

South Australia

Land Acquisition Regulations 2019

under the *Land Acquisition Act 1969*

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Schedule 1—Forms

Legislative history

1—Short title

These regulations may be cited as the *Land Acquisition Regulations 2019*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Land Acquisition Act 1969*.

4—Forms

- (1) The forms set out in Schedule 1 must—
 - (a) be used for the purposes specified in Schedule 1; and
 - (b) be completed in accordance with the instructions contained in the forms.
- (2) The name of a person signing a form set out in Schedule 1 must be written legibly under or alongside the signature of that person.
- (3) Where the space provided in a form is insufficient to contain all the required information—
 - (a) the information must be set out in an annexure to the form; and

- (b) the annexure must have an identifying mark such as a letter or numeral; and
 - (c) the space in the form must contain the statement "See Annexure" together with the distinguishing mark for the annexure, or words to similar effect.
- (4) A person preparing a notice or offer under these regulations may annex to the notice or offer a map or plan of any land referred to in the notice or offer.
- (5) A map or plan annexed to a notice or offer in accordance with subregulation (4) has the effect of being part of the notice or offer.

5—Execution of documents by Authority

Despite the method of execution prescribed by the forms contained in Schedule 1, it is to be taken to be a sufficient compliance with these regulations if a notice or offer, in any of those forms, is executed by an Authority under its common seal or in any other manner permitted by law.

6—Notice of intention to acquire land

For the purposes of section 10(2)(b)(ii)(B) of the Act, the following supporting materials must be exhibited:

- (a) in the case of service by publication in a newspaper or relevant special-interest publication in accordance with the *Native Title (South Australia) Act 1994*—a copy of an extract from the publication containing the notice and identifying the name of the publication and the date of publication;
- (b) in the case of service by giving a copy of the notice personally or by post or by some other agreed method in accordance with the *Native Title (South Australia) Act 1994*—a copy of the notice so served.

7—Explanation of acquisition scheme may be required

For the purposes of section 11(2)(b)(iii)(B) and 12(2)(b)(iii)(B) of the Act, an Aboriginal group must authorise the representative Aboriginal body to act on its behalf as follows:

- (a) the authorisation must be in writing;
- (b) the authorisation must—
 - (i) name the persons comprising the Aboriginal group claiming native title or otherwise define the Aboriginal group sufficiently clearly so that it can be ascertained whether any particular person is a member of the group; and
 - (ii) state that the Aboriginal group does not have, and is not part of another Aboriginal group that has, a registered representative; and
 - (iii) define the land to which the claim relates with sufficient particularity to enable the boundaries of the area covered by the claim and any areas within those boundaries that are not covered by the claim to be readily identified; and
 - (iv) state the nature of the rights conferred by the native title claimed and the nature of activities that may be carried out pursuant to those rights; and

- (v) state the factual basis on which it is asserted that the Aboriginal group holds the native title claimed;
- (c) the authorisation must expressly authorise the representative Aboriginal body to act under section 11 and 12 of the Act on behalf of the group in relation to a specified notice of intention to acquire land to which the native title claim relates;
- (d) the authorisation must be signed by a member of the group authorised to sign on behalf of the group following either—
 - (i) a process of decision making recognised by the traditional laws or customs of the Aboriginal group; or
 - (ii) a process of decision making agreed to and adopted by the Aboriginal group in relation to the decision or in relation to decisions of that kind.

8—Terms of tenancy

- (1) For the purposes of section 24(7)(b) of the Act, the terms and conditions determined by the Authority must, subject to any order of the Court to the contrary, include terms and conditions that—
 - (a) prevent improvements affixed to the land or attached to any part of the premises, or any fixtures and fittings, from being removed without the permission of the Authority; and
 - (b) require the premises to be used in the same manner as the existing use of the premises as at the date of acquisition (but only where that use was a lawful use); and
 - (c) require the occupier of the land to maintain (at least) the following insurance:
 - (i) building insurance;
 - (ii) plate glass insurance (commercial tenants);
 - (iii) public liability insurance; and
 - (d) exclude any warranty of fitness for purpose in relation to the premises; and
 - (e) provide that statutory rates and taxes are the responsibility of the Authority after the date of possession; and
 - (f) allow the Authority to review the rent payable no more than once every 12 months; and
 - (g) require the tenant, at the tenant's cost, to keep all fixtures and structures on the land in good state and repair; and
 - (h) allow the Authority to enter the land to carry out any works the Authority reasonably believes are necessary (including a requirement that the Authority must use reasonable endeavours to minimise any disruption to the tenant); and
 - (i) allow the Authority to give notice (being not less than 1 month) of determination of the tenancy and requiring the tenant at the expiration of the period of notice to surrender the land to the Authority; and

- (j) provide that maintenance and repairs, should they be required, are the responsibility of the Authority; and
 - (k) prevent the tenant from assigning, underletting, or charging or parting with the possession of the land or any part of the land; and
 - (l) without limiting paragraph (b), require the tenant not to do, or to permit or suffer to be done, on the land anything that may be or become a nuisance or annoyance to the Authority or to the occupiers of any neighbouring property.
- (2) Nothing in this regulation limits any other terms and conditions that may be determined by the Authority under section 24(6) of the Act.
- (3) Nothing in this regulation prevents the Authority from waiving, conditionally or unconditionally, a requirement under a term or condition referred to in this regulation.

9—Offence of making false statement

A person who, in a notice in writing served on an Authority pursuant to section 12 of the Act, knowingly makes a statement that is false in a material particular, is guilty of an offence.

Maximum penalty: \$100.

10—Valuers conference

Pursuant to section 23(10) of the Act, the following provisions apply in relation to a valuers conference convened, or to be convened, under that section:

- (a) no later than 2 weeks prior to the conference, each valuer must provide the other or others a copy of any valuation of the subject land made by the valuer;
- (b) the valuers must, in accordance with any requirements determined by the Authority (including requirements as to manner and form), prepare and provide to the Authority and the claimant a joint valuers statement in respect of the subject land;
- (c) a joint valuers statement must include a summary of matters of fact and opinion on which the valuers agree and those on which they disagree, and the reasons for any disagreement;
- (d) a joint valuers statement is, unless otherwise ordered by the Court, admissible in proceedings between the Authority and the claimant.

11—Settlement conference

- (1) The Authority must cover the costs of convening a settlement conference under section 23BA of the Act, including the costs of engaging the conference coordinator.
- (2) For the purposes of section 23BA(2)(b) of the Act, a conference coordinator must be qualified as a legal practitioner and be of at least 7 years standing (taking into account, for that purpose, periods of legal practice and judicial service within and outside the State).

- (3) For the purposes of section 23BA(4) of the Act, the reasonable costs of the claimant will be taken to be the professional costs reasonably incurred by the claimant in preparing for, or in the course of, a settlement conference, not exceeding—
- (a) in the case of legal costs—the applicable scale of costs (if any) of a court or tribunal of this State; and
 - (b) in the case of costs relating to the services of a valuer, or other professional costs—the generally accepted industry rate (if any) applicable to such services.

12—Prescribed amount (section 26A of Act)

For the purposes of section 26A(1) of the Act, the amount of \$10 000 is prescribed.

13—Prescribed amount (section 26B of Act)

For the purposes of section 26B(1) of the Act, the amount of \$10 000 is prescribed.

14—Prescribed amount (section 26C of Act)

For the purposes of section 26C(1) of the Act, the amount of \$10 000 is prescribed.

15—Prescribed period (section 26D of Act)

- (1) For the purposes of section 26D(1)(b) of the Act, the period of 12 months is prescribed.
- (2) For the purposes of section 26D(1)(c) of the Act, the replacement land must be in South Australia.
- (3) For the purposes of section 26D(2) of the Act, the stamp duty and registration fees are payable in relation to the purchase of replacement land up to, but not exceeding, the market value of the acquired land.
- (4) Pursuant to section 26D(4) of the Act, where the acquired land was not occupied by the owner of the land, the replacement land—
 - (a) must be of a generally similar nature to the acquired land; and
 - (b) must be purchased under the same ownership structure as the acquired land.

16—Prescribed amount (section 26H of Act)

For the purposes of section 26H(3) of the Act, the amount of \$50 000 is prescribed.

Schedule 1—Forms

(regulation 4)

Form 1—Notice of intention to acquire land

Land Acquisition Act 1969

(section 10)

[This form is to be used for an acquisition other than one to which Part 4 Division 1 of the Act applies.]

TO:

of¹

1—Notice of intention to acquire land

This notice is to inform you that [*insert name of the Authority*]

of

intends to acquire the following interests in the following land:

for the following purpose:

(If—

- the Authority is the Crown or an instrumentality of the Crown; and
- the Authority proposes to acquire native title; and
- the Authority does not propose to acquire the land for the purpose of conferring rights or interests on someone other than the Crown or an instrumentality of the Crown,

the notice must state that the purpose of the acquisition is to confer rights or interests in relation to the land on the Crown or an instrumentality of the Crown.)

The Authority seeks to negotiate the compensation payable for the acquisition.

This notice is given under section 10 of the *Land Acquisition Act 1969*. It does not bind the Authority to acquire the land.

1A—Obligation to notify Authority of other interests in land (section 10A)

If you are the owner of the land to which this notice relates, you must, no later than 14 days after receiving this notice, notify the Authority of any other person who, to your knowledge, has an interest in the relevant land and the nature of that person's interest.

It is an offence to, without reasonable excuse, refuse or fail to comply with this requirement.

2—Right to obtain explanation of reasons for acquisition (section 11)

Within 30 days a person who has an interest in the land (including in the case of native title land, the registered representative of a native title claimant or holder or, in certain cases, the representative Aboriginal body for the area) may require the Authority, by written notice—

- to give an explanation of the reasons for acquisition of the land; and
- to provide reasonable details of any statutory scheme in accordance with which the land is to be acquired.

3—Right to object (section 12)

Within 30 days or, if an explanation of the reasons for the acquisition was requested, within 30 days after the explanation is provided, a person who has an interest in the land (including in the case of native title land, the registered representative of a native title claimant or holder or, in certain cases, the representative Aboriginal body for the area) may request the Authority, by written notice—

- not to proceed with the acquisition of the land; or
- to alter the boundaries of the land to be acquired; or

- not to acquire a particular part of the land or to acquire further land.

The request may be made—

- on the ground that acquisition of the land or a particular part of the land is not necessary for the purposes of carrying out the undertaking to which the acquisition relates; or
- on the ground that the acquisition of the land or carrying out the purposes for which the acquisition is proposed would—
 - seriously impair an area of scenic beauty; or
 - destroy, damage or interfere with an Aboriginal site within the meaning of the *Aboriginal Heritage Act 1988*; or
 - destroy or impair a site of architectural, historic or scientific interest; or
 - prejudice the conservation of flora or fauna that should be conserved in the public interest; or
 - prejudice some other public interest; or
- on some other ground stated in the request.

4—Right of review (section 12A)

A person who makes a request under section 12 which is refused by the Authority may apply to the South Australian Civil and Administrative Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for a review of the decision.

An application for review must be made within 7 days (or such longer period as the Tribunal may allow under the *South Australian Civil and Administrative Tribunal Act 2013*) of the person being served with the notice of the Authority's decision to refuse the request.

A review by the Tribunal must be completed within 21 days of the application for review being made by the person.

The merits or otherwise of the undertaking to which the proposed acquisition relates cannot be called into question in a review.

A decision of the Tribunal on review is not subject to appeal under section 71 of the *South Australian Civil and Administrative Tribunal Act 2013*.

5—Additional right of native title parties to object to prescribed private acquisition (section 12B)

Within 2 months or, if an explanation of the reasons for the acquisition is required, within 2 months after the explanation is provided, native title parties may, by written notice to the Minister, object to a prescribed private acquisition² so far as it affects their registered native title rights.

Note—

- The Minister must consult any native title parties who object about ways of minimising the impact of the acquisition project on registered native title rights and, if relevant, access to the land.

- The Attorney-General must, at the request of a native title party who has made an objection under this section, appoint an independent person or body to hear the objection.
- Before making such an appointment, the Attorney-General must consult the Minister and the native title party.
- If the independent person or body hearing an objection under this section makes a determination upholding the objection, or that contains conditions about the acquisition that relate to registered native title rights, the determination must be complied with unless—
 - the Minister responsible for indigenous affairs is consulted; and
 - the consultation is taken into account; and
 - it is in the interests of the State not to comply with the recommendation.

6—Right to compensation (Part 4 Division 2)

Both you and the Authority are required to negotiate in good faith in relation to the compensation payable for the acquisition of the land to which this notice relates. A failure to do so by either party may be taken into account by the Land and Valuation Court in awarding costs (see sections 23(1) and 36(b)(iii) of the *Land Acquisition Act 1969*).

Note—

- The Authority is required to negotiate with the persons who have or had, or claim to have or to have had, an alienable interest in the land that is divested or diminished by the acquisition or the enjoyment of which is adversely affected by the acquisition.
- If the land is native title land, any party may request the Environment, Resources and Development Court to mediate between the parties to assist in obtaining their agreement on the matters at issue between them.
- The Authority may offer, and must consider any request made by a party who is the holder of native title to the negotiations for, non-monetary compensation (eg a transfer of land, the provision of goods or services, or the carrying out of work for the reinstatement or improvement of land remaining in the claimant's ownership after acquisition).
- The land is acquired by notice of acquisition. Notice of acquisition may be given at any time after 3 months, and before 18 months or a longer period fixed under section 15(4a) of the *Land Acquisition Act 1969*, from the time the first of any notice of intention to acquire land is or was given in respect of the land to which this notice relates.
- At that time the Authority is required to make an offer to the person or persons whom it believes to be entitled to compensation for the acquisition, stating the amount of compensation the Authority is prepared to pay.
- However, if the Authority considers that, at the time the notice of acquisition is given, the amount of compensation is unable to be determined, the Authority must make an offer to the person or persons whom it believes to be entitled to compensation as soon as reasonably practicable after the amount is able to be determined.
- The claimant may dispute the offer made by the Authority.
- Part 4 Division 2 of the *Land Acquisition Act 1969* governs compensation. In particular, section 25 sets out the principles for determining compensation.

- In the event that the amount of compensation does not exceed \$10 000, the payment of compensation may be made directly to you in a manner determined by the Authority, rather than being paid into the Land and Valuation Court (see section 26A of the *Land Acquisition Act 1969*).

7—Prospective purchasers of land etc to be informed about this notice (section 13)

You must not enter into a transaction in respect of the land without first disclosing the fact that this notice of intention to acquire the land has been served on you. Any contract or agreement in relation to the land entered into without that disclosure would be voidable at the option of the person to whom disclosure should have been made.

[Clause 7 is only to be included if the land has not been brought under the Real Property Act 1886 and the land is not native title land.]

7A—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

8—Inquiries

Inquiries should be directed to:

Date:

Signed:

Notes—

- 1 *The notice must be given to each person whose interest in the land is subject to acquisition, or such of those persons as, after diligent inquiry, become known to the Authority. If the Authority proposes to acquire native title in land, the notice must also be given to—*
 - *if there is a native title declaration for the land—the registered representative of the native title holders and the relevant representative Aboriginal body;*
 - *if there is no native title declaration for the land—to all persons who hold, or may hold, native title in the land (see Part 5 of the Native Title (South Australia) Act 1994.)*
- 2 *A prescribed private acquisition means—*
 - *an acquisition by the Crown or an instrumentality of the Crown of native title in land for the purpose of conferring rights or interests in relation to the land on a person other than the Crown or an instrumentality of the Crown so that an infrastructure facility may be provided; or*
 - *an acquisition by the Crown or an instrumentality of the Crown of native title in land wholly within a town or city for the purpose of conferring rights or interests on a person other than the Crown or an instrumentality of the Crown; or*
 - *an acquisition by the Crown or an instrumentality of the Crown of native title in land situated on the seaward side of the mean high-water mark of the sea for the purpose of conferring rights or interests on a person other than the Crown or an instrumentality of the Crown; or*

- *an acquisition of native title in land that is neither made by the Crown or an instrumentality of the Crown nor made for the purpose of conferring rights or interests on the Crown or an instrumentality of the Crown.*

Form 2—Notice of intention to acquire native title in land for purpose of conferring rights or interests on third party

Land Acquisition Act 1969

(section 10(2) and Part 4 Division 1)

[This form is to be used for a proposed acquisition of native title if the acquisition is to be made by the Crown or an instrumentality of the Crown for the purpose of conferring rights or interests on a person other than the Crown or an instrumentality of the Crown and the proposed acquisition is not a prescribed private acquisition.]

TO:

of¹

1—Notice of intention to acquire land

This notice is to inform you that *[insert name of the Authority]*

of

intends to acquire the following interests in the following land:

for the following purpose:

The Authority intends to confer the following rights or interests on a person other than the Crown or a Crown instrumentality:

The Authority seeks to negotiate an agreement about the acquisition of the land and the compensation payable for the acquisition.

Aboriginal groups who are not registered under the law of the State or the Commonwealth as holders of or claimants to native title in the land but want to participate in the negotiations must take the necessary steps under that law to become native title parties in relation to the relevant land within 3 months after service of this notice. In order to be appropriate native title parties with whom the Authority must negotiate under section 19 of the *Land Acquisition Act 1969*, the parties must be registered as holders of or claimants to native title in the land on the date falling 4 months after service of this notice.

This notice is given under section 10 of the *Land Acquisition Act 1969*. It does not bind the Authority to acquire the land.

1A—Obligation to notify Authority of other interests in land (section 10A)

If you are the owner of the land to which this notice relates, you must, no later than 14 days after receiving this notice, notify the Authority of any other person who, to your knowledge, has an interest in the relevant land and the nature of that person's interest.

It is an offence to, without reasonable excuse, refuse or fail to comply with this requirement.

2—Right to obtain explanation of reasons for acquisition (section 11)

Within 30 days a person who has an interest in the land (including the registered representative of a native title claimant or holder or, in certain cases, the representative Aboriginal body for the area) may require the Authority, by written notice—

- to give an explanation of the reasons for acquisition of the land; and
- to provide reasonable details of any statutory scheme in accordance with which the land is to be acquired.

3—Right to object (section 12)

Within 30 days or, if an explanation of the reasons for the acquisition was requested, within 30 days after the explanation is provided, a person who has an interest in the land (including the registered representative of a native title claimant or holder or, in certain cases, the representative Aboriginal body for the area) may request the Authority, by written notice—

- not to proceed with the acquisition of the land; or
- to alter the boundaries of the land to be acquired; or
- not to acquire a particular part of the land or to acquire further land.

The request may be made—

- on the ground that acquisition of the land or a particular part of the land is not necessary for the purposes of carrying out the undertaking to which the acquisition relates; or
- on the ground that the acquisition of the land or carrying out the purposes for which the acquisition is proposed would—
 - seriously impair an area of scenic beauty; or
 - destroy, damage or interfere with an Aboriginal site within the meaning of the *Aboriginal Heritage Act 1988*; or
 - destroy or impair a site of architectural, historic or scientific interest; or
 - prejudice the conservation of flora or fauna that should be conserved in the public interest; or
 - prejudice some other public interest; or
- on some other ground stated in the request.

4—Right of review (section 12A)

A person who makes a request under section 12 which is refused by the Authority may apply to the South Australian Civil and Administrative Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for a review of the decision.

An application for review must be made within 7 days (or such longer period as the Tribunal may allow under the *South Australian Civil and Administrative Tribunal Act 2013*) of the person being served with notice of the Authority's decision to refuse the request.

A review by the Tribunal must be completed within 21 days of the application for review being made by the person.

The merits or otherwise of the undertaking to which the proposed acquisition relates cannot be called into question in a review.

A decision of the Tribunal on review is not subject to appeal under section 71 of the *South Australian Civil and Administrative Tribunal Act 2013*.

5—Right to negotiate about acquisition (Part 4 Division 1)

The Authority seeks to negotiate in good faith with the native title parties in an attempt to reach agreement about the acquisition of the native title in the land.

Note—

- If, 4 months after this notice is given no persons are registered under the law of the State or the Commonwealth as the holders of, or claimants to, native title in the land, negotiation is not required and the Authority may acquire the land.
- If any of the negotiating parties requests the Environment, Resources and Development Court (ERD Court) to do so, the Court must mediate among the parties to assist in obtaining their agreement.
- If a agreement is not reached between the Authority and the native title parties within 6 months after this notice is given, any party may apply to the ERD Court for a resolution of the matter.
- The ERD Court may determine whether the Authority may acquire the land and, if so, the conditions on which the acquisition is to proceed (but a final determination of compensation cannot be made at this stage).
- Section 21 of the *Land Acquisition Act 1969* sets out criteria that the ERD Court must take into account.
- The Minister may, within 2 months, overrule a determination of the ERD Court if the Minister considers it to be in the interests of the State or in the national interest.

6—Right to compensation (Part 4 Division 2)

Both you and the Authority are required to negotiate in good faith in relation to the compensation payable for the acquisition of the land to which this notice relates. A failure to do so by either party may be taken into account by the Land and Valuation Court in awarding costs (see sections 23(1) and 36(b)(iii) of the *Land Acquisition Act 1969*).

Note—

- The Authority is required to negotiate with the persons who have or had, or claim to have or to have had, an interest in the land that is divested or diminished by the acquisition or the enjoyment of which is adversely affected by the acquisition.
- Any party may request the Environment, Resources and Development Court to mediate between the parties to assist in obtaining their agreement on the matters at issue between them.
- The Authority may offer, and must consider any request made by a party who is the holder of native title to the negotiations for, non-monetary compensation (eg a transfer of land, the provision of goods or services, or the carrying out of work for the reinstatement or improvement of land remaining in the claimant's ownership after acquisition).

- The land is acquired by notice of acquisition. Notice of acquisition may be given at any time after 3 months, and before 18 months or a longer period fixed under section 15(4a) of the *Land Acquisition Act 1969*, from the time the first of any notice of intention to acquire land is or was given in respect of the land to which this notice relates.
- At that time the Authority is required to make an offer to the person or persons whom it believes to be entitled to compensation for the acquisition, stating the amount of compensation the Authority is prepared to pay.
- However, if the Authority considers that, at the time the notice of acquisition is given, the amount of compensation is unable to be determined, the Authority must make an offer to the person or persons whom it believes to be entitled to compensation as soon as reasonably practicable after the amount is able to be determined.
- The claimant may dispute the offer made by the Authority.
- Part 4 Division 2 of the *Land Acquisition Act 1969* governs compensation. In particular, section 25 sets out the principles for determining compensation.
- In the event that the amount of compensation does not exceed \$10 000, the payment of compensation may be made directly to you in a manner determined by the Authority, rather than being paid into the Land and Valuation Court (see section 26A of the *Land Acquisition Act 1969*).

6A—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

7—Inquiries

Inquiries should be directed to:

Date:

Signed:

Note—

1 *The notice must be given to—*

- *if there is a native title declaration for the land—the registered representative of the native title holders and the relevant representative Aboriginal body;*
- *if there is no native title declaration for the land—to all persons who hold, or may hold, native title in the land (see Part 5 of the Native Title (South Australia) Act 1994).*

In addition, the Authority must—

- *give a copy of the notice of intention to acquire the land to the Registrar of the Environment, Resources and Development Court and the Commonwealth Registrar; and*

- *as soon as practicable after completing all requirements for service of the notice, give the Registrar of the Environment, Resources and Development Court, the Commonwealth Registrar, the relevant representative Aboriginal body and any other prescribed persons a statutory declaration—*
 - *specifying the steps that have been taken to effect service, the date of each step, and when the requirements for service were completed; and*
 - *exhibiting any supporting materials required under the regulations.*

NOTE: The periods referred to in this notice run from the date when the requirements for service of the notice are completed. Information about when the requirements for service were completed, as disclosed in the Authority's statutory declaration, can be obtained by contacting the Registrar of the Environment, Resources and Development Court, the Commonwealth Registrar or the relevant representative Aboriginal body.

Form 3—Notice of amendment of notice of intention to acquire land

Land Acquisition Act 1969

(section 10(4))

TO:

of

1—Notice of intention to acquire land

On

[insert name of the Authority]

of

gave notice of intention to acquire the following interests in the following land:

2—Notice of amendment

This notice is to inform you that the Authority has changed the boundaries of the land it proposes to acquire as follows:

This notice does not constitute a new notice of intention to acquire the relevant land and, as such, the time periods under the *Land Acquisition Act 1969* that apply based on the giving of a notice of intention to acquire land are not affected by this notice.

This notice is given under section 10(4) of the *Land Acquisition Act 1969*.

2A—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

3—Inquiries

Inquiries should be directed to:

Date:

Signed:

Form 4—Notice of determination not to proceed with acquisition of land

Land Acquisition Act 1969

(section 15)

TO:

of

1—Notice of intention to acquire land

On

[insert name of the Authority]

of

gave notice of intention to acquire the following interests in the following land:

2—Notice of decision not to proceed with acquisition

This notice is to inform you that the Authority has decided not to proceed with the acquisition of the land.

This notice is given under section 15(3) of the *Land Acquisition Act 1969*.

3—Right to compensation (section 15(5) to (7))

Within 6 months you may, by written notice to the Authority, claim compensation for—

- disturbance to the use or enjoyment of the land resulting from the proposed acquisition; and
- costs and expenses reasonably incurred in consequence of the proposed acquisition.

If you do claim compensation and 3 months after making the claim there is no agreement on whether you are entitled to compensation, or the amount of the compensation, either you or the Authority may refer the matter to the Land and Valuation Court for determination.

3A—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

4—Inquiries

Inquiries should be directed to:

Date:

Signed:

Form 5—Notice of acquisition

Land Acquisition Act 1969

(section 16)

1—Notice of acquisition

[insert name of the Authority]

of

acquires the following interests in the following land:

This notice is given under section 16 of the *Land Acquisition Act 1969*.

2—Compensation

A person who has or had an interest consisting of native title or an alienable interest in the land that is divested or diminished by the acquisition or the enjoyment of which is adversely affected by the acquisition who does not receive an offer of compensation from the Authority may apply to the Authority for compensation.

2A—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

3—Inquiries

Inquiries should be directed to:

Date:

Signed:

Form 6—Offer of compensation

Land Acquisition Act 1969

(section 23A)

TO:

of

1—Notice of acquisition

[insert name of the Authority]

of

has, by notice published in the Gazette on *[insert date]* at *[insert Gazette reference]*,
acquired the following interests in the following land:

2—Offer of compensation (section 23A)

The Authority makes an offer of compensation in respect of the acquisition of your interest in the land as follows:

[The offer must (where appropriate) differentiate between, and quantify, the component of compensation representing the value of the acquired land and the component referable to disturbance or other compensable matters.]

The amount of compensation will be paid, within 7 days, into the Land and Valuation Court.

The Authority may, after making this offer of compensation, increase the offer by further notice to you, or apply to the Land and Valuation Court to decrease the offer if the Authority becomes aware of information that negatively affects the value of the relevant land (see section 23A(5) of the *Land Acquisition Act 1969*).

In the event that an offer is decreased, the Authority may apply to the Court for an order that the difference between the original offer and the decreased offer (together with any accrued interest) be paid to the Authority (see section 23A(6) of the *Land Acquisition Act 1969*).

(If Part 4 Division 1 of the Act applies and the Authority has already paid an amount into the Environment, Resources and Development Court, the amount (if any) paid into the Land and Valuation Court will be the amount by which the amount of the offer exceeds that amount already paid into the Environment, Resources and Development Court.)

3—Solatium payment (section 25A)

If, at the time the notice of intention to acquire land was given to you in relation to the land to which this notice relates, you were the owner and occupier of the land and, as a result of the acquisition, your principal place of residence was acquired, the Authority may (but is not required to) increase the amount of compensation payable to you by way of a solatium payment.

The solatium payment will total either 10% of the market value of the relevant land, or \$50 000, whichever is the lesser amount.

Payment of the solatium will be made on final resolution of the amount of compensation payable in relation to the acquisition of the relevant land.

4—Requirement to respond to offer of compensation (section 23AB)

You must respond to this offer in writing within 6 months of the date of the offer. Your response must indicate whether you accept or reject the offer.

You may apply to the Authority for a longer period than specified above. If the Authority specifies a longer period as a result of your application, you must respond to the offer in writing within that time period. If the Authority refuses to specify a longer time period, you may refer the matter to the Land and Valuation Court for review of that decision.

A failure to respond to this offer within the relevant time period will result in the compensation money offered to you and paid into the Land and Valuation Court being paid to the Authority. Should this occur, it will not affect your entitlement to compensation in respect of the acquisition of the relevant land. However, you will not be entitled to any interest accrued on the money from the time it is paid to the Authority.

5—Requirement to withdraw compensation money within 24 months (section 23AC)

You must withdraw the compensation money offered to you for the acquisition of the relevant land within 24 months after the money is paid into the Land and Valuation Court.

A failure to withdraw the money within that time period will result in the money, together with any accrued interest, being paid to the Authority.

Should this occur, it will not affect your entitlement to compensation in respect of the acquisition of the relevant land. However, you will not be entitled to any interest accrued on the money from the time it is paid to the Authority.

6—Reference of matters into Court and mandatory settlement conference (sections 23BA and 23C)

If you wish for a question arising in the course of negotiations with the Authority to be referred to the Land and Valuation Court, you must first apply to the Authority to convene a settlement conference.

The Authority will be responsible for convening the conference and will appoint a conference coordinator to conduct the conference. See section 23BA of the *Land Acquisition Act 1969* for details of the conference and how it will be conducted.

It is an offence to, without reasonable excuse, refuse or fail to comply with a direction of the conference coordinator.

If the settlement conference does not result in the resolution of the matter, you or the Authority may refer a question arising in the course of negotiations into the Land and Valuation Court (see section 23C of the *Land Acquisition Act 1969*).

The principles for determining compensation are set out in section 25 of the *Land Acquisition Act 1969*.

7—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

8—Inquiries

Inquiries should be directed to:

Date:

Signed:

Form 6A—Notice of reversion of compensation money

Land Acquisition Act 1969

(section 23AC)

TO:

of

1—Notice of reversion of compensation money

The compensation money offered to you and paid into the Land and Valuation Court in respect of the acquisition of the following land:

will revert and be paid to *[insert name of the Authority]* on *[insert date]* unless you withdraw the money before that date.

This notice is given under section 23AC of the *Land Acquisition Act 1969*.

2—Requirement to withdraw compensation money within 24 months

It is a requirement that you withdraw the compensation money offered to you for the acquisition of the relevant land within 24 months after that money is paid into the Land and Valuation Court.

A failure to withdraw the money will result in the money, together with any accrued interest, being paid to the Authority.

3—Entitlement to compensation not affected

Neither this notice nor the reversion of money to the Authority affects your entitlement to compensation in respect of the acquisition of the relevant land.

However, you will not be entitled to any interest accrued on the money from the time it is paid to the Authority.

4—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

5—Inquiries

Inquiries should be directed to:

Date:

Signed:

Form 6B—Notice of acquisition of underground land

Land Acquisition Act 1969

(section 26F)

TO:

of

1—Notice of acquisition

[insert name of the Authority]

of

acquires the following interests in the following land:

(If the Authority seeks to enter into possession of the underground land on a date other than the date the notice was published in the Gazette, the notice must state that date.)

This notice is given under section 26F of the *Land Acquisition Act 1969*.

2—Compensation not payable unless certain water infrastructure or rights are affected

You are not entitled to compensation in relation to the acquisition of the underground land to which this notice relates, unless the following conditions are satisfied:

- you held at least one of the following interests in relation to the underground land immediately before the notice of acquisition was published in relation to the land—
 - ownership of a lawful well that provides access to underground water in the underground land, and any underground infrastructure associated with the well; or
 - a right to take underground water from the underground land by means of such a well;
- you notified the Authority of your interest in response to a notice given under section 26G of the *Land Acquisition Act 1969*;
- the acquisition of the underground land either—
 - involved the acquisition of your interest; or
 - resulted in the discharge of your interest; or
 - resulted in you being unable to take water by means of, or pursuant to, your interest;
- you make an application for compensation to the Authority under section 26H of the *Land Acquisition Act 1969*.

3—Application for compensation under section 26H

If you believe you are entitled to compensation, you must apply to the Authority for compensation within 6 months after the publication of the notice of acquisition in relation to the underground land to which this notice relates.

The application must be in the following manner and form:

The application must be accompanied by the following information or documents:

(If further requirements have been set out in the regulations in relation to this application, the notice should state those requirements or refer the recipient to the regulations.)

After receiving your application, the Authority may (but is not required to) make you a written offer of compensation not exceeding \$50 000.

See section 26H(4) of the *Land Acquisition Act 1969* for further details on the payment of compensation.

4—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

5—Inquiries

Inquiries should be directed to:

Date:

Signed:

Form 6C—Notice of requirement to notify Authority of other interest in underground land

Land Acquisition Act 1969

(section 26G)

TO:

of

1—Notice of requirement to notify Authority of other interest in underground land

This notice relates to the following underground land:

(Delete whichever of the following is inapplicable:

[insert name of the Authority] acquired the underground land by notice published in the Gazette on *[insert date]* under section 26F of the *Land Acquisition Act 1969*.

[insert name of the Authority] is proposing to acquire the underground land under section 26F of the *Land Acquisition Act 1969*.)

This notice is to inform you that the Authority requires that you notify the Authority of the following:

- any person who, to your knowledge, has an interest in the underground land, or who had an interest in the underground land immediately before it was acquired, and the nature of that person's interest (including your interest and its nature);
- the existence of any well, bore or other infrastructure located within the underground land, or on surface land under which the underground land is located, and any entitlement (whether yours or otherwise) that exists to take water by means of that infrastructure;
- *[insert other information that is required if necessary]*

It is an offence to, without reasonable excuse, refuse or fail to comply with this notice.

This notice is given under section 26G of the *Land Acquisition Act 1969*.

2—Payment of professional costs relating to acquisition (section 26B)

If you are the owner in fee simple of the land to which this notice relates, you may be entitled to a payment of \$10 000 from the Authority for use towards the payment of professional costs in relation to the acquisition of the land.

Professional costs include legal costs, valuation costs and any other costs prescribed by the *Land Acquisition Regulations 2019*.

3—Inquiries

Inquiries should be directed to:

Date:

Signed:

Form 7—Notice of intention to enter land

Land Acquisition Act 1969

(section 27)

TO:

of¹

1—Notice of intention to enter land

This notice is to inform you that [*insert name of the Authority*]

of

intends to enter the following land:

on the following days or over the following period:

to carry out the following work:

2—Authority for notice (section 27)

This notice is given under section 27 of the *Land Acquisition Act 1969* which allows the Authority, or any person authorised in writing by the Authority, to—

- enter and remain on land with any assistants, vehicles, machinery or equipment; and
- affix or establish any trigonometrical stations, survey pegs, marks or poles and from time to time alter, remove, reinstate or remove them; and
- dig or bore into the land,

for the purposes of that Act or an Act allowing the Authority to compulsorily acquire land.

It is an offence to—

- wilfully and without authorisation from the Authority, interfere with any trigonometrical stations, survey pegs, marks or poles; or
- wilfully obstruct any person acting in accordance with section 27.

3—Right to compensation (section 29)

Within 3 months from the day on which the Authority, or a person authorised by the Authority, was last in occupation of the land you may, by written notice to the Authority, claim compensation.

If you do claim compensation and 3 months after making the claim there is no agreement on the amount of compensation, either you or the Authority may refer the matter to the Land and Valuation Court for determination.

4—Inquiries

Inquiries should be directed to:

Date:

Signed:

Note—

- ¹ *The notice must be given to the owner (including a person who holds native title in land) and occupier of the land at least 7 days before entry.*

Form 8—Notice of intention to enter into temporary occupation of land

Land Acquisition Act 1969

(section 28)

TO:

of¹

1—Notice of intention to enter into temporary occupation of land

This notice is to inform you that *[insert name of the Authority]*

of

intends to enter into temporary occupation of the following land:

on

2—Authority for notice (section 28)

This notice is given under section 28 of the *Land Acquisition Act 1969* which allows the Authority to temporarily occupy and use land that—

- is within 500 metres of the boundaries of land acquired under the Act; and
- is not a garden, orchard or plantation attached or belonging to a house, or a park, planted walk, avenue or ground ornamentally planted; and
- is not within 500 metres of a place genuinely used as a place of residence,

for purposes authorised by an Act and to—

- take stone, gravel, earth or other material; or
- deposit any material on the land; or
- make cuttings or excavations on the land; or
- make and use roads on the land; or

- manufacture on the land materials required for those purposes; or
- erect workshops, sheds and buildings of a temporary character on the land.

However, the Authority is not authorised to take stone, gravel, earth or other material from land for the purpose of extracting, producing or refining minerals from it or processing it by non-mechanical means.

3—Right to apply to Court for Authority to acquire interest (section 28(3) and (4))

You may apply to the Land and Valuation Court for an order that the Authority acquire your interest in the land.

4—Right to compensation (section 29)

Within 3 months from the day on which the Authority, or a person authorised by the Authority, was last in occupation of the land you may, by written notice to the Authority, claim compensation.

If you do claim compensation and 3 months after making the claim there is no agreement on the amount of compensation, either you or the Authority may refer the matter to the Land and Valuation Court for determination.

5—Inquiries

Inquiries should be directed to:

Date:

Signed:

Note—

- 1 *The notice must be given to the owner (including a person who holds native title in land) and occupier of the land at least 7 days before entry.*

Form 9—Notice to deliver documents for inspection

Land Acquisition Act 1969

(section 30)

TO:

of

1—Notice to deliver documents for inspection

The following documents:

must be delivered to—

of

on or before

for the inspection of [*insert name of the Authority*]

of

2—Authority for notice

This notice is given under section 30 of the *Land Acquisition Act 1969* which allows the Authority to require a person to deliver up for the inspection of the Authority, any specified document in the person's possession or power evidencing the interest of any person in land required for purposes authorised by an Act or any other specified record, account, or document in the person's possession or power relating to any such land.

Failure to comply with this notice is an offence.

3—Inquiries

Inquiries should be directed to:

Date:

Signed:

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Land Acquisition Regulations 2019* revoked the following:

Land Acquisition Regulations 2004

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2019	192	<i>Gazette 25.7.2019 p2827</i>	25.7.2019: r 2
2020	229	<i>Gazette 2.7.2020 p3705</i>	2.7.2020: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>2.7.2020</i>
r 8	substituted by 229/2019 r 4	2.7.2020
rr 10—16	inserted by 229/2019 r 5	2.7.2020
Sch 1		
Form 1	varied by 229/2019 r 6(1)—(4)	2.7.2020
Form 2	varied by 229/2019 r 6(5)—(7)	2.7.2020
Form 3	varied by 229/2019 r 6(8)	2.7.2020
Form 4	varied by 229/2019 r 6(9)	2.7.2020
Form 5	varied by 229/2019 r 6(10),(11)	2.7.2020
Form 6	substituted by 229/2019 r 6(12)	2.7.2020
Forms 6A—6C	inserted by 229/2019 r 6(12)	2.7.2020
<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>2.7.2020</i>