

**ABORIGINAL LAND RIGHTS (AMENDMENT) ACT 1986**  
**No. 18**

NEW SOUTH WALES



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**ABORIGINAL LAND RIGHTS (AMENDMENT) ACT 1986**  
**No. 18**

NEW SOUTH WALES



**Act No. 18, 1986**

An Act to amend the Aboriginal Land Rights Act 1983 to make further provision with respect to the financial management of Aboriginal Land Councils and the claiming of land by those Councils and in certain other respects. [Assented to 2 May 1986.]

*Aboriginal Land Rights (Amendment) 1986*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the "Aboriginal Land Rights (Amendment) Act 1986".

**Amendment of Act No. 42, 1983**

2. The Aboriginal Land Rights Act 1983 is amended in the manner set forth in Schedule 1.

**Savings and transitional provisions**

3. Schedule 2 has effect.

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**SCHEDULE 1**

(Sec. 2)

**AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983**

(1) Section 3 (**Arrangement**)—

Omit the section.

(2) Section 4 (**Interpretation**)—

Section 4 (3)—

After section 4 (2), insert:

(3) The Chairperson of an Aboriginal Land Council may be referred to as the Chairman or Chairwoman, as the case requires.

(3) Sections 9, 17, 24, 63—

Omit "Chairman" wherever occurring, insert instead "Chairperson".

SCHEDULE 1—*continued*AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*(4) Section 9 (**Chairperson and other officers**)—

## (a) Section 9 (5)—

Omit “A term”, insert instead “Subject to the regulations, a term”.

## (b) Section 9 (5)—

After “his” wherever occurring, insert “or her”.

(5) Section 12 (**Functions of a Local Aboriginal Land Council**)—

## (a) Section 12 (a)—

Omit “or acquired by”.

## (b) Section 12 (b), (b1)—

Omit section 12 (b), insert instead:

(b) the making of applications, in writing, to the Regional Aboriginal Land Council for the acquisition, by the Regional Aboriginal Land Council, of land on behalf of or to be vested in the Local Aboriginal Land Council;

(b1) the making of applications, in writing, to the Regional Aboriginal Land Council for the granting of funds to be applied solely to the payment of the administrative costs and expenses of the Local Aboriginal Land Council;

(6) Section 15 (**Constitution of Regional Aboriginal Land Councils**)—

## (a) Section 15 (4)—

Omit “The term”, insert instead “Subject to the regulations, the term”.

## (b) Section 15 (4)—

Omit “his” wherever occurring, insert instead “the member’s”.

## (c) Section 15 (5)—

Omit “him”, insert instead “the member”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

(7) Section 17 (**Chairperson and other officers**)—

(a) Section 17 (5)—

Omit “A term”, insert instead “Subject to the regulations, a term”.

(b) Section 17 (5)—

After “his” wherever occurring, insert “or her”.

(8) Section 20 (**Functions of a Regional Aboriginal Land Council**)—

(a) Section 20 (b)-(b3)—

Omit section 20 (b), insert instead:

- (b) the consideration of, and the making of recommendations, in writing, to the New South Wales Aboriginal Land Council for, the funding of claims to land or purchases of land by the Regional Aboriginal Land Council on its own behalf or on behalf of or to be vested in a Local Aboriginal Land Council;
- (b1) the purchase of private lands on its own behalf or on behalf of or to be vested in a Local Aboriginal Land Council and the transfer of lands acquired on behalf of a Local Aboriginal Land Council to the Council;
- (b2) the making of claims to Crown land;
- (b3) the consideration of, and the making of recommendations, in writing, to the New South Wales Aboriginal Land Council for, the granting of funds to be applied solely to the payment of the administrative costs and expenses of the Regional Aboriginal Land Council and Local Aboriginal Land Councils;

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SCHEDULE 1—*continued*

AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

(b) Section 20 (2)—

At the end of section 20, insert:

(2) Nothing in this Part empowers a Regional Aboriginal Land Council to provide, and a Regional Aboriginal Land Council shall not provide, money or other financial assistance to enable a Local Aboriginal Land Council to enter into a contract, or to complete a contract entered into by a Local Aboriginal Land Council, for the acquisition of land.

(9) Section 22 (**Constitution of N.S.W. Aboriginal Land Council**)—

(a) Section 22 (4)—

Omit “The term”, insert instead “Subject to the regulations, the term”.

(b) Section 22 (4)—

Omit “his” wherever occurring, insert instead “the member’s”.

(c) Section 22 (5)—

Omit “him” wherever occurring, insert instead “such a member”.

(10) Section 24 (**Chairperson and other officers**)—

(a) Section 24 (5)—

Omit “A term”, insert instead “Subject to the regulations, a term”.

(b) Section 24 (5)—

After “his” wherever occurring, insert “or her”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

(11) Section 29A—

After section 29, insert:

**Investment of money in N.S.W. Aboriginal Land Council Account**

29A. (1) Fifty per cent of the money paid pursuant to section 28 into the New South Wales Aboriginal Land Council Account in the year 1984 and in succeeding years shall be and remain, together with the interest thereon, invested in accordance with the regulations and shall not be disbursed.

(2) Nothing in subsection (1) prevents the disbursement, after 31 December 1998, of interest accrued after that date.

(12) Sections 33A–33D—

After section 33, insert:

**Budget of N.S.W. Aboriginal Land Council, etc.**

33A. (1) The New South Wales Aboriginal Land Council shall, not less than 6 weeks before the commencement of each financial year, prepare and submit for the approval of the Minister a detailed budget relating to its operations during that financial year.

(2) The New South Wales Aboriginal Land Council shall, in the preparation of its budget, consult with the Public Service Board concerning amounts of salary, wages, fees and other remuneration.

(3) In determining whether or not to approve a budget, the Minister may seek from the New South Wales Aboriginal Land Council, and the Council shall furnish to the Minister, such information as the Minister requests relating to the budget.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

(4) The New South Wales Aboriginal Land Council shall, if directed to do so by the Minister, prepare and submit to the Minister within 4 weeks of the end of each quarter of each financial year a report specifying the amounts of funds granted during the quarter by the New South Wales Aboriginal Land Council to other Councils and the purposes for which the funds were granted.

(5) The Minister may give directions, not inconsistent with this Act or the regulations, to the New South Wales Aboriginal Land Council with respect to the establishment and monitoring of a uniform system of accounting by Councils, the form, contents and method of preparation of budgets by Councils, the form, contents and method of preparation of quarterly reports by Councils and other matters relating to the keeping of financial records and the making of financial reports by Councils.

(6) The New South Wales Aboriginal Land Council shall comply with a direction given to it by the Minister.

(7) This section shall cease to have effect 4 years after the date on which this section commences.

**Budget of Regional Aboriginal Land Council**

33B. (1) A Regional Aboriginal Land Council shall, not less than 6 weeks before the commencement of each financial year, prepare and submit for the approval of the New South Wales Aboriginal Land Council a detailed budget relating to its operations during that financial year.

(2) In determining whether or not to approve a budget, the New South Wales Aboriginal Land Council—

- (a) shall consult with the Public Service Board concerning amounts of salary, wages, fees and other remuneration; and
- (b) may seek from a Regional Aboriginal Land Council such information as the New South Wales Aboriginal Land Council requests relating to the budget.



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SCHEDULE 1—*continued*

AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

**Quarterly reports by Aboriginal Land Councils**

33c. A Council which receives funds directly or indirectly from the New South Wales Aboriginal Land Council in a financial year shall, if directed to do so by the Minister, prepare and submit to the New South Wales Aboriginal Land Council within 4 weeks of the end of each quarter of the financial year a certified report as to the expenditure of those funds.

**Cessation of funding**

33D. (1) Where a Council—

- (a) fails to comply with section 33, 33B or 33c; or
- (b) fails to obtain a report, or is unable to obtain a satisfactory report, of an auditor under section 34,

the New South Wales Aboriginal Land Council shall cease immediately to provide any funds to the Council.

(2) The New South Wales Aboriginal Land Council shall not resume the provision of funds to a Council which has ceased to be provided with funds pursuant to subsection (1) until—

- (a) the Council complies with section 33, 33B or 33c or obtains a satisfactory report of an auditor under section 34, as the case requires; or
- (b) the Minister, after consideration of a report of—
  - (i) an investigator appointed by the Minister with the approval of the New South Wales Aboriginal Land Council; or
  - (ii) an administrator of the area of the Council,

directs the New South Wales Aboriginal Land Council to resume the provision of funds to the Council.

*Aboriginal Land Rights (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

- (3) Nothing in this section prevents the New South Wales Aboriginal Land Council from providing funds to—
- (a) a Council for the area for which an administrator has been appointed under section 57; or
  - (b) a Local Aboriginal Land Council within the area of a Regional Aboriginal Land Council where the provision of funds to the Regional Aboriginal Land Council has ceased pursuant to subsection (1).
- (13) Section 36 (**Claims to Crown lands**)—
- (a) Section 36 (1), definition of “Aboriginal Land Council”—  
Omit the definition.
  - (b) Section 36 (1), definition of “claimable Crown lands”—
    - (i) From paragraph (b), omit “and”.
    - (ii) After paragraph (b), insert:
      - (b1) do not comprise lands which, in the opinion of a Crown Lands Minister, are needed or are likely to be needed as residential lands; and
  - (c) Section 36 (2)—  
Omit “a Local Aboriginal Land Council”, insert instead “one or more Local Aboriginal Land Councils”.
  - (d) Section 36 (2A)—  
After section 36 (2), insert:
    - (2A) A Regional Aboriginal Land Council may make a claim for land within its region with the consent, in writing, of the Local Aboriginal Land Council in whose area the land is situated.
  - (e) Section 36 (3)—  
Omit “A Local Aboriginal Land Council”, insert instead “One or more Local Aboriginal Land Councils”.

*Aboriginal Land Rights (Amendment) 1986*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

(f) Section 36 (3)—

After “its” wherever occurring, insert “or their”.

(g) Section 36 (4)—

After “(2)”, insert “, (2A)”.

(h) Section 36 (4) (b)—

Omit “and”.

(i) Section 36 (4) (b1)—

After section 36 (4) (b), insert:

(b1) shall, in the case of a claim made by a Regional Aboriginal Land Council, be accompanied by evidence of the consent of the Local Aboriginal Land Council in whose area the land is situated; and

(j) Section 36 (5) (b)—

Omit the paragraph, insert instead:

(b) if the Crown Lands Minister is satisfied that—

(i) the whole of the lands claimed is not claimable Crown lands; or

(ii) part of the lands claimed is not claimable Crown lands,

refuse the claim or refuse the claim to the extent that it applies to that part, as the case may require.

*Aboriginal Land Rights (Amendment) 1986*

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SCHEDULE 1—*continued*AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

## (k) Section 36 (5A)—

After section 36 (5), insert:

(5A) Where, under subsection (5), a Crown Lands Minister is not satisfied that the whole or part of the lands claimed is claimable Crown lands because the lands are needed, or likely to be needed, for an essential public purpose, but that the need for the lands for the public purpose would be met if the claim were to be granted in whole or in part subject to the imposition of a condition (whether by way of covenant or easement or in any other form) relating to the use of the lands, the Crown Lands Minister may, notwithstanding that subsection, where the condition is agreed to by the Aboriginal Land Council making the claim, grant the claim under that subsection subject to the imposition of the condition.

## (l) Section 36 (8)—

Omit the subsection, insert instead:

(8) A certificate being—

- (a) a certificate issued by a Crown Lands Minister stating that any land the subject of a claim under this section and specified in the certificate is needed or is likely to be needed as residential land; or
- (b) a certificate issued by a Crown Lands Minister, after consultation with the Minister administering this Act, stating that any land the subject of a claim under this section and specified in the certificate is needed or likely to be needed for an essential public purpose,

shall be accepted as final and conclusive evidence of the matters set out in the certificate and shall not be called into question in any proceedings nor liable to appeal or review on any grounds whatever.

*Aboriginal Land Rights (Amendment) 1986*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

(m) Section 36 (9)—

Omit “Any”, insert instead “Except as provided by subsection (9A), any”.

(n) Section 36 (9A)–(9C)—

After section 36 (9), insert:

(9A) Where the transfer of lands to an Aboriginal Land Council under this section is of land to which the Western Lands Act 1901 applies but which is not within an area determined by the Minister administering that Act as being the urban area of a city, town or village, the transfer shall be effected by the granting to the Council of a lease in perpetuity under that Act.

(9B) A lease referred to in subsection (9A)—

(a) may be granted without the necessity for the payment of any rent under the lease or may require the payment of a nominal rent; and

(b) notwithstanding the Western Lands Act 1901, shall not be cancelled unless the Minister administering that Act has consulted with the Minister administering this Act.

(9C) Land transferred under this section to 2 or more Aboriginal Land Councils may be transferred to those Councils as joint tenants or as tenants in common.

(o) Section 36 (10)—

Omit “or the Western Lands Act, 1901,”.

(p) Section 36 (12)—

After “transfer” where secondly occurring, insert “or any condition imposed under subsection (5A)”.

*Aboriginal Land Rights (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*(14) Section 37 (**Aboriginal lands in travelling stock reserves**)—

## (a) Section 37 (1)—

After “1934,” insert “(not being a travelling stock reserve in the Western Division within the meaning of the Crown Lands Consolidation Act 1913),”.

## (b) Section 37 (2)—

Omit “the Crown Lands Consolidation Act, 1913, or the Western Lands Act, 1901”, insert instead “or the Crown Lands Consolidation Act 1913”.

## (c) Section 37 (3)—

Omit “the Minister administering the Pastures Protection Act, 1934, on the recommendation of the Pastures Protection Board for the district in which the land referred to in subsection (1) is situated, may in respect of that land”, insert instead “the Crown Lands Minister within the meaning of section 36 may, in respect of the land referred to in subsection (1),”.

## (d) Section 37 (4A)—

After section 37 (4), insert:

(4A) The Minister referred to in subsection (3) shall not enter into an agreement under that subsection in respect of land which is or is part of a travelling stock reserve as defined in section 4 of the Pastures Protection Act 1934 without the approval of the Minister administering that Act.

(15) Section 40 (**Sale, lease, etc., or use of lands vested in Aboriginal Land Councils**)—

## (a) Section 40 (1A)—

After section 40 (1), insert:

(1A) An Aboriginal Land Council may transfer land vested in it to another Aboriginal Land Council.

*Aboriginal Land Rights (Amendment) 1986*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

(b) Section 40 (5A), (5B)—

After section 40 (5), insert:

(5A) A Regional Aboriginal Land Council may transfer land acquired by it on behalf of a Local Aboriginal Land Council to the Local Aboriginal Land Council.

(5B) Stamp duty under the Stamp Duties Act 1920 shall not be payable in respect of a transfer of land under subsection (1A) or (5A).

(16) Section 44A—

After section 44, insert:

**Payment of rates by N.S.W. Aboriginal Land Council**

44A. (1) Where rates payable under an Act referred to in section 44 have been unpaid for a period of not less than 12 months in respect of a rating year commencing on 1 January 1985 or any subsequent date, the New South Wales Aboriginal Land Council shall, within 30 days after receipt of a notice from the appropriate rating authority specifying the total of the amount unpaid, the amount of any interest accrued on that amount and any extra charges, pay that total to that rating authority.

(2) A rating authority may recover an amount unpaid after the expiration of the period of 30 days referred to in subsection (1) from the New South Wales Aboriginal Land Council as a debt in a court of competent jurisdiction.

(3) The New South Wales Aboriginal Land Council may recover an amount paid under subsection (1) or (2) from the Regional Aboriginal Land Council in whose area the land subject to the rate is situated, whether the rate was payable by the Regional Aboriginal Land Council or a Local Aboriginal Land Council within that area.

*Aboriginal Land Rights (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

## (17) Section 56A—

After section 56, insert:

**Rules of conduct**

56A. The Minister may from time to time determine rules of conduct to be observed by Aboriginal Land Councils and members of Aboriginal Land Councils.

(18) Section 57 (**Administrators—Regional and Local Aboriginal Land Council areas**)—

## (a) Section 57 (1) (a1)—

After section 57 (1) (a), insert:

(a1) on the receipt of a report by an investigator appointed by the Minister with the approval of the New South Wales Aboriginal Land Council that the funds or other property of the Council for that area have not been properly applied or managed;

## (b) Section 57 (1) (b)—

Before “this Act”, insert “or under”.

## (19) Section 57A—

After section 57, insert:

**Administrator—N.S.W. Aboriginal Land Council**

57A. (1) The Governor may, at any time, on the recommendation of the Minister following consideration by the Minister of—

(a) a report of the Auditor-General; or

(b) a report of an investigator appointed by the Minister,

which discloses, in the opinion of the Minister, grounds which justify the making of such a recommendation, by proclamation published in the Gazette, appoint an administrator of the New South Wales Aboriginal Land Council.



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SCHEDULE 1—*continued*AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*

(2) An administrator shall have, to the exclusion of the New South Wales Aboriginal Land Council, all of the functions and liabilities conferred or imposed by or under this Act on the Council and shall be paid out of the funds of the Council.

(3) Notwithstanding any other provision of this Act, where an administrator is appointed under this section, the officers and employees of the New South Wales Aboriginal Land Council (unless specifically retained by the administrator) and the office holders in the Council shall thereupon cease to hold office.

(20) Section 59 (**Reference of certain disputes, etc., to Court**)—

## (a) Section 59 (1A)—

After section 59 (1), insert:

(1A) The Registrar shall not, under subsection (1), refer to the Court a dispute between a Local Aboriginal Land Council and a Regional Aboriginal Land Council relating to a land claim by the Regional Aboriginal Land Council unless the dispute has first been referred to the New South Wales Aboriginal Land Council for conciliation.

## (b) Section 59 (4A)—

After section 59 (4), insert:

(4A) Where a dispute referred to the Court under subsection (1) relates to the failure or refusal of a Local Aboriginal Land Council to consent, in writing, to the making of a claim for land by a Regional Aboriginal Land Council, the Court may grant the consent on behalf of the Local Aboriginal Land Council.

(21) Section 64 (**Proof of certain matters not required**)—

Section 64 (d)—

Omit “chairman”, insert instead “chairperson”.

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SCHEDULE 1—*continued*AMENDMENTS TO THE ABORIGINAL LAND RIGHTS ACT 1983—  
*continued*(22) Section 68 (**Regulations**)—

## Section 68 (2) (c1)—

After section 68 (2) (c), insert:

- (c1) the circumstances in which a vacancy shall occur in the office of Chairperson, Secretary or Treasurer of an Aboriginal Land Council and the removal from office of the Chairperson, Secretary or Treasurer of an Aboriginal Land Council;
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## SCHEDULE 2

(Sec. 3)

## SAVINGS AND TRANSITIONAL PROVISIONS

**Funding of acquisition of certain land**

1. Where, as at the date of assent to this Act, land is being acquired by a Local Aboriginal Land Council with money or other financial assistance provided by a Regional Aboriginal Land Council, the Regional Aboriginal Land Council may, notwithstanding the provisions of the Aboriginal Land Rights Act 1983, as amended by this Act, continue to provide that money or financial assistance and the Local Aboriginal Land Council may continue to acquire and complete the acquisition of that land.

**Investment of money in N.S.W. Aboriginal Land Council Account**

2. An investment made, immediately before the date of assent to this Act, under clause 24 of the Aboriginal Land Rights Regulation 1983 shall be deemed to have been made under section 29A of the Aboriginal Land Rights Act 1983, as amended by this Act.

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