

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

LANDS ACQUISITION BILL 1988

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Amendments to be moved on behalf of the Government)

(Circulated by authority of the Minister for Administrative Services  
the Hon. Stewart West MP)

This memorandum supplements the Explanatory Memorandum presented  
to the Senate in November 1988.

## AMENDMENTS TO THE LANDS ACQUISITION BILL 1988

### OUTLINE AND FINANCIAL IMPACT STATEMENT

#### OUTLINE

The Lands Acquisition Bill 1988 was introduced into Parliament on 26th of May 1988 and was debated and passed by the House of Representatives on 20th October 1988.

Since then changes have been made to ACT related legislation in preparation for the Local Government Administration to be introduced there. Those changes have given rise to the need for this Bill to be amended to enable the establishment in the ACT of an appropriate legislative regime covering land administration.

Additionally preparation for the implementation of this Bill has identified some instances where the clarity of the Bill could be improved. Consequently a series of minor technical amendments are being proposed.

#### FINANCIAL IMPACT STATEMENT

None of these amendments have any financial impact.

## Amendments (5) (6) (7) and (8)

### Clause 125 Overseas Land

These are a series of technical amendments about acquisition and disposal of overseas land to make quite clear that

- the Minister has a specifically defined function to authorise the acquisition or disposal of an interest in overseas land by an acquiring authority, and
- an acquiring authority is limited in its ability to acquire or dispose of an interest in overseas land and must do so within the constraints identified.

These amendments include the deletion of subclause 125 (5) which had originally been included to be consistent with the provisions relating to acquisitions and disposals within Australia. However since it is not possible for an Australian law to affect the law of another country, the subclause is unnecessary.

## Amendment (9)

### Clause 130 Jurisdiction of Federal Court

This is a technical amendment to include clause 133, the Injunctions clause, within the list of those clauses over which the Federal Court has exclusive jurisdiction.

## Amendment (10)

### Clause 137 How Documents are to be Given

This is a technical amendment to provide flexibility in the specification of addresses to which documents required to be given to the Minister can be sent. This amendment will enable a range of addresses to be prescribed in the regulations and will give the Department the ability to suggest the most appropriate address in particular circumstances.

## Amendment (11)

### Clause 139 Delegations

There are two technical amendments being made to the delegations clause. In the first instance provision is being made for the delegation of functions as well as powers. In the second instance the category of person to whom a delegation can be given is being expanded to include executives in Commonwealth statutory authorities.

Amendment (1)

Clause 5    Operation of Territory Laws

Subclause 5 (2) is being amended to delete reference to sections 7A and 9A of the Seat of Government (Administration) Act 1910. Now that the Bill will not commence until after the establishment of the local governing Administration in the ACT the reference is unnecessary given the passage of the self government legislation.

Amendment (2)

Clause 6    Definitions

An amendment has been made to the definition of "Commonwealth authority" to exclude authorities the responsibility of, or established by the newly created ACT Administration, from being bound by the requirements of the Lands Acquisition Bill. The ACT Administration itself is already excluded through the definition of "authority".

Amendment (3)

Clause 119    Disposals

This clause is being amended to make quite clear that

- .    the Minister has a clearly defined function to authorise the disposal of Commonwealth property interests, and
- .    any person acquiring an interest in land from the Commonwealth will not be adversely affected by the transaction if the procedural requirements in this Part of the Bill are not complied with.

The provision originally included in subclause 119 (1) is already covered by clause 117 ie that an acquiring authority requires the written authority of the Minister to dispose of an interest in land.

Amendment (4)

Clause 124    Mining Provisions

Subclause 124(8) is intended to retain the provisions of the Lands Acquisition Act 1955 through which licences to explore for and mine minerals on Commonwealth land can be issued. This is a technical amendment to retain subsection 53(2) of the 1955 Act as well as section 51 and subsection 53(2A).