



Express law fast track information for clients

25 July 2008

Important legislative changes regarding land acquisition

Recent amendments to the *Lands Acquisition Act 1989* (the LA Act) have changed procedures relating to the compulsory acquisition of land under the LA Act. The amendments provide for the development of a consistent regulatory framework for mining on Commonwealth land, enable the Finance Minister to offer compensation in cases where land is compulsorily acquired, and remove, in certain circumstances, the requirement for tabling details of acquisitions in Parliament.

Background

The [Lands Acquisition Legislation Amendment Act 2008](#) (LAL Amendment Act), which amends the LA Act, was enacted on 12 July 2008. The purpose of the LAL Amendment Act is to amend the LA Act to reflect changes in the modern Commonwealth property environment since the LA Act was enacted in 1989.

The amendments were based on feedback from Commonwealth agencies and relevant stakeholders on the practical operation of the LA Act.

Key elements of the LAL Amendment Act

Promulgation of Commonwealth Mining Regulations

Amendments to s 124 of the LA Act facilitate the making of Commonwealth Mining Regulations.

The Commonwealth Mining Regulations will be able to provide a consistent regulatory framework for the management and administration of mining on Commonwealth land, and enable states and territories to administer exploration and mining on Commonwealth land.

To assist with establishing a framework of this type, the regulations may apply, adopt or incorporate (with or without modifications) any of the provisions of a written law of a state or territory as in force from time to time.

The LA Act is also amended to allow the Federal Court to be vested with jurisdiction in matters arising under the regulations.

Offers of compensation

Previously under the LA Act, a person whose interest in land was acquired by compulsory process or who suffered loss arising from activities on land proposed to be acquired could receive an offer of compensation only if they made a claim for compensation in accordance with the LA Act.

Section 74A is inserted into the LA Act to enable the Finance Minister to initiate an offer of just terms compensation to a person whose interest in land was compulsorily acquired. The Minister may initiate an offer without the person making a claim for compensation. However, the Minister is required to wait 12 months from the date of the acquisition before making an offer.

Section 101A is inserted into the LA Act to enable the Minister to initiate an offer of compensation to a person who has suffered loss as a result of other action taken under the LA Act; for example, loss arising from activities on land being investigated for its suitability for acquisition, whether or not the acquisition subsequently occurs.

These amendments are intended to ease the financial and administrative burden associated with the compensation process relating to compulsory acquisitions and will promote efficiency and fairness in the application of the LA Act.

The recipients of offers will still be able to use the judicial review and determination processes under the LA Act.

Efficiency in administration: AusTender

Agencies were previously required to both report details of commercial acquisitions of interests in land on AusTender and table details of the acquisition in Parliament. The insertion of subs 40(3A) in the LA Act removes the requirement for tabling in Parliament in the case of an agreement for the acquisition of an interest that is available in the market. This eliminates duplication and brings the requirements for acquisition of land in line with the requirements for procurement covered by the Commonwealth Procurement Guidelines.

For further information on the Lands Acquisition Amendment Act 2008, please contact:

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AGS fact sheet: Lands Acquisition Act 1989

A fact sheet about the LA Act is available from the [AGS website](#).

AGS Property and Infrastructure Forum, 14 August 2008

AGS's annual Property and Infrastructure Forum for Commonwealth agencies will be held at Old Parliament House on Thursday, 14 August 2008. Please [click here](#) for information on speakers, program and registration.

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