

South Australia



**ANNO QUINQUAGESIMO
ELIZABETHAE II REGINAE
A.D. 2001**

LAND ACQUISITION (NATIVE TITLE) AMENDMENT ACT 2001

No. 53 of 2001

[Assented to 1 November 2001]

An Act to amend the Land Acquisition Act 1969.

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The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Land Acquisition (Native Title) Amendment Act 2001*.
- (2) The *Land Acquisition Act 1969* is referred to in this Act as "the principal Act".

Commencement

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

Amendment of s. 6—Interpretation

3. Section 6 of the principal Act is amended—

- (a) by inserting before the definition of "Authority" in subsection (1) the following definition:

"acquisition project" means—

- (a) the acquisition or proposed acquisition of land under this Act; and
- (b) the development or use (or the proposed or expected development or use) of the land following its acquisition;;

- (b) by striking out the definition of "claimant" in subsection (1) and substituting the following definitions:

"claimant" means a person who has or asserts a claim to compensation under this Act;

"Commonwealth Registrar" means the Native Title Registrar appointed under Part 5 of the *Native Title Act 1993* (Cwth);;

- (c) by inserting after the definition of "ERD Court" in subsection (1) the following definition;

"infrastructure facility" has the same meaning as in the *Native Title Act 1993* (Cwth);;

- (d) by striking out from subsection (1) the definitions of "native title", "native title holder" and "native title land" and substituting the following definitions:

"native title"—for definitions relating to native title *see the Native Title (South Australia) Act 1994*;

"owner" includes a person who holds native title in land;

"prescribed private acquisition" means—

- (a) 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
- (b) 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
- (c) 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
- (d) 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;

(e) by inserting after the definition of "subject land" in subsection (1) the following definition:

"town or city" means an area in South Australia that is a town or city for the purposes of the *Native Title Act 1993* (Cwth).¹

¹. See section 251C of that Act.;

(f) by inserting after subsection (2) the following subsection:

(3) A reference to the Crown or an instrumentality of the Crown in this Act is taken to have the same meaning as a reference to the State (so far as applicable to South Australia) in the *Native Title Act 1993* (Cwth).

Amendment of s. 7—Application

4. Section 7 of the principal Act is amended—

(a) by striking out from subsection (2) "(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)";

(b) by inserting after subsection (2) the following subsection:

(3) In its application to the acquisition of native title, this Act operates subject to the provisions of any relevant registered indigenous land use agreement under the *Native Title Act 1993* (Cwth).

Substitution of s. 10

5. Section 10 of the principal Act is repealed and the following section is substituted:

Notice of intention to acquire land

10. (1) If the Authority proposes to acquire land (other than native title), the Authority must give a notice of intention to acquire the land 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.

(2) If the Authority proposes to acquire native title in land, the Authority must—

(a) if there is a native title declaration for the land—give notice of intention to acquire the land to the registered representative of the native title holders and the relevant representative Aboriginal body;

(b) if there is no native title declaration for the land—

(i) give a notice of intention to acquire the land to all persons who hold, or may hold, native title in the land;¹ and

(ii) in a case to which Part 4 Division 1 applies—

(A) give a copy of the notice of intention to acquire the land to the Registrar of the ERD Court and the Commonwealth Registrar; and

(B) as soon as practicable after completing all requirements for service of the notice, give the Registrar of the ERD 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.

(3) The notice of intention to acquire the land must comply with the following requirements:

(a) it must define the subject land with reasonable particularity; and

(b) if Part 4 Division 1 applies to the proposed acquisition—it must include a statement that Aboriginal groups who are not registered, and have not applied for registration, 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 three months after service of the notice; and

- (c) if—
- (i) the Authority is the Crown or an instrumentality of the Crown; and
 - (ii) the Authority proposes to acquire native title; and
 - (iii) 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,

it 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.

(4) If the Authority changes the boundaries of the land it proposes to acquire in any respect, the Authority must immediately serve a notice of amendment to the notice of intention to acquire the land on the same persons and in the same way as the notice of intention to acquire.

(5) However, a notice of amendment need not be given to a person who was given notice of intention to acquire the land if—

- (a) the notice of intention to acquire was given because the person held an interest in the land and the person no longer holds that interest; or
- (b) the notice of intention to acquire was given because the person claimed to hold an interest in the land and—
 - (i) the claim has been abandoned; or
 - (ii) a court has determined the claim and found that the claimant has no interest in the land.

(6) A notice of intention to acquire land does not bind the Authority to acquire the subject land.

¹ For method of service see Part 5 *Native Title (South Australia) Act 1994*.

Amendment of s. 11—Explanation of acquisition scheme may be required

6. Section 11 of the principal Act is amended by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

- (b) the relevant representative Aboriginal body is taken to have an interest in the land if—
 - (i) the land is native title land; and
 - (ii) there is no native title declaration for the land; and
 - (iii) —
- (A) there are no registered representatives of claimants to native title in the land; or

- (B) an Aboriginal group that claims to hold native title in the land and for which there is no registered representative has, in accordance with the regulations, authorised the representative Aboriginal body to act on its behalf.

Amendment of s. 12—Right to object

7. Section 12 of the principal Act is amended by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

- (b) the relevant representative Aboriginal body is taken to have an interest in the land if—
- (i) the land is native title land; and
 - (ii) there is no native title declaration for the land; and
 - (iii) —
- (A) there are no registered representatives of claimants to native title in the land; or
 - (B) an Aboriginal group that claims to hold native title in the land and for which there is no registered representative has, in accordance with the regulations, authorised the representative Aboriginal body to act on its behalf.

Insertion of s. 12B

8. The following section is inserted after section 12A of the principal Act:

Additional right to object to prescribed private acquisition¹

12B. (1) Native title parties may, by written notice to the Minister, object to a prescribed private acquisition so far as it affects their registered native title rights.

(2) An objection under subsection (1) must be made within two months after notice of intention to acquire the land is given or, if an explanation of the reasons for the acquisition is required, within two months after the explanation is provided.

(3) The Minister must consult any native title parties who object under subsection (1) about ways of minimising the impact of the acquisition project on registered native title rights and, if relevant, access to the land.

(4) 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.

Example—

The Attorney-General might appoint a Judge of the ERD Court or a native title commissioner to hear the objection.

(5) Before making such an appointment, the Attorney-General must consult the Minister and the native title party.

(6) 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—

- (a) the Minister responsible for indigenous affairs is consulted; and
- (b) the consultation is taken into account; and
- (c) it is in the interests of the State not to comply with the recommendation.

(7) For the purposes of this section—

"determination" includes recommendation;

"in the interests of the State" includes—

- (a) for the social or economic benefit of the State (including Aboriginal peoples); and
- (b) in the interests of the relevant region or locality in the State;

"Minister" means the Minister responsible for the administration of the Act under which the Authority in question is empowered to make the proposed acquisition.

- ¹. Compare section 24MD(6B) of the *Native Title Act 1993* (Cwth).

Amendment of s. 13—Notice that land is subject to acquisition

9. Section 13 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

- (1) This section applies only in respect of land that—
- (a) has not been brought under the provisions of the *Real Property Act 1886*; and
 - (b) is not native title land.

Amendment of s. 15—Acquisition by agreement, etc.

10. Section 15 of the principal Act is amended—

- (a) by inserting after subsection (1) the following footnote to subsection (1):

- ¹. If, in a case to which Part 4 Division 1 applies, the Authority is to acquire native title in land by agreement, the agreement may include a statement to the effect that the surrender of native title under the agreement is intended to extinguish the native title. See section 24MD(2A) of the *Native Title Act 1993* (Cwth).;

(b) by striking out subsection (3) and substituting the following subsection:

(3) If the Authority decides not to proceed with the acquisition of land, it must give notice of the decision to the same persons and in the same way as the notice of intention to acquire the land but notice need not be given to a person who was given notice of intention to acquire the land if—

(a) the notice was given because the person held an interest in the land and the person no longer holds that interest; or

(b) the notice was given because the person claimed to hold an interest in the land and—

(i) the claim has been abandoned; or

(ii) a court has determined the claim and found that the claimant has no interest in the land.;

(c) by striking out from subsection (4) "12 months after notice of intention to acquire the land was given, or within a longer period agreed between the Authority and the interested parties or decided by the Court" and substituting "18 months or a longer period fixed under subsection (4a)";

(d) by inserting after subsection (4) the following subsection:

(4a) The period for acquisition of the land may be extended as follows:

(a) the Authority may, by agreement with the interested parties, extend the period by agreement;

(b) the Court (ie the Land and Valuation Court) may, on application by the Authority or an interested party, extend the period;

(c) in the case of a proposed acquisition of native title—

(i) the ERD Court may, on application by the Authority or an interested party, extend the period;

(ii) the Minister may, by notice in the *Gazette*, extend the period if satisfied that the extension is necessary to allow adequate time for negotiation.;

(e) by striking out from subsection (5) "three months" and substituting "6 months";

(f) by inserting after subsection (5) the following subsection:

(5a) A native title party registered as a claimant to native title in land has sufficient interest in the land to bring a claim for compensation under subsection (5).

Amendment of s. 16—Notice of acquisition**11. Section 16 of the principal Act is amended—**

(a) by striking out subsections (1) and (1a) and substituting the following subsection:

(1) Subject to this Act¹, the Authority may, at least three months after the last occasion on which a notice of intention to acquire was given but before the period for acquisition of the land comes to an end², publish a notice of acquisition in the *Gazette*.

¹ See in particular Division 1 of Part 4 which imposes limitations on the acquisition of native title in land in certain circumstances.

² The period for acquisition of the land is the period of 18 months after the notice of intention to acquire was given (see section 15(4)) or a longer period fixed under section 15(4a).;

(b) by inserting the following footnote to subsection (2):

¹ The acquisition of land under this section extinguishes native title to the extent permitted by the *Native Title Act 1993* (Cwth) (see sections 24MD(2), (2A) and (3)).;

(c) by striking out subsections (3a) and (3b);

(d) by striking out subsection (5) and substituting the following subsections:

(5) The Authority must have the notice of acquisition published in a newspaper circulating generally throughout the State.

(5a) The Authority must also give notice of the acquisition to the same persons and in the same way as the notice of intention to acquire the land but notice need not be given to a person who was given notice of intention to acquire the land if—

(a) the notice was given because the person held an interest in the land and the person no longer holds that interest; or

(b) the notice was given because the person claimed to hold an interest in the land and—

(i) the claim has been abandoned; or

(ii) a court has determined the claim and found that the claimant has no interest in the land.

Amendment of s. 17—Modification of instruments of title

12. Section 17 of the principal Act is amended by striking out from subsection (2) "native title land" and substituting "native title in land".

Amendment of heading to Division 1 of Part 4

13. The heading to Division 1 of Part 4 of the principal Act is amended by inserting "IN" after "NATIVE TITLE".

Substitution of s. 18

14. Section 18 of the principal Act is repealed and the following section is substituted:

Application of Division

18. (1) This Division applies to a proposed acquisition of native title in the following circumstances:

- (a) 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
- (b) the proposed acquisition is not a prescribed private acquisition.

(2) A proposed acquisition of native title to which this Division applies may only proceed subject to this Division.

Substitution of s. 19

15. Section 19 of the principal Act is repealed and the following section is substituted:

Negotiation about acquisition of native title in land

19. (1) If native title in land is to be acquired, the Authority must, after giving notice of intention to acquire land and before publishing a notice of acquisition of the land, negotiate in good faith with the appropriate native title parties (if any) in an attempt to reach agreement about the acquisition of the native title in the land.

(2) The obligation to negotiate does not extend to matters unrelated to the effect of the acquisition project on the registered native title rights of the native title parties.

(3) If any of the negotiating parties requests the ERD Court to do so, the Court must mediate between the parties to assist in obtaining their agreement.

(4) If agreement is reached, the agreement must be filed in the Court.

(5) The parties to an agreement filed in the Court under subsection (4) may direct that the agreement or a particular part of the agreement be kept confidential and, if such a direction is given, the agreement or the relevant part of the agreement is not to be available for inspection except by permission of the Court.

(6) If the appropriate native title parties have made or established distinct claims or entitlements to native title in relation to the land to which the proposed agreement is to relate, the agreement may consist of—

- (a) a single agreement with all the appropriate native title parties; or
- (b) a series of agreements with one or more of the appropriate native title parties so that they are all party to at least one of the agreements.

(7) In this section—

"**appropriate native title parties**" are the native title parties registered as holders of, or claimants to, native title in the land on the relevant date who continue to be so registered throughout the course of the negotiations including such native title parties registered initially as claimants to native title but later registered as holders of native title during the course of the negotiations, but not including native title parties whose application for a native title declaration was made less than one month before the relevant date;

"**relevant date**" means the date falling four months after notice of intention to acquire the land is given under section 10(2).

Amendment of s. 20—Application for determination if no agreement

16. Section 20 of the principal Act is amended—

(a) by striking out from subsection (2) "(but compensation is not to be determined at this stage)" and substituting "(but a final determination of compensation cannot be made at this stage)";

(b) by striking out subsection (3) and substituting the following subsections:

(3) A determination may, if the parties agree—

(a) reserve a question that is not reasonably capable of being determined immediately for further negotiation between the parties; or

(b) provide for determination of such a question by arbitration or in some other specified manner.

(4) If a question is referred to arbitration or some other form of non-judicial dispute resolution, and procedural or other difficulties arise, the ERD Court may—

(a) give directions to resolve the difficulties; or

(b) remove the dispute into the ERD Court and resolve the question itself.

(5) If, on an application under this section, the ERD Court is satisfied that the Authority has not negotiated in good faith, the Court must not make a determination on the application in favour of the Authority.

(6) An application under this section does not prevent negotiations from continuing between the Authority and the native title parties and, if agreement is reached between them before the ERD Court makes its determination, the application lapses.

(7) The ERD Court must make its determination under this section as quickly as practicable.

Insertion of s. 20A

17. The following section is inserted after section 20 of the principal Act:

Constitution of trust**20A. (1) If—**

- (a) negotiations under this Division lead to an agreement that an amount is to be paid by the Authority and held in trust under this section for those who ultimately establish a claim to native title in the subject land; or
- (b) a determination under this Division (by the Court or the Minister) requires that an amount is to be paid by the Authority and held in trust under this section for those who ultimately establish a claim to native title in the subject land,

the relevant amount is to be paid into the ERD Court.

(2) On receipt of an amount paid into court under this section, the ERD Court is to establish, by order, a trust under which the relevant amount is to be held in trust for those who ultimately establish a claim to native title in the subject land.

(3) Subject to any order of the ERD Court under subsection (4), the amount held on trust is to be dealt with as follows:

- (a) if native title is established and compensation is awarded or agreed that is equal to, or greater than, the amount held in trust—that amount is to be paid out, in its entirety, to the holders (or former holders) of native title in the subject land;
- (b) if native title is established and compensation is awarded or agreed that is less than the amount held in trust—the compensation is to be paid out of the amount held on trust and the balance is to be paid to the Authority;
- (c) if a native title declaration establishes that the land was not (before the acquisition) subject to native title—the amount is to be paid out, in its entirety, to the Authority;
- (d) if—
 - (i) at least 6 years (or a longer period determined by the ERD Court in a particular case) have passed since the constitution of the trust; and
 - (ii) a balance remains in the trust fund to which no native title party has established an entitlement; and
 - (iii) there is no claim to native title in the subject land,

the balance is to be paid to the Authority.

(4) The ERD Court may, on its own initiative or on application by an interested person—

- (a) make orders for the disposition of money held on trust under this section; or

- (b) resolve any question about payment of an amount held on trust under this section.

Substitution of s. 21

18. Section 21 of the principal Act is repealed and the following section is substituted:

Criteria for making determination

21. (1) In making its determination, the ERD Court must take into account the following:

- (a) the effect of the acquisition project on—
- (i) the enjoyment by the native title parties of their registered native title rights; and
 - (ii) the way of life, culture and traditions of any of those parties; and
 - (iii) the development of the social, cultural and economic structures of any of those parties; and
 - (iv) the freedom of access by any of those parties to the land concerned and their freedom to carry out rites, ceremonies or other activities of cultural significance on the land in accordance with their traditions; and
 - (v) any area or site, on the land concerned, of particular significance to the native title parties in accordance with their traditions;
- (b) the interests, proposals, opinions or wishes of the native title parties in relation to the management, use or control of the land in relation to which the native title parties hold or claim registered native title rights that will be affected by the acquisition project;
- (c) the economic or other significance of the acquisition project to Australia, to the State, to the area in which the land is located and to Aboriginal peoples who live in that area;
- (d) any public interest in the acquisition project proceeding;
- (e) any other matter the ERD Court considers relevant.

(2) In determining the effect of the acquisition project as mentioned in subsection (1)(a), the ERD Court must take into account the nature and extent of—

- (a) existing non-native title rights and interests in the land; and
- (b) existing use of the land by persons other than the native title parties.

(3) This section does not affect the operation of another law of the State or the Commonwealth for the preservation or protection of areas or sites of particular significance to Aboriginal people.

(4) Before making its determination, the ERD Court must ascertain whether there is agreement between the parties on issues relevant to the determination and, if all the parties consent, the ERD Court—

- (a) must take into account the agreement of the parties on issues relevant to the determination; and
- (b) need not take into account the matters mentioned in subsection (1) to the extent they raise issues on which agreement has been reached.

Amendment of s. 22—Overruling of determinations

19. Section 22 of the principal Act is amended by inserting in subsection (1) "or in the national interest" after "State".

Insertion of s. 22A and heading

20. The following heading and section are inserted after section 22 of the principal Act:

**DIVISION 1A—NOTICE TO BE GIVEN OF CERTAIN PRESCRIBED
PRIVATE ACQUISITIONS**

Notice on behalf of State for prescribed private acquisition¹

22A. When an Authority that is neither the Crown nor an instrumentality of the Crown is required to give a notice under this Act in relation to a prescribed private acquisition, the Authority must, on behalf of the State, give any additional notice required under the *Native Title Act 1993* (Cwth).

¹ See section 24MD(6B).

Insertion of s. 22B

21. The following section is inserted in the principal Act immediately after the heading to Division 2 of Part 4:

Entitlement to compensation

22B. Subject to this Act, a person is entitled to compensation for the acquisition of land under this Act if—

- (a) the person's interest in land is divested or diminished by the acquisition; or
- (b) the enjoyment of the person's interest in land is adversely affected by the acquisition.

Amendment of s. 23—Negotiation of compensation

22. Section 23 of the principal Act is amended—

- (a) by striking out subsection (2);
- (b) by striking out from subsection (4) ", and must consider any request made by a party to the negotiations for,";

(c) by inserting after subsection (4) the following subsections:

(5) If a party to the negotiations who is the holder of native title in the land requests non-monetary compensation, the Authority must—

(a) consider the request; and

(b) negotiate in good faith with the party in relation to the request.

(6) The Authority's liability to pay compensation under this Act for the acquisition of land is reduced by the value of non-monetary compensation provided at the request of, or by agreement with, the person to whom the liability is owed.

Amendment of s. 23A—Offer of compensation and payment into court

23. Section 23A of the principal Act is amended by inserting after subsection (3) the following subsection:

(3a) However, if the Authority has already paid an amount into the ERD Court under Division 1 in relation to the proposed acquisition, the Authority is required only to pay into the Court the amount (if any) by which the amount of the offer exceeds the amount already paid into the ERD Court.

Substitution of s. 23B

24. Section 23B of the principal Act is repealed and the following section is substituted:

Agreement

23B. (1) If agreement about compensation is reached by the negotiating parties, the Authority must file a copy of the agreement in the Court.

(2) The Court may, on application by a party to an agreement filed in the Court under this section, make orders to give effect to the agreement.

Amendment of s. 23C—Reference of matters into court

25. Section 23C of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) The Authority or a claimant may refer a question arising in the course of negotiations into Court.

(2) On the reference of a matter into the Court, the Court may—

(a) if of the opinion that the question should be the subject of further negotiation—adjourn the matter to allow further negotiation to take place; or

(b) make any order necessary to resolve the question.;

(b) by inserting after "the Court may" in subsection (3)(a) ", subject to subsection (4),";

(c) by inserting after subsection (3) the following subsections:

(4) If a claimant claims compensation on the basis that native title exists or existed in the subject land but the existence of the native title has not been established by a native title declaration, the Court will not itself proceed to determine the native title question but—

- (a) if the Authority does not dispute that native title exists or exists in the subject land as claimed—determine the claim for compensation on the basis that native title exists or existed as the claimant asserts; or
- (b) if the claim to native title in the subject land is disputed—defer consideration of the matter—
 - (i) to allow the claimant a reasonable opportunity to make a native title claim under the appropriate law of the Commonwealth or the State; and
 - (ii) if a native title claim is made, to allow time for the resolution of the claim.

(5) If a claimant fails to avail itself of an opportunity allowed under subsection (4), the Court may reject the claim for compensation (but the rejection of a claim under this subsection does not preclude a further claim for compensation if the claimant's claim to hold native title in the subject land is later established).

Repeal of s. 23D

26. Section 23D of the principal Act is repealed.

Amendment of s. 25—Principles of compensation

27. Section 25 of the principal Act is amended by striking out subsection (2) and substituting the following subsections:

(2) The reference to loss in subsection (1)(a) extends, in the case of acquisition of native title, to diminution, impairment or other adverse effect on native title that results or will result from the acquisition project.¹

(3) Subject to subsection (1) and (2), the total compensation payable for the acquisition of native title must not exceed the amount that would be payable for the acquisition of an estate in fee simple in the relevant land.

(4) A reference in this section to a claimant is limited to a claimant who is entitled to compensation.²

¹. Compare section 51(1) of the *Native Title Act 1993* (Cwth).

². See section 22B.

Amendment of s. 27—Powers of entry

28. Section 27 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) The Authority must, at least 7 days before entering land under subsection (1), give notice to the owner and occupier of the land.¹

¹ For the procedure for giving notice in relation to native title land see Part 5 of the *Native Title (South Australia) Act 1994*.

Amendment of s. 28—Temporary occupation

29. Section 28 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

(1a) However, the Authority is not authorised to take stone, gravel, earth or other material from land for the purpose of—

(a) extracting, producing or refining minerals from it; or

(b) processing it by non-mechanical means.¹

¹ The purpose is to ensure that the authorisation conferred by subsection (1)(a) does not amount to an authorisation to mine within the meaning of the *Native Title Act 1993* (Cwth). See the definition of *mine* in section 253 of that Act.;

(b) by striking out subsection (2) and substituting the following subsection:

(2) The Authority must, at least 7 days before entering into temporary occupation of land under subsection (1), give notice to the owner and occupier of the land.²

² For the procedure for giving notice in relation to native title land see Part 5 of the *Native Title (South Australia) Act 1994*.

Repeal of s. 28A

30. Section 28A of the principal Act is repealed.

Insertion of s. 36A

31. The following section is inserted after section 36 of the principal Act:

Recovery of compensation from Authority

36A. Compensation payable under this Act may be recovered from the Authority as a debt.