

EXPLANATORY STATEMENT

Issued by Authority of the Assistant Minister for Treasury and Finance

Lands Acquisition Act 1989

Lands Acquisition Amendment Regulations 2018

The Lands Acquisition Act 1989 (the Act) relates to the acquisition of land by the Commonwealth and certain authorities and dealings with land so acquired, and for other purposes.

Section 140 of the Act provides that the Governor General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Lands Acquisition Regulations 2017 (the Principal Regulations) prescribe the interest rate for interest payable on compensation payable for land compulsorily acquired under the Act.

The purpose of the proposed Lands Acquisition Amendment Regulations 2018 (the Amendment Regulations) is to amend the Principal Regulations to clarify the correct rate of interest for the purposes of calculating the interest payable on the compensation determined under the Act.

Sections 91(2) and 115(2) of the Act prescribe that interest holders in land that has been compulsorily acquired are entitled to payment by the Commonwealth of interest on the compensation at the rate specified in, or ascertained in accordance with, the Principal Regulations, where payment of compensation is delayed.

The amendments in the Amendment Regulations clarify the wording of the Principal Regulations to explicitly state that the relevant interest rate is the Commonwealth government 5-year bond, as listed in the table published by the Reserve Bank of Australia.

Details of the Amendment Regulations are set out in [Attachment A](#).

The Act specifies no conditions that need to be satisfied before the power to make the proposed Regulations may be exercised.

The Amendment Regulations would be a legislative instrument for the purposes of the Legislation Act 2003.

The Amendment Regulations would commence on the day after registration.

The Minute recommends that the Amendment Regulations be made in the proposed form.

Authority: Section 91(2) and 115(2)
of the *Lands Acquisition Act 1989*

Details of the *Lands Acquisition Amendment Regulation 2018*

Section 1 - Name of Regulations

This section provides that the title of the Regulations is the *Lands Acquisition Amendment Regulations 2018*.

Section 2 - Commencement

This section provides for the Regulations to commence on 1 November 2018.

Section 3 - Authority

This section would provide that the Regulations are made under the *Lands Acquisition Act 1989*.

Section 4 - Schedule(s)

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 - Amendments

Item [1] – section 8

This item amends section 8 of the Principal Regulations to insert a reference to ‘Commonwealth government 5-year bonds’ to identify the relevant bond rate from those in the table *Capital Market Yields-Government Bonds-Monthly-F2.1*.

Item [2] - section 8 (note)

This item amends the note to update the year reference to reflect the correct version of the table.

Item [3] – section 9

This item amends section 9 of the Principal Regulations to insert a reference to ‘Commonwealth government 5-year bonds’ to identify the relevant bond rate from those in the table *Capital Market Yields-Government Bonds-Monthly-F2.1*.

Item [4] - section 9 (note)

This item amends the note to update the year reference to reflect the correct version of the table.

Consultation

The Office of Best Practice Regulation (OBPR) was also consulted (OBPR reference:24312) on the Amendment Regulations. The OBPR considered that any amendments to clarify the interest rate would be minor in nature and that no Regulatory Impact Statement (RIS) was required. The Australian Government Solicitor was also consulted in confirming the applicable Reserve Bank of Australia rate to apply in the Regulations.

The Amendment Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Regulations are compatible with human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Lands Acquisition Amendment Regulations 2018

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Lands Acquisition Amendment Regulations 2018* is to amend the *Lands Acquisition Regulations 2017* to clarify the correct rate of interest for the purposes of calculating the interest rate referable to the compensation payable under the *Lands Acquisition Act 1989*.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Senator the Honourable Zed Seselja
Assistant Minister for Treasury and Finance