



Australian Capital Territory

# Lands Acquisition Amendment Act 2017

A2017-23

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Australian Capital Territory

# Lands Acquisition Amendment Act 2017

A2017-23

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An Act to amend the *Lands Acquisition Act 1994*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1 Name of Act**

This Act is the *Lands Acquisition Amendment Act 2017*.

**2 Commencement**

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

**3 Legislation amended**

This Act amends the *Lands Acquisition Act 1994*.

**4 Notification of compulsory acquisition declarations  
New section 38 (b) (ia) and (ib)**

*insert*

- (ia) stating that if the person does not make a claim for compensation within 3 years after the day the declaration comes into force, the Executive may make an offer of compensation to the person under section 61A (2) (Executive may make offer of compensation where no claim is made); and
- (ib) stating that if the Executive makes an offer of compensation under section 61A (2) to the person, the person is not entitled to make a claim for compensation under section 56 in relation to the acquisition; and

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**5 New section 61A***insert***61A Executive may make offer of compensation where no claim is made**

- (1) This section applies if—
  - (a) the Executive is satisfied that an interest in land (other than a mortgage interest) has been acquired by compulsory process from a person; and
  - (b) at least 3 years have passed since the date of acquisition; and
  - (c) the person has not made a claim for compensation under section 56.

- (2) The Executive may make an offer of compensation to the person that the Executive considers the person is entitled to in accordance with division 6.2 (Amount of compensation—interests other than mortgage interests).

*Note* An offer is an internally reviewable decision (see s 104AA), and the Executive must give an internal review notice to the person (see s 104AB).

- (3) The internal review notice about the offer of compensation must include a statement—
  - (a) that the Executive is satisfied that the interest in land (other than a mortgage interest) has been acquired by compulsory process from the person; and
  - (b) that at least 3 years have passed since the date of acquisition and the person has not made a claim for compensation under section 56; and
  - (c) about how the compensation offered is worked out.

(4) If the Executive makes an offer of compensation to the person under subsection (2) for the acquisition, the person is not entitled to make a claim for compensation under section 56 in relation to the acquisition.

(5) In this section:

*date of acquisition* means the day a declaration under section 33 (Acquisition by compulsory process) in relation to an interest in land came into force.

## **6 Section 62**

*substitute*

### **62 Compensation for compulsory acquisition—person may accept or reject Executive’s offer**

- (1) This section applies if the Executive makes an offer of compensation to a person under section 59 (1) or section 61A (2).
- (2) The person may, by written notice given to the Executive—
  - (a) accept the offer of compensation; or
  - (b) reject the offer of compensation, tell the Executive the amount of compensation that the person considers the person is entitled to, and state how the amount is worked out.

## **7 Compensation for compulsory acquisition—Executive to reconsider offer and make final offer Section 63 (1)**

*omit*

claimant

*substitute*

person

**8 Section 63 (3)**

*substitute*

- (3) If the Executive has not given a reviewable decision notice to the person within the 2-month period—
- (a) the internal review notice given to the person in relation to a claim under section 59 (1) or an offer of compensation under section 61A (2), is taken to be a reviewable decision notice given to the person on the last day of the 2-month period; and
  - (b) the offer of compensation made in the internal review notice under section 59 (1) or section 61A (2) is taken to be a final offer of compensation.

**9 Section 64 heading**

*substitute*

**64 Compensation for compulsory acquisition—person may accept or reject Executive’s final offer**

**10 Advance payment on account of compensation  
Section 70 (2) and (3)**

*substitute*

- (2) The Executive must make an advance on account of compensation under this part if the Executive has—
- (a) accepted a claim for compensation and made an offer of compensation to the person; or
  - (b) made an offer of compensation to the person under section 61A (2) (Executive may make offer of compensation where no claim is made).

- (3) An advance under subsection (2), when added to advances to the same person in relation to the same compensation under subsection (1), must be not less than 90% of the amount of the Executive's offer of compensation.

**11 Interest payable on compensation—interests other than mortgage interests  
Section 76**

*omit*

claimant

*substitute*

person

**12 Definitions—pt 9A  
Section 104AA, definition of *internally reviewable decision***

*after*

section 59 (1)

*insert*

, section 61A (2)



**13 Section 104AB**

*substitute*

**104AB Internal review notices**

If the Executive makes an internally reviewable decision, the Executive must give an internal review notice only to—

- (a) for section 59 (1) or section 83 (1)—the claimant; and
- (b) for section 61A (2)—the person offered compensation.

*Note* The requirements for internal review notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

**14 General power of Supreme Court to adjust rights  
Section 106 (1) (a)**

*substitute*

- (a) determine the person or persons who, at any relevant time, held an interest or interests in particular land in relation to which—
  - (i) a claim for compensation has been or may be made under this Act; or
  - (ii) an offer of compensation has been made under section 61A (2) (Executive may make offer of compensation where no claim is made); and

**15**      **New part 15**

*insert*

**Part 15**                      **Transitional**

**200**      **Meaning of *commencement day*—pt 15**

In this part:

*commencement day* means the day the *Lands Acquisition Amendment Act 2017*, section 3 commences.

**201**      **Compulsory acquisition before commencement day**

- (1) This section applies if—
  - (a) the Executive is satisfied that an interest in land (other than a mortgage interest) has been acquired by compulsory process (the *acquisition*) from a person before the commencement day; and
  - (b) the person has not made a claim for compensation under section 56.
- (2) The Executive must, within 14 days after the commencement day, give a written notice to the person and any other person whom the Executive believes on reasonable grounds after diligent inquiry, to be a person affected by the acquisition.

*Note*      For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (3) A notice under subsection (2) must—
  - (a) include—
    - (i) a copy of the declaration under section 33 in relation to the acquisition; and
    - (ii) a compensation claim form approved under section 118 for section 56; and

- 
- (b) state that—
- (i) the person appears to be entitled to compensation in relation to the acquisition; and
  - (ii) if the person does not make a claim for compensation within 3 years after the date of the notice, the Executive may make an offer of compensation to the person under section 61A (2); and
  - (iii) if the Executive makes an offer of compensation to the person under section 61A (2), the person is not entitled to make a claim for compensation under section 56 in relation to the acquisition; and
- (c) set out any other information in relation to the operation of the Act as the Executive considers appropriate.
- (4) If the person does not make a claim for compensation within 3 years after the date of the notice under subsection (2), section 61A applies as if a reference to the date of acquisition mentioned in section 61A (1) (b) and (3) (b) were a reference to the date of the notice.
- (5) In this section:
- person affected by the acquisition* means a person affected by the declaration under section 33 in relation to the acquisition, within the meaning of section 33 (7).

## 202 Expiry—pt 15

This part expires 4 years after the day it commences.

*Note* Transitional provisions are kept with the original provisions for a limited time to ensure people are aware of them. However, the expiry of a transitional provision does not end their effect (see [Legislation Act](#), s 88).

**16 Reviewable decisions  
Schedule 1, item 3**

*substitute*

3	63 (1) (c) or (3)	make final offer	person offered compensation
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**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 8 June 2017.

**2 Notification**

Notified under the [Legislation Act](#) on 31 August 2017.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Lands Acquisition Amendment Bill 2017, which was passed by the Legislative Assembly on 22 August 2017.

Clerk of the Legislative Assembly