

LANDS ACQUISITION.

No. 69 of 1955.

An Act to make provision for the Acquisition by the Commonwealth of Land required for Public Purposes and for dealing with Land so acquired, and for other purposes.

[Assented to 4th November, 1955.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

- Short title.** 1. This Act may be cited as the *Lands Acquisition Act 1955*.
- Commencement.** 2. This Act shall come into operation on a date to be fixed by Proclamation.
- Repeal and saving.** 3.—(1.) The *Lands Acquisition Act 1906*, the *Lands Acquisition Act 1912*, the *Lands Acquisition Act 1916*, the *Lands Acquisition Act 1932* and the *Lands Acquisition Act 1936* are repealed.
- (2.) Notwithstanding the repeals effected by the last preceding sub-section, the provisions of the *Lands Acquisition Act 1906–1936* (other than sections fifty-nine, sixty-two, sixty-two A, sixty-three and sixty-six) continue to apply in relation to land acquired, or agreed to be

acquired, by the Commonwealth before the commencement of this Act, and the provisions of this Act (other than Part VII. and section fifty-seven) do not apply in relation to that land.

4. This Act is divided into Parts, as follows :—

Parts.

- Part I.—Preliminary (Sections 1-5).
- Part II.—Acquisition of Land.
 Division 1.—Modes of Acquisition (Section 6).
 Division 2.—Acquisition by Agreement (Sections 7-8).
 Division 3.—Acquisition by Compulsory Process (Sections 9-15).
- Part III.—Powers in Relation to Land (Sections 16-19).
- Part IV.—Compensation for Acquisition by Compulsory Process.
 Division 1.—Claims for Compensation (Sections 20-21).
 Division 2.—Principles upon which Compensation is to be Assessed (Sections 22-23).
 Division 3.—Determination of Compensation by Agreement (Sections 24-25).
 Division 4.—Determination of Compensation by Arbitration (Sections 26-27).
 Division 5.—Determination of Compensation by a Court (Sections 28-31).
 Division 6.—Payment of Compensation and Interest (Sections 32-36).
- Part V.—Persons under Disability and certain Limited Owners (Sections 37-39).
- Part VI.—Mortgages over Land acquired by Compulsory Process (Sections 40-50).
- Part VII.—Dealings in Land vested in the Commonwealth (Sections 51-54).
- Part VIII.—Miscellaneous (Sections 55-68).

5.—(1.) In this Act, unless the contrary intention appears—

Interpretation

- “claimant” means a person who, or a State which, has made a claim for compensation under this Act ;
- “court of summary jurisdiction”, in relation to proceedings in respect of land, means a court of summary jurisdiction of a State or Territory of the Commonwealth constituted by a Police, Stipendiary, Resident or Special Magistrate, being a court which has jurisdiction in respect of the locality in which the land, or part of the land, is situated ;
- “Crown land” means land the property of a State, but does not include an interest of a person other than the State in land the property of a State ;
- “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 connexion 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 owner for the time being of the land which is subject to the mortgage ;
- “notice to treat” means a notice to treat for the sale of land to the Commonwealth given under section nine of this Act ;
- “person” includes the Crown in right of a State ;
- “public purpose” means a purpose in respect of which the Parliament has power to make laws, and, in relation to land in a Territory of the Commonwealth, includes any purpose in relation to that Territory ;
- “the date of acquisition”, in relation to land acquired by compulsory process under this Act, means the date on which the notice under section ten of this Act in respect of that land is published in the *Gazette* ;
- “the Supreme Court”, in relation to proceedings in respect of land, means the Supreme Court of the State or Territory of the Commonwealth in which the land is situated.

(2.) A reference in this Act to the acquisition of land or of an interest in land includes a reference to the extinction of an interest in land by virtue of sub-section (4.) of section ten of this Act.

PART II.—ACQUISITION OF LAND.

Division 1.—Modes of Acquisition.

Modes of
acquisition.

6.—(1.) The Commonwealth may acquire land for a public purpose—

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

(2.) The Commonwealth shall not acquire either by agreement or by compulsory process land which, under the laws of a State or Territory of the Commonwealth, is dedicated or reserved, or is vested in trustees, as a public park or otherwise for the purposes of public recreation.

Division 2.—Acquisition by Agreement.

Acquisition
by agreement.

7.—(1.) The Governor-General may authorize the acquisition of land by the Commonwealth by agreement for a public purpose approved by him.

(2.) The Minister may authorize the acquisition by the Commonwealth of land by agreement, for a public purpose approved by him, at a price not exceeding Five hundred pounds.

(3.) The Minister may authorize the acquisition by the Commonwealth by agreement, for a public purpose approved by him, of a lease of, or licence in respect of, land for a term not exceeding three years at a rental, or for a periodical consideration, not exceeding Five hundred pounds per annum.

(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 connexion with land.

8.—(1.) Where an agreement is entered into by the Commonwealth with a State for the acquisition of Crown land, an instrument or assurance executed by the Governor of that State for the purpose of carrying out the agreement is, by force of this Act and notwithstanding anything in the law of the State, valid and effectual to vest the land in the Commonwealth according to the tenor of the instrument or assurance.

Effect of conveyance of Crown land to Commonwealth.

(2.) Where the Crown land is land which, under the laws of the State, has been granted, dedicated or reserved for a public purpose of the State, an instrument or assurance referred to in the last preceding sub-section operates, by force of this Act, to vest the land in the Commonwealth freed from any trusts, restrictions or obligations arising out of that grant, dedication or reservation.

Division 3.—Acquisition by Compulsory Process.

9.—(1.) The Minister shall not recommend to the Governor-General the acquisition by the Commonwealth of land by compulsory process unless he 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 Minister for the sale to the Commonwealth 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 sub-section in accordance with section sixty-six of this Act, service on that owner may be effected by causing a copy of the notice to treat to be published in a newspaper circulating in the district 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 so published, is so left with the occupier or is so affixed, whichever last occurs.

(3.) A person served with a notice to treat in respect of land may, not later than fourteen days after the service of the notice, furnish to the Minister particulars of—

- (a) the interest claimed by him in the land ;
- (b) the amount for which he is agreeable to sell to the Commonwealth 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.

(4.) Upon receipt of the particulars referred to in the last preceding sub-section the Minister may treat with the person furnishing the particulars for the acquisition of the interest of that person in the land by the Commonwealth by agreement and may enter into an agreement with that person for that acquisition subject, where the authorization of the Governor-General is required under section seven of this Act, to that authorization.

(5.) The Minister may, by notice in writing to a person served with a notice to treat, withdraw the notice to treat.

(6.) Where the owner of an interest in land, being a person who has furnished the particulars referred to in sub-section (3.) of this section, suffers loss by reason of the notice to treat in respect of the land having been given and withdrawn, the Commonwealth is liable to pay to him such compensation as is determined by agreement between the owner and the Minister or, in the absence of agreement, by action by the owner against the Commonwealth in a court of competent jurisdiction.

(7.) In the last preceding sub-section, "court of competent jurisdiction" has the same meaning as in section nineteen of this Act.

(8.) This section does not apply in a case in which the Minister certifies that there are special reasons why the section should not apply.

**Compulsory
acquisition.**

10.—(1.) Without prejudice to the liability of the Commonwealth under any contract for the acquisition of land by agreement, where—

(a) a period of twenty-eight days has expired after the service of a notice to treat, or of notices to treat, in relation to land; or

(b) the Minister has given a certificate under sub-section (8.) of section nine of this Act in relation to land,

the Minister may recommend to the Governor-General 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 the Commonwealth by compulsory process.

(2.) The Governor-General may, on the recommendation of the Minister under the last preceding sub-section, authorize the acquisition of land by compulsory process for a public purpose approved by the Governor-General.

(3.) The Minister may cause to be published in the *Gazette* notice of the authorization by the Governor-General and, in the notice, declare that the land is acquired under this Act for the public purpose approved by the Governor-General.

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

(a) vested in the Commonwealth; and

(b) 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 are vested in the Commonwealth.

(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 connexion with land.

(6.) An authorization by the Governor-General under sub-section (2.) of this section shall not be invalidated or called in question by reason of any failure to comply with any of the provisions of this Act.

11.—(1.) Subject to the next succeeding sub-section, the interest of every person in the land to which a notice under the last preceding section applies, and, if the land so described is Crown land, the property of the State in that Crown land, is, on the date of acquisition of the land, converted into a right to compensation under this Act.

Conversion of estates and interests into claims for compensation.

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

12.—(1.) The Minister shall cause a copy of every notice published under sub-section (3.) of section ten of this Act to be laid before each House of the Parliament within fourteen sitting days of that House after the date of publication.

Powers of Houses of Parliament to avoid acquisitions.

(2.) Either House of the Parliament may, within thirty days after a copy of a notice has been laid before it in pursuance of the last preceding sub-section, pass a resolution that the notice shall be void and of no effect, and thereupon the notice shall be void and of no effect, and the land shall be deemed not to have been vested in the Commonwealth.

(3.) Where the owner of land described in a notice in relation to which a resolution is passed under the last preceding sub-section has suffered loss or damage by reason of the notice or of the exercise of powers of the Minister in consequence of the notice, the Commonwealth is liable to pay to him such compensation as is determined by agreement between the owner and the Minister or, in the absence of agreement, by action by the owner against the Commonwealth in a court which would have jurisdiction if the action were under section nineteen of this Act.

13.—(1.) Notwithstanding anything contained in this Act, where land is acquired under this Division, the High Court or the Supreme Court may, upon the application of the Commonwealth or any other person interested, make such orders as it thinks proper for declaring

High Court or Supreme Court may adjust rights and determine basis of compensation.

or adjusting rights and liabilities in connexion with the land or with transactions in relation to the land or otherwise affected by the acquisition.

(2.) Without limiting the generality of the powers conferred by the last preceding sub-section, the orders which may be made under that sub-section 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 rent charge or other 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, the High Court or the Supreme Court may, in proceedings under this section or upon the application of the Commonwealth or a claimant, make such order as it thinks just 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 sub-section (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 sub-section but notwithstanding any other provision of this Act, be determined having regard to the effect of the first-mentioned order.

(5.) Where the Commonwealth is not a party to proceedings under this section, the court may order the Commonwealth 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.**

14.—(1.) Where land is acquired under this Division, the Minister shall, as soon as practicable after the date of acquisition of the land, cause a copy of the notice of acquisition of the land to be served upon the owners of the land, or such of them as can, after diligent inquiry, be ascertained.

(2.) Where—

- (a) the Minister 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 sub-section in accordance with section sixty-six of this Act,

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

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

15.—(1.) Where land has been acquired under this Division, the Crown Solicitor may lodge with the Registrar-General, Registrar of Titles or other proper officer of the State or Territory in which the land is situated a copy, certified under the hand of the Crown Solicitor, of the notice of acquisition of the land.

Registration of
notification.

(2.) The officer with whom the copy of a notice of acquisition is lodged in pursuance of the last preceding sub-section 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 Commonwealth duly executed under the laws in force in the State or Territory in which the land is situated.

PART III.—POWERS IN RELATION TO LAND.

16.—(1.) A person authorized in writing by the Minister to act under this section may, for the purpose of ascertaining whether land is suitable for a public purpose or of surveying or obtaining information in relation to land which he considers suitable for such a purpose—

Power to
examine lands.

- (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.

(2.) If a person hinders or obstructs a person authorized 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 authorized, grant a warrant authorizing a peace officer appointed under the *Peace Officers Act* 1925 or other 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 the entry upon, and the examination of, the land may be enforced in accordance with the warrant.

17. Where land is vested in the Commonwealth, a person authorized by the Minister may, with such other persons as he thinks necessary, enter land—

Power to
occupy lands
temporarily.

- (a) being within a distance of two hundred yards from the nearest boundary of the land vested in the Commonwealth;

(b) not being a garden, orchard or plantation attached or belonging to a house, or a park, planted walk or avenue, or ground ornamentally planted; and

(c) not being nearer than five hundred yards to the dwelling house of the occupier of the land,

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 public purpose.

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

18.—(1.) A person authorized by the Minister under the last preceding section to enter land may—

(a) in connexion with the carrying out of a public purpose, 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 a stone or slate quarry, brickfield or other like place commonly worked or used for getting materials for the purposes of sale or disposal.

Compensation for damage to land.

19.—(1.) 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, the Commonwealth is liable to pay to him such compensation as is determined by agreement between the owner and the Minister or, in the absence of agreement, by action by the owner against the Commonwealth in a court of competent jurisdiction.

(2.) In this section, “ court of competent jurisdiction ” means—

(a) the High Court or the Supreme Court; or

(b) a County Court, District Court, Local Court or Magistrates Court of a State or Territory of the Commonwealth, presided over by a Judge or by a Police, Stipendiary, Resident or Special Magistrate, being a court which has jurisdiction—

(i) in actions for the recovery of debts up to an amount not less than the amount of compensation claimed; and

(ii) in respect of the locality in which the land, or part of the land, is situated.

PART IV.—COMPENSATION FOR ACQUISITION BY COMPULSORY PROCESS.

Division 1.—Claims for Compensation.

20.—(1) A person who has a right to compensation under section eleven of this Act may make a claim for compensation in accordance with a form approved by the Minister, stating the amount of compensation claimed.

Making, acceptance and rejection of claims.

(2.) Compensation is not 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 sub-section is not served on the Minister by that person in respect of that interest within one hundred and twenty days after the date of acquisition or within such further time as the Minister allows; and
- (b) the interest is inconsistent with an interest claimed by another person in respect of which the Minister has, in good faith, paid or agreed to pay compensation.

(3.) Where a claim for compensation is made, the Minister shall, except where compensation is not payable by reason of the operation of the last preceding sub-section, 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 Minister shall accept the claim for determination, but, if not so satisfied, the Minister shall reject the claim.

(4.) The Minister 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 Minister fails to notify the claimant accordingly, the Minister shall be deemed to have accepted the claim for determination.

(5.) The acceptance of a claim for determination under this section does not entitle the claimant to payment of compensation otherwise than in accordance with Division 6 of this Part.

21.—(1.) Where a claim for compensation has been rejected by the Minister, the claimant may bring an action against the Commonwealth in the High Court or the Supreme 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 Minister.

Proceedings where claim rejected.

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

(3.) For the purposes of this Act an order of a court under this section is binding on the Commonwealth 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 action.

(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 Minister and, if the interest declared by the court differs from the interest specified in the claim to the Minister, the claim shall be deemed to be amended accordingly.

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

- (a) the claimant does not, within thirty days after service on him of the notice of rejection of the claim or within such further time as the Minister allows, institute an action under this section in relation to the claim; or
- (b) the claimant has so instituted an action and—
 - (i) the action 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 action and no appeal or further appeal by the plaintiff (including an application for leave to appeal) is pending,

the Commonwealth may pay compensation 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 is payable in respect of that last-mentioned interest.

(6.) A court in which an action is instituted under this section may, upon the application of the Commonwealth, 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 issue of the writ in the action, whether before or after the making of any declaration under sub-section (2.) of this section), order that the action shall be treated as including proceedings duly instituted under section twenty-eight of this Act for determination of the amount of compensation under this Act in respect of the interest (if any) which the court declares the claimant to have had.

(7.) The provisions of section twenty-eight of this Act (other than sub-sections (1.), (2.), (6.) and (9.)) apply to and in relation to proceedings consequent upon the making of an order under the last preceding sub-section.

Division 2.—Principles upon which Compensation is to be Assessed.

Crown land.

22. Where Crown land is acquired by compulsory process, the State is entitled to compensation as if it had been the proprietor of an estate in fee simple in the land and that estate had been subject to any interest which a person other than the State had in the land immediately before the date of acquisition.

23.—(1.) In the determination of the amount of compensation payable in respect of land compulsorily acquired under this Act, regard shall be had to—

Matters to be considered in determining compensation.

- (a) the value of the land at the date of acquisition ;
- (b) the damage (if any) caused by the severance of the land from other land in which the claimant had an interest at the date of acquisition ; and
- (c) the enhancement or depreciation in value of the interest of the claimant, at the date of acquisition, in other land adjoining or severed from the acquired land by reason of the carrying out of or the proposal to carry out the public purpose for which the land was acquired.

(2.) In determining the value of land acquired under this Act, regard shall not be had to any increase in the value of the land arising from the carrying out of or the proposal to carry out the public purpose for which the land was acquired.

(3.) Where the value of the interest of the claimant in other land adjoining the land acquired is enhanced or depreciated by reason of the carrying out of or the proposal to carry out the public purpose for which the land was acquired, the enhancement or depreciation shall be set off against, or added to, as the case requires, the amount of the compensation otherwise payable to the claimant.

Division 3.—Determination of Compensation by Agreement.

24.—(1.) The Minister may, on behalf of the Commonwealth, 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.

Agreement as to amount of compensation before acquisition.

(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 at the amount specified in the agreement.

25. Where a claim for compensation is accepted for determination under section twenty of this Act, the amount of compensation to be paid may be determined by agreement between the Minister and the claimant.

Determination of compensation by agreement after acquisition.

Division 4.—Determination of Compensation by Arbitration.

26.—(1.) The Minister 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 an arbitration) of such State or Territory of the Commonwealth as is specified for the purpose in the agreement applies, subject to the agreement, to and in relation to the agreement and to and in relation to the arbitration under the agreement.

Revocation of agreement to arbitrate.

27.—(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 Minister learns of another person who may be entitled to make such a claim, the Minister may revoke the agreement.

(2.) Where the Minister revokes an agreement under the last preceding sub-section, the Commonwealth is liable to pay the reasonable costs of and incidental to the agreement and, if the arbitration has commenced, of and incidental to the arbitration.

Division 5.—Determination of Compensation by a Court.

Proceedings for determination of compensation.

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

- (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 Minister 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 Minister,

the claimant may, unless an agreement for the determination of the compensation by arbitration is in force, institute proceedings against the Commonwealth in a court of competent jurisdiction for determination of the amount of compensation under this Act in respect of the interest the subject of the claim.

(2.) The writ or summons 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 heard and determined as nearly as may be in the same manner as actions in contract are heard and determined in the court in which the action is instituted.

(4.) The proceedings shall be tried without a jury.

(5.) The court shall not, except with the consent of the parties, direct a reference to arbitration.

(6.) If the court is of opinion that the proceedings might have been brought in a lower court, or might have been brought in a lower court if the amount of compensation claimed had not been grossly

excessive, costs, if awarded to the claimant, shall only be allowed on the scale of costs applicable in that other court, unless the first-mentioned court certifies that special circumstances existed which made it proper to institute the proceedings in that court.

(7.) Where proceedings under this section have been instituted in relation to an interest in land, the court may, on the application of the Commonwealth, 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.

(8.) If a person so directed fails to join as a plaintiff within the time specified in the order, he is absolutely debarred from thereafter instituting an action against the Commonwealth for determination or recovery of 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.

(9.) When, by reason of the joinder of a new plaintiff or otherwise, the total compensation claimed in proceedings under this section exceeds the amount up to which the court has jurisdiction, the Commonwealth shall forthwith apply to the High Court or to the Supreme Court for the removal of the proceedings into that court, and, if the court to which the application is made is satisfied that the application is properly made, it shall order the removal of the proceedings accordingly, and the proceedings shall be continued in the court to which they are removed as if they had been instituted in that court.

(10.) If, in relation to the acquisition of any land, proceedings under this section have been instituted in the High Court, and proceedings under this section have also been instituted in another court, the action in that other court shall, on the application of the Commonwealth to the High Court, be removed into the High Court.

(11.) Such documents relating to the proceedings as are filed as of record in the court in which the proceedings were instituted shall be transmitted to the Registry of the High Court in the State or Territory in which the first-mentioned court is situated, or, if there is no such Registry, to the Principal Registry of the High Court.

(12.) The provisions of sections forty-one and forty-three of the *Judiciary Act 1903-1955* apply in relation to an action which is removed into the High Court in pursuance of this section.

(13.) The determination of the court in proceedings under this section is binding on the parties to the proceedings.

(14.) In this section, "court of competent jurisdiction" means—
(a) the High Court or the Supreme Court; or

(b) a County Court, District Court, Local Court or Magistrates Court of a State or Territory of the Commonwealth, presided over by a Judge or by a Police, Stipendiary, Resident or Special Magistrate, being a court which has jurisdiction—

(i) in actions for the recovery of debts up to an amount not less than the amount of compensation claimed ; and

(ii) in respect of the locality in which the land, or part of the land, is situated.

**Determination
of
compensation
on the
application of
Commonwealth.**

29.—(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

(b) the Minister 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 Minister, on the application of the claimant, has allowed, been determined by agreement, by arbitration or by a court ; and

(ii) proceedings in which the claimant is a plaintiff for determination of compensation under the last preceding section, or proceedings in an arbitration in respect of the claim, are not pending,

the Commonwealth may apply to such court of competent jurisdiction as it considers appropriate, having regard to the value and locality of the land, 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 Commonwealth may, in an application under this section arising out of paragraph (a) of sub-section (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.

(4.) A determination of a court under this section is binding on the Commonwealth 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.

- (5.) In this section, “ court of competent jurisdiction ” means—
- (a) in relation to an application arising out of paragraph (a) of sub-section (1.) of this section—the High Court or the Supreme Court or, where the Commonwealth does not make a request under sub-section (3.) of this section, the High Court, the Supreme Court or a court of a State or Territory of the Commonwealth, being a County Court, District Court, Local Court or Magistrates Court presided over by a Judge or by a Police, Stipendiary, Resident or Special Magistrate ; and
 - (b) in relation to an application arising out of paragraph (b) of sub-section (1.) of this section—a court that would be a court of competent jurisdiction under the last preceding section if the application were proceedings by the claimant under that section claiming the amount of compensation specified in the original claim lodged with the Minister.

30. Nothing in this Part, or in a determination of a court, or an award upon an arbitration, under this Part, entitles a person to receive payment of compensation otherwise than in accordance with Division 6 of this Part.

Payment of compensation determined.

31.—(1.) Where a court having jurisdiction for the purposes of this section is of opinion that the application of any of the provisions of this Act would result in an acquisition having been made otherwise than on just terms, the court may determine such compensation or make such order (whether against the Commonwealth or against another person) as, in its opinion, is necessary to ensure that the acquisition has been made on just terms.

Court to ensure that acquisition is made on just terms.

- (2.) Jurisdiction for the purposes of this section may be exercised—
- (a) by a court before which proceedings are instituted under another provision of this Division ; or
 - (b) by the Supreme Court or the High Court.

Division 6.—Payment of Compensation and Interest.

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

Payment of compensation.

- (a) made out, to the satisfaction of the Crown Solicitor, 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 Crown Solicitor reasonably requires to be produced or surrendered, as the case may be ; and
- (c) executed such documents as the Crown Solicitor reasonably requires.

(2.) Paragraph (a) of the last preceding sub-section does not apply where a court has, under section twenty-one, twenty-nine or thirty-five 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.

Deposit of
compensation in
the Treasury.

33.—(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, by reason of some default or delay on his part, received payment of the compensation, the Minister may deposit the amount of compensation in the Treasury.

(2.) If, before the amount of compensation is deposited in the Treasury, the Minister 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 in the Treasury.

Payment out
of Treasury.

34. An amount of compensation deposited in the Treasury under the last preceding section may be paid, on the direction of the Crown Solicitor, to a person who complies with the requirements of section thirty-two of this Act.

Order that
claimant is
entitled to
compensation.

35.—(1.) Notwithstanding the provisions of the last three preceding sections, 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 in the Treasury), the High Court or the Supreme 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 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 in the Treasury, 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 the next succeeding section if the amount of compensation had not been deposited in the Treasury.

Interest on
compensation.

36.—(1.) Subject to this Division, 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 forty-six of this Act) bears 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 in the Treasury in accordance with section thirty-three of this Act, to the date upon which the amount is so deposited.

(2.) The rate at which interest is payable under the last preceding sub-section is—

- (a) Three pounds per centum per annum for so much of the period for which the interest is payable as does not exceed two years ; and
- (b) Four pounds ten shillings per centum per annum for so much (if any) of the period for which the interest is payable as exceeds two years.

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

(4.) Where compensation (not being compensation deposited in the Treasury) is determined upon an arbitration or is determined, or ordered to be paid, by a court, interest continues to be payable under this section and not otherwise.

PART V.—PERSONS UNDER DISABILITY AND CERTAIN LIMITED OWNERS.

37. 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, particularly—

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 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 to the Commonwealth the land or an interest in the land ;
- (j) if the land is acquired by the Commonwealth by compulsory process—
 - (i) subject to this Act, make or join with another person in making a claim for compensation ;
 - (ii) accept or not accept an offer of compensation by the Minister ; and
 - (iii) take any action authorized by this Act to be taken by a claimant to determine a disputed claim for compensation ; and
- (k) enter into an agreement incidental to the exercise of a power conferred by this section.

Extent of
powers under
sec. 37.

38.—(1.) The powers conferred by the last preceding section 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 *cestui que trusts* (whether infants, issue unborn, lunatics, idiots or other persons) to the same extent as the *cestui que trusts* could exercise those powers if they were not under a disability.

(2.) The provisions of a law of a State or Territory of the Commonwealth making provision for the sale of settled land or authorizing a person specified in the last preceding section to sell land of which he is not the beneficial owner 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 to the Commonwealth at a price equal to that amount.

(3.) Where a person specified in the last preceding section 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 State or Territory of the Commonwealth (including such a law as applied by the last preceding sub-section), the lease, sale or agreement has no force or effect unless approved by the High Court or the Supreme Court.

Application of
purchase money.

39.—(1.) Where a lease, sale or agreement to which sub-section (3.) of the last preceding section 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.

(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 Principal Registrar or a District Registrar of the High Court or the Master in Equity or other proper officer of the Supreme Court, to be applied in accordance with an order of the court.

(5.) The High Court or the Supreme 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 Commonwealth or of a State, 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 VI -- MORTGAGES OVER LAND ACQUIRED BY COMPULSORY PROCESS.

40. 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.

Mortgage moneys barred by statutes of limitations.

Rights of mortgagee on acquisition of land.

41.—(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—

(a) claim compensation under Division 1 of Part IV. of this Act; or

(b) by notice to the Minister, 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 principal 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 Minister 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 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 Minister in writing allows for that purpose) after the service of the notice, he shall be deemed to have waived his rights to compensation as mortgagee.

(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 sub-section (1.) of section forty-six 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 is absolutely debarred from claiming or recovering as mortgagee any compensation or other amount from the Commonwealth.

(7.) Waiver of his rights to compensation by a mortgagee, or failure by a mortgagee to claim compensation, does 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.

42.—(1.) The Minister 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 principal 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 Minister within thirty days (or such further period as the Minister in writing allows for that purpose) after the service of the notice, the Minister may agree with any person claiming to be a mortgagee of the land as to the amounts due under the mortgage and the owner is absolutely debarred from disputing the correctness of any amounts so agreed upon.

43. 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 sub-section (5.) of section forty-one of this Act—

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

- (a) the mortgagee is liable to repay that amount to the person who paid it; and
- (b) the Commonwealth may deduct from the compensation payable to the mortgagee and pay to the person who paid that amount so much of that amount as has not been so repaid, and a payment so made by the Commonwealth shall be deemed to have been made in discharge of the obligation of the mortgagee under the last preceding paragraph.

44.—(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, the High Court or the Supreme Court may, upon the application of the mortgagor and subject to such conditions as it thinks fit, order a stay of those proceedings or enjoin the mortgagee against 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.

45. Subject to sub-section (8.) of section twenty-eight, section twenty-nine and sub-section (2.) of section forty-two, of this Act, the rights of a mortgagor claiming compensation are not affected by a determination of the compensation payable to a mortgagee, and the rights of a mortgagee claiming compensation are not affected by a determination of the compensation payable to the mortgagor or another mortgagee, unless 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.

Compensation
to
mortgagee.

46.—(1.) The compensation payable to a mortgagee is an amount equal to the sum of—

- (a) the principal 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 sub-section, 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 the compensation is to be determined.

(3.) In addition to the compensation mentioned in sub-section (1.) of this section, the mortgagee is entitled to payment by the Commonwealth of the following amounts :—

- (a) interest upon the amount of principal included in that compensation 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 principal included in the compensation ; 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 date on which the principal would have been repayable (with or without notice).

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

47. The compensation payable to a mortgagee under sub-section (1.) of the last preceding section shall be deducted from the compensation that would have been payable to the mortgagor if the mortgage did not exist, and interest under section thirty-six of this Act is payable to the mortgagor on the reduced amount only.

48. 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 sub-section (5.) of section forty-one of this Act.

Execution of discharge.

49. Where a mortgagee does not claim compensation, the mortgagor is 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.

50. 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 retains, in respect of the whole 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.

Preservation of certain rights of mortgagee.

PART VII.—DEALINGS IN LAND VESTED IN THE COMMONWEALTH.

51.—(1.) The Governor-General may authorize the grant of a lease or licence to a person to mine for metals or minerals on land, situate in a State, which is vested in the Commonwealth.

Mining leases and licences.

(2.) Subject to such exemptions and modifications as are prescribed, the laws of the State in which the land is situate 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.

52. Land vested in the Commonwealth may, if the Minister thinks fit, and upon such terms as he directs, be transferred to and vested in a corporation incorporated by a law of the Commonwealth.

Vesting of lands in Commonwealth authorities.

53.—(1.) Where land vested in the Commonwealth is no longer required by the Commonwealth, or is not required for immediate use by the Commonwealth—

Disposal of land vested in Commonwealth.

- (a) it may be disposed of in any case under the authority of the Governor-General or, in a case where the Minister is satisfied that the value of the land does not exceed Five hundred pounds, under the authority of the Minister ; or
- (b) a lease of or licence to occupy the land may be granted in any case under the authority of the Governor-General or, in a case where the lease or licence is for a term not exceeding three years at a rental, or for a periodical consideration, not exceeding Five hundred pounds per annum, under the authority of the Minister.

(2.) The Minister may authorize the grant of easements, or other rights, powers or privileges (other than leases or occupation licences), over or in connexion with, land vested in the Commonwealth.

(3.) Where land has been acquired either by agreement or by compulsory process under this Act or the Acts repealed by 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 sub-section (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 at a reasonable price.

(4.) The last preceding sub-section does not apply where the Commonwealth has, since the date of acquisition, made substantial improvements to the land.

(5.) A person contracting or otherwise dealing with the Commonwealth is not 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 Commonwealth is not 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 Minister, in his absolute discretion, having regard to the interest that existed in the land at the date of acquisition, considers to be fairly entitled to the benefit of sub-section (3.) of this section in relation to the land.

Power to
dedicate
lands.

54.—(1.) The Governor-General may, by Proclamation—

- (a) set apart for, or dedicate to, a public purpose land which is vested in the Commonwealth, or in an officer or person on behalf of the Commonwealth ; and
- (b) revoke or alter the setting apart or dedication for or to a public 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 public purpose in pursuance of the last preceding sub-section 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 is deemed to be revoked or altered in the like manner, as the case may be, and the trustees shall, when required by the Attorney-General 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.

PART VIII.—MISCELLANEOUS.

55. Where land is acquired by compulsory process under this Act, the Minister may pay any 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.

Minister may pay rates, &c.

56. 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 Minister may, notwithstanding section fifty-three 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.

Terms and conditions under which persons may remain in possession of acquired land.

57. If a person who is in possession of land vested in the Commonwealth, otherwise than by virtue of a subsisting lease or agreement, refuses or fails, when required by the Minister so to do, to give up possession of the land, or hinders or obstructs the Minister or a person authorized by the Minister in taking possession of the land, a court of summary jurisdiction may, on the application of the Commonwealth, grant a warrant authorizing a peace officer appointed under the *Peace Officers Act 1925* or other person named in the warrant to enter on the land and deliver up possession of the land to the Commonwealth and for those purposes to use such force and assistance as are necessary.

Warrants to obtain possession of land.

58. Where land is acquired under this Act by compulsory process, the Commonwealth shall pay the reasonable costs, charges and expenses of producing such documents, and making out and furnishing such abstracts and attested copies, as the Crown Solicitor requires.

Costs of producing documents, &c.

59. All payments and deposits made on behalf of the Commonwealth by virtue of this Act are good and valid discharges to the Commonwealth, and the Commonwealth is not bound 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.

60. All instruments, receipts and documents relating to the acquisition of land or to land acquired or disposed of by the Commonwealth may be executed by the Attorney-General for and on behalf of the Commonwealth.

Execution of documents for and on behalf of the Commonwealth.

61. For the purposes of acquiring, holding and disposing of land (including land outside Australia) and for all purposes of this Act, the Commonwealth is a body corporate, by the name of "The Commonwealth of Australia".

Incorporation of Commonwealth.

62.—(1.) Jurisdiction is conferred on the High Court and the several courts of the Territories, and the several courts of the States are invested with federal jurisdiction, with respect to all matters which, under this Act, may be dealt with by those courts respectively.

Jurisdiction of courts.

(2.) The jurisdiction with which a court of a State is invested by this section is subject to the conditions and restrictions specified in sub-section (2.) of section thirty-nine of the *Judiciary Act 1903-1955*.

Costs.

63.—(1.) Subject to this section, the costs of and incidental to proceedings in a court under this Act are in the discretion of the court.

(2.) A court shall not order payment by the Commonwealth of costs of an application under sub-section (5.) of section thirty-nine of this Act.

Delegation.

64.—(1.) The Minister or the Attorney-General may, in relation to a matter or class of matters, or in relation to a part of Australia, 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 Australia, specified in the instrument of delegation.

(2.) A delegation of any of the powers or functions of the Minister under section twenty-four or section twenty-five of this Act does not operate so as to authorize the delegate to agree upon an amount of compensation exceeding Five hundred pounds.

(3.) A delegation under this section is revocable at will by instrument published in the *Gazette* and no delegation prevents the exercise or performance of a power or function by the Minister or the Attorney-General.

(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 Minister or the Attorney-General, as the case may be, who gave the delegation has ceased to hold office by death or otherwise, but the delegation may be revoked by the Minister or the Attorney-General, as the case may be, holding office for the time being.

Notice of signatures.

65. Notice shall be taken of the signature, to an instrument relating to land, of the Attorney-General or of a person to whom a power or function of the Attorney-General has been delegated under the last preceding section, if the signature purports to be witnessed by an officer of the Attorney-General's Department; and the Registrar-General, Registrar of Titles or other proper officer of the State or Territory of the Commonwealth in which the land referred to in the instrument is situated may register such an instrument so signed and attested without further proof of the signature of the Attorney-General, delegate or witness, and notwithstanding that the signature is not attested in accordance with the law of that State or Territory.

Service of notices, &c.

66.—(1.) A claim, notice or other document required or permitted by this Act to be served on or given to the Minister shall be served or given by post at such address as is prescribed.

(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 Minister 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 Minister or to a delegate of the Minister.

(3.) A notice or other document served or given by post in accordance with the last preceding sub-section shall, where practicable, be sent by *avis de réception* registered post.

67.—(1.) The Acts specified in the first column of the First Schedule to this Act are amended as respectively set out in the second column of that Schedule. Consequential amendments of certain Acts.

(2.) An Act specified in the first column of the Second Schedule to this Act, as amended by this Act, may be cited in the manner specified in the second column of that Schedule opposite to the reference to that Act in the first column.

(3.) Notwithstanding the amendments made by sub-section (1.) of this section, the provisions of the Acts amended by that sub-section, as in force immediately before the date of commencement of this Act, continue to apply, as if this Act had not been passed, in relation to the acquisition of land acquired or agreed to be acquired before that date and in relation to compensation in respect of any such acquisition or in respect of any other thing done before that date.

68. The Governor-General may make regulations, not inconsistent with this Act, 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 out of this Act. Regulations.

THE SCHEDULES.

FIRST SCHEDULE.

Section 67 (1.).

AMENDMENTS OF ACTS.

First Column. Acts Amended.	Second Column. Amendments.
<p><i>Commonwealth Railways Act 1917-1954, as amended by the Salaries Adjustment Act 1955</i></p>	<p>Section 63— Omit from sub-section (2.) "<i>Lands Acquisition Act 1906-1916</i>", insert "<i>Lands Acquisition Act 1955</i>" Omit from sub-section (3.) "any lands dedicated, reserved, or set apart for public parks or recreation grounds", insert "land referred to in sub-section (2.) of section six of the <i>Lands Acquisition Act 1955</i>"</p>

FIRST SCHEDULE—continued.

First Column. Acts Amended.	Second Column. Amendments.
<i>Lighthouses Act 1911-1949</i> . .	Section 6A— Omit from sub-section (3.) “ <i>Lands Acquisition Act 1906</i> ”, insert “ <i>Lands Acquisition Act 1955</i> ”
<i>Salaries Adjustment Act 1955</i> . .	Second Schedule— Omit— “ <i>Commonwealth Railways Act 1917-1954</i> ” “ <i>Commonwealth Railways Act 1917-1955</i> ”
<i>Snowy Mountains Hydro-electric Power Act 1949-1952</i>	Section 33— Omit sub-sections (4.) and (5.) and insert the following sub-section :— “(4.) The provisions of section nineteen of the <i>Lands Acquisition Act 1955</i> apply in relation to the determination of compensation payable by the Authority under this Part in like manner as they apply in relation to the determination of compensation payable under that section, except that the references in that section to the Minister and to the Commonwealth shall be read as references to the Authority.”
<i>War Service Homes Act 1918-1954</i> . .	Section 16— Omit from sub-section (2.) “ <i>Lands Acquisition Act 1906-1916</i> ”, insert “ <i>Lands Acquisition Act 1955</i> ”

SECOND SCHEDULE.

Section 67 (2).

CITATION OF ACTS AMENDED.

First Column.	Second Column.
<i>Commonwealth Railways Act 1917-1954</i> , as amended by the <i>Salaries Adjustment Act 1955</i>	<i>Commonwealth Railways Act 1917-1955</i>
<i>Lighthouses Act 1911-1949</i>	<i>Lighthouses Act 1911-1955</i>
<i>Snowy Mountains Hydro-electric Power Act 1949-1952</i>	<i>Snowy Mountains Hydro-electric Power Act 1949-1955</i>
<i>War Service Homes Act 1918-1954</i> . .	<i>War Service Homes Act 1918-1955</i>