

(Reprint No. 1)

SOUTH AUSTRALIA

LAND ACQUISITION ACT, 1969

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 October 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS
PART I**PRELIMINARY**

Section

1. Short title
2. Commencement
3. Repeal
4. Arrangement
5. Transitional provisions
6. Interpretation
7. Application
8. Real Property Act does not derogate from application of Act
9. Act does not apply to resumption of land

PART II**PROPOSAL TO ACQUIRE LAND**

10. Proposal to acquire land
11. Explanation of acquisition scheme may be required
12. Right to object
13. Notice of fact that land is subject to acquisition must be given
14. Notice where land is under the Real Property Act

PART III**ACQUISITION OF LAND**

15. Acquisition by agreement, etc.
16. Notice of acquisition
17. Modifications to instruments of title

PART IV**COMPENSATION FOR ACQUISITION**

18. Claims to compensation
19. Authority must offer compensation
20. Payment into Court
21. Notice of acquiescence or claim
22. Notice of claim and disputed claims
23. Reference to Court
24. Entry into possession
25. Principles of compensation
26. Application of compensation

PART IVA**RE-HOUSING COMMITTEE**

- 26a. Establishment of Committee
- 26b. Conditions on which members hold office
- 26c. Remuneration, etc.
- 26d. Procedure at meetings
- 26e. Saving provision
- 26f. Officers and employees
- 26g. Application to Committee

PART V**POWERS OF ENTRY AND TEMPORARY OCCUPATION**

27. Powers of entry
28. Temporary occupation
29. Compensation for entry or temporary occupation

PART VI**MISCELLANEOUS**

30. Powers of inspection
31. Service
32. Persons of limited juristic capacity
33. Interest
34. Compensation may consist in execution of works
35. Authority may dispose of surplus land
36. Costs
37. Summary of procedure
38. Regulations

LAND ACQUISITION ACT, 1969

being

Land Acquisition Act, 1969, No. 93 of 1969 [Assented to 11 December 1969]¹

as amended by

Land Acquisition Act Amendment Act, 1972, No. 126 of 1972 [Assented to 30 November 1972]²
Land Acquisition Act Amendment Act, 1990, No. 71 of 1990 [Assented to 20 December 1990]³

An Act to provide for the acquisition of land for works and undertakings of a public nature, and for purposes incidental to, and consequential upon, such acquisition; to repeal the Compulsory Acquisition of Land Act, 1925-1966; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Land Acquisition Act, 1969*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Repeal

3. The following Acts are repealed:—
the *Compulsory Acquisition of Land Act, 1925*;
the *Compulsory Acquisition of Land Act Amendment Act, 1959*;
the *Compulsory Acquisition of Land Act Amendment Act, 1966*.

Arrangement

4. This Act is arranged as follows:—
PART I—PRELIMINARY, ss. 1-9.
PART II—PROPOSAL TO ACQUIRE LAND, ss. 10-14.
PART III—ACQUISITION OF LAND, ss. 15-17.
PART IV—COMPENSATION FOR ACQUISITION, ss. 18-26.

¹Came into operation 28 May 1970: *Gaz.* 28 May 1970, p. 1954.

²Came into operation 8 February 1973: *Gaz.* 8 February 1973, p. 439.

³Came into operation 1 July 1991: *Gaz.* 20 June 1991, p. 1918.

PART IVA—RE-HOUSING COMMITTEE, ss. 26a-26g.

PART V—POWERS OF ENTRY AND TEMPORARY OCCUPATION, ss. 27-29.

PART VI—MISCELLANEOUS, ss. 30-38.

Transitional provisions

5. (1) Notwithstanding the repeal of the *Compulsory Acquisition of Land Act, 1925-1966*, any land in respect of which a notice to treat had been given under that Act before the commencement of this Act and which was, immediately before the commencement of this Act, liable to be acquired under that Act, or that Act and any other Act, may be acquired subject to, and in accordance with, the provisions of that Act or those Acts, and those provisions shall apply to, and in relation to, the acquisition of the land in all respects as if this Act had not been enacted.

(2) Subject to this section, the operation of section 16 of the *Acts Interpretation Act, 1915-1957*, in relation to the *Compulsory Acquisition of Land Act, 1925-1966*, and this Act is unaffected.

(3) A reference in any other Act, or regulations under any such Act, or in any contract, agreement, instrument or document to the *Compulsory Acquisition of Land Act, 1925-1966*, or any provision of that Act, shall, unless the context requires a different construction, be read and construed as a reference to this Act, or the corresponding provision (if any) of this Act.

Interpretation

6. In this Act, unless the contrary intention appears—

“authorized undertaking” means the undertaking whose execution is authorized by the special Act:

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

“compensation” means compensation to which a person is entitled under this Act, and includes the purchase price of land purchased by agreement:

“interest”, in relation to land, means—

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

or

(b) any easement, right, power, or privilege in, under, over, affecting, or in connection with, land:

“interested” in relation to land, means having an interest in the land:

“land” includes an interest in land:

“subject land” means land acquired or subject to acquisition under this Act:

“the Authority” means the person authorized by the special Act to execute the authorized undertaking:

“the Court” means the Land and Valuation Court constituted under the *Supreme Court Act, 1935-1969*:

“the Registrar” means the Registrar-General, holding office under the *Real Property Act, 1886-1969*, or the Registrar-General of Deeds, holding office under the *Registration of Deeds Act, 1935-1962*, as the context requires:

“the special Act” means the Act authorizing the execution of the undertaking and the acquisition of land for the purposes of the undertaking:

“undertaking” means any works or undertaking.

Application

7. (1) This Act applies to and in relation to every authorized undertaking that involves the acquisition of land.

(2) This Act is (except to the extent to which any Act may declare that a provision of this Act is inapplicable to the acquisition of land under that Act) hereby incorporated with every Act by which any such undertaking is authorized, and shall be read with any such Act as one Act.

Real Property Act does not derogate from application of Act

8. The provisions of this Act apply notwithstanding the provisions of the *Real Property Act, 1886-1969*.

Act does not apply to resumption of land

9. This Act does not apply to, or in relation to, the resumption of land pursuant to any provision of the *Crown Lands Act, 1929-1968*, or the *Pastoral Act, 1936-1968*.

PART II

PROPOSAL TO ACQUIRE LAND

Proposal to acquire land

10. (1) Where the Authority proposes to acquire land for the purposes of an authorized undertaking, it shall serve upon each person who has an interest in the land, or such of those persons as, after diligent inquiry, become known to the Authority, a notice, in the prescribed form, of intention to acquire the land.

(2) The Authority shall not acquire any land for the purposes of the undertaking (by agreement or otherwise) unless the requirements of subsection (1) of this section have been satisfied.

(3) The notice of intention to acquire the land must define the subject land with reasonable particularity.

(4) The notice of intention to acquire the subject land shall not bind the Authority to acquire the land defined therein, but where the Authority makes any alteration or modification as to the boundaries or extent of the subject land, it shall forthwith serve upon the persons interested in the land, referred to in subsection (1) of this section, a notice of the alteration or modification.

Explanation of acquisition scheme may be required

11. (1) A person who has an interest in the subject land may, within thirty days after service of a notice of intention to acquire the land, by notice in writing served upon the Authority, require it to furnish him with an explanation of the reasons for the proposed acquisition of the subject land and with such details of any scheme in accordance with which the acquisition is to be made as he may reasonably request in the notice, and the Authority shall comply with any such requirement.

(2) The Authority may furnish the explanation and details by written reply served upon the person by whom the requirement was made, or by making available for his inspection any models, plans, specifications or other documents relating to any scheme in pursuance of which the land is to be acquired.

Right to object

12. (1) A person who has an interest in the subject land may within thirty days after service of a notice of intention to acquire the land or within thirty days after information and details are furnished under section 11 of this Act (whichever is the later) by notice in writing served upon the Authority—

(a) request the Authority not to proceed with the acquisition of the subject land;

(b) request any alteration in the boundaries of the subject land;

or

(c) request that any part of the subject land be not acquired, or that further land be acquired.

(2) Without limiting the effect of subsection (1) of this section, a request may be made under that subsection upon the ground that the acquisition of the land and the execution of the undertaking thereon would—

(a) seriously impair an area of scenic beauty;

(b) destroy or adversely affect a site of architectural, historical or scientific interest;

(c) create conditions seriously inimical to the conservation of flora or fauna that should, in the public interest, be conserved;

or

(d) adversely prejudice any other public interest.

(3) The Authority shall consider any request made to it under this section, and shall, within fourteen days after receipt of the request, serve notice in writing upon the person by whom the request was made, indicating whether it accedes to, or refuses, the request.

Notice of fact that land is subject to acquisition must be given

13. (1) This section applies only in respect of land that has not been brought under the provisions of the *Real Property Act, 1886-1969*.

(2) Where a notice of intention to acquire land has been served upon any person, that person shall not enter into any transaction in respect of the subject land without first disclosing the fact that the notice of intention to acquire the land has been served upon him.

(3) If any contract or agreement in relation to the land is entered into without disclosure as required by subsection (2) of this section, the contract or agreement shall be voidable at the option of the person to whom disclosure should have been made.

(4) The Authority may lodge a copy of a notice of intention to acquire land at the General Registry Office and may, by instrument in writing served upon any person, require him to deliver up to the Registrar any instrument evidencing his interest in the subject land.

(5) If a person upon whom a notice has been served under subsection (4) of this section, fails, without reasonable excuse, to deliver up within the time specified in the notice, any instrument that he is required by the notice to deliver up to the Registrar, he shall be guilty of an offence and liable to a penalty, not exceeding one hundred dollars, and whether or not he is convicted of an offence under this subsection, he shall not be entitled to receive any compensation until the instrument has been delivered up to the Registrar.

Notice where land is under the Real Property Act

14. (1) This section applies only in respect of land that has been brought under the provisions of the *Real Property Act, 1886-1969*.

(2) The Authority shall cause a copy of each notice of intention to acquire land to be served upon the Registrar who shall thereupon enter a caveat upon the title to the subject land forbidding all dealings with the land without the consent in writing of the Authority.

(3) The Authority shall, where it has determined not to proceed with the acquisition of land, or is presumed so to have determined under the provisions of this Act, forthwith make written application to the Registrar for withdrawal of a caveat entered pursuant to this section and the Registrar shall withdraw the caveat accordingly.

PART III
ACQUISITION OF LAND

Acquisition by agreement, etc.

15. (1) The Authority may, at any time after the service of a notice of intention to acquire land, and before the publication of a notice of acquisition in respect of the land, acquire the subject land by agreement.

(2) Notwithstanding the fact that a notice of intention to acquire land has been served upon any person, the Authority may decline to proceed with the acquisition of the subject land.

(3) Where the Authority determines not to proceed with the acquisition of any land, it shall forthwith serve a notice of that fact upon all persons on whom a notice of intention to acquire the land has been served.

(4) If the Authority does not acquire land in respect of which a notice of intention to acquire has been served within twelve months after the service of that notice, or within such extended period as the Authority and the interested parties may agree or the Court may allow, it shall be presumed to have determined, upon the expiration of that period, not to proceed with the acquisition of the land and the land shall not be acquired by the Authority without service of a further notice of intention to acquire in accordance with this Act.

(5) If the Authority determines not to proceed with the acquisition of land, or is presumed so to have determined, a person interested in the land may, within three months after service of notice of that determination, or after the day on which the Authority is presumed so to have determined, by notice in writing served upon the Authority, claim compensation.

(6) If, after the expiration of three months from the day on which a notice was served under subsection (5) of this section, the Authority and the claimant are not agreed on the amount of compensation that should be paid, either the Authority or the claimant may refer the matter to the Court for determination.

(7) The Court shall, upon reference of any such matter, determine the amount of compensation that should be paid by the Authority to the claimant in respect of—

(a) any disturbance of or injurious affection to the land in consequence of the proposed acquisition of the land;

and

(b) any reasonable expenses or other loss incurred, or suffered, by the claimant in respect of the proposed acquisition of the land.

Notice of acquisition

16. (1) After the expiration of three months, but before the expiration of twelve months, from the day on which a notice of intention to acquire land is last served upon a person interested in the land under section 10 of this Act, the Authority may cause a notice of acquisition to be published in the *Gazette*.

(2) Upon publication of the notice under subsection (1) of this section—

(a) the land shall vest in the Authority, to the extent of the interest specified in the notice, and shall be freed and discharged of all interests, trusts, restrictions, dedications, reservations, obligations, mortgages, encumbrances, contracts, licences, charges and rates of any kind whatsoever;

and

(b) the interest of any other person shall be divested or so far modified as is required in view of the acquisition of the land.

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

(4) A notice of acquisition must define the subject land as accurately as is reasonably practicable.

(5) A copy of the notice of acquisition must be served upon all persons on whom a notice of intention to acquire the land has been served and shall, in addition be published in a newspaper circulating generally throughout the State.

Modifications to instruments of title

17. The Authority shall forthwith after publication of a notice of acquisition cause a copy of the notice to be served on the Registrar and the Registrar shall withdraw any caveat entered pursuant to this Act and cause such alterations to, or endorsements upon, any instrument of title to the land in his possession or power (whether or not the land has been brought under the provisions of the *Real Property Act, 1886-1969*) to be made as may be required in consequence of the acquisition of the land.

PART IV

COMPENSATION FOR ACQUISITION

Claims to compensation

18. Subject to this Act, every person who, immediately before the publication of a notice of acquisition, had an interest in the subject land that is divested or diminished by the acquisition of the land, or the enjoyment of which is adversely affected by the acquisition of the land, shall have a claim for compensation in respect of the acquisition of the land.

Authority must offer compensation

19. (1) The Authority must append to a copy of a notice of acquisition served upon a claimant an offer in writing that—

(a) must state the total amount of compensation that the Authority proposes to pay in respect of the value of the subject land;

and

(b) may state amounts of compensation for any other matters in respect of which compensation is payable.

(2) To the extent that an amount of compensation, or any separable component of that amount, is not disputed, a statement under subsection (1) of this section shall be binding upon the Authority.

Payment into Court

20. (1) The Authority shall within seven days after the publication of a notice of acquisition pay the total amount of compensation stated in the offer relating to that notice into Court.

(2) Until the moneys paid into Court under this section are applied in accordance with the order of the Court, those moneys must be invested by the proper officer of the Court in an authorized trustee investment on which interest is payable, compounding at least monthly and any interest or accretions accruing thereupon shall be paid to the person who would, but for the acquisition of the land, have been entitled to the rents and profits of the land, or to such other person as may be specified by order of the Court.

Notice of acquiescence or claim

21. (1) Before the expiration of sixty days after the day on which the notice of acquisition is published a claimant must—

(a) serve a notice on the Authority stating that he acquiesces in the amount of compensation offered in respect of the acquisition;

or

(b) serve a notice of claim upon the Authority.

(2) The period referred to in subsection (1) of this section may be extended by agreement between the Authority and the claimant, or by order of the Court.

(3) If a person fails to serve upon the Authority a notice as required by this section, he shall be deemed to have acquiesced in the amount of compensation offered in respect of the acquisition.

Notice of claim and disputed claims

22. (1) A notice of claim served upon the Authority under this Part must state the amount of any further compensation to which the claimant claims to be entitled pursuant to this Act, and the grounds upon which he makes that claim.

(2) The Authority must before the expiration of sixty days after the day on which a notice of claim is served upon it, by instrument in writing served upon the claimant, reply to the notice of claim.

(3) The Authority may by means of that instrument—

(a) admit the claim;

(b) offer to increase or otherwise vary the compensation previously proposed in relation to the subject land;

or

(c) dispute the claim.

(4) If the Authority, by instrument under subsection (3) of this section, admits the claim it shall become liable to satisfy the claim in full.

(5) If the Authority, by instrument under subsection (3) of this section, offers to increase or otherwise vary the amount of compensation proposed in relation to the subject land, the claimant must reply to the Authority by instrument in writing served upon the Authority within sixty days after the day on which the instrument in which the offer was made was served upon him, and if he acquiesces in the offer or fails so to reply the amount of the compensation shall be limited to the amount so offered, but if he does so reply and does not acquiesce in the amount so offered, the claim shall become a disputed claim for the purposes of this Act.

(6) If the Authority, by instrument under subsection (3) of this section, disputes a claim, the claim shall become a disputed claim for the purposes of this Act.

Reference to court

23. (1) A disputed claim may be referred by the Authority or the claimant to the Court by filing true copies of the notice of acquisition, notice of claim, and the reply.

(2) The Authority and the claimant shall be entitled to appear and be heard before the Court on any proceedings relating to the claim.

(3) Upon the hearing of a disputed claim, the Court shall determine what amount should adequately compensate in accordance with this Act all persons interested in the subject land and shall make such orders as it thinks just in the circumstances.

Entry into possession

24. (1) Where an interest in possession in land is vested in the Authority pursuant to this Act, the Authority must diligently endeavour to obtain agreement as to the terms on which it will enter into possession of the subject land.

(2) If at the expiration of three months after the publication in the *Gazette* of the notice of acquisition, the Authority has failed to obtain agreement upon entry into possession of the subject land, it may apply to the Court for—

(a) an order that any person be ejected from the subject land;

and

(b) such further orders as may be just in the circumstances,

and the Court may make any such order.

(3) The period of three months referred to in subsection (2) of this section may be extended by agreement of the parties, or by order of the Court.

(4) The Court may, on the application of the Authority, order that any person in possession of land after the expiration of three months from the day on which a notice of acquisition in relation to the land was published in the *Gazette*, shall pay rent to the Court at a rate fixed by the Court.

(5) A person who remains in possession of land acquired under this Act after the expiration of three months from the day on which a notice of acquisition in relation to the land was published in the *Gazette* shall be deemed to be in possession in pursuance of a tenancy determinable at will by the Authority and subject to such terms and conditions as may be prescribed.

Principles of compensation

25. The compensation payable under this Act in respect of the acquisition of land shall be determined according to the following principles:—

- (a) the compensation payable to a claimant shall be such as adequately to compensate him for any loss that he has suffered by reason of the acquisition of the land;
- (b) in assessing the amount referred to in paragraph (a) of this section consideration may be given to—
 - (i) the actual value of the subject land;
 - and
 - (ii) the loss occasioned by reason of severance, disturbance or injurious affection;
- (c) compensation shall be fixed as at the date of acquisition of the land;
- (d) where the claimant's interest in the subject land was liable to expire or be determined, any reasonable prospect of renewal or continuation of the interest must be taken into account;
- (e) any special suitability or adaptability of the land for any purpose shall not be taken into account if it could be applied to that purpose in pursuance only of statute, or if the suitability or adaptability is peculiar to the purposes or requirements of a particular person or of any Governmental or local governing authority but any *bona fide* offer to acquire the land made before the passing of the special Act shall be taken into account;
- (f) where the value of the land is enhanced by reason of its use, or the use of any premises on the land, in a manner that may be restrained by any court, or is contrary to law, or is detrimental to the health of any persons, the amount of that enhancement shall not be taken into account;
- (g) no allowance shall be made on account of the fact that the acquisition is effected without the consent, or against the will, of any person;
- (h) no allowance shall be made for any enhancement or diminution in the value of the land in consequence of—
 - (a) the passing of the special Act;
 - (b) the acquisition under this Act of any other land;or

- (c) any proposal to execute the authorized undertaking, or any expectation that it will be executed;
- (i) where the land is, and but for acquisition would continue to be, devoted to a particular purpose, and there is no general demand or market for land devoted to that purpose, the compensation may, if reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement;
- (j) allowance shall be made in favour of the Authority for any enhancement in value of land adjoining the subject land in which the claimant is interested by reason of the execution of the authorized undertaking, but in no case shall the claimant be liable to make any payment to the Authority in respect of such enhancement in value;
- and
- (k) where a notice of intention to acquire land has been served upon a person interested in the land, any sales, transactions, arrangements, licences or approvals effected or obtained with respect to the land, and any improvements to the land effected, after service of the notice, shall not be taken into account unless it is proved that they were effected or obtained *bona fide*.

Application of compensation

26. The Court may by order direct that any moneys paid into Court, or compensation ordered, under this Act be applied—

- (a) in the purchase, redemption or discharge of any tax, debt, mortgage or encumbrance affecting the subject land;
- (b) in the purchase of other land or securities to be conveyed or settled upon or towards the same uses, trusts or purposes as the subject land;
- (c) in removing or replacing any buildings or substituting others in their stead, in such manner as the Court may direct;
- (d) in payment to any persons absolutely entitled to the moneys, or in the case of incapacity or disability to their trustees or guardians;
- or
- (e) in such other manner as the Court thinks fit.

PART IVA

RE-HOUSING COMMITTEE

Establishment of Committee

26a. (1) There shall be for the purposes of this Act a Committee entitled the "Re-Housing Committee".

(2) The Committee shall consist of five members appointed by the Governor of whom—

(a) one, who shall be chairman, shall be a person nominated by the Minister of Community Welfare;

(b) one shall be a person nominated by the Treasurer;

(c) one shall be a person nominated by the Minister of Roads and Transport;

(d) one shall be a person nominated by the Minister of Lands;

and

(e) one shall be a person who has, in the opinion of the Governor, extensive knowledge of, and experience in matters of housing.

Conditions on which members hold office

26b. (1) Subject to this Act, a member of the Committee shall hold office for a term, not exceeding five years, fixed in the instrument of his appointment, and shall at the expiration of that term be eligible for re-appointment.

(2) The office of a member of the Committee shall be vacated if—

(a) the member dies or resigns, or his term of office expires;

(b) the person or body by whom he was nominated revokes the nomination;

or

(c) he is removed from office by the Governor.

(3) The Governor may remove a member of the Committee from office for any reason that he considers sufficient.

(4) The Governor may, subject to this Part, make such appointments as may be necessary to fill any vacancy occurring in the membership of the Committee.

Remuneration, etc.

26c. The members of the Committee shall be entitled to receive such remuneration, allowances and expenses as may be determined by the Governor.

Procedure at meetings

26d. (1) The chairman shall preside at any meeting of the Committee at which he is present.

(2) If the chairman is not present for any reason at a meeting of the Committee, the members present may elect one of their number to be chairman at that meeting.

(3) At any meeting of the Committee, three members shall constitute a quorum.

(4) Any decision of the Committee must be supported by the votes of at least three members of the Committee.

(5) In the event of an equality of votes upon any matter, consideration of the matter shall be deferred until the next meeting of the Committee.

Saving provision

26e. (1) No act or proceeding of the Committee shall be invalid or illegal by reason only of a vacancy in the office of a member of the Committee.

(2) Every act or proceeding of the Committee shall, notwithstanding any defect in the appointment of a member or purported member of the Committee, be as valid and effectual as if that member, or purported member, had been validly and effectually appointed.

Officers and employees

26f. (1) The Governor may, subject to, and in accordance with, the *Public Service Act, 1967*, as amended, appoint a secretary to the Committee, and such other officers and servants as the Governor thinks fit.

(2) The Committee may make use of the services—

(a) of any officer of a department of the Public Service of the State with the consent of the Minister administering that department;

or

(b) of any officer or employee of the South Australian Housing Trust with the consent of the Trust.

Application to Committee

26g. (1) Where land constituting or including a dwellinghouse has been or is to be acquired by the Authority for the purposes of an authorized undertaking, the provisions of this section shall apply in respect of the acquisition of that land.

(2) A person to whom that dwellinghouse was, at the time of the service of the notice of intention to acquire the land, his usual place of residence shall be entitled to make application to the Committee at any time before or within three months after the date of the acquisition for assistance under this section.

(3) An application under this section must be made in writing and in a form determined by the Committee and must set out in detail—

(a) the grounds upon which assistance is sought from the Committee;

and

(b) the nature and extent of the assistance that the applicant seeks from the Committee.

(4) The Committee may, after consideration of an application under this section and after making such inquiries and obtaining such reports as it considers necessary—

(a) make arrangements with any department or instrumentality of the Government of the State, or with any other person or body of persons, by means of which the applicant will be re-housed in a satisfactory social environment or any other social problems arising from the acquisition will be overcome or ameliorated;

or

(b) recommend to the Authority that a grant of moneys, or other financial assistance, be given to the applicant for the purpose of enabling him to obtain accommodation in a satisfactory social environment or for the purpose of overcoming or ameliorating any other social problems arising from the acquisition.

(5) An arrangement requiring the expenditure of moneys or a recommendation for a grant of moneys, or other financial assistance shall not be made under subsection (4) of this section unless the proposed arrangement or recommendation has been submitted to, and approved by, the Treasurer.

(6) The Committee may rescind any arrangement or recommendation under this section if the Authority does not proceed with the acquisition in respect of which assistance was sought under this section.

(7) The Authority shall be liable for the payment of any amount required to implement, or give effect to, an arrangement or recommendation approved under subsection (5) of this section.

PART V

POWERS OF ENTRY AND TEMPORARY OCCUPATION

Powers of entry

27. (1) For the purposes of this Act, or the special Act, the Authority or any person authorized in writing by the Authority, may—

(a) enter and remain upon any land with any assistants, vehicles, machinery or equipment;

(b) affix or establish any trigonometrical stations, survey pegs, marks or poles and from time to time alter, remove, re-instate, or remove them;

and

(c) dig or bore into the land.

(2) The Authority must serve upon the occupier of the land, or where there is no occupier, upon the owner of the land, a notice of intention to enter the land at least seven days before the land is entered pursuant to subsection (1) of this section.

(3) A person who—

(a) wilfully and without authorization from the Authority, interferes with any trigonometrical stations, survey pegs, marks or poles;

or

(b) wilfully obstructs any person acting in accordance with this section,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Temporary occupation

28. (1) The Authority may temporarily occupy and use any land to which this section applies for the purpose of an authorized undertaking and may—

(a) take therefrom any stone, gravel, earth or other material;

(b) deposit any material on the land;

(c) make cuttings or excavations on the land;

(d) make and use roads on the land;

(e) manufacture on the land any materials required for the purpose of the undertaking;

or

(f) erect workshops, sheds and buildings of a temporary character on the land.

(2) The Authority shall at least seven days before it enters its temporary occupation of land pursuant to subsection (1) of this section, serve upon the occupier of the land, or if there is no occupier, upon the owner of the land, notice of its intention to enter into temporary occupation of the land.

(3) A person interested in the land may apply to the Court for an order that the Authority acquire his interest in the land.

(4) The Court, if it is satisfied that it is just to do so may order the Authority to acquire the interest upon such terms and conditions as may be determined by the Court, and may make such incidental or consequential orders as the Court thinks fit.

- (5) The land to which this section applies is land that is—
- (a) within five hundred yards of the boundaries of land acquired under this Act;
 - (b) is not a garden, orchard or plantation attached or belonging to a house, or a park, planted walk, avenue or ground ornamentally planted;
- and
- (c) is not within five hundred yards of a dwellinghouse on that land.

Compensation for entry or temporary occupation

29. (1) A person interested in land that is entered or temporarily occupied pursuant to this Part may, at any time before the expiration of three months from the day on which the Authority, or any person authorized by the Authority, was last in occupation of, or upon, the land, by notice in writing served upon the Authority, claim compensation.

(2) If after the expiration of three months from the day on which a notice was served under subsection (1) of this section, the Authority and the claimant are not agreed upon the amount of compensation that should be paid, either the Authority or the claimant may refer the matter to the Court for determination.

(3) The Court shall, upon the reference of any such matter, determine the amount of compensation that should be paid by the Authority, and order the payment of that amount to the claimant.

PART VI
MISCELLANEOUS

Powers of inspection

30. (1) The Authority may, by notice in writing served upon any person, require him to deliver up for the inspection of the Authority, any specified document in his possession or power evidencing the interest of any person in land required for the purposes of an authorized undertaking or any other specified record, account, or document in his possession or power relating to any such land.

(2) A person who fails to comply with a notice served under subsection (1) of this section within the time specified in the notice shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Service

31. (1) Any notice or other document that the Authority is required to serve upon any person under this Act may be served upon that person personally or by post.

(2) If the whereabouts of a person upon whom the Authority is required to serve the notice or document is not known to the Authority, the notice or document may be served—

(a) by publication of a copy thereof in a newspaper circulating generally throughout the State;

or

(b) by affixing it in a prominent place on the land to which it relates.

(3) A notice or other document may be served upon the Authority by sending it by post to the Authority at its office, or to the office of such person as the Authority may authorize to receive the notice or document on its behalf.

Persons of limited juristic capacity

32. (1) Where the juristic capacity of a claimant (not being a body corporate) is limited in any way, any amount of compensation payable in respect of land in which he was interested must be approved by the Court.

(2) If an amount of compensation is not approved as required by subsection (1) of this section, an application may, notwithstanding any other provision of this Act, be made at any time to the Court by or on behalf of the claimant, and the Court may order the Authority to pay further compensation to the claimant.

Interest

33. Where the Authority agrees with a claimant or is ordered to pay a greater amount of compensation than the amount paid into Court in respect of the acquisition of any land, the Authority must also pay the additional sum that would have accrued (whether as interest or otherwise) had the amount agreed or ordered been paid into Court instead.

Compensation may consist in execution of works

34. (1) The Authority may offer, as part of the compensation proposed in respect of the acquisition, entry or occupation of land, to execute on, or for the benefit of, that land or any other land of the claimant, any works that may, in consequence of the acquisition, entry or occupation, be appropriate to protect, re-instate or improve the land.

(2) Where a disputed claim has been referred to the Court, the Court may order, as part of the compensation determined by the Court, the execution of any such works by the Authority and may make such incidental or consequential orders as it thinks just, and shall, in assessing an amount of compensation take into account any such works that have been executed or the Authority has agreed to execute.

Authority may dispose of surplus land

35. The Authority may sell, lease, or otherwise deal with or dispose of any land acquired pursuant to this Act that it does not require for the purposes of an authorized undertaking.

Costs

36. In any proceedings under this Act the Court may award such costs as it thinks proper, but, in making an order for costs, shall, where it is, in the opinion of the Court, appropriate to do so, take into consideration—

(a) the amount of compensation awarded by the Court as compared with the amount (if any) offered by the Authority;

and

(b) the extent to which, in the opinion of the Court, the proceedings have arisen from, or been affected by—

(i) unreasonable conduct on the part of the claimant or the Authority;

or

(ii) an excessive claim by the claimant or unduly depressed offer by the Authority.

Summary of procedure

37. Proceedings for offences against this Act shall be disposed of summarily.

Regulations

38. The Governor may make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act, and, without limiting the generality of the foregoing, those regulations may—

(a) prescribe the form of any notice or document for the purposes of this Act;

(b) prescribe any rate of interest or rate of rental for the purposes of this Act;

(c) prescribe the terms and conditions of any tenancy at will under section 24 of this Act;

and

(d) provide for a penalty, not exceeding one hundred dollars, recoverable summarily, for breach of, or non-compliance with, any regulation.

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 5 of The Public General Acts of South Australia 1837-1975 at page 462.

Section 20(2): amended by 71, 1990, s. 3
Section 33: substituted by 71, 1990, s. 4