of valuation and the information required in section 35(f), a statement explaining the difference between the Authority's offer and the valuation on which the claimant's claim is based, together with a copy of any certificate of valuation relied upon by the Authority and a statement setting out the method and basis of that valuation.
- (7) The Authority may admit the claim in full or in part, leaving specified matters subject to negotiation and, to the extent that the Authority admits the claim, it is liable to satisfy the claim.

- (8) If the Authority fails to reply to the notice of claim within the prescribed time it is to be taken to have rejected the claim and the claim becomes a disputed claim for the purposes of this Act.
- (9) Subject to section 106(1), if the Authority makes an offer of compensation under subsection (5), the claimant must within two months after the date of service of the offer—
 - (a) accept the offer; or
 - (b) reject the offer.
- (10) An offer of compensation under subsection (5) may specify some matters of compensation to be left to be determined by negotiation.
- (11) The claimant may accept the offer subject to any matters left to be determined by negotiation.
- (12) To the extent that the claimant rejects an offer of the Authority or the Authority rejects a claim by the claimant, the claim becomes a disputed claim for the purposes of this Act.
- (13) If the claimant fails to accept or reject the offer within the prescribed time, the claim becomes a disputed claim for the purposes of this Act.

38 No compensation for gold, minerals or pastoral licences

- (1) For the purposes of this Act, a licensee under the **Mineral Resources (Sustainable Development) Act 1990** is not entitled to compensation for the value of any mineral in or under the surface of any acquired land.

S. 38(1)
substituted by
No. 92/1990
s. 128(Sch. 1
item 14.1),
amended by
No. 63/2006
s. 61(Sch.
item 18).

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 3—Compensation for acquisition

S. 38(3)
amended by
Nos 92/1990
s. 128(Sch. 1
item 14.2(a)
(b)), 63/2006
s. 61(Sch.
item 18).

- (2) For the purposes of this Act, the holder of any licence from the Crown, the Governor or the Minister for the time being administering the **Land Act 1958** is to be considered as a tenant from year to year.
- (3) Despite anything to the contrary in this Act, a licensee under the **Mineral Resources (Sustainable Development) Act 1990** is not entitled to claim compensation if the licence contains a condition or power enabling the Governor in Council to resume the whole or any portion of the land covered by the licence without compensation if it is required for public purposes.
- (4) Despite anything to the contrary in this Act, a licensee of Crown lands for pastoral purposes is not entitled to compensation in respect of land held under the licence and acquired pursuant to this Act.
- (5) Despite anything to the contrary in this Act, if—
- (a) land is subdivided into holdings, allotments or lots abutting back to back or side to back without any passage or right-of-way between them; and
 - (b) the Authority is empowered under the special Act to make or provide a drain or sewer for the drainage of the holdings, allotments or lots—

S. 38(5)(a)
amended by
No. 53/1988
s. 45(Sch. 3
item 21) (as
amended by
No. 47/1989
s. 23(2)).

S. 38(5)(b)
amended by
No. 53/1988
s. 45(Sch. 3
item 21) (as
amended by
No. 47/1989
s. 23(2)).

no compensation is payable in respect of the drain or sewer or its making or provision except in relation to any building that is injured or interfered with and which the Authority has not reinstated or repaired.

39 Apportionment of rent when part only of land leased is acquired

- (1) If part of any land comprised in a lease for a term of years unexpired is acquired under this Act, the rent payable in respect of the land comprised in the lease must be apportioned between the part so acquired and the residue of the land.
- (2) The apportionment referred to in subsection (1) may be settled by agreement between the lessor and lessee of the land comprised in the lease and, failing agreement between the parties, must be settled by the Tribunal or the Court.
- (3) After apportionment has been made in accordance with subsection (2)—
 - (a) the lessee, as to all future rent which becomes payable, is liable only to so much of the rent as is so apportioned in respect of the residue of the land;
 - (b) the lessor, as to the residue of the land and as against the lessee, has the same rights and remedies for the recovery of the apportioned rent henceforth payable by the lessee; and
 - (c) all the covenants, conditions and agreements of the lease, except as to the amount of rent to be paid, remain in force with regard to the residue of the land.

S. 39(2)
amended by
No. 91/1994
s. 21(a).

Part 4—Measure of compensation

40 Definitions

In this Part—

loss attributable to disturbance means any pecuniary loss suffered by a claimant as the natural, direct and reasonable consequence of—

- (a) the service upon the claimant of a notice of intention to acquire, where the Authority has refused or failed to give consent to the carrying out of improvements to the land in respect of which that notice has been served or the effecting or obtaining of any sales, transactions, licences or approvals in respect of that land; and
- (b) the fact that an interest of the claimant in that land has been divested or diminished, being a pecuniary loss for which provision is not otherwise made in this Part;

loss attributable to severance, in relation to the acquisition of a claimant's interest in land, means the amount of any reduction in the market value of any other interest of the claimant in the acquired land or any interest of the claimant in other land used in conjunction with the acquired land which is caused by its severance from the acquired land;

market value, in relation to any interest in land on a particular date, means the amount of money that would have been paid for that interest if it had been sold on that date by a willing but not anxious seller to a willing but not anxious purchaser;

special value, in relation to an interest in land, means the value of any pecuniary advantage, in addition to market value, to a claimant which is incidental to his ownership or occupation of that land.

41 General principles on which compensation is to be based

- (1) Except as otherwise provided in this Part, in assessing the amount of compensation payable to a claimant in respect of an interest in land which is acquired under this Act, regard must be had to the following factors—
 - (a) the market value of the interest on the date of acquisition;
 - (b) any special value to the claimant on the date of acquisition;
 - (c) any loss attributable to severance;
 - (d) any loss attributable to disturbance;
 - (e) the enhancement or depreciation in value of the interest of the claimant, at the date of acquisition, in other land adjoining or severed from the acquired land by reason of the implementation of the purpose for which the land was acquired;
 - (f) any legal, valuation and other professional expenses necessarily incurred by the claimant by reason of the acquisition of the interest.
- (2) If the market value of an interest in land is assessed on the basis that the land had potential to be used for a purpose other than the purpose for which it was used on the date of acquisition, compensation must not be allowed for—

- (a) any special value in respect of any pecuniary advantage that would necessarily have been forgone in realizing that potential; and
- (b) any loss attributable to disturbance that would necessarily have been incurred in realizing that potential.
- (3) If less than the whole of the land in which a claimant's interest subsists is acquired or less than the whole of that interest is acquired, the market value of the acquired interest is the difference between the market value of the interest before the acquisition and the market value of the interest after the acquisition.
- (4) The expenses referred to in subsection (1)(f) do not include any costs incurred by a claimant in the course of prosecuting any proceedings the Tribunal or the Court under Part 10.
- (5) If compensation has previously been paid in respect of the land pursuant to Part 5 of the **Planning and Environment Act 1987**, the amount of compensation payable under this Part in respect of an acquired interest in land or in respect of land in which an acquired interest subsists must be reduced by the prescribed amount.
- (6) If the claimant's interest in the acquired land was liable to expire or to be determined, the assessment of compensation payable under this Part in respect of that interest must take account of any reasonable prospect of renewal or continuation of the interest.
- (7) In this section the *prescribed amount* in relation to land is the amount calculated by the following formula—

$$\frac{A}{B} \times C$$

S. 41(4)
amended by
No. 91/1994
s. 21(a).

S. 41(5)
amended by
No. 45/1987
s. 205(Sch.
item 42).

S. 41(7)
amended by
No. 81/2006
s. 59(3).

where—

A = the amount of compensation previously paid in respect of the land for loss of market value due to—

- (i) the reservation or proposed reservation of the land or part of the land for a public purpose in a planning instrument; or
- (ii) any part of the land being required for a public purpose.

B = the market value of the land in respect of which the compensation was paid, that value to be determined on the basis of the actual zoning that applied to the land at the date which was the basis for the calculation of that compensation.

C = the compensation payable under this Part for market value and severance less the value of the land attributable to improvements of a durable nature made—

- (i) with the consent of the Authority under section 12(1)(b); or
- (ii) after the last date on which compensation was paid in respect of the land and before service of the most recent notice of intention to acquire an interest in the land.

42 Reinstatement in particular circumstances

If—

- (a) acquired land was, immediately before the date of acquisition, used for a purpose for which there is no general market for land and, but for the acquisition, would have continued to have been used for that purpose; and

- (b) the claimant has acquired, or intends in good faith to acquire, an interest in other land in substitution for the interest in the acquired land and intends in good faith to use the other land for the same purpose for which the acquired land was used—

there may be taken into account, in place of market value, an amount ascertained by adding together—

- (c) the expense of acquiring the interest in the other land; and
- (d) the expenses and losses incurred or likely to be incurred by the claimant as a result of, or incidental to, relocation—

in each case ascertained as at the date when, in all the circumstances, it was, or would be, reasonably practicable for the claimant to incur the expenses or losses, and by subtracting from the amount so ascertained the amount, if any, by which the claimant has improved, or is likely to improve, the claimant's financial position by the relocation.

43 Matters affecting compensation

- (1) In assessing compensation, the following matters must be disregarded—
 - (a) any increase or decrease in the market value of the interest in land which is acquired arising from the carrying out, or the proposal to carry out, the purpose for which the interest was acquired;
 - (b) any special suitability or adaptability of the land in which the acquired interest subsists for a purpose for which it could only be used in pursuance of a power conferred by or under law, or for which it could only be used by the government or a public or local authority;

- (c) any increase in value of the land in which the acquired interest subsists which results from the use of that land in a manner or for a purpose contrary to law;
- (d) in a case where the land in which the acquired interest subsists is reserved for a public purpose in a planning instrument, any restrictions upon the use or development of that land which are imposed by, or are a consequence of, the reservation;
- (e) any increase in the value of the interest in land acquired which is caused by the carrying out, after service upon the claimant or any other person of the notice of intention to acquire, of any improvements of a durable nature made to the land without the consent of the Authority, unless the claimant proves that these were carried out in good faith in the belief that they had been approved by the Authority;
- (f) any sales, transactions, arrangements, licences or approvals in writing effected or obtained with respect to the land in which the acquired interest subsists after service upon the claimant of the notice of intention to acquire, unless these were effected or obtained with the consent of the Authority or the claimant proves that they were effected or obtained in good faith in the belief that they had been approved by the Authority.

* * * * *

S 43(1)(g)
repealed by
No. 66/1997
s. 9(1).

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 4—Measure of compensation

S. 43(1A)
inserted by
No. 81/2006
s. 59(1).

- (1A) Despite anything to the contrary in this Part, in assessing compensation, if—
- (a) the land in which the acquired interest subsists is reserved for a public purpose in a planning instrument; and
 - (b) the reservation forms the boundary of a zone in that planning instrument; and
 - (c) the decision to impose the zoning boundary was not related to the purpose for which the interest in land was acquired—

regard may be had to the actual zoning of the land in which the acquired interest subsists and, where relevant, to the actual zoning boundary

- (2) If any person claims compensation under this Act for any loss or damage caused by the severance of the land acquired from other lands of that person, or the difficulty of access to those other lands, the Authority may give notice to that person of its intention to make and maintain a gate, bridge, easement, road, right-of-way, crossing, passage or other work.
- (3) Once a notice is given, the Authority and its successors must make and maintain the gate, bridge, easement, road, right-of-way, crossing, passage or work for the accommodation of the owners and occupiers of the lands concerned.
- (4) Any person or body assessing compensation under this Act for the loss or damage referred to in subsection (2) must have regard to the bridge, easement, road, right-of-way, crossing, passage or work in reduction of the amount that would otherwise be awarded.

(5) Despite the amendment of this section by the **Docklands Authority (Amendment) Act 1997**, this section continues to apply in relation to an entitlement to compensation arising under this Act before the commencement of that Act as if section 9 of that Act had not been enacted.

S. 43(5)
inserted by
No. 66/1997
s. 9(2).

(6) Despite the amendment of this section by the **Road Legislation (Projects and Road Safety) Act 2006**, this section continues to apply in relation to an entitlement to compensation arising under this Act before the commencement of section 59 of that Act as if section 59 of that Act had not been enacted.

S. 43(6)
inserted by
No. 81/2006
s. 59(2).

44 Solatium

- (1) The amount of compensation may be increased by such amount, not exceeding 10% of the market value of the land, by way of solatium as is reasonable to compensate the claimant for intangible and non-pecuniary disadvantages resulting from the acquisition.
- (2) In assessing the amount payable under subsection (1), there must be taken into account all relevant circumstances applicable to the claimant including, without limiting the generality of the foregoing—
 - (a) the interest of the claimant in the acquired land; and
 - (b) the length of time during which the claimant had occupied the land; and
 - (c) the inconvenience likely to be suffered by the claimant by reason of removal from the land; and
 - (d) the period of time after the acquisition of the land during which the claimant has been, or will be, allowed to remain in possession of the land; and

- (e) the period of time during which, but for the acquisition of the land, the claimant would have been likely to continue to occupy the land; and
 - (f) the age of the claimant; and
 - (g) where the claimant at the date of acquisition is occupying the land as the claimant's principal place of residence, the number, age and circumstances of other people (if any) living with the claimant.
- (3) If no solatium is paid to a claimant, a person other than a claimant who, at the date of acquisition, had occupied the acquired land for a continuous period of not less than 12 months before that date as the person's principal place of residence may claim from the Authority such amount, not exceeding 10% of the market value of the land, by way of solatium as is reasonable to compensate the person for intangible and non-pecuniary disadvantages resulting from the acquisition.
- (4) In determining the amount payable under subsection (3), there must be taken into account all relevant circumstances applicable to the person, including the matters referred to in subsection (2)(b), (c), (d), (e), (f) and (g).
- (5) If the Authority rejects a claim for solatium made by a person under subsection (3), that person is to be taken to be a claimant and the claim to be a disputed claim for the purposes of this Act.

45 Loans to dispossessed home owners

- (1) If—
- (a) the whole or any part of land in which an acquired interest subsists is, on the date of acquisition of that land, occupied by the claimant as the claimant's principal place of residence; and

S. 45(1)
amended by
No. 91/1994
s. 21(a).

- (b) the market value of the claimant's interest in the land does not exceed the amount prescribed from time to time by the Governor in Council; and
- (c) the amount of compensation payable to the claimant under this Part is insufficient to enable the purchase of a similar interest in land to be used by the claimant as a principal place of residence providing accommodation reasonably comparable with the accommodation on the acquired land—

the Authority may, and must if directed by the Tribunal or the Court on the application of the claimant, grant a loan (with or without interest) of such amount as the claimant may reasonably require, in addition to the compensation payable, to enable the claimant to purchase such reasonably comparable accommodation.

- (2) Any loan granted under subsection (1) must not exceed an amount equal to the difference between the market value of the interest of the claimant which is acquired, as assessed for compensation under this Part, and the amount prescribed under subsection (1).
- (3) If interest is payable on any loan granted under subsection (1), the rate of that interest must not exceed the rate determined under section 52.
- (4) Any loan granted under subsection (1) is subject to the following terms and conditions—
 - (a) the loan must be secured by a mortgage of the interest in land purchased by the claimant to provide comparable accommodation;
 - (b) the loan is repayable if the interest is sold or if the claimant or the claimant's spouse or domestic partner cease to use the land as a principal place of residence or if the claimant

S. 45(4)(b)
amended by
No. 27/2001
s. 3(Sch. 1
item 5.3).

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 4—Measure of compensation

S. 45(4)(c)
amended by
No. 91/1994
s. 21(a).

- and the claimant's spouse or domestic partner have both died;
- (c) such other terms and conditions as are agreed upon between the Authority and the claimant, or, failing agreement, as are determined by the Tribunal or the Court on the application of either party.

Part 5—Compensation where no interest in land is acquired

46 Compensation for abandoned acquisition

(1) Any person with an interest in land who has—

- (a) sustained any pecuniary loss; or
- (b) incurred any expense—

as a direct, natural and reasonable consequence of the service of a notice of intention to acquire any interest in that land or of the Authority's refusal or failure to consent to the carrying out of improvements to the land or to the effecting or obtaining of any sales, transactions, licences or approvals in relation to the land may—

- (c) if the Authority has determined under section 15 not to proceed with the acquisition; or
- (d) if the interest is not acquired within the time prescribed by this Act—

claim the amount of that loss or expense from the Authority.

(2) A claim for compensation by any person under subsection (1) must only be made in respect of—

- (a) a loss sustained or expense incurred in the period between the date of service of the notice of intention to acquire and—
 - (i) the date of service on that person of the statement under section 15; or
 - (ii) the lapsing of the notice of intention to acquire—

as the case may be; and

- (b) any expenses reasonably incurred in respect of the making of the claim.

- (3) A claim for compensation under subsection (1) must be made within two years after the date of service of the statement under section 15 or the date of lapsing of the notice of intention to acquire (as the case may be).

47 Compensation for entry or temporary occupation

- (1) Any person with an interest in land that has been entered or temporarily occupied pursuant to Part 9 who has—
- (a) sustained any pecuniary loss; or
 - (b) incurred any expense—
- as a direct, natural and reasonable consequence of that entry or occupation may claim the amount of that loss or expense from the Authority.
- (2) Subject to section 106(1), a claim under subsection (1) must be made within two years after the day on which the Authority was last in occupation of or upon the land.
- (3) In addition to the amount of loss or expense which may become payable under subsection (1), the Authority must during the period of its occupation of the land pay half-yearly or quarterly to the person or persons entitled to receive the rent from the land the amount of rent agreed upon between the parties or, failing agreement, fixed by the Court or the Tribunal, as the case may be.

S. 47(3)
amended by
No. 91/1994
s. 21(a).

48 Form of claim

- (1) A claim for compensation under this Part is made by serving on the Authority a notice of claim which must—
- (a) be in the prescribed form; and
 - (b) state the amount of compensation to which the claimant claims to be entitled under this Act; and

- (c) state the interest which the claimant had in the land concerned; and
 - (d) give details of the loss sustained or expense incurred which gave rise to the claim.
- (2) Subject to section 106(1), the Authority must before the expiration of three months after the day on which a notice of claim is served on it under this Part serve upon the claimant a statement in writing replying to the notice of claim.
- (3) The Authority may in that statement—
 - (a) admit the claim; or
 - (b) make an alternative offer of compensation; or
 - (c) reject the claim.
- (4) A statement of reply under subsection (2) must be accompanied by a statement in the prescribed form setting out the principal rights and obligations of persons entitled to make a claim under this Part.
- (5) The Authority may admit the claim either in full or in part leaving specified matters subject to negotiation and if it admits the claim it is liable to satisfy the claim to the extent to which it has admitted the claim.
- (6) If the Authority fails to reply to the notice of claim within the prescribed time, it is to be taken to have rejected the claim and the claim becomes a disputed claim for the purposes of this Act.
- (7) Subject to section 106(1), if the Authority makes an offer of compensation, the claimant must within two months after the date of service of the offer—
 - (a) accept the offer; or
 - (b) reject the offer.

Land Acquisition and Compensation Act 1986

No. 121 of 1986

Part 5—Compensation where no interest in land is acquired

- (8) If the claimant rejects or fails to accept within the time prescribed under subsection (7) an offer of the Authority, or the Authority rejects a claim by the claimant under this Part, the claim becomes a disputed claim for the purposes of this Act.
- (9) To the extent that an amount of compensation offered under this section, or any part thereof, is not disputed, the Authority is liable to pay that amount.

Part 6—Payment of compensation and interest on compensation

49 Compensation to be paid to persons entitled or empowered to sell and convey

The compensation payable for or in respect of any interest in land acquired by the Authority under this Act may be paid to—

- (a) the person who is entitled or who is empowered under this Act to sell and convey or grant and release or lease the interest to the Authority; or
- (b) the constituted attorney of that person.

50 Claimants to produce title

All persons claiming compensation under this Act when required by the Authority to do so, must produce to the Authority all deeds and documents relating to or evidencing their title to or their entitlement to an interest in the land in respect of which the compensation is payable.

51 Advances of compensation

- (1) Upon the service on a claimant of an offer under Part 3 or 5, the claimant may, by notice in writing, require the Authority to advance an amount equal to the amount of compensation offered in respect of the claimant's interest or the loss or expenses sustained or incurred by the claimant or, if the claimant is a person to whom section 44(3) applies, the amount of compensation by way of solatium offered to the claimant.
- (2) Subject to section 106(1), if the Authority is required to make an advance under this section, it must make the advance within one month—
 - (a) after receipt of the notice requiring it to make the advance; or

(b) after the claimant has satisfied the Authority as to the claimant's entitlement to an interest in the land—

whichever last occurs.

- (3) An advance must not be made under this section unless the offer is \$5000 or more.
- (4) If an advance has not been paid at the expiration of the period referred to in subsection (2), the Authority is liable to pay interest on the unpaid amount of the advance from the expiration of that period until the date of payment of the advance.
- (5) Interest is payable under subsection (4) at the rate for the time being fixed under section 55.
- (6) If an advance has been required under this section and the Authority makes a later offer increasing the amount of compensation offered, the person to whom the offer is made may by notice in writing require the Authority to advance an amount equal to the difference between the amount of the first offer and the amount of the later offer.
- (7) If the amount of money paid under this section exceeds the amount of compensation determined under this Act for—
 - (a) the acquisition of the interests of; or
 - (b) the loss or expenses sustained or incurred by; or
 - (c) the solatium payable to—the person to whom the money was paid, that person is liable to pay to the Authority as a debt due to the Authority an amount equal to the difference between the amount paid to that person under this section and the amount of compensation which is so determined.

- (8) Despite anything to the contrary in this Act, if—
- (a) a notice of intention to acquire an interest in land has been served on a person under section 6; or
 - (b) a notice of intention to acquire an interest in land is not required by virtue of section 7(1)(c) to be served but the Authority has notified a person interested in the land that it proposes to acquire an interest in that land—
- the Authority may before the date of acquisition advance an amount of compensation to that person to assist that person in purchasing a similar interest in other land.
- (9) An amount of compensation paid to a person under subsection (8) shall not prejudice the final settlement or determination of the amount of compensation payable to that person under this Act.

52 Determination of rate of interest

- (1) The Governor in Council may from time to time, by Order published in the Government Gazette, determine the rate of interest to be paid in respect of unpaid compensation under this Act.
- (2) The rate of interest determined by the Governor in Council must not exceed the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983**.

53 Interest on compensation for acquisition

- (1) If an amount of compensation is awarded by the Court or the Tribunal under this Act, the amount that represents the difference between the amount of compensation awarded and the amount of compensation offered by the Authority immediately before the claimant's claim became a

S. 53(1)
amended by
No. 91/1994
s. 21(a).

disputed claim bears interest at the rate for the time being determined under section 52 from—

- (a) the date of acquisition of the claimant's interest; or
- (b) the date on which the Authority entered into possession of the land in which that interest subsists—

whichever is the earlier, until the date that the compensation is paid by the Authority.

- (2) If the Authority and the claimant or claimants have agreed on the amount of compensation, that amount bears interest at the rate for the time being determined under section 52 from the date of the agreement until the date that the compensation is paid by the Authority.

54 Interest on compensation where no land taken

If an amount is awarded as compensation under Part 5 or section 26(12), the amount that represents the difference between the amount of compensation awarded and the amount of compensation offered by the Authority immediately before the claimant's claim became a disputed claim bears interest at the rate for the time being determined under section 52 from the date that the right of claim accrued to the claimant until the date that the compensation is paid by the Authority.

55 Penalty interest

Subject to section 106(1), if the Authority fails to pay any amount of compensation which it has agreed to pay or which has been awarded under this Act within 30 days of the date of that agreement or award, the interest payable on that amount is five per centum per annum higher than the rate of interest for the time being determined under section 52.

56 Interest in respect of expenses

Despite anything to the contrary in section 53 or 54—

- (a) if an amount has been claimed under this Act in respect of expenses and the amount of the expenses has been paid by the Authority, that amount does not bear interest under this Act;
- (b) if the amount of any expenses claimed under this Act is disputed, the amount awarded in respect of those expenses bears interest from the date on which the claimant paid the expenses; and
- (c) if—
 - (i) the amount of any expenses claimed under this Act is disputed; and
 - (ii) the Authority has made an advance of compensation to the claimant; and
 - (iii) the claimant has not paid the expenses—

any amount awarded in respect of those expenses in addition to the amount advanced bears interest from the date on which the claimant pays the expenses.

57 Interest where claimant seeks extension of time

If a claimant seeks an extension of time under this Act before making a claim or responding to an offer or revised offer, interest is not payable to the claimant on any unpaid amount of compensation during the period of extension.

58 Compensation may in certain cases be paid to the Treasurer

If any claimant on tender of the compensation agreed or awarded in respect of the claimant's claim—

- (a) refuses to accept the payment; or
- (b) neglects or fails to make out a title to the land or the claimant's entitlement to an interest in the land (as the case requires) to the satisfaction of the Authority; or
- (c) refuses to convey or release the claimant's interest as directed by the Authority; or
- (d) is absent from Victoria; or
- (e) cannot after diligent inquiry be found—

the compensation payable in respect of the claimant's claim may if the Minister administering the special Act thinks fit be paid to the credit of the Trust Fund to be dealt with by the Treasurer in the manner provided in this Act.

S. 59
amended by
No. 46/1998
s. 7(Sch. 1).

59 Payment out of Trust Fund at direction of Authority

Subject to any order made under section 61, the Minister administering Part 7 of the **Financial Management Act 1994** must pay out any money paid to the Trust Fund by the Authority under this Act to such person as the Authority by order directs.

60 Investment of money deposited in Trust Fund

- (1) The Treasurer may, if the Treasurer thinks fit, until an order is made under section 61 or payment is made under section 59, invest any money paid to the Trust Fund under this Act in such manner the Treasurer thinks fit.

- (2) The interest on any money invested under subsection (1) shall be from time to time accumulated for the benefit of the person ultimately entitled to the money so invested.

61 Court or judge may dispose of money paid to Trust Fund

- (1) Upon the application of any person making a claim—
- (a) to any payment made to the credit of the Trust Fund under this Act; or
 - (b) to the interest in land in respect of which the payment was made—

the Court may in a summary way as to the Court seems fit—

- (c) order the money or any part thereof—
 - (i) to be paid to the person making the claim; or
 - (ii) to be laid out or invested in such manner as to the Court seems fit and may order distribution of the money or payment of the dividends or interest on the money according to the respective entitlements of the persons making claim to the money or interest in land or any part thereof; or
 - (d) make such other order in the circumstances as to the Court seems fit.
- (2) An order under subsection (1) must provide that the money is to be applied or paid in such manner as the Court considers will give to the parties interested in that money the same benefit from that money as they might lawfully have had from the interests in land in respect of which the money has been paid or as near thereto as is possible in the circumstances.

62 Costs of application

- (1) Subject to subsection (2), the costs of and incidental to any application or in respect of any investment referred to in section 61 are in the discretion of the Court.
- (2) The Authority and the Minister administering Part 7 of the **Financial Management Act 1994** are not required to pay any costs referred to in subsection (1).
- (3) If costs are taxed under this section the taxation may be reviewed by the Court.

S. 62(2)
amended by
No. 46/1998
s. 7(Sch. 1).

63 Expenses of conveyance to be borne by Authority

- (1) All conveyances and instruments for the conveyance of interests in land acquired under this Act must be prepared by the Authority.
- (2) The Authority must bear—
 - (a) the charges and expenses incurred by itself and the person interested in the land to be acquired or who immediately before the purchase or acquisition had an interest in the land so acquired in respect of—
 - (i) the conveyance of the interest in land; and
 - (ii) the conveyance or transfer of any outstanding terms or interests in the land; and
 - (iii) verifying (as the case requires) the title to or the entitlement to an interest in the land, terms or interests; and
 - (iv) making out and furnishing any extracts and attested copies required by the Authority; and

- (b) all other reasonable expenses incidental to the investigation and verification of the title to or the entitlement to an interest in the land (as the case requires).

64 Taxation of expenses of conveyance

- (1) Subject to Part 10, if any dispute arises under this Act as to the amount of any charges or expenses payable to any person under section 63(2), the charges or expenses must be taxed by the Costs Court upon the application of either party to the dispute. **S. 64(1) amended by No. 78/2008 s. 27(2)(a).**
- (2) The person liable to pay the charges or expenses must pay the amount that the Costs Court certifies to be due in respect of the charges or expenses to the person entitled to them. **S. 64(2) amended by No. 78/2008 s. 27(2)(b).**
- (3) Subject to subsection (4), the costs of taxing the charges or expenses must be borne by the person liable to pay those charges or expenses.
- (4) If upon the taxation of the charges or expenses one-sixth or more of the amount of the charges or expenses is disallowed, the costs of the taxation must be borne by the person whose charges or expenses are so taxed.
- (5) The amount of any costs to be paid by a person under subsections (3) and (4) is to be ascertained by the Costs Court and deducted by the Costs Court accordingly in the certificate of taxation. **S. 64(5) amended by No. 78/2008 s. 27(3).**
- (6) In this section *person* includes the Authority.

Part 7—Persons with limited powers to deal with land

65 Restrictions in other laws not to apply

Despite any law, deed, agreement, will, memorandum or articles of association or other instrument which would otherwise prevent a person in whom an interest in land is vested from doing so, such a person—

- (a) may sell and convey or grant and release or lease that interest to the Authority; and
- (b) if the interest has been acquired by the Authority—
 - (i) may take action to recover compensation; and
 - (ii) may agree with the Authority as to the amount of compensation payable in respect of the acquired interest.

66 Application of compensation

- (1) Any compensation payable under this Act to a person to whom section 65 applies must be applied by that person in one or more of the following ways:
 - (a) In the discharge of any debt or encumbrance affecting—
 - (i) the interest in land in respect of which the compensation has been paid; or
 - (ii) other interests in lands settled with that interest to the same or like uses, trusts and purposes;
 - (b) In the purchase of interests in other land;
 - (c) In the purchase of Victorian Government securities;

- (d) On mortgage of freehold lands in Victoria;
 - (e) If the money is paid in respect of any buildings acquired under this Act or the special Act or injured by the proximity of the works, in removing and re-erecting the buildings or substituting others in their stead;
 - (f) In any way or manner that the Court in a summary way orders or directs;
 - (g) In payment to any person becoming absolutely entitled to the money.
- (2) Any land or securities purchased or any mortgage under subsection (1)(b), (c) or (d) must be conveyed, limited and settled upon the same uses, trusts and purposes, and in the same manner as the land in respect of which the compensation has been paid stood settled.

67 Power to agent to negotiate in certain cases

- (1) An agent of any person absent from Victoria who is authorized to sell the interest in land of that person, may negotiate with the Authority under this Act for the purchase or acquisition of that interest.
- (2) An agent referred to in subsection (1) may agree with the Authority—
 - (a) for the purchase or acquisition of the interest in land by the Authority; and
 - (b) as to the compensation payable in respect of the acquisition of the interest under this Act.
- (3) Any dispute arising as to the compensation payable may be determined in the same manner as other disputed claims are determined under this Act.

- (4) Upon payment of the purchase price or compensation agreed upon or determined pursuant to this section, the agent must convey the interest in land to the Authority and perform and execute all and every necessary act deed matter and thing required for those purposes.

Part 8—Mortgages over acquired land

68 Power to redeem mortgages

- (1) The Authority may purchase or redeem the interest of the mortgagee in any interest in land acquired or proposed to be acquired pursuant to this Act for the purposes of the special Act.
- (2) Subsection (1) applies whether or not—
 - (a) the Authority has previously acquired the equity of redemption of that land; or
 - (b) the mortgagee is entitled to the mortgagee's interest in the land in the mortgagee's own right or in trust for any other person; or
 - (c) the mortgagee is in possession of that land by virtue of the mortgage; or
 - (d) the mortgage affects that interest in land solely or jointly with other interests in that or any other land not required for the purposes of the special Act.
- (3) The Authority may purchase or redeem the mortgage by paying or tendering to the mortgagee—
 - (a) the principal sum and interest due on the mortgage; and
 - (b) the expenses and charges (if any) of the mortgagee; and
 - (c) three months' additional interest.
- (4) Immediately upon payment of the amounts specified in subsection (3), the mortgagee must convey or release the mortgagee's interest in the land under the mortgage to the Authority or as the Authority directs.

- (5) The Authority may give notice in writing to the mortgagee that it will pay off the principal and interest due on the mortgage six months after the date of giving of the notice.
- (6) If—
- (a) the Authority has given a notice under subsection (5); or
 - (b) the person entitled to the equity of redemption of the land has given six months' notice of intention to redeem the interest of the mortgagee in the land—

at the expiration of the period specified in respect of either of those notices or at any intermediate period, upon payment or tender by the Authority to the mortgagee of—

- (c) the principal sum due on the mortgage; and
- (d) the interest which would become due at the end of six months from the date of giving either of the notices; and
- (e) the expenses and charges (if any) of the mortgagee—

the mortgagee must convey or release the mortgagee's interest in the land under the mortgage to the Authority or as the Authority directs.

69 Deposit of mortgage money on refusal to accept

- (1) If a mortgagee fails—
- (a) to convey or release the mortgagee's interest in the land under the mortgage to the Authority or as it directs pursuant to section 68; or

(b) to adduce good title to the mortgagee's interest in that land to the Authority's satisfaction—

the Authority may pay to the credit of the Trust Fund to be dealt with by the Treasurer in the manner provided in this Act—

(c) the principal sum and interest due on the mortgage; and

(d) the costs (if any) due on the mortgage; and

(e) if the payment is made before the expiration of the six months' notice referred to in section 68, such further interest as would at that time become due.

(2) The Authority, if it thinks fit, may execute a deed poll—

(a) containing a description of the lands in respect of which the deposit was made under subsection (1); and

(b) describing the circumstances in which the deposit was made.

(3) The Authority must register the deed poll in the office of the Registrar-General.

(4) Upon the registration of the deed poll the interest of the mortgagee and of all persons in trust for the mortgagee or for whom the mortgagee may be trustee in the land comprised in the mortgage is vested in the Authority.

70 Sum to be paid when mortgage exceeds value of land

(1) If any mortgaged interest in land acquired or proposed to be acquired pursuant to this Act for the purposes of the special Act appears to the Authority to be of less value than the principal interest and expenses secured thereon, the value of

the interest or the compensation to be paid by the Authority in respect of the interest is to be settled by agreement between—

- (a) the mortgagee and the person entitled to the equity of redemption of the land on the one part; and
 - (b) the Authority on the other part.
- (2) If an agreement is not reached under subsection (1) with respect to the amount of the value of the interest in land or of the compensation that amount is to be determined under this Act in the same manner as a disputed claim for compensation.
- (3) The amount of the value of the interest in land or of the compensation so agreed upon or determined pursuant to this section must be paid by the Authority to the mortgagee in satisfaction of the mortgage debt so far as the amount will extend.
- (4) Upon payment or tender of the amount under subsection (3), the mortgagee must convey or release all the interest in the land comprised in the mortgage to the Authority or as the Authority directs.

71 Deposit of money when refused on tender under section 70

S. 71(1)
amended by
No. 46/1998
s. 7(Sch. 1).

- (1) If a mortgagee fails—
- (a) to convey the interest in the land under the mortgage to the Authority or as it directs pursuant to section 70; or
 - (b) to adduce good title to that interest to the Authority's satisfaction—

the Authority may pay the amount of the value or compensation referred to in that section to the credit of the Trust Fund to be dealt with by the Minister administering Part 7 of the **Financial**

Management Act 1994 in the manner provided in this Act.

- (2) A payment made under subsection (1)—
 - (a) must be accepted by the mortgagee in satisfaction of the mortgage debt so far as that payment will extend; and
 - (b) is a full discharge of the mortgaged interest from all money due thereon.
- (3) The Authority, if it thinks fit, may execute and register a deed poll in the manner provided in section 69(2) and (3).
- (4) Upon the registration of the deed poll the interest of the mortgagee and of all persons in trust for the mortgagee or for whom the mortgagee may be trustee in the land comprised in the mortgage is vested in the Authority.
- (5) Despite subsection (4) all rights and remedies possessed by the mortgagee against the mortgagor by virtue of any bond or covenant or other obligation, other than the right to the interest in land, remain in force in respect of so much of the mortgage debt as has not been satisfied by the payment under this section.

72 Sum to be paid where part only of mortgaged land taken

- (1) If—
 - (a) part only of the mortgaged interest or of the land in which the mortgaged interest subsists is required for the purposes of the special Act; and
 - (b) the value of the mortgaged interest in the part so required is of less value than the principal sum, interest and expenses secured on the whole of the land; and

(c) the mortgagee—

(i) does not consider the interest in the remaining part of the land a sufficient security for the money charged thereon; or

(ii) is not willing to release the part so required—

the value of the interest in the required part and the compensation (if any) to be paid in respect of the severance of that part or otherwise are to be settled by agreement between the mortgagee and the person entitled to the equity of redemption of the mortgaged interest on the one part and the Authority on the other part.

- (2) If an agreement is not reached under subsection (1) with respect to the amount of the value of the interest in the part or of the compensation, the Authority must make an offer in accordance with section 32 and the amount is to be determined under this Act in the same manner as a disputed claim for compensation.
- (3) The amount of the value of the interest in the part or of the compensation so agreed upon or determined pursuant to this section must be paid by the Authority to the mortgagee in satisfaction of the mortgage debt so far as the amount will extend.
- (4) Upon payment or tender of the amount under subsection (3), the mortgagee must convey or release all the mortgagee's interest under the mortgage in the part of the land for which the payment is made to the Authority or as the Authority directs.

- (5) A memorandum of the amount so paid must—
 - (a) be endorsed on the deed creating the mortgage; and
 - (b) be signed by the mortgagee.
- (6) A copy of the memorandum must (if required) be furnished by the Authority without charge to the person entitled to the equity of redemption of the interest in land comprised in the mortgage.

73 Deposit of money when refused on tender under section 72

- (1) If a mortgagee fails—
 - (a) to convey or release to the Authority, or as it directs, the interest in the part of land in respect of which the value or compensation has been paid or tendered under section 72; or
 - (b) to adduce good title in respect of that interest to the Authority's satisfaction—

S. 73(1)
amended by
No. 46/1998
s. 7(Sch. 1).

the Authority may pay the amount of that value or compensation to the credit of the Trust Fund to be dealt with by the Minister administering Part 7 of the **Financial Management Act 1994** in the manner provided in this Act.

- (2) A payment under subsection (1)—
 - (a) must be accepted by the mortgagee in satisfaction of the mortgage debt so far as that payment will extend; and
 - (b) is a full discharge of the part of the mortgaged interest so required from all money due thereon.
- (3) The Authority, if it thinks fit, may execute and register a deed poll in the manner provided in section 69(2) and (3).

- (4) Upon the registration of the deed poll the interest of the mortgagee and of all persons in trust for the mortgagee or for whom the mortgagee may be trustee in the land required is vested in the Authority.
- (5) Despite subsection (4), the mortgagee has the same powers and remedies for recovering or compelling payment of the mortgage money or the residue thereof (as the case may be) and the interest thereof respectively upon and out of the residue of the mortgaged interest which is not required for the purposes of the special Act, as the mortgagee would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the interest in the whole of the land originally comprised in the mortgage.

Part 9—Powers of entry and temporary occupation

74 Powers of entry

- (1) For the purposes of the special Act, the Authority or any person authorized in writing to that effect by the Authority, may—
 - (a) enter and remain upon any land with any assistants, vehicles, machinery or equipment; and
 - (b) affix or establish any trigonometrical stations, survey pegs, marks or poles on the land and from time to time alter, remove or reinstate them; and
 - (c) dig or bore into the land and take samples of soil, rock, ground water or minerals.
- (2) The Authority must serve upon the occupier of the land, and if the occupier is not the owner, upon the owner of the land—
 - (a) a notice of intention to enter the land; and
 - (b) a statement in the prescribed form setting out the rights and obligations of the occupier and owner (as the case may be) under this Act—at least seven days before the land is entered pursuant to subsection (1).
- (3) A person who—
 - (a) wilfully and without authorization from the Authority, interferes with any trigonometrical station, survey pegs, marks or poles; or

(b) wilfully obstructs any person acting in accordance with this section—

is guilty of an offence.

Penalty: 5 penalty units.

75 Temporary occupation

- (1) The Authority, or any person authorized in writing to that effect by the Authority, may enter upon any land to which this section applies and occupy the land so long as is necessary for the purposes of the special Act.
- (2) The Authority or any person authorized by the Authority may for the purposes of the special Act—
 - (a) dig and take from the land occupied pursuant to subsection (1) any clay, stone, gravel, earth or other substance; or
 - (b) deposit any material on that land; or
 - (c) make cuttings or excavations on that land; or
 - (d) take timber from that land; or
 - (e) make and use roads on that land; or
 - (f) manufacture on that land any materials required; or
 - (g) erect workshops, sheds and buildings of a temporary character on that land.
- (3) The Authority must, at least seven days before it enters upon any land to which this section applies, serve upon—
 - (a) the occupier of the land, and if the occupier is not the owner, upon the owner of the land; and

- (b) the Soil Conservation Authority—
notice in writing of its intention to exercise its powers under that subsection.
- (4) A notice under subsection (3) must—
- (a) indicate in general terms the approximate position and nature of the land in question; and
 - (b) indicate the extent to which the powers under subsection (2) are proposed to be exercised; and
 - (c) include the name and place of business of any person authorized by the Authority to exercise the power on its behalf; and
 - (d) contain a statement in the prescribed form setting out the principal rights and obligations of the occupier and owner (as the case may be) under this Act.
- (5) Subject to section 106(1), the Authority within seven days after the expiration of each calendar month must cause to be given to the owner and occupier of the land notice in writing setting out the nature and quantity of any substance or timber taken from the land during that calendar month.
- (6) This section applies to land which is not used primarily for residential purposes.

76 Obligations in relation to the occupation of land

The Authority, or any person authorized in writing to that effect by the Authority must—

- (a) in exercising the powers under this Part cause as little harm and inconvenience and do as little damage as possible to the land and anything on or growing on the land; and
- (b) remain upon the land only for such period as is reasonably necessary; and

- (c) remove from the land on the completion of the occupation of the land all plant, machinery, equipment, goods or buildings brought onto, or erected on, the land other than any of those things that the owner or occupier agrees may be left on the land; and
- (d) leave the land, as nearly as possible, in the condition in which it was immediately before the land was occupied; and
- (e) use all its best endeavours to co-operate with the owner and occupier of the land.

77 Liability of Authority for nuisance

Nothing in this Act exempts the Authority from any action for nuisance or other injury (if any) done in the exercise of the powers given under section 75 to the land or residence of any person other than the person whose land is entered, occupied or used for any of the purposes referred to in that section.

78 Obstruction an offence

- (1) A person who after service of a notice under section 75(3) wilfully does any act or thing calculated to prevent the Authority from exercising any power conferred by section 75 is guilty of an offence.

Penalty: 5 penalty units.

- (2) The doing of an act or thing in contravention of this section does not prevent the Authority from exercising any power which it could lawfully have exercised if that act or thing had not been done.

79 Authority to fence lands before using them

- (1) If part of any land is occupied or used for the purposes of section 75, the Authority must, if required to do so by the owner or occupier thereof, separate the land by a sufficient fence

with such gates as are necessary from the remainder of the land adjoining it.

- (2) In the case of any difference between the owners or occupiers of the lands and the Authority as to the necessity of the fences and gates, the lands must be separated with such fences and gates as the Minister thinks necessary for the convenient occupation or use of the lands.

Part 10—Determination of disputes

Division 1—Application to the Tribunal or the Court

Pt 10 Div. 1
(Heading)
amended by
No. 91/1994
s. 21(c).

80 Application or referral of disputed claim

The Authority or the claimant may—

- (a) apply to the Tribunal for determination of a disputed claim in accordance with this Act;
or
- (b) refer a disputed claim to the Court for determination in accordance with this Act.

S. 80
amended by
No. 91/1994
s. 21(a),
substituted by
No. 52/1998
s. 311(Sch. 1
item 47.2).

S. 80A
inserted by
No. 91/1994
s. 22,
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.3).

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81 Jurisdiction

- (1) Subject to section 84A, a disputed claim must be determined—

S. 81(1)
amended by
No. 38/2017
s. 34(1)(a).

- (a) by the Tribunal if the amount in dispute does not exceed \$400 000; or

S. 81(1)(a)
amended by
Nos 91/1994
s. 21(a),
38/2017
s. 34(1)(b).

- (b) if the amount in dispute exceeds \$400 000, by the Tribunal or the Court at the option of the claimant or, if the claimant does not exercise that option within one month after being requested to do so by the Authority, at the option of the Authority.

S. 81(1)(b)
amended by
Nos 91/1994
s. 21(a),
38/2017
s. 34(1)(c).

* * * * *

S. 81(1)(c)
repealed by
No. 38/2017
s. 34(2).

(2) In this section *amount in dispute* means the amount of the difference between the amount claimed by the claimant and the amount of the final offer made by the Authority before the application is made to the Tribunal in respect of the claim or the matter is referred to the Court under this Part.

S. 81(2)
amended by
Nos 91/1994
s. 21(a),
52/1998
s. 311(Sch. 1
item 47.4).

82 Form of notice of referral

S. 82
amended by
No. 52/1998
s. 311(Sch. 1
item 47.5).

A notice of referral under section 80 to the Court must be in the prescribed form and must be accompanied by copies of—

- (a) the notice of acquisition (if appropriate);
- (b) the initial offer of compensation made by the Authority (if any);
- (c) the claim made by the claimant; and
- (d) the reply (if any) of the Authority to the claim.

83 Service of notice of referral on other parties

S. 83
amended by
No. 52/1998
s. 311(Sch. 1
item 47.6) (as
amended by
No. 101/1998
s. 22(1)(g)).

A party who refers a disputed claim to the Court must cause a copy of the notice of referral under section 80 to be served on the other parties to the dispute.

84 Adjournment or withdrawal application

S. 84
(Heading)
inserted by
No. 38/2017
s. 35.

The principal registrar of the Tribunal may grant any application by consent of the parties for adjournment or withdrawal of any claim for compensation referred to the Tribunal.

S. 84
amended by
Nos 91/1994
s. 21(b),
52/1998
s. 311(Sch. 1
item 47.7).

S. 84A
inserted by
No. 38/2017
s. 36.

84A Discretionary transfer of proceeding

- (1) The Supreme Court may order that a proceeding or part of a proceeding under this Part—
 - (a) pending in the Court be transferred to the Tribunal; or
 - (b) pending in the Tribunal be transferred to the Court.
- (2) Subject to subsection (3), the Tribunal may order that a proceeding or part of a proceeding under this Part pending in the Tribunal be transferred to the Supreme Court.
- (3) For the purposes of making a transfer order under subsection (2), the Tribunal must be constituted by—
 - (a) the President of VCAT; or
 - (b) a member nominated by the President.
- (4) A transfer order under subsection (1) or (2) may be made—
 - (a) on the application of a party to the proceeding pending in the Supreme Court or the Tribunal, as the case requires; or
 - (b) on the own motion of the Court or Tribunal, as the case requires.
- (5) In making a transfer order under subsection (1) or (2), the Court or Tribunal, as the case requires, must consider the following—
 - (a) the views of the parties in relation to the transfer;

- (b) whether any proceeding in relation to an associated matter is pending in the Court or Tribunal to which it is proposed to transfer the proceeding;
 - (c) whether the resources and capacity of the Court or Tribunal to which it is proposed to transfer the proceeding are sufficient to hear and determine the proceeding;
 - (d) whether the transfer would facilitate the just, efficient, timely and cost-effective resolution of the issues in dispute in the proceeding;
 - (e) whether the proceeding involves questions of general importance;
 - (f) whether it is desirable to make the transfer order.
- (6) If the Supreme Court or the Tribunal makes a transfer order under this section, it may make any other order it considers necessary pending the hearing and determination of the transferred proceeding by the Court or Tribunal to which it is transferred.
- (7) No appeal lies on a decision to transfer a proceeding under subsection (1) or (2).

Division 2—Compulsory conference in the Court

Pt 10 Div. 2
(Heading)
amended by
No. 52/1998
s. 311(Sch. 1
item 47.8).

85 Compulsory conference

S. 85
amended by
No. 91/1994
s. 21(a)(d)(e),
substituted by
No. 52/1998
s. 311(Sch. 1
item 47.9) (as
amended by
No. 101/1998
s. 22(1)(h)).

- (1) The Court may order the parties to any disputed claim referred to it and the valuer of the land to attend a compulsory conference to be conducted by the Court or an Associate Judge of the Court.
- (2) If the Court orders a compulsory conference to be held in respect of a dispute, it must be held as soon as practicable after the date on which the notice of referral was lodged in respect of the dispute, unless the Court orders otherwise.

86 Objects of compulsory conference

The objects of the compulsory conference are—

- (a) to determine what matters are in dispute between the parties; and
- (b) to identify the questions of law and of fact required to be determined by the Court; and

S. 86(b)
amended by
Nos 91/1994
s. 21(b),
52/1998
s. 311(Sch. 1
item 47.10).

- (c) to provide a forum in which the parties may discuss their respective reasons for making or rejecting the disputed claim and where possible settle or resolve the matters in dispute before the dispute is heard by the Court.

S. 86(c)
amended by
Nos 91/1994
s. 21(b),
52/1998
s. 311(Sch. 1
item 47.10).

87 Parties may vary offer or claim

Nothing in this Act prevents—

- (a) the Authority in a compulsory conference from increasing the amount of any offer made to a claimant; or
- (b) the claimant in a compulsory conference from reducing the amount of the claim—

at any time before settlement or determination of the dispute.

88 Settlement

If the parties to the dispute arrive at an agreement to settle the disputed claim at any time before the determination of the claim by the Court, the Court must ratify the agreement which then takes effect as if it were a determination of the Court under this Part.

S. 88
amended by
Nos 91/1994
s. 21(a)(b),
52/1998
s. 311(Sch. 1
item 47.10).

Division 3—Determinations

89 Determination of claim

- (1) On an application or referral of a disputed claim under this Part, the Tribunal or Court is to determine the amount of compensation in accordance with this Act to be paid in respect of the claim and may make any orders necessary to give effect to that determination.
- (2) An appeal to the Court of Appeal from a determination or an order made by the Court under this section lies only on a question of law and with leave of the Court of Appeal.

S. 89
amended by
No. 91/1994
s. 21(a)(b),
substituted by
No. 52/1998
s. 311(Sch. 1
item 47.11).

S. 89(2)
amended by
No. 62/2014
s. 17.

90 Principles to be applied in determining compensation

S. 90(1)
amended by
No. 91/1994
s. 21(a),
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.12).

* * * * *

S. 90(2)
amended by
No. 91/1994
s. 21(a).

- (2) In determining the compensation payable the Tribunal or the Court is not bound by the exercise of any discretion of the Authority or by any opinion or determination of the Authority, but must determine the compensation payable in the particular circumstances of the case having regard to the provisions of this Act.

91 Costs

S. 91(1)
amended by
No. 91/1994
s. 21(a)(b).

- (1) In any proceedings under this Part, the Tribunal or the Court (as the case requires) may award such costs as it thinks proper but in making an order for costs must, if the Tribunal or Court considers it appropriate to do so, take into consideration—

S. 91(1)(a)
amended by
No. 91/1994
s. 21(b).

- (a) the amount of compensation awarded by the Tribunal or Court as compared with the amount (if any) offered by the Authority; and

S. 91(1)(b)
amended by
No. 91/1994
s. 21(b).

- (b) the extent to which, in the opinion of the Tribunal or Court, the proceedings have arisen from, or been affected by—
- (i) unreasonable conduct on the part of the claimant or the Authority; or
 - (ii) the failure of the claimant to give adequate particulars of the claim or supply supporting material when required to do so; or
 - (iii) an excessive claim by the claimant; or

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 10—Determination of disputes

(iv) an unduly depressed offer by the Authority; and

(c) any other matters which under this Act are to be taken into account in determining the allocation of costs.

(2) The Court may make an order with respect to the assessment of costs in the same manner as it may in respect of any other matter before the Court.

S. 91(2)
amended by
No. 52/1998
s. 311(Sch. 1
item 47.13(a)).

* * * * *

S. 91(3)
amended by
No. 91/1994
s. 21(b)(d),
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.13(b)).

(4) All costs payable to the Authority may be set off by it against any compensation awarded or costs payable to the claimant.

(5) All costs payable to the claimant may be recovered by the claimant from the Authority in the same manner as the compensation awarded.

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S. 92
amended by
No. 91/1994
s. 21(d),
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.14).

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S. 93
amended by
No. 91/1994
s. 21(a),
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.14).

S. 94
amended by
No. 91/1994
s. 21(a).

94 Payment of compensation

The sum awarded as compensation by the Tribunal or the Court must be paid within one month after the sum awarded has been determined.

Pt 10 Div. 4
(Heading)
substituted by
No. 52/1998
s. 311(Sch. 1
item 47.15).

Division 4—General

S. 95
amended by
Nos 91/1994
s. 21(a),
52/1998
s. 311(Sch. 1
item 47.16).

95 Power to inspect land

In the exercise of any of its functions under this Part, the Court has the power to inspect any land and inform itself from official and other records on any matter which will assist it in making its determination.

S. 96
(Heading)
inserted by
No. 38/2017
s. 37(1).

96 Tribunal or Court to nominate valuer

S. 96(1)
amended by
No. 38/2017
s. 37(2).

- (1) Upon application by the Authority to the Tribunal or the Court and upon such proof as is satisfactory that any person interested in land—
 - (a) is by reason of absence from Victoria prevented from entering into negotiations with the Authority; or
 - (b) cannot after diligent inquiry be found—
the Tribunal or the Court—
 - (c) must nominate a person who holds the qualifications or experience specified under section 13DA(2) of the **Valuation of Land Act 1960** to determine the amount of compensation due to that person in respect of that person's interest; or

S. 96(1)(c)
amended by
Nos 91/1994
s. 36(5)(b),
94/2009
s. 32(3).

- (d) may make such order or give such other directions as to the manner in which the compensation is to be determined as it thinks fit.
- (2) The compensation must be determined in accordance with this Act.

97 Valuer to make declaration

- (1) Before a person who holds the qualifications or experience specified under section 13DA(2) of the **Valuation of Land Act 1960** enters upon the duties of making a valuation for the Tribunal or the Court under section 96(1) the person who holds the qualifications or experience specified under section 13DA(2) of the **Valuation of Land Act 1960** must make and subscribe a statutory declaration that the person who holds the qualifications or experience specified under section 13DA(2) of the **Valuation of Land Act 1960** has no interest directly or indirectly in the land in question and that the person who holds the qualifications or experience specified under section 13DA(2) of the **Valuation of Land Act 1960** will personally make an impartial and true valuation.
- (2) Any person who corruptly makes such a declaration, or having made such a declaration wilfully acts contrary thereto, is guilty of an indictable offence and liable to imprisonment for not more than two years.
- (3) The nomination under section 96, and the declaration under this section, must be annexed to the valuation.
- (4) All the expenses of and incidental to a valuation under this section must be borne by the Authority.

S. 97(1)
amended by
Nos 91/1994
s. 36(5)(b),
94/2009
s. 32(4),
38/2017 s. 38.

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Part 10—Determination of disputes

98 Consequence of striking out a claim

If a proceeding under this Part in respect of a disputed claim is dismissed or struck out by the Tribunal or Court for want of prosecution, the claimant is to be taken to have accepted the amount of compensation offered by the Authority immediately prior to the claim becoming a disputed claim.

S. 98
amended by
No. 91/1994
s. 21(a),
substituted by
No. 52/1998
s. 311(Sch. 1
item 47.17).

S. 99
amended by
No. 91/1994
s. 21(a)(d),
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.18).

S. 100
amended by
Nos 91/1994
s. 21(a),
66/1997
s. 9(4),
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.18).

S. 101
amended by
No. 91/1994
s. 21(a),
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.18).

Pt 10 Div. 5
(Heading and
s. 102)
amended by
No. 91/1994
ss 21(a)(b)(f),
23,
repealed by
No. 52/1998
s. 311(Sch. 1
item 47.18).

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Part 11—Miscellaneous

103 Power to inspect documents

- (1) The Authority may, by notice in writing served upon any person, require the person to deliver up for the inspection of the Authority any specified document in the person's possession or power evidencing the interest of any person in land required for the purposes of the special Act or any other specified record, account or document in the person's possession or power relating to any such land.
- (2) A person who fails to comply with a notice served under subsection (1) within the time specified in the notice is guilty of an offence.

Penalty: 5 penalty units.

104 Service

- (1) Any notice or other document which the Authority is required to serve upon any person under this Act may be served upon that person personally or by post.
- (2) If the whereabouts of a person upon whom the Authority is required to serve the notice or document is not known to the Authority, the notice or document may be served—
 - (a) by publication of a copy thereof in a newspaper circulating generally throughout the State; and
 - (b) by affixing it in a prominent place on the land to which it relates.
- (3) A notice or other document may be served upon the Authority by delivering or sending it by post to the Authority at its office, or to the office of such person as the Authority may authorize to receive the notice or document on its behalf.

105 Minor misdescription not to invalidate documents

The validity of any notice or statement under this Act is not affected by any misdescription in it of the land or of any interest in the land if sufficient information appears on the face of the notice or statement to identify the land or interest intended to be affected.

106 Extension or abridgement of time

- (1) If it is provided in this Act that an act or thing may be or is required to be done within a specified time, or not before the expiration of a specified time, and that provision is stated to be subject to this subsection—
 - (a) the Governor in Council may abridge that time; or
 - (b) the Minister, after consultation with the Minister administering the special Act, may extend that time; or
 - (c) that time may be extended or abridged by agreement between the Authority and the other party concerned in the matter; or
 - (d) in the case of sections 37(2) and 47(2) the Court or the Tribunal may extend that time.

S. 106(1)(d)
amended by
No. 91/1994
s. 21(a).

S. 106(2)
amended by
No. 91/1994
s. 21(g).

- (2) The Court, Tribunal or Minister may extend time under subsection (1) despite the fact that the time prescribed by this Act for the doing of an act or thing has expired.

107 Time not to expire until notice given

- (1) Notwithstanding anything in any other section of this Act, the time within which a person other than the Authority is required to do anything under this Act shall not expire until the expiration of seven days after the Authority has advised that person in writing of the effect of that expiration.

- (2) Subsection (1) shall not apply in relation to the period within which a claim may be made under section 37, 46 or 47.

108 Payments to be good discharge

All payments made by or on behalf of an Authority under this Act are good and valid discharges to the Authority and the Authority is not bound to see to the application of any money paid or to the performance of any trust.

109 Authority may dispose of acquired land

- (1) The Authority may sell, lease or otherwise deal with or dispose of any interest in land acquired or purchased by it pursuant to this Act or the Acts repealed by this Act.
- (2) If the Authority proposes to dispose of any interest in land pursuant to subsection (1) within eighteen months after the date of acquisition of that interest, the Authority must, if practicable, first offer the interest for sale to the former owner at the market value of the interest at the date of acquisition.
- (3) Subsection (2) does not apply if the Authority has, since the date of acquisition or purchase, made substantial improvements of a durable nature to the land.
- (4) A person contracting or otherwise dealing with the Authority is under no obligation to inquire whether the requirements of subsection (2) have been complied with and the title of the person to an interest in land purchased from the Authority is not affected by any failure by the Authority to comply with those requirements.
- (5) The disposal of an interest in land pursuant to subsection (1) may be made subject to the reservation to the Authority of a specified interest in the land, including an easement in gross over

the land and a restriction in the use of the land the benefit of which is not annexed to other land.

- (6) In this section, *the former owner*, in relation to land, means—
- (a) if only one person had an interest in the land at the date of acquisition and that person is still alive, or, in the case of a corporation, in existence—that person; or
 - (b) in any other case—such person or persons (if any) as the Authority in its absolute discretion, having regard to the interests that existed in the land at the date of acquisition or purchase, considers to be fairly entitled to the benefit of subsection (2) in relation to the land.

S. 190A
inserted by
No. 38/2017
s. 39.

109A Supreme Court—Limitation of jurisdiction

- (1) It is the intention of section 81, as amended by section 34 of the **Justice Legislation Amendment (Court Security, Juries and Other Matters) Act 2017**, to alter or vary section 85 of the **Constitution Act 1975**.
- (2) It is the intention of section 84A to alter or vary section 85 of the **Constitution Act 1975**.

110 Regulations

- (1) The Governor in Council may make regulations prescribing all matters which by this Act are required or authorized to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation made under subsection (1) may require that some or all of the particulars required to be given in any prescribed form are to be verified by statutory declaration or otherwise.

**111 Transitional provisions—Justice Legislation
Amendment (Court Security, Juries and Other
Matters) Act 2017**

New s. 111
inserted by
No. 38/2017
s. 40.

- (1) Subject to subsection (2), section 81 as in force immediately before its amendment by the **Justice Legislation Amendment (Court Security, Juries and Other Matters) Act 2017** continues to apply, on and after that amendment, to the hearing and determination by the Tribunal or the Court, as the case requires, of any disputed claim commenced but not determined under section 81 before that amendment.
- (2) Section 84A applies to any disputed claim commenced but not determined under section 81 irrespective of whether the claim was commenced before, on or after the commencement of that section.

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Pt 12
(Heading and
ss 111–120)
repealed by
No. 91/1994
s. 39(2).

* * * * *

Sch.
amended by
Nos 123/1986
s. 81(a)(i)(ii)
(b)(i)–(iii)(c),
61/1988
s. 9(2),
65/1990
s. 4(2),
repealed by
No. 91/1994
s. 39(2).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 8 May 1986

Legislative Council: 11 November 1986

The long title for the Bill for this Act was "A Bill to establish a new procedure for the acquisition of land for public purposes, to provide for the determination of compensation, and for other purposes."

The **Land Acquisition and Compensation Act 1986** was assented to on 23 December 1986 and came into operation on 29 November 1987: Government Gazette 25 November 1987 page 3224.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Endnotes

2 Table of Amendments

This publication incorporates amendments made to the **Land Acquisition and Compensation Act 1986** by Acts and subordinate instruments.

Port Authorities (Amendment) Act 1986, No. 123/1986

Assent Date: 23.12.86
Commencement Date: S. 31 on 19.12.78: s. 2(2); rest of Act on 23.12.86:
Government Gazette 23.12.86 p. 4775
Current State: All of Act in operation

Planning and Environment Act 1987, No. 45/1987 (as amended by No. 5/1988)

Assent Date: 27.5.87
Commencement Date: Pt 1, s. 204 on 27.5.87: s. 2(1); rest of Act on 16.2.88:
Government Gazette 10.2.88 p. 218; Sch. items 118,
119 were never proclaimed and were later repealed
Current State: All of Act in operation

Subdivision Act 1988, No. 53/1988 (as amended by No. 47/1989)

Assent Date: 31.5.88
Commencement Date: All of Act on 30.10.89: Government Gazette 4.10.89
p. 2532
Current State: All of Act in operation

Melbourne College of Advanced Education (Amalgamation) Act 1988, No. 61/1988

Assent Date: 29.11.88
Commencement Date: 1.1.89: s. 2
Current State: All of Act in operation

Transfer of Land (Computer Register) Act 1989, No. 18/1989

Assent Date: 16.5.89
Commencement Date: All of Act on 3.2.92: Government Gazette 18.12.91
p. 3488
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette
30.8.89 p. 2210; rest of Act on 1.9.90: Government
Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Victorian Public Offices Corporation (Repeal) Act 1990, No. 65/1990

Assent Date: 20.11.90
Commencement Date: 20.11.90: s. 2
Current State: All of Act in operation

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Endnotes

Mineral Resources Development Act 1990, No. 92/1990

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 items 14.1, 14.2) on 6.11.91:
Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision/s
amending the **Land Acquisition and Compensation
Act 1986**

Building Act 1993, No. 126/1993

Assent Date: 14.12.93
Commencement Date: S. 264(Sch. 5 items 12.1–12.3) on 1.7.94: Special
Gazette (No. 42) 1.7.94 p. 1
Current State: This information relates only to the provision/s
amending the **Land Acquisition and Compensation
Act 1986**

Financial Management Act 1994, No. 18/1994

Assent Date: 10.5.94
Commencement Date: Pt 1 (ss 1–8), ss 60, 61 on 10.5.94: s. 2(1); rest of Act
on 1.7.94: s. 2(2)
Current State: All of Act in operation

Valuation of Land (Amendment) Act 1994, No. 91/1994

Assent Date: 6.12.94
Commencement Date: Pt 1 (ss 1, 2), ss 5–9, 38, 39 on 6.12.94: s. 2(1); ss 3,
36, 37 on 1.1.95: s. 2(2); ss 4, 35 on 1.10.94: s. 2(3);
Pt 3 (ss 10–34) on 23.1.95: Government Gazette
19.1.95 p. 121
Current State: All of Act in operation

Docklands Authority (Amendment) Act 1997, No. 66/1997

Assent Date: 18.11.97
Commencement Date: 18.11.97
Current State: All of Act in operation

Planning and Environment (Amendment) Act 1997, No. 103/1997

Assent Date: 16.12.97
Commencement Date: 16.12.97
Current State: All of Act in operation

Residential Tenancies Act 1997, No. 109/1997

Assent Date: 23.12.97
Commencement Date: S. 533(Sch. 2 item 5) on 1.7.98: Government Gazette
18.6.98 p. 1512
Current State: This information relates only to the provision/s
amending the **Land Acquisition and Compensation
Act 1986**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Land Acquisition and Compensation
Act 1986**

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Endnotes

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998 (as amended by No. 101/1998)

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 47) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 36) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Statute Law Amendment (Relationships) Act 2001, No. 27/2001

Assent Date: 12.6.01
Commencement Date: S. 3(Sch. 1 item 5) on 28.6.01: Government Gazette 28.6.01 p. 1428
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Mineral Resources Development (Sustainable Development) Act 2006, No. 63/2006

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 18) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Road Legislation (Projects and Road Safety) Act 2006, No. 81/2006

Assent Date: 10.10.06
Commencement Date: S. 59 on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Relationships Act 2008, No. 12/2008

Assent Date: 15.4.08
Commencement Date: S. 73(1)(Sch. 1 item 32) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Courts Legislation Amendment (Associate Judges) Act 2008, No. 24/2008

Assent Date: 3.6.08
Commencement Date: S. 83 on 17.12.08: Special Gazette (No. 377) 16.12.08 p. 1
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Endnotes

Courts Legislation Amendment (Costs Court and Other Matters) Act 2008, No. 78/2008

Assent Date: 11.12.08
Commencement Date: S. 27 on 31.12.09: s. 2(3)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Justice Legislation Miscellaneous Amendments Act 2009, No. 87/2009

Assent Date: 15.12.09
Commencement Date: S. 29 on 16.12.09: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Valuation of Land Amendment Act 2009, No. 94/2009

Assent Date: 15.12.09
Commencement Date: S. 32 on 1.5.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Transport Integration Act 2010, No. 6/2010

Assent Date: 2.3.10
Commencement Date: S. 204(2) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 49) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Act 2011, No. 31/2011

Assent Date: 29.6.11
Commencement Date: S. 28 on 30.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Courts Legislation Miscellaneous Amendments Act 2014, No. 62/2014

Assent Date: 9.9.14
Commencement Date: S. 17 on 10.11.14: Special Gazette (No. 364) 14.10.14 p. 1
Current State: This information relates only to the provision/s amending the **Land Acquisition and Compensation Act 1986**

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Endnotes

**Justice Legislation Amendment (Court Security, Juries and Other Matters)
Act 2017, No. 38/2017**

Assent Date: 29.8.17
Commencement Date: Ss 34–40 on 1.5.18: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Land Acquisition and Compensation
Act 1986**

3 Amendments Not in Operation

This publication does not include amendments made to the **Land Acquisition and Compensation Act 1986** by the following Act/s.

Oaths and Affirmations Act 2018, No. 6/2018

<i>Assent Date:</i>	27.2.18
<i>Commencement Date:</i>	S. 68(Sch. 2 item 76) not yet proclaimed
<i>Current State:</i>	This information relates only to the provision/s amending the Land Acquisition and Compensation Act 1986

At the date of this publication, the following provisions amending the **Land Acquisition and Compensation Act 1986** were Not in Operation:

Amending Act/s:

Oaths and Affirmations Act 2018, No. 6/2018

Schedule 2—Further consequential amendments

76 Land Acquisition and Compensation Act 1986

76.1 Section 97(2) is **repealed**.

Land Acquisition and Compensation Act 1986
No. 121 of 1986
Endnotes

4 Explanatory details

No entries at date of publication.