



LANDS RESUMPTION

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No. 23 of 1977
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ANALYSIS

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AN ACT to amend the Lands Resumption Act 1957.

[28 April 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Lands Resumption Act* Short title and citation.
 1977.

(2) The *Lands Resumption Act 1957**, as subsequently amended, is in this Act referred to as the Principal Act.

* No. 88 of 1957. For this Act, as amended to 1959, see Reprint of Statutes (1826-1959), Vol. 3, p. 449. Subsequently amended by No. 75 of 1960, Nos. 2 and 63 of 1963, No. 55 of 1965, No. 14 of 1967, No. 47 of 1970, No. 75 of 1973, and Nos. 28 and 82 of 1976.

Interpretation.

2 Section 3 of the Principal Act is amended by adding at the end thereof the following definition:—

“ ‘ Special Arbitrator ’ means a Special Arbitrator appointed under section 3A;”.

3 After section 3 of the Principal Act the following section is inserted:—

Special Arbitrators.

“3A—(1) The Governor may appoint to be Special Arbitrators persons who he considers, by reason of their experience in the assessment of compensation for the acquisition of land, to be competent to act as arbitrators in cases in which they may be appointed so to act under this or any other Act.

“(2) A Special Arbitrator holds and vacates office under the terms of the instrument under which he is appointed; but he may resign his office by notice in writing to the Minister.

“(3) A Special Arbitrator shall be paid such remuneration and allowances as the Governor may determine.

“(4) Regulations under this Act may contain provisions—

- (a) prescribing the manner of nomination or selection of a Special Arbitrator for the purposes of any particular arbitration;
- (b) regulating the proceedings before a Special Arbitrator; and
- (c) regulating the award of costs by a Special Arbitrator and providing for the recovery of any costs so awarded.”.

Form of notice to treat.

4 Section 12 of the Principal Act is amended by omitting from paragraph (b) of subsection (2) the words “ receive a further notice and will then be entitled only to receive compensation as set out in the further notice ” and substituting therefor the words “ be entitled to compensation determined in accordance with this Act ”.

Arbitration as to terms of contracts for purchase by agreement.

5 Section 20 of the Principal Act is amended by inserting after subsection (2) the following subsection:—

“(2A) Where, in respect of the acquisition of his interest in land used as his residence, a person claims to be entitled to have his compensation assessed in accordance with section 31 (2A), or claims additional compensation under section 31 (3), any difference arising

between the Minister and that person as to the terms of the contract to be entered into under this section for the acquisition of that interest may, if that person so elects, be submitted to arbitration by a Special Arbitrator; and, in any proceedings under this Act in relation to the acquisition of the land to which the contract is to relate, the award in the arbitration is binding on the Minister and the other party to the arbitration, and any person deriving title under that party.”.

6 Section 31 of the Principal Act is amended—

Compensation
for acquisition
of land.

- (a) by inserting after subsection (2) the following subsection:—

“(2A) Where the interest in respect of the acquisition of which a person is entitled to compensation under this Part is a fee simple estate in land that he ordinarily used as his residence and by reason of the acquisition he requires, and genuinely intends, to acquire some other place for his residence the compensation, if he so desires, shall, instead of being assessed in accordance with the foregoing provisions of this section, be assessed on the basis of the reasonable cost of his rehousing as an owner in fee simple, at no cost to himself, in suitable comparable accommodation of at least equivalent standard to that which, by reason of the compulsory acquisition, he is compelled to leave.”; and

- (b) by omitting from subsection (3) the word “In” (first occurring) and substituting therefor the words “Whether or not the compensation is assessed in accordance with subsection (2A), in”.

7 After section 33 of the Principal Act the following section is inserted:—

“33A—(1) If any of the land acquired under this Act is at the time of the acquisition in possession of a person, as a tenant, for use as his residence, and the person holding under the tenancy is (otherwise than by reason of the acquisition of his interest in the land) required to give up possession of the land in order to enable it to be used for the purpose for which it is acquired, that person is entitled to compensation for the costs reasonably incurred by him in removing to and taking up occupation as a tenant in alternative accommodation.

Compensation
for disturbance
of tenants of
dwellings.

“(2) Any difference arising between the Minister and any person with respect to the compensation payable under this section on that person’s giving up possession of any land may, if that person so elects, be determined by arbitration by a Special Arbitrator; and, in any proceedings under this Act with respect to that compensation, the award in the arbitration is binding on that person and the Minister.”.

Arbitration
before Special
Arbitrators.

8 Section 40 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

“(2) In the following cases, namely:—

(a) Where the claimant claims to be entitled to have the compensation assessed in accordance with section 31 (2A), or claims additional compensation under section 31 (3);

(b) Where the claim is for compensation under section 33A, a disputed claim for the compensation shall, if the claimant so elects, be determined by arbitration by a Special Arbitrator.”.