

Amendments to the Public Works Act 1981

The Public Works Act 1981 (PWA) was amended by the Resource Legislation Amendment Act 2017.

The amended provisions of the PWA came into force on 19 April 2017. At that date the level of additional compensation for the acquisition of a notified dwelling has been increased and a new head of additional compensation comes into force for other notified land.

Additional compensation up to \$50,000 for acquiring an owner's principal place of residence

Under section 72 of the PWA where a notified dwelling is taken or acquired for the notified public work and the dwelling is used as the landowner's principal place of residence, up to \$50,000 additional compensation is payable provided vacant possession is given on the agreed date or (if none) within one month of vacant possession being required by notice in writing.

Section 72A provides for the amount of additional compensation to be determined as follows:

- \$35,000; plus
- \$10,000 provided an agreement for sale and purchase which includes provision for a date on which vacant possession is to be given, is executed within six months of the "negotiation start date"; plus
- \$5,000 if, at the discretion of the Minister, the owner's personal circumstances warrant such payment or the circumstances of the acquisition warrant such payment.

"Negotiation start date" means the earlier of the date on which:

- the notifying authority notifies the owner of land in writing that it wishes to acquire the land by agreement under section 17 of the PWA; or
- the notifying authority serves notice in relation to land by notice of desire under section 18(1)(a) of the PWA.

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

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 additional compensation is not available to persons occupying land under these types of tenancies. However, these persons may receive compensation at the discretion of the notifying authority under section 75 of the PWA.

Additional compensation up to \$25,000 for acquiring land not including the owner's principal place of residence

Additional compensation is payable where notified land taken or acquired does not include the owner's principal place of residence, at the rate of 10 percent of the value of the land taken, from a minimum of \$250 to a maximum of \$25,000, provided vacant possession is given on the agreed date or (if none) within one month of vacant possession being required by notice in writing.

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.

Compensation must not be paid under section 72C(1) of the PWA to an owner if that person is paid compensation for the loss of their principal place of residence on that land under section 72(1).

More information

LINZ will publish on its website www.linz.govt.nz a guide about the rights of landowners when the Crown requires their land for a public work.