

CHAPTER 461

THE LAND ACQUISITION ACT, 1959.

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Act
5/1959

AN ACT to make provision for the acquisition of land for the purposes of the Federal Government and for dealing with land so acquired, and for other purposes incidental thereto.

Date of Assent 13th July, 1959
Commencement 13th July, 1959

PART I

PRELIMINARY

Short title
and appli-
cation.

1. (1) This Act may be cited as the Land Acquisition Act, 1959.

(2) This Act shall apply to the Cayman Islands and the Turks and Caicos Islands.

Interpre-
tation.

2. (1) In this Act unless the context otherwise requires—

“claimant” means a person who has made a claim for compensation under this Act;

“Competent Authority” means the Competent Authority appointed under section 3 of this Act;

“Crown land” means land vested in the Crown in right of a Territory or in any person or authority for the purposes of the government of a Territory, but does not include an interest of any other person in such land;

“interest”, in relation to land, means—

(a) a legal or equitable estate or interest in the land; or

(b) a right, power or privilege over, or in connection with, the land;

“land” includes an interest in land;

“lease” includes an agreement for a lease;

“mortgagee”, in relation to a mortgage, means the person for the time being entitled to the moneys secured by the mortgage;

“mortgagor”, in relation to a mortgage, means the person who would for the time being be the owner of the land subject to the mortgage if that mortgage was discharged;

“notice to treat” means a notice to treat for the sale of land given under section 7 of this Act;

“person” includes the Crown in right of a Territory;

“superior court”, in relation to proceedings in connection with land other than proceedings in respect of which exclusive jurisdiction is vested by the Constitution in the Federal Supreme Court, means any court exercising original civil jurisdiction that is or forms part of a superior court of record established for the Territory in which the land is situated and includes, in relation to the Cayman Islands and the Turks and Caicos Islands respectively, the Grand Court of the Cayman Islands and the Supreme Court of the Turks and Caicos Islands, and, in relation to proceedings in respect of which exclusive jurisdiction is so vested in the Federal Supreme Court, means the Federal Supreme Court;

“the date of acquisition”, in relation to land acquired by compulsory process under this Act, means the date on which the notice under section 8 of this Act in respect of that land is published in the Gazette.

(2) A reference in this Act to the acquisition of land includes a reference to the extinction of an interest in land by virtue of subsection (4) of section 8 of this Act.

3. (1) The Governor-General may appoint, either generally or for the purpose of the acquisition of any specified land, any person to be the Competent Authority for the purposes of this Act.

Appoint-
ment
of Com-
petent
Authority.

(2) Any appointment under the preceding subsection shall be notified in the Gazette.

(3) The Competent Authority shall have such powers and duties as are conferred and imposed upon him under the provisions of this Act and, subject to the provisions thereof, shall carry out his functions in accordance with the directions of the Governor-General.

PART II
ACQUISITION OF LAND.

Modes of Acquisition

Modes of
Acquisition.

4. Land may be acquired under this Act for any purpose of the Federal Government—

- (a) by agreement; or
- (b) by compulsory process.

Acquisition by Agreement

Acquisition
by agree-
ment.

5. (1) The Governor-General may authorise the acquisition by agreement of land, wherever situated, for any purpose of the Federal Government approved by him.

(2) Any land acquired under this section shall vest in the Crown in right of the Federation.

(3) Where the land which is acquired under this section is Crown land or is, or is the equivalent of, an estate in fee simple all rights of the Crown of whatever kind in the land shall from the date on which the land vests in the Crown in right of the Federation be deemed to be vested in the Crown in right of the Federation.

(4) The land acquired under this section may be an easement, right, power, privilege or other interest, which did not previously exist as such, in, over or in connection with land.

Effect of
conveyance
of Crown
land.

6. (1) Where, in pursuance of any authorisation of the Governor-General under section 5 of this Act, an agreement is entered into for the acquisition of Crown land, an instrument or assurance executed by the Governor of the Territory

in which the land is situated, or by a public officer of the Territory designated in writing by the Governor of the Territory in pursuance of this subsection, for the purpose of carrying out the agreement shall, by force of this Act and notwithstanding anything in any law in force in the Territory, be valid and effectual to vest the land in the Crown in right of the Federation according to the tenor of the instrument or assurance, but nothing in this subsection shall be construed so as to prejudice the operation of subsection (3) of section 5 of this Act in relation to such land.

(2) Where the Crown land is land which, under the laws of the Territory, has been granted, dedicated or reserved for a public purpose of the Territory, an instrument or assurance referred to in the last preceding subsection shall operate, by force of this Act, to vest the land in the Crown in right of the Federation freed from any trusts, restrictions or obligations arising out of the grant, dedication or reservation.

Acquisition by Compulsory Process

7. (1) No land shall be acquired by compulsory process under this Act unless the Competent Authority has first caused to be served upon each of the owners of the land, or such of them as can, after diligent inquiry, be ascertained, a notice inviting the person on whom the notice is served to treat with the Competent Authority for the sale of the interest of that person in the land. Notice to treat.

(2) Where service on an owner cannot be effected under the last preceding subsection in accordance with section 72 of this Act, service on that owner may be effected by causing a copy of the notice to treat to be published in the Gazette and in three successive issues of a newspaper circulating in the Territory in which the land is situated and—

- (a) if the land is occupied, leaving a copy of the notice to treat with the occupier; or
- (b) if the land is not occupied, affixing, if practicable, a copy of the notice to treat to a conspicuous part of the land,

and the notice to treat shall be deemed to have been so served on the day on which the copy is last published as aforesaid, is so left with the occupier or is so affixed, whichever last occurs.

(3) Where, in relation to any land, a notice to treat has been served in accordance with subsection (1) or subsection (2) of this section it shall not be necessary for the Competent Authority to serve any further notice to treat in relation to such land solely on account of any change in ownership of the land after the date on which the notice is served under subsection (1) of this section or is deemed to have been served under subsection (2) of this section as the case may be.

(4) A person served with a notice to treat in respect of land may, not later than twenty-one days after the service of the notice, furnish to the Competent Authority particulars of—

- (a) the interest claimed by him in the land;
- (b) the amount for which he is agreeable to sell his interest in the land; and
- (c) the name and address of any other person known to him to have an interest in the land and the nature of that interest.

(5) Upon receipt of the particulars referred to in the last preceding subsection the Competent Authority may treat with the person furnishing the particulars for the acquisition of the interest of that person in the land by agreement and may enter into an agreement with that person for that acquisition subject to the authorization of the Governor-General.

(6) The Competent Authority may, by notice in writing to a person served with a notice to treat, withdraw the notice to treat.

(7) This section shall not apply in a case in which the Governor-General certifies that there are special reasons why the section should not apply.

8. (1) Without prejudice to the liability of the Crown under any contract for the acquisition of land by agreement under this Act and subject to the provisions of subsection (2) of this section, where—

Compulsory acquisition.

- (a) a period of thirty-six days has expired after the service of a notice to treat, or of notices to treat, in relation to land, or
- (b) the Governor-General has given a certificate under subsection (7) of section 7 of this Act in relation to land,

the Governor-General may authorise that the land or any interest in the land (not including an interest in respect of which a notice to treat has been withdrawn) be acquired by compulsory process under this Act for any purpose of the Federal Government approved by him.

(2) No authorisation shall be given by the Governor-General under subsection (1) of this section in respect of any land to which the provisions of Part III of this Act applies unless the requirements of those provisions, or such of them as are applicable, have been complied with.

(3) The Competent Authority shall cause to be published in the Gazette a notice of any authorisation by the Governor-General under subsection (1) of this section and, in the notice, shall declare that the land has been acquired under this Act for the purpose of the Federal Government approved by the Governor-General.

(4) Upon the publication of the notice in the Gazette, the land to which the notice applies shall, by force of this Act—

- (a) be vested in the Crown in right of the Federation; and
- (b) be freed and discharged from all interests, trusts, restrictions, dedications, reservations, obligations, contracts, licences, charges and rates,

to the intent that the legal estate in the land and all rights and powers incident to that legal estate or conferred by this Act and, where the land to which the notice applies is Crown land or is, or is the equivalent of, an estate in fee simple, all rights of the Crown of whatever kind in the land, shall be vested in the Crown in right of the Federation.

(5) The land acquired under this section may be an easement, right, power, privilege or other interest, which did not previously exist as such, in, over or in connection with land.

Conversion of estates and interests into claims for compensation.

9. (1) Subject to the next succeeding subsection, the interest of every person in the land to which a notice under section 8 of this Act applies, and, if the land so described is Crown land, the property of the Crown in right of the Territory in which the land is situated, shall, on the date of acquisition of the land, be converted into a right to compensation under this Act.

(2) Where, in accordance with subsection (5) of section 8 of this Act, an easement, right, power, privilege or other interest in, over or in connection with land is acquired, the interest of every person in that land shall, on the date of the acquisition, and to the extent to which that interest is affected by the acquisition, be converted into a right to compensation under this Act.

Validity of authorisations.

10. (1) If any person aggrieved by an authorisation of the Governor-General under subsection (1) of section 8 of this Act desires to question the validity thereof on the ground that the authorisation is not empowered to be granted under this Act or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the authorisation, he may, within six weeks from the date on which notice of the authorisation is published in the Gazette, make an application to a superior court and on any such application the court—

- (a) may by interim order suspend the operation of the authorisation either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
- (b) if satisfied that the authorisation is not empowered to be granted under this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any regulation made thereunder not having been complied with, may quash the authorisation either generally or in so far as it affects any property of the applicant.

(2) Subject to the provisions of the preceding subsection an authorisation of the Governor-General under subsection (1) of section 8 of this Act shall not be questioned in any legal proceedings whatsoever.

11. (1) Notwithstanding anything contained in this Act, where land is acquired by compulsory process under this Act, a superior court may, upon the application of the Competent Authority or any person interested, make such orders as it thinks proper for declaring or adjusting rights and liabilities in connection with the land or with transactions in relation to the land or otherwise affected by the acquisition.

Superior court may adjust rights and determine basis of compensation.

(2) Without limiting the generality of the powers conferred by the last preceding subsection, the orders which may be made under that subsection include—

- (a) an order for the payment or repayment of moneys;
- (b) an order discharging a person from an obligation to pay moneys;
- (c) where there was a subsisting contract of sale of the land, an order with respect to the rights and liabilities of the parties to that contract; and
- (d) where there was a charge or encumbrance over the land,—
 - (i) an order releasing a person in whole or in part from a personal covenant or obligation in relation to the charge or encumbrance; and
 - (ii) an order apportioning the charge or encumbrance between the land acquired and other land subject to the charge or encumbrance.

(3) Notwithstanding anything contained in this Act, a superior court may, in proceedings under this section or upon the application of the Competent Authority or a claimant, make such order as it thinks proper in the special circumstances of a particular case declaring the basis upon which compensation in respect of the acquisition of any land acquired under this Act by compulsory process is to be determined, and the compensation shall be determined accordingly.

(4) Where a court has made an order under subsection (1) of this section in relation to any land, compensation in relation to that land shall, subject to any order made under the last preceding subsection but notwithstanding any other provision of this Act, be determined having regard to the effect of the first-mentioned order.

(5) Where the Competent Authority is not a party to proceedings under this section, the court may order the Competent Authority to be joined as a party if the court thinks it desirable to do so either in relation to the making of an order as to costs or otherwise.

Notice to
owner.

12. (1) Where land is acquired by compulsory process under this Act, the Competent Authority shall, as soon as practicable after the date of acquisition of the land, cause a copy of the notice of acquisition of the land published under section 8 of this Act to be served upon the owners of the land, or such of them as can, after diligent inquiry, be ascertained.

(2) Where —

- (a) the Competent Authority is unable, after diligent inquiry, to ascertain the identity of an owner; or
- (b) service on an owner cannot be effected under the last preceding subsection in accordance with section 72 of this Act,

service on that owner may be effected by causing a copy of the notice of acquisition to be published in three successive issues of a newspaper circulating in the Territory in which the land is situated and—

- (i) if the land is occupied, leaving a copy of the notice of acquisition with the occupier; or
- (ii) if the land is not occupied, affixing, if practicable, a copy of the notice of acquisition to a conspicuous part of the land.

Registra-
tion of
notification.

13. (1) Where land has been acquired by compulsory process under this Act, the Competent Authority may lodge with the Registrar of Titles or other proper officer of the Territory in which the land is situated a copy, certified under the hand of the Competent Authority, of the notice of acquisition of the land published under section 8 of this Act.

(2) The officer with whom the copy of a notice of acquisition is lodged in pursuance of the last preceding subsection may register the acquisition in the manner as nearly as may be in which dealings with land are registered, and may deal with and give effect to the copy of the notice of acquisition as if it were a grant, conveyance, memorandum or instrument of transfer of the land to the Crown in right of the Federation duly executed under the laws in force in the Territory in which the land is situated.

PART III

PROCEDURE FOR AUTHORISING ACQUISITION
BY COMPULSORY PROCESS

14. (1) Before the Governor-General authorises the compulsory acquisition of any land under subsection (1) of section 8 of this Act, the Competent Authority shall—

Notice of
proposal to
acquire.

- (a) publish in the Gazette and in three successive issues of a newspaper circulating in the Territory in which the land is situated a notice of the proposed acquisition;
- (b) cause to be served upon each of the persons who are owners of the land at the date of the first publication of such notice, or such of them as can, after diligent inquiry, be ascertained, a copy of such notice; and
- (c) if practicable, cause a copy of such notice to be affixed to some conspicuous part of the land.

(2) The notice of the proposed acquisition shall contain the following particulars—

- (a) a description of the land proposed to be acquired including its location, area and boundaries;
- (b) the purpose for which the land is required;
- (c) the time within which and the manner in which objection to the proposed acquisition may be made;
- (d) the address for service of the Competent Authority.

Objections
to proposed
acquisition.

15. (1) Within forty days of the last publication of the notice under paragraph (a) of sub-section 1 of section 14 of this Act any person having an interest in the land may serve on the Competent Authority notice of objection to the proposed acquisition.

(2) The notice of objection shall contain the name and address of the objector or his legal representative and shall state in full the grounds upon which the objection is based, and may propose alternative land for the purposes of the proposed acquisition.

Reasons for
proposed
acquisition.

16. As soon as practicable after a notice of objection has been served on the Competent Authority under section 15 of this Act and in any event before the holding of an inquiry under section 18 of this Act, the Competent Authority shall serve on the objector a statement of the reasons for the proposed acquisition including the grounds for the choice of site.

Appoint-
ment of
inspector.

17. (1) Where notice of any objection has been given under section 15 of this Act, the Governor-General shall appoint an inspector, who may be a public officer of the Federation, to inquire into such objection.

(2) Every appointment of an inspector under this Act shall be notified in the Gazette.

Holding of
inquiry.

18. (1) The inspector shall, as soon as practicable after his appointment, arrange for the holding of an inquiry into the objection and shall notify the objector and the Competent Authority of the time and place at which the inquiry is to be held.

(2) For the purposes of the inquiry the inspector shall—

- (i) give the objector and the Competent Authority an opportunity of being heard, either in person or by legal representatives;
- (ii) consider such evidence, either oral or documentary, as the objector and the Competent Authority may present, and

such other evidence as the inspector thinks desirable for the purpose of properly inquiring into the objection:

Provided that the inspector shall give the objector and the Competent Authority an opportunity of commenting upon any statement, representation or evidence presented by the Competent Authority and the objector, respectively.

(3) The inspector may, with the consent of the Governor-General, hold the inquiry or any part thereof in public and shall do so whenever directed by the Governor-General.

(4) Unless the Competent Authority and every objector otherwise agree the inquiry shall be held in the Territory in which the land proposed to be acquired is situated.

19. The inspector shall on completion of the inquiry, submit a report to the Governor-General which shall contain the following matters—

Submission
of report to
Governor-
General.

- (a) a summary of the reasons advanced by the objector against the proposed acquisition;
- (b) a summary of the reasons advanced by the Competent Authority in support of the proposed acquisition;
- (c) in cases where alternative land has been proposed by the objector—
 - (i) a summary of the reasons advanced by the objector in support of the suitability of such alternative land;
 - (ii) a summary of the reasons advanced by the Competent Authority against the suitability of such alternative land;
- (d) any factors or considerations to which the inspector thinks special attention ought to be drawn.

Consolidation of objections at inquiry. 20. Where, in respect of the proposed acquisition of land, more than one notice of objection has been served on the Competent Authority the inspector shall, unless for special reasons he considers it to be undesirable to do so, consider all such objections at one inquiry and shall submit one report to the Governor-General in respect thereof.

Copy of report to be given to objector. 21. The inspector shall cause a copy of his report submitted to the Governor-General in accordance with section 19 of this Act to be served on the objector, unless in any particular case the Governor-General shall otherwise direct.

Reasons for decision to be given to objector. 22. Where a notice of objection has been served on the Competent Authority in respect of the proposed acquisition of any land by compulsory process under this Act and, subsequent thereto, the Governor-General authorises such acquisition the Governor-General shall furnish the objector with a statement in writing of the reasons why he considers that the land should be acquired as aforesaid if requested by the objector to state such reasons on or before the date of the publication of the notice of acquisition required to be published under subsection (3) of section 8 of this Act:

Provided that the statement may be refused or the specification of the reasons restricted if in the opinion of the Governor-General it is desirable in the interest of public security so to do.

Special powers for acquisition of land in urgent cases. 23. Where the Governor-General is satisfied that it is expedient that any land should be acquired by compulsory process under this Act for any purpose of the Federal Government and that it is urgently necessary in the public interest that such land should be acquired as aforesaid without delay, he may make a declaration to that effect and, thereupon, the provisions of this Part of this Act shall have no application to such land and if any proceedings have been commenced under such provisions in respect of the proposed acquisition of the land, such proceedings shall be discontinued.

PART IV

POWERS IN RELATION TO LAND

24. (1) The Competent Authority or any person authorised in writing by the Competent Authority to act under this section may, for the purpose of ascertaining whether land is suitable for a purpose of the Federal Government or of surveying or obtaining information in relation to land which he considers suitable for such a purpose,—

- (a) enter upon the land, or upon adjoining land, with such persons, vehicles and things as he thinks fit; and
- (b) make surveys, take levels, sink pits, examine the soil and do any other thing in relation to the land:

Provided that neither the Competent Authority nor any person authorised by him shall enter any land as aforesaid without previously giving the occupier thereof at least seven days' notice in writing of his intention to do so.

(2) If a person hinders or obstructs a person authorised under this section to enter on land in the exercise of any of his powers under this section in relation to that land, a court of summary jurisdiction may, on the application of the person so authorised, grant a warrant authorising a person named in the warrant to enforce the entry upon the land, and to prevent hindrance or obstruction to the exercise of any power under this section in relation to the land, and for those purposes to use such force and assistance as are necessary, and the entry upon, and the examination of, the land may be enforced in accordance with the warrant.

(3) Where any person hinders or obstructs the exercise of any powers under a warrant issued under subsection (2) of this section he shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Power to
occupy
lands tem-
porarily.

25. Where land is vested in the Crown in right of the Federation under this Act, the Competent Authority or a person authorised by the Competent Authority may, with such other persons as he thinks necessary, enter land within a distance of two hundred yards from the nearest boundary of the land so vested and may occupy the land so entered for so long as is necessary for the purposes of any works connected with the carrying out of a purpose of the Federal Government:

Provided that neither the Competent Authority nor any person authorised by him shall enter any land as aforesaid without previously giving the occupier thereof at least seven days' notice in writing of his intention to do so.

Power to
take
materials,
make roads,
etc, on or
from
adjacent
lands.

26. (1) The Competent Authority or a person authorised by the Competent Authority under section 25 of this Act to enter land may—

- (a) in connection with the carrying out of a purpose of the Federal Government on or from that land—
 - (i) construct, build or place any plant, machinery, equipment or goods;
 - (ii) take or deposit sand, clay, stone, earth, gravel, timber, wood or other materials or goods;
 - (iii) make roads, cuttings or excavations;
 - (iv) erect workshops, sheds and other buildings of a temporary character; and
 - (v) manufacture and work materials of any kind; and
- (b) demolish, destroy or remove any plant, machinery, equipment, goods or buildings constructed, built, placed or erected on land in pursuance of the last preceding paragraph.

(2) The power to take clay, stone or earth shall not be exercised in respect of any quarry, pit or other like place commonly worked or used for getting materials for the purposes of sale or disposal.

27. Where the owner of an interest in land suffers loss or damage by reason of the exercise, in relation to the land, of the powers conferred by this Part of this Act, there shall be payable to him from the public funds of the Federation such compensation as is determined by agreement between the owner and the Competent Authority or, in the absence of agreement, by a superior court on application by the owner. Compensation for damage to land.

PART V

COMPENSATION FOR ACQUISITION BY COMPULSORY PROCESS

Claims for compensation

28. (1) A person who has a right to compensation under section 9 of this Act may make a claim for compensation in accordance with the prescribed form stating the amount of compensation claimed. Making, acceptance and rejection of claims.

(2) Compensation shall not be payable to a person in respect of an interest in land acquired under this Act by compulsory process if—

- (a) a claim for compensation in accordance with the last preceding subsection is not served on the Competent Authority by that person in respect of that interest within four months after the date of acquisition or within such further time as the Competent Authority allows; and
- (b) the interest is inconsistent with an interest claimed by another person in respect of which the Competent Authority has, in good faith, paid or agreed to pay compensation;

but nothing in this subsection shall affect any right of action or other claim which a person may have against any other person who has received, or claims to be entitled to receive, any compensation paid or agreed to be paid under this Act.

(3) Where a claim for compensation is made the Competent Authority shall, except where compensation is not payable by reason of the operation of the last preceding subsection, consider the claim and, if satisfied that the claimant has produced prima facie evidence that he had, immediately before the date of acquisition of the land, the interest claimed by him in the land, the Competent Authority shall accept the claim for determination, but, if not so satisfied, the Competent Authority shall reject the claim.

(4) The Competent Authority shall, within three months after a claim for compensation is made, notify the claimant whether he accepts the claim for determination or rejects the claim and, if the Competent Authority fails to notify the claimant accordingly, the Competent Authority shall be deemed to have accepted the claim for determination.

(5) The acceptance of a claim for determination under this section shall not entitle the claimant to payment of compensation otherwise than in accordance with sections 39, 40, 41, 42, and 43 of this Act.

Proceed-
ings where
claim
rejected.

29. (1) Where a claim for compensation has been rejected by the Competent Authority under subsection (3) of section 28 of this Act, the claimant may apply to a superior court claiming a declaration that he was, immediately before the date of acquisition of the land, entitled to the interest specified in the claim made to the Competent Authority.

(2) The court, after notice to such persons as it directs, shall hear the application and may declare that the claimant was entitled to the interest specified in his claim to the Competent Authority or to some other interest or may dismiss the application.

(3) For the purposes of this Act an order of a court under this section shall be binding on the Crown in right of the Federation and on all persons who had interests in the land immediately before the date of acquisition of the land, whether or not they were represented before the court on the hearing of the application.

(4) Where a court, in pursuance of this section, declares that a claimant had an interest in land, compensation in respect of that interest shall be determined in accordance

with this Act as if the claim had been accepted by the Competent Authority and, if the interest declared by the court differs from the interest specified in the claim to the Competent Authority, the claim shall be deemed to be amended accordingly.

(5) Where, in relation to a claim for compensation that has been rejected by the Competent Authority —

- (a) the claimant does not, within thirty days after the service on him of the notice of rejection of the claim or within such further time as the Competent Authority allows, make an application to a superior court under this section in relation to the claim; or
- (b) the claimant has so applied to a superior court and—
 - (i) the application has been dismissed, either by the court of first instance or as a result of an appeal; and
 - (ii) a period of not less than thirty days has elapsed since the dismissal of the application and no appeal or further appeal by the claimant (including an application for leave to appeal) is pending,

compensation may be paid under this Act in respect of the acquisition on the basis that the claimant was not, at the date of acquisition, entitled to the interest the subject of the claim and, where compensation is paid in respect of an interest which is inconsistent with the interest the subject of the claim, no compensation shall be payable in respect of that last-mentioned interest.

(6) A court to which an application is made under this section may, upon the application of the Competent Authority, the claimant or any other person appearing to the court to have a sufficient interest to justify the application (which application may be made at any time after the filing of the original application in the matter, whether before or

after the making of any declaration under subsection (2) of this section), order that the proceedings shall be treated as including proceedings duly instituted under section 36 of this Act for determination of the amount of compensation payable under this Act in respect of the interest, if any, which the court declares the claimant to have had.

(7) The provisions of section 36 of this Act, other than subsections (1) and (2), shall apply to and in relation to proceedings consequent upon the making of an order under the last preceding subsection.

Principles upon which Compensation is to be Assessed

Crown land. 30. Where Crown land is acquired by compulsory process compensation shall be payable as if such land had been held for an estate in fee simple and that estate had been subject to any interest which a person other than the Crown had in the land immediately before the date of acquisition.

Matters to be considered in determining this Act—
 31. (1) In the determination of the amount of compensation payable in respect of land compulsorily acquired under this Act—

- (i) the following and no other matters shall be taken into consideration—
 - (a) the value of the land at the date of acquisition;
 - (b) the damage, if any, sustained by the claimant by reason of the severing of such land from other land vested in him;
 - (c) the damage, if any, sustained by the claimant by reason of the acquisition injuriously affecting his other property (whether movable or immovable) or his earnings;
 - (d) the reasonable expenses, if any, incidental to any change of residence or place of business of the claimant which is necessary in consequence of the acquisition.
- (ii) the following matters shall not be taken into consideration—

- (a) the degree of urgency or necessity which has led to the acquisition;
 - (b) any disinclination of the claimant to part with the land;
 - (c) any damage sustained by the claimant which, if caused by a private person, would not render such person liable to an action;
 - (d) any damage, not being in the nature of deprivation of or interference with an easement or legal right which after the determination of the compensation payable under this Act is likely to be caused by or in consequence of the use to which it will be put;
 - (e) any increase to the value of the land which is likely to accrue from the use to which the land will be put;
 - (f) the special suitability or adaptability of the land for any purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of the Federal Government, of the Government of the Territory in which the land is situated, or any local or public authority;
 - (g) the fact that the land has been compulsorily acquired.
- (2) For the purposes of subparagraph (a) of paragraph (i) of subsection (1) of this section—
- (a) the value of the land shall, subject to the provisions of this section, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise at the date of acquisition, provided always that a superior court shall be entitled to consider all returns of capital value for taxation made or acquiesced in by the claimant;

- (b) if the value of the land has been increased by means of any outlay or improvement which shall have been made, commenced or effected within one year immediately preceding the date of acquisition, such increase shall be disregarded unless it is proved that the outlay or improvement was made bona fide and not in contemplation of proceedings for the acquisition of the land under this Act;
- (c) if the value of land has been increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court or is contrary to law or is detrimental to the health of the inmates of the premises or to the public health, such increase shall be disregarded.

(3) Where the land compulsorily acquired under this Act is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if that reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.

(4) Compensation in respect of severance may be assessed on the footing that any specified works, crossings, or access agreed to by or on behalf of the Competent Authority shall be erected, provided, and allowed, and any such agreement shall be reduced into writing and be signed by the claimant and the Competent Authority and shall be valid and effectual and binding on the Crown in right of the Federation and on the claimant and his successors in title.

Determination of Compensation by Agreement

Agreement
as to
amount of
compensation
before
acquisition.

32. (1) The Competent Authority may enter into an agreement with the owner of land as to the amount of compensation to which the owner will be entitled if the land is compulsorily acquired under this Act within a time specified in the agreement.

(2) If the land is compulsorily acquired under this Act within the time specified in the agreement and while the owner who made the agreement is still the owner of the land, the compensation payable to the owner in respect of the acquisition shall be deemed to have been determined by agreement as the amount specified in the agreement.

33. Where a claim for compensation is accepted for determination under section 28 of this Act, the amount of compensation to be paid may be determined by agreement between the Competent Authority and the claimant.

Determination of compensation by agreement after acquisition.

Determination of Compensation by Arbitration

34. (1) The Competent Authority and a claimant may, instead of determining by agreement the amount of compensation to be paid in respect of the acquisition of any land by compulsory process, agree to submit the determination of that amount to arbitration in accordance with this section.

Determination of claim by arbitration.

(2) Where an agreement for arbitration is so made, the law relating to arbitration (other than the law relating to the enforcement of awards made upon arbitration) of such Territory as is specified for the purpose in the agreement shall apply, subject to the agreement, to and in relation to the agreement and to and in relation to the arbitration under the agreement.

35. (1) If, at any time after an agreement for arbitration is made in relation to a claim by a person in respect of an interest in land and before the award is made upon the arbitration in pursuance of that agreement, another person makes a claim for compensation in relation to that interest or another interest in that land or the Competent Authority has notice of another person who may be entitled to make such a claim, the Competent Authority may revoke the agreement.

Revocation of agreement to arbitrate.

(2) Where the Competent Authority revokes an agreement under the last preceding subsection the reasonable costs of and incidental to the agreement and, if the arbitration has commenced, of and incidental to the arbitration shall be payable out of the public funds of the Federation.

Determination of Compensation by a Court

Proceedings for determination of compensation.

36. (1) Where, in the case of a claim for compensation which has been accepted by the Competent Authority—

- (a) a period of three months has elapsed since the claim was made, but the compensation has not been determined by agreement, or
- (b) before that period has elapsed, the Competent Authority has made an offer in writing to the claimant of an amount as compensation but the claimant has not accepted that amount or any other amount offered by the Competent Authority,

the claimant may, unless an agreement for the determination of the compensation by arbitration is in force, apply to a superior court for determination of the amount of compensation payable under this Act in respect of the interest the subject of the claim.

(2) The application shall state the amount of compensation which the claimant claims and the interest in respect of which it is claimed.

(3) Subject to the succeeding provisions of this section, the proceedings shall be instituted, conducted, heard and determined as nearly as may be in the same manner as actions in contract are instituted, conducted, heard and determined in the court in which the proceedings are instituted.

(4) The proceedings shall be tried without a jury but the court may, if it thinks fit, and shall on the request of any of the parties to the proceedings, call in the aid of an assessor who, in the opinion of the court, is specially qualified by reason of his knowledge and experience to assist in the determination of the compensation to be paid, and determine the proceedings wholly or partially with his assistance.

(5) The remuneration, if any, to be paid to an assessor under this section shall be determined by the court and be paid in the first instance by the Competent Authority and shall be deemed to be costs in the proceedings.

(6) Where proceedings under this section have been instituted in relation to an interest in land, the court may, on the application of the Competent Authority, by order direct any other person who has claimed compensation arising out of the acquisition of that interest or of another interest in that land acquired at the same time, or who appears or claims to have had, immediately before the date of acquisition, an interest in that land that has been acquired at the same time, to join as a plaintiff in the proceedings within a time specified in the order.

(7) If a person so directed fails to join as a plaintiff within the time specified in the order he shall not be entitled to recover any compensation arising out of the acquisition of the interest that was the original subject of the proceedings or any other interest in the same land that was acquired at the same time.

37. (1) Where—

(a) a period of six months has elapsed since the date of acquisition of land and a claim for compensation has not been made in respect of an interest in the land, or

Determina-
tion of
compen-
sation on
application
of Com-
petent
Authority.

(b) the Competent Authority has made an offer in writing to the claimant of an amount of compensation in respect of an interest claimed by the claimant in the land and—

(i) the compensation has not, within sixty days after the making of the offer or within such further time as the Competent Authority, on the application of the claimant, has allowed, been determined by agreement, by arbitration or by a court, and

(ii) proceedings for determination of compensation instituted by the claimant under section 36 of this Act, or proceedings in an arbitration in respect of the claim, are not pending,

the Competent Authority may apply to a superior court for a determination under this section in respect of the interest concerned.

(2) The court, after notice to such persons as it directs, shall hear the application and determine the amount of compensation payable in respect of the interest the subject of the application.

(3) The Competent Authority may, in an application under this section arising out of paragraph (a) of subsection (1) of this section, request the court to determine the person or persons who, immediately before the date of acquisition, had an interest or interests in the land, and the nature of the interest or interests, and the court shall, after notice to such persons as it directs, determine those matters accordingly.

Payment of compensation determined.

(4) A determination of a court under this section shall be binding on the Crown in right of the Federation and the claimant and on all persons who had interests in the land at the date of acquisition of the land whether or not they were represented before the court on the hearing of the application.

Payment of compensation determined.

38. Nothing in this Part of this Act, or in a determination of a court, or an award upon an arbitration, under this Part of this Act, shall entitle a person to receive payment of compensation otherwise than in accordance with sections 39, 40, 41, 42 and 43 of this Act.

Payment of Compensation and Interest

Payment of compensation.

39. (1) When the amount of compensation to which a person is entitled under section 9 of this Act has been determined, that amount shall be paid to that person when he has—

- (a) made out, to the satisfaction of the Competent Authority a title, as at the date of the acquisition, to the interest in respect of which the compensation is payable;

- (b) produced or surrendered all deeds and documents relating to, or evidencing, that title which the Competent Authority reasonably requires to be produced or surrendered, as the case may be; and
- (c) executed such documents as the Competent Authority reasonably requires.

(2) Paragraph (a) of the last preceding subsection shall not apply where a court has, under section 29, 37 or 42 of this Act, declared or determined that the claimant had, immediately before the date of acquisition of the land, the interest in respect of which the compensation is payable.

40. (1) If, at the expiration of three months after the determination of the amount of any compensation, the person entitled to the compensation has not received payment of the compensation, the Competent Authority may deposit the amount of compensation with the Accountant General.

Deposit of compensation with Accountant General.

(2) If, before the amount of compensation is deposited with the Accountant General, the Competent Authority has notice of any rates, taxes or assessments charged upon the land and due at the date of acquisition, he may pay the amount of those rates, taxes or assessments out of the amount of compensation, and deposit the balance with the Accountant General.

41. An amount of compensation deposited with the Accountant General under section 40 of this Act may be paid, on the direction of the Competent Authority, to a person who complies with the requirements of section 39 of this Act.

Payment out by Accountant General.

42. (1) Notwithstanding the provisions of sections 39, 40 and 41 of this Act where a person claims to be entitled to an amount of compensation determined in respect of any land by agreement, by arbitration or by a court (including an amount which has been deposited with the Accountant General), a superior court may, upon the application of that person and upon proof, to the satisfaction of the court, of his title, immediately before the date of the acquisition, to the interest

Order that claimant is entitled to compensation.

in land in respect of which the compensation was payable, declare that that person is entitled to the compensation, and may order the payment of the compensation to that person, subject to such conditions as it thinks fit.

(2) Where the court orders payment to a claimant of an amount of compensation which has been deposited with the Accountant General, the court may, if it sees fit, order payment of interest in respect of the whole or any part of the period from the date of that deposit to the date of payment at a rate not exceeding the rate that would have been applicable under section 43 of this Act if the amount of compensation had not been deposited with the Accountant General.

Interest on
compensation.

43. (1) Subject to sections 39, 40, 41 and 42 of this Act and to subsections (2), (3) and (4) of this section, an amount of compensation payable in respect of an acquisition by compulsory process under this Act (other than an amount payable to a mortgagee upon which interest is payable under section 53 of this Act) shall bear interest from the date of acquisition of the land to the date on which payment is made to the claimant or, where the amount is deposited with the Accountant General in accordance with section 40 of this Act, to the date upon which the amount is so deposited.

(2) The rate at which interest is payable under the preceding subsection shall be five per centum per annum.

(3) Where the amount of compensation determined upon an arbitration or by a court does not exceed an amount offered by the Competent Authority, interest shall be payable only up to the date upon which the offer of the Competent Authority was received by the claimant.

(4) Where compensation (not being compensation deposited with the Accountant General) is determined upon an arbitration or is determined, or ordered to be paid, by a court, interest shall continue to be payable under this section and not otherwise.

PART VI
PERSONS UNDER DISABILITY AND CERTAIN
LIMITED OWNERS

44. A person seised or possessed of, or entitled to, land, or having the management of land on behalf of a person under a legal disability, including—

Powers of persons under disability and certain limited owners.

- (a) a corporation which has no power, or limited power only, to dispose of land,
- (b) a tenant in tail or for life,
- (c) a guardian,
- (d) a committee of a lunatic or idiot,
- (e) a trustee,
- (f) an executor or administrator,
- (g) a person for the time being entitled to the receipt of the rents and profits of land in possession, or
- (h) a lessee,

may, by force of this Act and for any of the purposes of this Act and notwithstanding anything to the contrary in any law, deed of settlement or other deed, will, memorandum or articles of association or instrument—

- (i) lease, sell, transfer or convey the land or an interest in the land;
- (ii) if the land is acquired by compulsory process under this Act—
 - (a) subject to this Act, make or join with another person in making a claim for compensation;
 - (b) accept or not accept an offer of compensation by the Competent Authority; and

- (c) take any action authorised by this Act to be taken by a claimant to determine a disputed claim for compensation; and
- (iii) enter into an agreement incidental to the exercise of a power conferred by this section.

Extent of powers under section 44.

45 (1) The powers conferred by section 44 of this Act may be exercised—

- (a) by a person other than a lessee, not only on behalf of himself and his heirs, executors, administrators and successors, but also on behalf of every person entitled in reversion, remainder or expectancy after him, and in defeasance of the estate of every person so entitled;
- (b) by a guardian, on behalf of his ward, and to the extent to which the ward could exercise those powers if he were not under a disability;
- (c) by the committee of a lunatic or idiot, on behalf of the lunatic or idiot, and to the extent to which the lunatic or idiot could exercise those powers if he were not under a disability; and
- (d) by a trustee, executor or administrator, on behalf of his cestuis que trust (whether infants, issue unborn, lunatics, idiots or other persons) to the same extent as the cestuis que trust could exercise those powers if they were not under a disability.

(2) The provisions of any law of a Territory making provision for the sale of settled land or authorising a person specified in section 44 of this Act to sell land of which he is not the beneficial owner shall apply, by force of this Act, in relation to land that has been acquired by compulsory process under this Act as if an agreement to accept an amount of compensation in respect of the acquisition were a sale of the land at a price equal to that amount.

(3) Where a person specified in section 44 of this Act, leases or sells land of which he is not the beneficial owner, or agrees to accept compensation in respect of the acquisition under this Act of any such land, and that person was not empowered to grant the lease or to make the sale or agreement by the law of a Territory (including such a law as applied by the last preceding subsection), the lease, sale or agreement shall have no force or effect unless approved by a superior court.

46. (1) Where a lease, sale or agreement to which subsection (3) of section 45 of this Act applies, is made, the rent, purchase money or compensation (in this section referred to as "the moneys") shall be dealt with as provided by this section.

Application
of purchase
money.

(2) With the consent of all parties interested the moneys may be paid to a trustee subject to such trusts as are declared by a deed of trust approved by the Attorney General.

(3) Where an infant, lunatic or idiot is interested in or entitled to receive the moneys, his consent to an application or disposition of the moneys may be given by a guardian, trustee or committee on his behalf.

(4) The moneys may be paid to the Registrar or other proper officer of a superior court, to be applied in accordance with an order of the court.

(5) A superior court may, on the application of a person interested (including a trustee, executor or administrator), order the moneys to be applied as follows:—

- (a) in the discharge of a debt or encumbrance affecting the land, or affecting other land settled to the same or the like uses, trusts and purposes;
- (b) in the purchase of other land, or of securities of or guaranteed by the Government of the Federation or of a Territory, to be conveyed, limited and settled upon and for the like uses, trusts and purposes, and in the same manner, as the land in respect of which the moneys were paid;

- (c) if the moneys have been paid in respect of any buildings acquired under the authority of this Act, in replacing the buildings or substituting others in their stead;
- (d) in payment to a person becoming absolutely entitled to the moneys, or to such other person, and on such conditions, as the court directs; or
- (e) in such other manner as the court directs.
- (6) If the owner of the land was a corporation, the moneys may be paid to the corporation.
- (7) If the land was vested in a trustee, the moneys may be paid to the trustee to be dealt with by him as nearly as may be in accordance with the trusts upon which the land was held.
- (8) If the land was vested in an executor or administrator, the moneys may be paid to the executor or administrator to be dealt with by him in accordance with his duties as executor or administrator.
- (9) If the land was vested in or managed by the guardian of an infant or the committee of a lunatic or idiot, the moneys may be paid to the guardian or committee.
- (10) In this section, "compensation" includes interest payable on compensation.

PART VII

MORTGAGES OVER LAND ACQUIRED BY
COMPULSORY PROCESS

Mortgage
moneys
barred by
statutes
of limita-
tions.

47. For the purposes of this Part, moneys shall not be deemed to have been due to a mortgagee under a mortgage, or to have been secured by the mortgage, at the date of acquisition of land that was subject to the mortgage if the right of the mortgagee to recover those moneys was, at that date, barred by a statute relating to the limitation of actions unless the mortgagee had, at that date, a power of sale or other remedy exercisable in relation to that land.

48. (1) Where any land acquired under this Act by compulsory process was, at the date of acquisition, subject to a mortgage, the mortgagee may either—

Rights of mortgagee on acquisition of land.

- (a) claim compensation under section 28 of this Act; or
- (b) by notice to the Competent Authority waive his rights to compensation.

(2) If the mortgagee makes a claim for compensation, he shall set forth in his claim—

- (a) the amount of the principal sum due under the mortgage at the date of acquisition of the land; and
- (b) the amount of interest, costs and charges due under the mortgage at that date.

(3) The Competent Authority may, by notice in writing served on a person who is or may be a mortgagee, require that person, at his option—

- (a) to make a claim under this Act for compensation as a mortgagee; or
- (b) to waive his rights to compensation.

(4) If the person fails to make a claim for compensation in accordance with this Act within thirty days (or such further period as the Competent Authority in writing allows for that purpose) after the service of the notice, he shall be deemed to have waived his rights to compensation as a mortgagee under this Act.

(5) Where a mortgagee claims compensation under this Act the acquisition of the land shall to the extent to which the compensation payable to the mortgagee under subsection (1) of section 53 of this Act is sufficient to satisfy the mortgage debt, and interest, costs or charges due to the mortgagee under the mortgage, as at the date of acquisition, be deemed to have had the effect of extinguishing the liability of the mortgagor under the mortgage as from the date of acquisition.

(6) A mortgagee who waives his rights to compensation shall be absolutely debarred from claiming or recovering as a mortgagee any compensation or other amount from the Crown in right of the Federation.

(7) Waiver of his rights to compensation by a mortgagee or failure by a mortgagee to claim compensation, shall not affect his rights and remedies against the mortgagor or in respect of land included in the mortgage other than the land acquired.

Owner may be required to furnish particulars of mortgages.

49. (1) The Competent Authority may, by notice in writing served upon the owner of the land, require the owner to furnish the following particulars:—

- (a) whether or not the land is subject to a mortgage; and
- (b) if the land is subject to a mortgage—
 - (i) the name and address of the mortgagee;
 - (ii) the amount of the principal sum due under the mortgage at the date of acquisition; and
 - (iii) the amount of interest, costs and charges due to the mortgagee under the mortgage at that date.

(2) If the owner of the land fails to furnish the particulars to the Competent Authority within thirty days (or such further period as the Competent Authority in writing allows for that purpose) after the service of the notice, the Competent Authority may agree with any person claiming to be a mortgagee of the land as to the amounts due under the mortgage and the owner shall be absolutely debarred from disputing the correctness of any amounts so agreed upon.

Interest, &c. paid by mortgagor after date of acquisition.

50. Where an amount has been paid to or recovered by a mortgagee under a mortgage in respect of a liability which, upon the making of a claim by the mortgagee, is deemed to have been discharged as from the date of acquisition by virtue of subsection (5) of section 48 of this Act—

- (a) the mortgagee shall be liable to repay that amount to the person who paid it; and

- (b) there may be deducted from the compensation payable to the mortgagee, and paid to the person who paid that amount, so much of that amount as has not been so repaid, and a payment so made shall be deemed to have been made in discharge of the obligation of the mortgagee under the last preceding paragraph.

51. (1) Where any land acquired under this Act by compulsory process was, at the date of acquisition, subject to a mortgage, and proceedings by the mortgagee in relation to the mortgage were pending at the date of acquisition or are commenced or proposed to be commenced after that date and before compensation has been paid in full to the mortgagor in respect of the acquisition, a superior court may, upon the application of the mortgagor and subject to such conditions as it thinks fit, order a stay of those proceedings or restrain the mortgagee from commencing or continuing those proceedings and make such other orders as it thinks necessary.

Court may order stay of proceedings under mortgage.

(2) In this section, "proceedings" means any action to enforce the rights of the mortgagee under the mortgage, whether or not the proceedings are in a court, including action with a view to taking possession of or selling land or foreclosing.

52. Subject to subsection (7) of section 36, section 37 and subsection (2) of section 49 of this Act, the rights of a mortgagor claiming compensation shall not be affected by a determination of the compensation payable to a mortgagee, and the rights of a mortgagee claiming compensation shall not be affected by a determination of the compensation payable to the mortgagor or another mortgagee, unless in either case he was a party to the agreement or proceedings by which the compensation was determined.

Separate rights of mortgagee and mortgagor to determination of compensation.

53. (1) The compensation payable to a mortgagee shall be an amount equal to the sum of—

Compensation to mortgagee.

- (a) the principal sum secured by the mortgage at the date of acquisition; and

- (b) any interest, costs or charges due to the mortgagee under the mortgage at that date,

but not exceeding the compensation payable to the mortgagor in respect of the land.

(2) For the purposes of the last preceding subsection, the compensation payable to the mortgagor shall be deemed to be—

- (a) if there was only one mortgage over the land, the compensation that would have been payable to the mortgagor if there had been no mortgage over the land, or
- (b) if there were more mortgages than one over the land, the compensation that would have been payable to the mortgagor if there had been no mortgage over the land, less the amount, or the sum of the amounts, of principal, interest, costs and charges due at the date of acquisition to a mortgagee or mortgagees in respect of a mortgage or mortgages having priority over the mortgage in respect of which compensation is to be determined.

(3) In addition to the compensation mentioned in subsection (1) of this section, the mortgagee shall be entitled to payment out of the public funds of the Federation of the following amounts:—

- (a) interest upon the amount included in that compensation in respect of the principal sum at the lowest rate (whether for prompt payment or otherwise) provided by the mortgage from the date of acquisition to the date of payment of compensation, or, where payment is delayed through a default of the mortgagee, the date when payment would have been made but for the default; and

- (b) if the principal was not repayable (with or without notice) at the date when interest ceases to be payable under this section—
- (i) the costs of the mortgagee of re-investing the amount included in the compensation in respect of the principal sum; and
 - (ii) should a loss of interest reasonably be expected regard being had to the rate of interest secured by the mortgage and the rate of interest obtained or likely to be obtained on the re-investment, a reasonable allowance for loss of interest until the earliest date on which the principal sum could, either with or without notice, have been repayable.

54. The compensation payable to a mortgagee under subsection (1) of section 53 of this Act shall be deducted from the compensation that would have been payable to the mortgagor if the mortgage did not exist, and interest shall be payable to the mortgagor under section 43 of this Act on the reduced amount only.

Deduction of mortgagee's compensation from mortgagor's compensation.

55. Upon payment or tender of the compensation to the mortgagee, he shall, if so required by the mortgagor and at the expense of the mortgagor, execute a discharge of the mortgage debt to the extent to which the mortgage debt is discharged by virtue of subsection (5) of section 48 of this Act.

Execution of discharge.

56. Where a mortgagee does not claim compensation, the mortgagor shall be entitled to the same compensation as if the mortgage did not exist, and, in addition, to such amount, if any, as he should justly receive as compensation in respect of interest upon the mortgage debt accruing after the date of acquisition or in respect of any other liability to the mortgagee.

Rights of mortgagor where mortgagee does not claim compensation.

57. Where land which is subject to a mortgage is acquired under this Act by compulsory process and the whole or a part of the mortgage debt is not discharged by virtue of this Act, the mortgagee shall retain, in respect of the whole

Preservation of certain rights of mortgagee.

or that part of the mortgage debt, as the case may be, his rights and remedies against the mortgagor (other than rights and remedies in relation to the land acquired) and in relation to any other land which is subject to the mortgage.

PART VIII

DEALINGS IN LAND VESTED IN THE CROWN

Mining
leases and
licences.

58. (1) The Governor-General may authorise the grant of a lease or licence to a person to mine for metals or minerals on land which is vested in the Crown in right of the Federation.

(2) Subject to such exemptions and modifications as may be prescribed, the laws of the Territory in which the land is situated relating to mining shall, so far as applicable, apply to a lease or licence under this section and to mining carried on under the lease or licence.

Vesting of
lands in
statutory
authorities.

59. Land vested in the Crown in right of the Federation may, if the Governor-General thinks fit, and upon such terms as he directs, be transferred to and vested in a corporation incorporated by an Act of the Federal Legislature.

Disposal of
land vested
in the
Crown.

60. (1) Where land vested in the Crown in right of the Federation is no longer required for any purpose of the Federal Government, or is not required for immediate use for a purpose of the Federal Government—

- (a) the land, together with all rights of whatever kind in the land which may be vested in the Crown in right of the Federation, may be disposed of under the authority of the Governor-General; or
- (b) a lease of or licence to occupy the land may be granted under the authority of the Governor-General.

(2) The Governor-General may authorise the grant of easements, or other rights, powers or privileges (other than leases or occupation licences), over or in connection with, land vested in the Crown in right of the Federation.

(3) Where land has been acquired either by agreement or by compulsory process under this Act and, within seven years after the date of acquisition, it is proposed to dispose of the land in pursuance of paragraph (a) of subsection (1) of this section, regard shall be had to the general principle that, in such cases, the land should, where practicable, be first offered for sale to the former owner.

(4) The last preceding subsection shall not apply where substantial improvements to the land have been made since the date of acquisition.

(5) A person contracting or otherwise dealing with the Crown in right of the Federation shall not be concerned to inquire whether the requirements of this section have been complied with, and the title of such a person to land acquired from the Crown in right of the Federation shall not be affected by any failure to comply with those requirements.

(6) In this section "the former owner," in relation to land means—

- (a) where 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 company, in existence, that person; or
- (b) in any other case, such person or persons, if any, as the Governor-General, having regard to the interest that existed in the land at the date of acquisition, considers to be fairly entitled to the benefit of subsection (3) of this section in relation to the land.

61. (1) The Governor-General may, by proclamation—

Power to
dedicate
lands.

- (a) set apart for, or dedicate to, any purpose of the Federal Government land which is vested in the Crown in right of the Federation or in an officer or person on behalf of the Federation; and

- (b) revoke or alter the setting apart or dedication for or to any such purpose of land so vested, whether set apart or dedicated in pursuance of this section or otherwise.

(2) Land set apart for or dedicated to a purpose of the Federal Government in pursuance of the last preceding subsection may be vested in trustees upon trust to carry out the purpose for which the land is so set apart or dedicated.

(3) If the setting apart or dedication of land is revoked or altered the grant, conveyance or transfer of the land to trustees shall be deemed to be revoked or altered in the like manner, as the case may be, and the trustees shall, when required by the Competent Authority so to do, deliver to him, or to a person specified by him, all documents of title relating to the land for cancellation or amendment accordingly.

Use of land. 62. Land vested in the Crown in right of the Federation in pursuance of this Act may be used for any purpose of the Federal Government notwithstanding the provisions of any other law in force in the Federation.

PART IX

MISCELLANEOUS

Competent Authority may pay rates, etc. 63. Where land is acquired by compulsory process under this Act, the Competent Authority may pay rates, taxes or assessments charged upon the land and due at the date of acquisition, and the amount of a payment under this section shall be taken into account in determining the compensation payable in respect of the acquisition.

Terms and conditions under which persons may remain in possession of acquired land. 64. Where a person was in possession of land acquired by compulsory process under this Act immediately before the date of acquisition of the land, the Competent Authority may notwithstanding section 60 of this Act, enter into an agreement with that person under which that person is permitted to remain in possession of the land on such terms and conditions as are specified in the agreement.

Warrants to obtain possession of land. 65. (1) If a person who is in possession of land vested in the Crown in right of the Federation, otherwise than by virtue of a subsisting lease or agreement, refuses or fails.

when required by the Competent Authority so to do, to give up possession of the land, or hinders or obstructs the Competent Authority or a person authorised by the Competent Authority in taking possession of the land, a court of summary jurisdiction may, on the application of the Competent Authority, grant a warrant authorising a person named in the warrant to enter on the land and deliver up possession of the land to the Competent Authority and for those purposes to use such force and assistance as are necessary.

(2) Where any person hinders or obstructs the exercise of any powers under a warrant issued under subsection (1) of this section he shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

66. Where land is acquired under this Act by compulsory process, the reasonable costs, charges and expenses of producing such documents, and making out and furnishing such abstracts and attested copies, as the Competent Authority requires, shall be paid out of the public funds of the Federation. Costs of producing documents, etc.

67. All payments and deposits made out of the public funds of the Federation by virtue of this Act shall be good and valid discharges to the Crown in right of the Federation and to any person making the payment, and there shall be no obligation on the part of the Crown in right of the Federation or of such person to see to the application of the money paid or deposited, or to see to the performance of any trusts. Payments to be a good discharge.

68. All instruments, receipts and documents relating to the acquisition of land or to land acquired or disposed of by the Crown in right of the Federation may be executed by the Competent Authority for and on behalf of the Crown in right of the Federation. Execution of documents for and on behalf of the Crown.

69. (1) Subject to this section, the costs of and incidental to proceedings in a court under this Act shall be in the discretion of the court. Costs.

(2) A court shall not order payment out of the public funds of the Federation of costs of an application under subsection (5) of section 46 of this Act.

Delegation. 70. (1) The Competent Authority may, in relation to a matter or class of matters, or in relation to a part of the Federation, by instrument published in the Gazette, delegate all or any of his powers or functions under this Act (except this power of delegation), so that the delegated powers and functions may be exercised or performed by the delegate with respect to the matter or class of matters, or the part of the Federation specified in the instrument of delegation.

(2) A delegation of any of the powers or functions of the Competent Authority under section 32 or section 33 of this Act shall not operate so as to authorise the delegate to agree upon an amount of compensation exceeding two thousand dollars.

(3) A delegation under this section shall be revocable at will by instrument published in the Gazette and no delegation shall prevent the exercise or performance of a power or function by the Competent Authority.

(4) The powers and functions which may be exercised or performed by virtue of a delegation under this section may continue to be exercised or performed notwithstanding the fact that the Competent Authority who gave the delegation has ceased to hold office by death or otherwise, but the delegation may be revoked by the Competent Authority holding office for the time being.

Notice of
signature.

71. All persons and authorities shall take notice of the signature, to an instrument relating to land, of the Competent Authority or of a person to whom a power or function of the Competent Authority has been delegated under section 70 of this Act, if the signature purports to be witnessed by an officer of the Department of the Attorney General; and the Registrar of Titles or other proper office of the Territory in which the land referred to in the instrument is situated may register such an instrument so signed and attested without further proof of such signature or of the signature of the

witness, and notwithstanding that any such signature is not attested in accordance with any other law in force in that Territory.

72. (1) A claim, notice or other document required or permitted by this Act to be served on or given to the Competent Authority shall be served or given by post at such address as may be prescribed. Service of notices, &c.

(2) A notice or other document required or permitted by this Act to be served on or given to a person by or under the authority of the Competent Authority may be served or given by delivering it to that person personally or by sending it to that person by post at the address of that person last known to the Competent Authority or to a person to whom a power or function of the Competent Authority has been delegated under this Act.

(3) A notice or other document served or given by post in accordance with the last preceding subsection shall, where practicable, be sent by registered post.

73. The Governor-General may make regulations prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, providing for the giving of evidence by affidavit or statutory declaration in proceedings arising under this Act. Regulations.

74. All moneys payable under this Act out of the public funds of the Federation, and all costs, charges and expenses lawfully incurred or payable under this Act by the Competent Authority, are hereby appropriated out of the public funds of the Federation and shall be paid therefrom on the warrant of the Governor-General. Appropriation of funds for purposes of the Act.