

Authorised Version No. 002
Land Acquisition and Compensation
Regulations 2010

S.R. No. 44/2010

Authorised Version as at
3 April 2013

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PART 1—PRELIMINARY

1 Objective

The objective of these Regulations is to prescribe forms, procedures, fees and other matters for the purposes of the **Land Acquisition and Compensation Act 1986**.

2 Authorising provision

These Regulations are made under section 110 of the **Land Acquisition and Compensation Act 1986**.

3 Commencement

These Regulations come into operation on 29 June 2010.

4 Revocation

The Regulations listed in Schedule 1 are **revoked**.

5 Definitions

In these Regulations—

allotment means—

- (a) in respect of a lot of land for which a plan of subdivision under the **Subdivision Act 1988** has been registered, that lot; or

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Part 1—Preliminary

r. 5

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- (b) in respect of any other land, land of which a part cannot be sold, transferred or conveyed without the land being subdivided and for which a single certificate of title is or may be issued;

the Act means the **Land Acquisition and Compensation Act 1986**.

PART 2—ACQUISITION OF INTERESTS IN LAND

6 Land not requiring reservation

The following classes of land are prescribed for the purposes of section 5(2) of the Act—

- (a) land to be acquired for a minor road widening or the deviation of a road if the land is only part of an allotment and—
 - (i) the area of the land to be acquired is less than 10 per cent of the total area of the allotment; and
 - (ii) the total value of the interest to be acquired is less than 10 per cent of the value of the unencumbered freehold interest in the total area of the allotment;
- (b) land over which an easement is to be acquired if the acquisition of that easement will not reduce the value of the unencumbered freehold interest in the allotment by more than 10 per cent.

7 Notice of intention to acquire interest in land

For the purposes of section 8(1)(a) of the Act, the prescribed form is Form 1 in Schedule 2.

8 Statement of rights and obligations to accompany statement of no intention to compulsorily acquire

For the purposes of section 7(1)(b)(ii) of the Act, the prescribed form is Form 2 in Schedule 2.

9 Notice under section 7(6) of the Act

For the purposes of section 7(6) of the Act, the prescribed form is Form 3 in Schedule 2.

10 Statement to accompany notice of intention to acquire

For the purposes of section 8(2) of the Act, the prescribed form is Form 4 in Schedule 2.

11 Information from municipal council

For the purposes of section 9(2) of the Act, the following information is prescribed as information which may be requested by an Authority from a municipal council—

- (a) any building permit or approval pursuant to which any construction on the land could be carried out, if that construction is not completed;
- (b) any construction on the land which, in the opinion of the council, is not in accordance with a building permit or approval or contravenes any regulation or local law administered by the council;
- (c) any plan of subdivision or consolidation in respect of the land or part of the land certified by the council under the **Subdivision Act 1988** in the 12 months before the date of the notice or any other such certified plan which, to the council's knowledge, has not been lodged with the Registrar of Titles under the **Subdivision Act 1988**;
- (d) any plan in respect of the land or part of the land re-certified by the council under the **Subdivision Act 1988** in the 12 months before the date of the notice or any other such re-certified plan which, to the council's knowledge, has not been lodged with the Registrar of Titles under the **Subdivision Act 1988**;

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- (e) any works, plans, schemes or proposals which the council is carrying out or which it proposes to carry out in the 12 months following the date of the notice and which may affect the value of an interest in the land;
 - (f) any works, plans, schemes or proposals which, to the council's knowledge, any Government department or public authority (other than the acquiring authority) proposes to carry out in the 12 months following the date of the notice and which may affect the value of an interest in the land;
 - (g) any local law of the council which may affect the value of an interest in the land and any changes to such a local law which the council proposes to make at the date of the notice.

12 Information from responsible authority

For the purposes of section 9(2) of the Act, the following information is prescribed as information which may be requested by an Authority from a responsible authority—

- (a) any planning permit pursuant to which any use or development of the land may take place or any other matter or thing which may be done in respect of the land if that use has not commenced or that development is not completed or that matter or thing has not been done;
- (b) any use, development, matter or thing carried out or being carried out on or in respect of the land which, in the opinion of the responsible authority, is not in accordance with a planning permit or a planning scheme;

- (c) any amendment to a planning scheme applying to the land which may affect the value of an interest in the land, notice of which has been given in accordance with Part 3 of the **Planning and Environment Act 1987** but which has not been adopted or approved in accordance with Part 3 of that Act, if that amendment is not or would not be disclosed on a planning certificate;
- (d) any strategy, plan or other policy adopted by the responsible authority which does not form part of the planning scheme and which may affect the operation of the planning scheme applying to the land or the exercise of any discretion under the **Planning and Environment Act 1987** which may affect the value of an interest in the land.

13 Prescribed fee

For the purposes of section 10(1) of the Act, the prescribed fee is 4.4 fee units.

14 Cancellation of notice of intention to acquire

For the purposes of section 15(4)(a) of the Act, the prescribed form is Form 5 in Schedule 2.

15 Statement to accompany notice of cancellation

For the purposes of section 15(4)(b) of the Act, the prescribed form is Form 6 in Schedule 2.

16 Notice of acquisition

For the purposes of section 21(a) of the Act, the prescribed form is Form 7 in Schedule 2.

17 Statement to be served with notice of acquisition

For the purposes of section 22(b) of the Act, the prescribed form is Form 8 in Schedule 2.

18 Warrant for possession of land

A warrant issued to the Sheriff by an Authority under section 28 of the Act must be in the form of Form 9 in Schedule 2.

PART 3—COMPENSATION FOR ACQUISITION

19 Statement to accompany offer of compensation under section 31(4)(c)

For the purposes of section 31(4)(c) of the Act, the prescribed form is Form 10 in Schedule 2.

20 Notice of acceptance of offer of compensation

For the purposes of section 34(1)(a) of the Act, the prescribed form is Form 11 in Schedule 2.

21 Notice of claim where interest in land acquired

For the purposes of section 35(1)(a) of the Act, the prescribed form is Form 11 in Schedule 2.

PART 4—MEASURE OF COMPENSATION

22 Prescribed amount under section 45(1)(b)

The amount prescribed for the purposes of section 45(1)(b) of the Act is \$500 000.

**PART 5—COMPENSATION WHERE NO INTEREST IN LAND
IS ACQUIRED**

23 Notice of claim where no interest in land is acquired

For the purposes of section 48(1)(a) of the Act,
the prescribed form is Form 12 in Schedule 2.

24 Statement to accompany reply by Authority

For the purposes of section 48(4) of the Act, the
prescribed form is Form 13 in Schedule 2.

**PART 6—POWERS OF ENTRY AND TEMPORARY
OCCUPATION**

25 Statement to accompany notice of entry

For the purposes of section 74(2)(b) of the Act,
the prescribed form is Form 14 in Schedule 2.

**26 Statement to accompany notice of temporary
occupation**

For the purposes of section 75(4)(d) of the Act,
the prescribed form is Form 15 in Schedule 2.

PART 7—DETERMINATION OF DISPUTES

27 Notice of referral of a dispute

For the purposes of section 82 of the Act, the prescribed form is Form 16 in Schedule 2¹.

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Sch. 1

SCHEDULES

SCHEDULE 1

Regulation 4

REVOCATION

<i>S.R. No.</i>	<i>Title of Statutory Rule</i>
124/2009	Land Acquisition and Compensation Interim Regulations 2009

SCHEDULE 2

FORMS

FORM 1

Ss 6 and 8(1)(a)
Reg. 7

NOTICE OF INTENTION TO ACQUIRE

To: [*name and address of person(s) whose interest(s) is/are to be acquired*]

The [*name of Authority*] intends to acquire an interest in [*set out title particulars and a description (including, if appropriate, a sketch) sufficient to identify the interest to be acquired and the location of the land*].

*The description of the land set out above refers to a document called [*name of document*]. A copy of this document can be inspected without charge at the Authority's office at [*address*] during the hours [*ordinary office hours*].

The [*name of Authority*] thinks that the land is suitable for [*set out details of purpose for which land is to be acquired and reasons why the Authority thinks this is so*].

The land—

*is/*is not reserved for a public purpose under *a planning scheme/
* [*specify planning scheme*]; or

*is/*is not exempted from the reservation requirements of section 5 of
the **Land Acquisition and Compensation Act 1986**; or

*is/*is not in a class of land exempted from reservation under section 5
of the **Land Acquisition and Compensation Act 1986**; or

*has/*has not been certified by the Governor in Council as land which
need not be reserved; or

*is/*is not special project land under section 201I(3) of the **Planning
and Environment Act 1987**.

At the present time it is expected that the [*name of Authority*] may require
possession of the land on approximately [*date*]. This date may change.

The [*name of Authority*] requires you to provide it with information about the
following—

- 1 The name of any other person who has, or you think may have, an
interest in the land. (Such a person might be a tenant or a mortgagee
or a person to whom you have agreed to sell the land.)

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- 2 If you have a current building permit or approval or a planning permit concerning the land.
 - 3 If you have sold or let or in any other way dealt with the land or were intending to deal with the land immediately before you received this notice.
 - 4 If you know of any other person proposing to do any of those things mentioned in paragraph 3.
 - 5 Any other matters of which you are aware which will help the [*name of Authority*] to work out what compensation you should receive for the land. (This information may include details of any mortgage, lease or other arrangement affecting the land. If you claim financial loss, please provide financial documents and other records to substantiate all losses. All documents provided will be treated in confidence.)

For and on behalf of the [*name of Authority*]:

Signed [*signature of authorised officer of the Authority*]:

Name [*name of authorised officer of the Authority*]:

Date:

* Delete if not applicable.

FORM 2

S. 7(1)(b)(ii)
Reg. 8

**STATEMENT OF RIGHTS AND OBLIGATIONS TO ACCOMPANY
STATEMENT THAT AUTHORITY DOES NOT INTEND TO
ACQUIRE INTEREST BY COMPULSORY PROCESS**

- 1 The attached STATEMENT tells you that [*name of Authority*] is not going to *compel* you to sell your interest in the property in the next 12 months.
 - 2 The STATEMENT can only be withdrawn if the responsible Ministers decide that that is in the public interest. That is only done rarely. If it happens in your case, you will be notified.
 - 3 The STATEMENT is not an offer to buy your interest in the property. But the [*name of Authority*] may still want to talk to you about buying it. If it does want to, it is up to you whether to talk to the [*name of Authority*] or not. If you do decide to talk about selling, remember that [*name of Authority*] may still decide at any time not to proceed.
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FORM 3

S. 7(6)
Reg. 9

NOTICE TO REQUIRE AUTHORITY TO MAKE DETERMINATION

To: [*name of Authority*]

*I/*We [*name and address*] have an interest in

[*describe land which you and the Authority have been talking about*].

*I/*We ask you to decide within 60 days of the service of this notice whether you are going to serve—

- (a) a notice to acquire *my/*our interest; or
- (b) statements that you are not going to acquire *my/*our interest compulsorily under section 7(1)(b).

Signed:

Dated:

* Delete if not applicable.

FORM 4

S. 8(2)
Reg. 10

**STATEMENT TO ACCOMPANY NOTICE OF INTENTION TO
ACQUIRE INTEREST IN LAND**

1 What is a notice of intention to acquire land?

The attached NOTICE OF INTENTION TO ACQUIRE informs you that the [*name of Authority*] intends to acquire your interest in the land described in that notice.

The [*name of Authority*] has the power to acquire compulsorily or by agreement your interest in the land because of the [*name of Special Act*].

In acquiring your land the [*name of Authority*] must follow certain steps set out in the **Land Acquisition and Compensation Act 1986**.

Your land has either been reserved for a public purpose or the **Land Acquisition and Compensation Act 1986** permits the [*name of Authority*] to acquire your land without reservation.

In the case of your land, the land is [*set out details of exemption under section 5 of the Land Acquisition and Compensation Act 1986*].

2 What does the notice do?

The notice informs you that the [*name of Authority*] requires your land and at this stage intends to acquire it compulsorily or by agreement from you.

The notice is not an offer or agreement to buy the land and it does not mean that the [*name of Authority*] will definitely acquire the land.

3 What you cannot do with the land

Now that you have received the notice you must not, unless the [*name of Authority*] gives you permission—

- sell the land or any part of the land;
- give anybody any interest in the land;
- put any lasting improvements (such as a house or dam or swimming pool) on the land.

But a person to whom you owe money under a mortgage for the land can still, if you don't pay that person as you are required, exercise any rights. Any mortgage may be discharged by you if you wish.

4 You have been asked for certain information

You will see that the notice asks you to give the *[name of Authority]* certain information. This information will help the *[name of Authority]* work out who is to be compensated for the land and how much compensation should be paid.

5 You may sell the land to the Authority by voluntary agreement

If you wish to sell your interest in the land to the *[name of Authority]* by agreement rather than wait for the *[name of Authority]* to take the next step in the acquisition, you may be able to come to an agreement with the *[name of Authority]* as to the compensation to be paid for the land. If you want to do this, you should contact *[insert relevant contact details]*. If you do not want to do this, the *[name of Authority]* may take the next step towards acquiring the land.

In most cases the *[name of Authority]* must wait for 2 months before taking the next step which is giving you a notice of acquisition. (This notice must also be published in a newspaper and in the Government Gazette).

You do not have to wait for this if you wish to sell to the *[name of Authority]*.

6 Compensation

If the land is acquired by agreement or compulsion by the *[name of Authority]* you may be able to claim compensation.

The amount of the compensation may include a sum for certain things which have affected you or the land as a result of the acquisition, for example, the special value of the land to you or losses you suffer because the *[name of Authority]* will not permit you to build on the land.

The compensation may also include an amount for some disadvantage or loss which cannot be assessed purely in terms of money.

You may also be able to claim compensation even if the *[name of Authority]* does not proceed to acquire your interest in the land.

7 The notice may lapse

The *[name of Authority]* may give you a notice of acquisition after 2 months but must do so within 6 months unless you agree that the *[name of Authority]* may have more time.

8 The notice can be amended

If any of the information on the notice concerning your interest or the description of the land is wrong, the *[name of Authority]* can amend the notice if you agree. The notice will then still be effective.

9 The notice can be cancelled

The [*name of Authority*] can cancel the notice. If this happens, you will be told what this means.

10 If you received an earlier notice

If you received an earlier notice which lapsed or was cancelled, the new notice does not affect your right to make your claim within 2 years of the day on which the earlier notice lapsed or was cancelled.

11 Professional advice and expenses

As the process of acquisition can be complicated, you may consider obtaining the help of a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the acquisition of your interest in the land will be paid by the [*name of Authority*].

FORM 5

S. 15(4)(a)

Reg. 14

**CANCELLATION OR PARTIAL CANCELLATION OF NOTICE OF
INTENTION TO ACQUIRE**

To: *[name and address of person(s) to whom notice of intention to acquire was given]*

- 1 The *[name of Authority]* on *[date notice of intention to acquire given]* gave you a notice of intention to acquire your interest in the land.
- 2 *This notice is to tell you that the *[name of Authority]* has decided that it does not want to go ahead with acquiring your interest in the land.

or

*This notice is to tell you that the *[name of Authority]* has decided that it wants to go ahead with acquiring a part of your interest in the land only. That part which *[name of Authority]* still wants is *[insert description]* and is shown on the plan attached to this notice.

For and on behalf of the *[name of Authority]*:

Signed *[signature of authorised officer of the Authority]*:

Name *[name of authorised officer of the Authority]*:

Date:

* Delete if not applicable.

FORM 6

S. 15(4)(b)
Reg. 15

**STATEMENT TO ACCOMPANY STATEMENT OF
CANCELLATION OR PARTIAL CANCELLATION OF NOTICE OF
INTENTION TO ACQUIRE**

1 What is the statement of cancellation about?

The cancellation or partial cancellation of a notice of intention to acquire tells you that the [*name of Authority*] no longer intends to acquire all or part of your interest in certain land.

2 If the statement cancels part of the notice of intention to acquire

If it cancels only part, then the [*name of Authority*] still intends to acquire that part of your interest in the land which is described in the statement.

3 If the statement cancels the whole of a notice of intention to acquire

If it cancels the notice of intention to acquire completely, then apart from working out whether you are entitled to claim compensation and the amount of compensation, the matter is finished.

If you wish to claim compensation, you must make your claim within 2 years from the day the statement of cancellation was served upon you.

4 Professional advice and expenses

You may consider discussing this notice of cancellation with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the notice of intention to acquire your interest in the land will be paid by the [*name of Authority*].

FORM 7

S. 21(a)
Reg. 16

NOTICE OF ACQUISITION

COMPULSORY ACQUISITION OF INTEREST IN LAND

The [*name of Authority*] declares that by this notice it acquires the following interest in the land described as [*insert description of land*]:

[*List interest(s) acquired*]

Published with the authority of the [*name of Authority*]:

[*Insert any map, diagram or plan of the land acquired that may assist in describing the land*]

For and on behalf of the [*name of Authority*]:

Signed [*signature of authorised officer of the Authority*]:

Name [*name of authorised officer of the Authority*]:

Date:

FORM 8

S. 22(b)
Reg. 17

STATEMENT TO ACCOMPANY NOTICE OF ACQUISITION

1 What does the notice of acquisition do?

You have been given a copy of a notice of acquisition. This notice was published in the Government Gazette on [date]. This means the [name of Authority] has compulsorily acquired all interests in the land described in the notice and any person who had an interest in that land which was acquired by the notice is now entitled to claim compensation.

2 You should get an offer of compensation within 14 days

The [name of Authority] must make an offer of compensation to you within 14 days of [date of publication] unless you agree to give the [name of Authority] more time or unless the Minister permits it to have more time to make an offer.

The offer must be fair and reasonable and will be based on a valuation and other information available at the time the offer is made.

3 If you do not receive an offer

If you think you had an interest in the land and you do not receive an offer from the [name of Authority], you can make a claim to the [name of Authority] for compensation. You may consider seeking advice from a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the acquisition of your interest in the land will be paid by the [name of Authority].

4 What compensation is for

The compensation will include amounts for the value of the land and may include amounts for any special value to you of the land acquired, any legal, valuation or other professional costs which you have to pay and compensation for disadvantage or loss to you which cannot be valued purely in terms of money. Compensation may also include an amount for disturbance (for instance if you have to move to other land) or an amount for the decrease in value of other land which you own and which is connected with the land which is acquired.

5 You may be eligible for a loan as well

If the [name of Authority] has acquired a house which you owned and occupied, you may be eligible for a special loan from the [name of Authority] if the market value of your house and land is \$500 000 or less.

6 You will have time to consider the offer

When you receive the offer from the [*name of Authority*] you will have 3 months to accept the offer or to claim compensation.

7 Advance of compensation may be payable

When you receive an offer you may have the full amount of the offer paid to you even if you later claim more compensation.

If you wish to do this, you must make a written request to the [*name of Authority*] when you receive the offer. An advance is not payable unless the offer is for \$5000 or more. If the advance paid is greater than the compensation finally determined you will have to repay the difference.

8 Authority may take possession of the land

The [*name of Authority*] is now able to enter the land and occupy it. The Authority will try to agree with you about possession. If the [*name of Authority*] wants to occupy the land and you live on the land or if it is your main place of business then you can continue to occupy the land for 3 months from the day the land was acquired rent-free unless—

- (a) you agree with the [*name of Authority*] to leave earlier; or
- (b) you leave the land earlier; or
- (c) the Governor in Council certifies that it is not practicable for the [*name of Authority*] to wait 3 months.

In any case, the [*name of Authority*] must give you at least 7 days written notice before it can take possession.

You may be permitted to stay longer than 3 months if the [*name of Authority*] permits you to remain.

If you have agreed to leave or if the 7 days notice has expired and you do not leave, you may incur extra costs for which you will not be compensated.

9 Professional advice and expenses

You may consider discussing this statement with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the acquisition of your interest in the land will be paid by the [*name of Authority*].

FORM 9

S. 28
Reg. 18

WARRANT FOR POSSESSION

To: The Sheriff

- 1 By the publication of a notice of acquisition in the Government Gazette published on [*date of publication of Government Gazette*] the [*name of Authority*] acquired an interest in land described below.
- 2 Since that date the [*name of Authority*] has complied with the requirements of the **Land Acquisition and Compensation Act 1986** concerning entry into possession and compensation for acquisition.
- 3 [*Name of person(s) refusing to give possession*] *has/*have refused to give up possession of the land or *is/*are hindering the [*name of Authority*] from entering upon and taking up possession of the land.

THEREFORE,

The [*name of Authority*] requires you to—

- (a) enter onto the land specified below; and
- (b) deliver possession of the land to the Authority or [*name of person authorised to receive possession*]; and
- (c) use such force as is reasonably necessary to execute this warrant.

Description of Land
[set out adequate description of land]

Issued by the [*name of Authority*] under section 28 of the **Land Acquisition and Compensation Act 1986**.

* Delete if not applicable.

FORM 10

S. 31(4)(c)
Reg. 19

**STATEMENT TO ACCOMPANY INITIAL OFFER OF
COMPENSATION**

1 What this statement is about

This statement comes to you with an offer of compensation by the [*name of Authority*] because you had an interest in land which was compulsorily acquired.

You should refer also to the statement which came with the notice of acquisition which was given to you on [*date*].

2 What to do with the offer

You may—

- (a) accept the offer in full (complete Part A of Form 11); or
- (b) accept the offer in part (complete Part B of Form 11); or
- (c) reject the offer (complete Part C of Form 11).

Within 3 months after service of the offer (unless the time is extended by agreement or by the Minister) you must give the [*name of Authority*] a notice of acceptance or claim.

If you do not reply within time, the [*name of Authority*] may assume that you reject the offer and dispute it. A dispute is determined by the Victorian Civil and Administrative Tribunal or by the Supreme Court.

If you need more time to decide what to do, ask the [*name of Authority*], or if the [*name of Authority*] will not let you have more time, you can ask the Minister for more time.

3 Do you get interest?

If you seek an extension of time in which to decide what to do, interest on compensation will not be paid during the extension of time.

If the Victorian Civil and Administrative Tribunal or the Supreme Court in determining a dispute awards you more than the [*name of Authority*] offered, you may be entitled to interest on the difference between the offer and the award.

4 Advance of compensation may be payable

You may have the full amount of the offer paid to you within 30 days of making a written request to the [*name of Authority*] even if you are claiming more than the offer.

An advance is not payable unless the offer is for \$5000 or more. If the advance paid is greater than the compensation finally determined, you will have to repay the difference.

5 If you do not agree with the valuation

If you think the information which you have been given with the offer is incorrect, you should consider consulting a solicitor, valuer or other professional adviser.

6 Expenses incurred

Any reasonable expenses that you incur in conveyancing, valuations or in seeking professional advice because of the acquisition can be claimed as part of the compensation. You should keep a careful record of these expenses as the [*name of Authority*] may dispute the amount of such a claim.

7 What happens with a disputed claim

A dispute as to the amount of compensation payable to you by the [*name of Authority*] may be referred to the Victorian Civil and Administrative Tribunal or the Supreme Court to be determined if—

- (a) the [*name of Authority*] rejects your claim; or
- (b) you fail to reply within the 3 months (unless the time is extended);
or
- (c) you reject all or part of the offer.

8 What a dispute will cost

The costs of a dispute can be very high and you will not necessarily be compensated for these costs. The Victorian Civil and Administrative Tribunal or the Supreme Court may award whatever costs it thinks are proper, taking into account—

- (a) the amount finally awarded compared with the offer made;
- (b) any unreasonable behaviour by you or the [*name of Authority*];
- (c) any failure by you to give the [*name of Authority*] information it has requested;
- (d) whether your claim is excessive;
- (e) whether the [*name of Authority*] made an offer which was unduly low;

-
- (f) other matters which the **Land Acquisition and Compensation Act 1986** permits to be taken into account in determining costs.

9 You must produce title to the land

When you claim compensation, the [*name of Authority*] may ask you to produce all documents which prove that you had an interest in the land. You must do this when asked.

10 Professional advice and expenses

You may consider discussing this statement with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the acquisition of your interest in the land will be paid by the [*name of Authority*].

FORM 11

Ss 34(1)(a) and 35(1)(a)
Regs 20 and 21

RESPONSE TO OFFER

Person(s) accepting offer or making claim: [*name*]

Authority making offer or claimed from: [*name of Authority*]

Date offer was made:

How much offer is for: [*total amount of offer of compensation*]

The interest in the land of the person responding to offer [*give details of the interest you had in the land which was acquired, e.g. owner, tenant, mortgagee*].

The person's entitlement to that interest is [*give details of your entitlement, e.g. if you are a tenant, particulars of your lease*].

The following parts of this form should be read very carefully and all the parts which relate to your case must be completed. Cross out those parts which do not apply to your case. You must complete the declaration at the end of the form.

Part A—Notice of acceptance in full

I/We accept the offer as full compensation for my/our land acquired by the [*name of Authority*].

Part B—Notice of acceptance in part and claim for further compensation

I/We accept the offer as compensation for my/our land acquired by the [*name of Authority*] but I/we want to negotiate about the following things [*set out the things which you want to discuss with the Authority because you believe you should be given more compensation*].

Part C—Rejection of offer in full and notice of claim for compensation

I/We dispute the amount of compensation which the [*name of Authority*] has offered and claim the sum of \$ [*sum*] for compensation made up as follows—

[*Complete details of claim giving particulars of calculation of the claim having regard to the following items—*

- *market value of the interest in land;*
- *special value of the land to the claimant;*

- *loss attributable to severance;*
- *loss attributable to disturbance;*
- *the enhancement or depreciation in value of the claimant's interest in land adjoining or severed from the acquired land at the date of the acquisition;*
- *all legal, valuation and other professional expenses necessarily incurred by reason of the acquisition of the interest in land.]*

If you dispute the value given to the land by the [*name of Authority*], you should attach to the Form a copy of the certificate(s) of valuation which have been provided to you by a valuer in respect of his or her valuation of the land together with a statement advising how that valuation is calculated. If you have obtained more than one valuation, the same information should be provided in respect of each valuation.

YOU MUST COMPLETE THE FOLLOWING DECLARATION

I/We declare that—

- 1 I am/we are the person(s) to whom the above offer of compensation was made. (If you are the attorney under power of somebody else, you should state this.)
- 2 Immediately before the interest in land for which the offer was made was acquired, I was/we were able to sell/grant/release/lease the interest to the [*name of Authority*] free of any charges, mortgages, leases or other encumbrances or interests apart from those which I/we have told the [*name of Authority*].
- 3 I/we will give the [*name of Authority*] all documents which prove that I/we owned the land acquired/were entitled to the interest acquired.
- 4 I/we have not misled or failed to tell the [*name of Authority*] about anything which might affect the assessment of compensation.
- 5 I/we have received an advance of compensation of [*amount of advance*] on [*date*].

or

I/we have not received an advance of compensation from the [*name of Authority*].

AND I/we acknowledge that this declaration is true and correct and I/we make it in the belief that a person making a false declaration is liable to the penalties of perjury.

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DECLARED at

on

Before me:

*[A person authorised under section 107A of the **Evidence (Miscellaneous Provisions) Act 1958** to witness statutory declarations]*

FORM 12

S. 48(1)(a)
Reg. 23

NOTICE OF CLAIM

(WHERE NO INTEREST IN LAND IS ACQUIRED)

This form is to be used if land is not acquired but you believe you have a claim to compensation.

Person(s) making claim: *[name]*

Authority claimed from: *[name of Authority]*

IF AN OFFER WAS MADE, SET OUT DETAILS OF THE OFFER:

—date of offer

—amount of offer

—what the offer was for.

I am/we are the *[set out by what right you claim to be entitled to compensation, e.g. the person to whom a notice of intention to acquire was given and the Authority which gave that notice did not proceed with the process of acquisition]*.

I/we have suffered loss or expenses as follows: *[set out full and complete details of your loss or expenses and how you calculated these and the time when they occurred]*.

I/We declare that—

1. I am/we are the person(s) entitled to make this claim.
2. I/we have not misled or failed to tell the *[name of Authority]* about anything which might affect the assessment of compensation.

AND I/we acknowledge that this declaration is true and correct and I/we make it in the belief that a person making a false declaration is liable to the penalties of perjury.

DECLARED at

on

Before me:

[A person authorised under section 107A of the Evidence (Miscellaneous Provisions) Act 1958 to witness statutory declarations]

FORM 13

S. 48(4)
Reg. 24

STATEMENT TO ACCOMPANY REPLY BY AUTHORITY TO
CLAIM

1 What is this statement for?

You have made a claim for compensation to the [*name of Authority*] whose reply to your claim came with this statement. This statement tells you what your rights and obligations are as a claimant.

2 The statement of reply

In the statement replying to your claim, the [*name of Authority*] has—

- (a) admitted your claim; or
- (b) made an alternative offer of compensation; or
- (c) rejected the claim.

3 If the claim is admitted in full

If the [*name of Authority*] has admitted your claim in full then you will be paid the amount of the claim.

4 If the claim is not admitted in full

If the [*name of Authority*] has not admitted your claim in full, it has either—

- (a) rejected your claim; or
- (b) admitted your claim in part, perhaps with matters specified as being subject to negotiation.

If the [*name of Authority*] has rejected your claim you may refer the claim to the Victorian Civil and Administrative Tribunal or to the Supreme Court. You may consider contacting a solicitor if you wish to do this.

If the [*name of Authority*] has admitted your claim in part, you may accept the amount offered. You must do this within 2 months. You can then negotiate on the specified matters. If you do nothing, you will be taken to have rejected the offer and the claim will be a disputed claim which will have to be determined by the Victorian Civil and Administrative Tribunal or by the Supreme Court.

If you need more than 2 months to decide what to do, you can ask the [*name of Authority*] for an extension of time. If it will not give you more time, you can ask the Minister for more time.

5 Do you get interest?

If you seek an extension of time in which to decide what to do, interest on compensation will not be paid during the extension.

If the Victorian Civil and Administrative Tribunal or the Supreme Court in determining a dispute awards you more than the [*name of Authority*] offered, you may be entitled to interest on the difference between the offer and the award.

6 Advance of compensation may be payable

You may have the full amount of the offer paid to you straightaway even if you later claim more than the offer.

If you wish to do this you must make a written request to [*name of Authority*].

An advance is not payable unless the offer is for \$5000 or more. If the advance paid is greater than the compensation finally determined you will have to repay the difference.

7 What happens with a disputed claim

The dispute will go before the Victorian Civil and Administrative Tribunal or the Supreme Court to be determined if—

- (a) the [*name of Authority*] rejects your claim; or
- (b) the [*name of Authority*] does not reply to your claim within 3 months; or
- (c) you do not reply within the 2 month period (unless that time is properly extended); or
- (d) you reject all or part of the offer.

8 What a dispute will cost

The costs of a dispute can be very high and you will not necessarily be compensated for these costs. The Victorian Civil and Administrative Tribunal or the Supreme Court may award whatever costs it thinks are proper, taking into account—

- (a) the amount finally awarded compared with the offer made; and
- (b) any unreasonable behaviour by you or the [*name of Authority*]; and
- (c) any failure by you to give the [*name of Authority*] information it has requested; and
- (d) whether your claim is excessive; and

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- (e) whether the [*name of Authority*] made an offer which was unduly low; and
 - (f) other matters which the **Land Acquisition and Compensation Act 1986** permits to be taken into account in determining costs.
-

FORM 14

S. 74(2)(b)
Reg. 25

**STATEMENT TO ACCOMPANY NOTICE OF INTENTION TO
ENTER LAND**

1 What is this statement for?

The [*name of Authority*] has given you notice of intention to enter your land. This statement is to tell you about your rights and obligations and the rights and obligations of the [*name of Authority*].

2 The Authority has a right to enter

The [*name of Authority*] has the right to enter your land under section 74 of the **Land Acquisition and Compensation Act 1986**. The section authorises an Authority (or anyone it authorises in writing) to enter land and carry out work for the purposes of the [*name of Special Act*].

3 What can be done to the land

As well as entering the land, the [*name of Authority*] (or any person authorised) may—

- (a) remain on the land, with assistants, vehicles, machinery or equipment; and
- (b) set up trigonometrical stations, survey pegs, marks or poles and at any time alter or remove or replace them; and
- (c) dig or bore into the land and take samples of soil, rock, water or minerals.

4 Authority must try to co-operate with you

The [*name of Authority*] must try to co-operate with you and to cause as little harm or inconvenience or damage as possible and to leave the land in as nearly as possible the same state as before the occupation.

The [*name of Authority*] may only remain on the land for as long as is reasonably necessary. When it has finished, it must take away all plant, machinery, equipment, goods or buildings brought onto or erected on the land other than things that you agree may be left.

5 You must co-operate with the Authority

You must try to co-operate with the [*name of Authority*]. You must not interfere with any trigonometrical station, survey pegs, marks or poles. Any person who obstructs an Authority (or its authorised person or the person's assistants) may be charged with committing an offence and may be fined.

6 Claim for compensation

If you have suffered financial loss or had to pay any expenses which arose as a direct consequence of the [*name of Authority*] entering your land, you may claim compensation by giving the [*name of Authority*] a notice of claim.

Generally, a claim must be made within 2 years of the last time the Authority or a person authorised by the Authority was on the land.

7 You may be entitled to rent

As well as any compensation, the [*name of Authority*] must also pay rent for any period the Authority occupies the land.

The rent must be paid quarterly or half-yearly. The amount of the rent is to be agreed between you and the [*name of Authority*]. If you cannot agree, then the rent is to be fixed by the Victorian Civil and Administrative Tribunal or the Supreme Court.

8 Professional advice and expenses

You may like to discuss this statement with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the [*name of Authority*] entering your land will be paid by the [*name of Authority*].

FORM 15

S. 75(4)(d)
Reg. 26

**STATEMENT TO BE CONTAINED IN NOTICE UNDER
SECTION 75(3) OF INTENTION TO OCCUPY LAND
TEMPORARILY**

1 What is this statement for?

This statement is to tell you about rights and obligations concerning temporary occupation of your land by the [*name of Authority*].

2 The Authority has a right to occupy temporarily

The [*name of Authority*] has the right to occupy your land temporarily under section 75 of the **Land Acquisition and Compensation Act 1986**. The section authorises the [*name of Authority*] (or anyone it authorises) to occupy certain land for as long as is necessary for the purposes of the [*name of Special Act*].

3 What land can be occupied

The [*name of Authority*] can occupy any land except land which is used primarily for residential purposes. **[If the Authority is an Authority under clause 11 of Schedule 5 to the Road Management Act 2004.]*
The [*name of Authority*] is a State road authority and is authorised to occupy any land including land used primarily for residential purposes.

4 What can be done to the land

As well as occupying the land, the [*name of Authority*] (or the authorised person) may—

- (a) dig and take clay, stone, gravel, earth or other substance from the land;
- (b) deposit any material on the land;
- (c) make cuttings or excavations on the land;
- (d) take timber from the land;
- (e) make and use roads on the land;
- (f) manufacture on the land any materials required;
- (g) erect workshops, sheds and buildings of a temporary character on the land.

5 Statement of material taken from land

If the [*name of Authority*] takes any substance or timber from the land it must give you a monthly written statement of what is taken.

6 Authority must try to co-operate with you

The [name of Authority] must try to co-operate with you and to cause as little harm or inconvenience or damage as possible and to leave the land as nearly as possible in the same state as before the occupation.

The [name of Authority] may remain on the land only for as long as is reasonably necessary. When it has finished, it must take away all plant, machinery, equipment, goods or buildings brought on to or erected on the land other than things that you agree may be left.

If you think that the land being occupied temporarily should be fenced, you should ask the [name of Authority]. If it won't agree to this, you can ask the Minister to settle your disagreement.

7 Claim for compensation

If you have suffered financial loss or have had to pay any expenses which arose as a direct consequence of the [name of Authority] occupying your land, you may claim compensation by giving the [name of Authority] a notice of claim.

Generally, a claim must be made within 2 years of the last time the [name of Authority] or a person authorised by it was on the land.

8 You may be entitled to rent

As well as any compensation, the [name of Authority] must also pay rent for the period it occupies the land.

The rent must be paid quarterly or half-yearly. The amount of the rent is to be agreed between you and the [name of Authority]. If you cannot agree, then the rent is to be fixed by the Victorian Civil and Administrative Tribunal or the Supreme Court.

9 Professional advice and expenses

You may wish to discuss this statement with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the temporary occupation of your land will be paid by the [name of Authority].

* Delete if inapplicable.

FORM 16

S. 82
Reg. 27

REFERRAL OF DISPUTED CLAIM

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE

No. of 20

IN THE MATTER of the **Land Acquisition and Compensation Act 1986**

- and -

IN THE MATTER of section 80 of the **Land Acquisition and Compensation Act 1986** whereby [*name of party referring claim*] refers a disputed claim for determination by the Supreme Court.

BETWEEN:

[*name of applicant*]

Applicant

- and -

[*name of respondent*]

Respondent

NOTICE OF REFERRAL

Date of Document:

Filed by:

Details of claim in dispute

The claim in dispute is in respect of land described as [*set out a full description of the land and give full title particulars*].

The interest of the claimant in the land is: [*insert brief description of nature of interest e.g. owner, mortgagee in possession*].

Attached are copies of—

- (a) the notice of acquisition (if appropriate); and
- (b) the offer of compensation made by the acquiring Authority (if any); and
- (c) the claim made by the claimant; and
- (d) the reply (if any) of the acquiring Authority to the claim.

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Dated:

[*Signed*]
(by the party referring the claim)

Address for service:

[*Address of party giving notice*]

ENDNOTES

1. General Information

The Land Acquisition and Compensation Regulations 2010, S.R. No. 44/2010 were made on 23 June 2010 by the Lieutenant-Governor, as the Governor's Deputy, with the advice of the Executive Council under section 110 of the **Land Acquisition and Compensation Act 1986**, No. 121/1986 and came into operation on 29 June 2010: regulation 3.

The Land Acquisition and Compensation Regulations 2010 will sunset 10 years after the day of making on 23 June 2020 (see section 5 of the **Subordinate Legislation Act 1994**).

Endnotes

2. Table of Amendments

There are no amendments made to the Land Acquisition and Compensation Regulations 2010 by statutory rules, subordinate instruments and Acts.

3. Explanatory Details

¹ Reg. 27: Procedures and forms for application for determination of a disputed claim to the Victorian Civil and Administrative Tribunal are contained in Victorian Civil and Administrative Tribunal Rules 2008, S.R. No. 65/2008.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2012 is \$12.53. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.