



New South Wales

# Crown Lands Amendment (Compensation) Act 2001 No 8

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New South Wales

## **Crown Lands Amendment (Compensation) Act 2001 No 8**

Act No 8, 2001

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An Act to amend the *Crown Lands Act 1989* to clarify the compensation payable when certain reserve lands are compulsorily acquired or vested; and for other purposes. [Assented to 18 April 2001]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Crown Lands Amendment (Compensation) Act 2001*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Crown Lands Act 1989 No 6**

The *Crown Lands Act 1989* is amended as set out in Schedule 1.

## Schedule 1 Amendments

(Section 3)

### [1] Section 106A

Insert after section 106:

#### **106A Limits on compensation payable to reserve trusts**

- (1) This section applies:
  - (a) to the determination of the amount of compensation payable under Part 3 of the *Land Acquisition (Just Terms Compensation) Act 1991* in respect of the compulsory acquisition of the whole or part of a reserve described in subsection (2), and
  - (b) to the determination under section 191 of the *Roads Act 1993* of the amount of compensation payable or provided under Division 2 of Part 12 of that Act in respect of the acquisition under that Division of the whole or part of a reserve described by subsection (2), and
  - (c) to the determination under section 22A of the *Pipelines Act 1967* of the amount of compensation payable in respect of the vesting of the whole or part of a reserve described by subsection (2) or the vesting of an easement over the whole or part of such a reserve.
- (2) The following reserves are described by this subsection:
  - (a) a reserve in respect of which a reserve trust has been constituted, whether under this Part or by operation of Schedule 8,
  - (b) a reserve to which the provisions of this Part are applied by any other Act, or which is taken under any other Act to be a reserve under this Part, and in respect of which a reserve trust has been appointed or taken to be appointed,

other than a reserve that comprises dedicated land for which a Crown grant was granted to the reserve trust or a predecessor in title before the commencement of the *Crown Lands (Land Titles) Amendment Act 1980*.

- (3) Despite section 55 of the *Land Acquisition (Just Terms Compensation) Act 1991*, in determining the amount of compensation, if any, payable to a reserve trust, regard is to be had to the following matters only (as assessed in accordance with this section):
- (a) the value to the reserve trust of any improvements (including structures) erected or carried out by the trust on the land being acquired or vested, or over which the easement is vested, on the date the land is acquired,
  - (b) the amount of any loss attributable to the reduction in public benefit from any loss of public open space that arises from the acquisition or vesting of the land,
  - (c) the amount of any reduction in the value to the trust, as at the date the land is acquired or vests, or the easement vests, of any other improvements (including structures) erected or carried out by the trust on other land that is caused by the land acquired being severed from other land of the trust,
  - (d) the cost to the trust of acquiring additional land having environmental benefits that are comparable to the land being acquired or vested,
  - (e) any loss attributable to disturbance (within the meaning of section 59 of that Act), other than loss arising from the termination of a lease or licence over the whole or part of the land being acquired.
- (4) For the purposes of a determination of an amount of compensation:
- (a) the Crown is taken to be the holder in fee simple of the land being acquired or vested, or over which the easement is vested, and

- (b) section 56 (2) of the *Land Acquisition (Just Terms Compensation) Act 1991* applies as if the value of improvements (including structures) erected or carried out by the trust on the land is the market value of the land.
- (5) A reserve trust that is, or is managed by, the authority acquiring the whole or part of a reserve is not entitled to compensation in respect of the acquisition or vesting if it decides not to require compensation and does not revoke that decision before the acquisition of the land concerned.
- (6) Nothing in this section affects:
  - (a) any function of the Minister with respect to a reserve trust, including the Minister's functions under sections 102 and 106, or the requirements of section 106, or
  - (b) the rights under the *Land Acquisition (Just Terms Compensation) Act 1991* of a person from whom native title rights and interests (within the meaning of that Act) in relation to land have been acquired.

**[2] Schedule 8 Savings, transitional and other provisions**

Omit clause 25 (1) and (2). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
  - this Act
  - Crown Lands (Continued Tenures) Act 1989*
  - Western Lands (Crown Lands) Amendment Act 1989*
  - Miscellaneous Acts (Crown Lands) Amendment Act 1989*
  - Crown Lands Amendment (Compensation) Act 2001*
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

**[3] Schedule 8, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on Crown Lands  
Amendment (Compensation) Act 2001**

**37 Compensation for past acquisitions not affected**

Section 106A, as inserted by the *Crown Lands Amendment (Compensation) Act 2001*, does not apply to or in respect of the determination of compensation payable:

- (a) in the case of an acquisition of land, if the acquisition notice in relation to the land was published under the *Land Acquisition (Just Terms Compensation) Act 1991* before the commencement of that section, or
- (b) in the case of the vesting of land or an easement under the *Pipelines Act 1967*, if the notification under section 21 (1) of that Act occurred before the commencement of section 106A of this Act.

[Minister's second reading speech made in—  
Legislative Assembly on 17 November 2000  
Legislative Council on 27 March 2001]

BY AUTHORITY