



## Resource Legislation Amendments 2017

### RESOURCE LEGISLATION AMENDMENTS 2017 – FACT SHEET 16

# Changes to land acquisition under the Public Works Act 1981

This is part of a series of 16 fact sheets that give an overview of recent resource legislation amendments.

This fact sheet gives an overview of amendments to the land acquisition process under the Public Works Act 1981 (PWA), which is administered by Land Information New Zealand (LINZ).

**The overall intent of these changes** is to make land acquisition processes fairer and more efficient.

## Increase in additional compensation for homeowners

A person whose land is taken or acquired under the PWA is eligible for compensation, to restore that person in monetary terms to the position they were in prior to the taking or acquisition. Additional compensation is also available for disruption, interference and other inconvenience caused, in certain circumstances (known as a 'solatium').

### Additional compensation

Additional compensation may be available if the land acquired included the owner's home. This compensation is to a maximum of \$50,000.

**Previously** the solatium figure was set at \$2,000, which has not changed since 1975.

**The PWA has been amended** to increase this figure, which is now made up of:

- a flat payment of \$35,000
- a further \$10,000, if both:
  - an agreement is reached within six months from the negotiation start date
  - the agreement specifies the date that vacant possession of the land (including buildings and structures) will be given to the notifying authority
- a further \$5,000, if the Minister for Land Information or the local authority considers this is warranted in the circumstances.

The maximum payment available is \$50,000, regardless of how many different landowners there are, or the nature of their ownership.

This additional compensation is only available if the land was used for the owner's main residence for a substantial part of the period between when the:

- authority first notified the owner of their intention to take the land in writing
- owner handed over the vacant land (including structures and buildings) to the notifying authority.

The definition of 'owner' excludes tenants subject to a weekly or monthly tenancy, a tenancy covered by the Residential Tenancies Act 1986, or a statutory tenancy. This means that the solatium payment is not available to persons living under these types of tenancies. Instead, these persons may receive compensation at the discretion of the notifying authority under section 75 of the PWA.

## Transitional arrangements

Transitional arrangements apply if negotiations began before enactment.

The new additional compensation payment takes effect immediately following enactment.

The \$10,000 part of the additional compensation may or may not be available, depending on when negotiations between the landowner and the notifying authority began, and when they were completed.

Negotiation start date	Is the \$10,000 portion of the additional compensation available?
Before the 18 October 2016	No
Between 18 October 2016 and 18 December 2016	Yes, if an agreement is reached by 18 June 2017
From 18 December 2016 onwards	Yes, if an agreement is reached within six months of the negotiation start date

## Additional compensation for landowners

**Previously** additional compensation was only available for land acquired or taken if it included the owner's home.

**The PWA has been amended** to introduce additional compensation for land taken or acquired that does not include the owner's home.

The additional compensation rate for this type of land is 10 per cent of the value of the land taken, between a minimum of \$250 and a maximum of \$25,000.

This payment is only available to persons who meet all of the following criteria.

- The person was either:
  - an owner of the land on the notification date
  - the spouse, civil union partner or de facto partner of an owner on the notification date
  - beneficially interested in the land if an owner had died after the notification date.
- The person was an owner for a substantial period of time from notification until when the land was handed over to the notifying authority (the vacant possession date).
- The person was an owner on the vacant possession date.
- The person did not want the land to be taken, or was mainly willing because the land had been notified to be taken or acquired.
- The person did not receive compensation for the land under section 72(1) (if the land included the owner's home).

The maximum payment available for land that does not include the owner's home is \$25,000, regardless of how many different owners there are, or the nature of that ownership.

## Future additional compensation changes can be made by Order in Council

**Previously**, the additional compensation rate could only be changed by amending the PWA itself, as the figure was set in the primary legislation.

**The PWA has been amended** to allow future updates to additional compensation to be made more efficiently, by Order in Council, subject to the following criteria:

- the compensation rate (percentage) can be either increased or decreased
- the compensation amount can only be increased
- at least five years must have passed since the last change
- the Minister for Land Information consults publicly on any proposed change, including with the local authority's representative body
- the Minister for Land Information should also take into account:
  - the purposes of additional compensation (including the differences between acquiring land that includes the owner's home and land that does not)
  - national average house and land sales prices
  - equivalent international compensation
  - the consumer price index.

## Delegating function of issuing 'notices of desire' to LINZ

**Previously** notices of desire to acquire land under the PWA had to be issued by the Minister for Land Information.

**The PWA has been amended** to allow this function to be delegated to LINZ.

The Minister's involvement continues in the process, as he or she retains the power to issue notices of intention to take land (this power cannot be delegated to LINZ).

## Evidence from previous RMA cases for objection hearings

Separate Environment Court proceedings are often involved for appeals on land use provisions under the RMA and objections to the taking of land under the PWA. Evidence about a particular proposal might be relevant to both cases (for example, assessments of alternative options), however.

**Previously** evidence had to be presented separately, adding time and cost to the overall process.

**The PWA has been amended** so that, when considering an objection to compulsory acquisition of land, the Environment Court can:

- accept any evidence previously presented to the Court at a related RMA hearing, inquiry or appeal
- direct how that evidence is to be presented.

The Environment Court can do this with or without the consent of any party to a hearing.

This change only applies to PWA hearings that begin after this amendment is enacted.

## More information

LINZ has published a guide about the rights of landowners when the Crown requires their land for a public work. This is available on the LINZ website at: [www.linz.govt.nz/crown-property/acquisition-and-disposal-land/land-involved-public-works/landowners-rights-when-cro-1](http://www.linz.govt.nz/crown-property/acquisition-and-disposal-land/land-involved-public-works/landowners-rights-when-cro-1).

### Fact sheets in this series

This is one of a series of 16 fact sheets providing an overview of amendments to the:

- Resource Management Act 1991
- Conservation Act 1987
- Reserves Act 1977
- Public Works Act 1981
- Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

The full set of fact sheets is available on our website:

[www.mfe.govt.nz/publications/rma/resource-legislation-amendments-2017-fact-sheet-series](http://www.mfe.govt.nz/publications/rma/resource-legislation-amendments-2017-fact-sheet-series)

### Find out more

Contact the Ministry for the Environment by emailing [info@mfe.govt.nz](mailto:info@mfe.govt.nz), or visit [www.mfe.govt.nz/rma](http://www.mfe.govt.nz/rma).

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