
No. 46 of 1963.

An Ordinance to provide for the freeholding of leases granted in pursuance of the *Darwin Town Area Leases Ordinance* 1947-1961 or the *Church Lands Leases Ordinance* 1947-1961, and of leases of town lands and agricultural leases.

[Reserved 20th March, 1963.]

[Assented to 27th June, 1963.]*

BE it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act* 1910-1961, as follows:—

1 This Ordinance may be cited as the *Freehold Titles Ordinance* 1962. Short title.

2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.† Commencement.

3. In this Ordinance, unless the contrary intention appears— Definitions.

“agricultural land” means land declared under this Ordinance to be agricultural land;

“Crown lands” means all lands of the Crown or the Commonwealth in the Northern Territory other than reserved or dedicated lands;

“Director of Lands” means the person for the time being occupying the office of, or performing the duties of, the Director, Lands Branch, Northern Territory Division, Department of Territories;

“farming” means—

- (a) the cultivating of crops or pastures; or
- (b) the depasturing of animals in conjunction with the cultivating of crops or pastures;

“improvements” in relation to land means improvements appertaining thereto whether visible or invisible and made or acquired by the owner or his predecessor in title, and includes all such

* Assent notified in the *Government Gazette* of the Northern Territory on 10th July, 1963 (see *Gazette* No. 28, 1963, p. 138).

† The date fixed was 31st July, 1963 (see *Government Gazette* No. 31 of 31st July, 1963, p. 156).

destruction of suckers and seedlings as is incidental to the destruction of other vegetable growths and of animal pests on the land to the extent to which such destruction retains its utility, but does not include the destruction by any person of any such growths or pests that are allowed to establish themselves on the land during his ownership, except to the extent (if at all) to which it restores wholly or partly so much of the utility of a previous improvement in the nature of the destruction of such growths or pests as is, by the subsequent provisions of this definition, deemed to have been lost, and any improvement consisting of the destruction of such growths or pests, by whomsoever the same may be effected, shall be deemed to have lost its utility to the extent to which, after it has been made, other growths or pests, as the case may be, are allowed to establish themselves on the land;

“lease” means a lease of Crown lands granted in pursuance of any Ordinance in force at any time in the Northern Territory or North Australia or Central Australia, or of any State Act;

“lessee” includes the person to whom a lease passes by transfer or devolution;

“State Act” means an Act of the State of South Australia in force at any time in the Territory as a law of the Territory;

“town lands” means lands set apart as town lands under the provisions of the *Crown Lands Ordinance 1931-1961* or of any law in force in the Northern Territory prior to the commencement of the *Crown Lands Ordinance 1931*;

“unimproved capital value”, in relation to improved land, means the capital sum which the fee simple of the land may be expected to realize if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require assuming that at the time at which the value is required to be ascertained for the purposes of this Ordinance the improvements on the land do not exist.

4.—(1.) A lessee under—

- (a) an existing lease of town lands granted in pursuance of Division 4 of Part IV. or section one hundred and twelve A of the *Crown Lands Ordinance 1931-1961*;

- (b) an existing lease of town lands granted in pursuance of an Ordinance referred to in section two of the *Crown Lands Ordinance* 1931-1961;
- (c) an existing lease granted in pursuance of the *Darwin Town Area Leases Ordinance* 1947-1961; or
- (d) an existing lease granted in pursuance of the *Church Lands Leases Ordinance* 1947-1961,

may make application for the grant to him of an estate in fee simple of any portion, or all, of the land that is included in the lease.

(2.) The application shall be in writing directed to the Minister and lodged with the Administrator.

5.—(1.) The Administrator in Council may, by notice in the *Gazette*, declare land specified in the notice to be agricultural land in respect of which an application for the grant of an estate in fee simple may be made.

Declaration of agricultural land that may be held in fee simple.

(2.) The Administrator in Council shall not declare land under the last preceding sub-section unless—

- (a) the land is included in agricultural lands that have been classified by the Administrator in accordance with the *Crown Lands Ordinance* 1931-1961;
- (b) the Administrator in Council has considered—
 - (i) a report by the Director of Lands on whether the farming of the land is commercially practicable; and
 - (ii) such other relevant evidence as the Administrator in Council thinks fit, and is satisfied after considering the report and other relevant evidence (if any) that the farming of the land is commercially practicable; and
- (c) the Administrator in Council has determined economic farm areas in respect of the land.

6.—(1.) The lessee under an agricultural lease may make application for the grant to him of an estate in fee simple of any portion, or all, of the land that is included in the lease and is agricultural land.

Applications for grant of fee simple in respect of agricultural lands.

(2.) The application shall be in writing directed to the Minister and lodged with the Administrator.

7.—(1.) Where an application under section four or six of this Ordinance is lodged with the Administrator, the Administrator shall forward it to the Minister together with a recommendation that the Minister—

Grant, rejection or further consideration of application.

- (a) make the grant applied for;

- (b) reject the application; or
- (c) grant an estate in fee simple—
 - (i) of portion only of the land in respect of which the application is made; or
 - (ii) of all or portion of that land on fulfilment, within a time specified in the recommendation, of conditions specified in the recommendation.

(2.) After the Minister has considered the recommendation, the Administrator shall, subject to this Ordinance, and with the approval of the Minister, in writing notify the applicant that the Minister—

- (a) is prepared to make the grant applied for;
- (b) rejects the application; or
- (c) is prepared to give further consideration to the application.

(3.) Where the Administrator notifies an applicant that the Minister is prepared to make the grant applied for or give further consideration to the application he shall specify in the notification the amount determined by him to be the purchase price of the land in respect of which the Minister is prepared to grant an estate in fee simple and the terms of payment of that purchase price.

(4.) Where the Administrator notifies an applicant that the Minister is prepared to make the grant applied for and the applicant informs the Administrator in writing, within the prescribed time as set out in sub-section (2.) of section fourteen of this Ordinance, that he will accept the grant, the Minister shall, subject to this Ordinance, make the grant.

(5.) Where the Administrator notifies an applicant that the Minister is prepared to give further consideration to an application, he shall furnish to the applicant a statement approved by the Minister setting out—

- (a) if the Minister is not prepared to grant an estate in fee simple of all the land in respect of which the application is made—the portion (if any) of that land of which the Minister is prepared to grant an estate in fee simple; and
- (b) if the Minister is not prepared to grant an estate in fee simple of all or portion of the land in respect of which the application is made except on fulfilment of specified conditions within a specified time—what those conditions are and what the specified time is.

(6.) The specified conditions referred to in paragraph (b) of the last preceding sub-section include any conditions, being conditions referred to in sub-section (4.) of the next succeeding section, as to action to be taken to make good a breach of a covenant, condition or provision contained in the lease in respect of which the application is made and the time within which the action is to be taken.

(7.) Where the Administrator so notifies an applicant and furnishes such a statement and the applicant informs the Administrator in writing within the prescribed time as set out in sub-section (2.) of section fourteen of this Ordinance that he will accept a grant in fee simple of all or such portion (if any) of the land as is specified in the statement after fulfilment within the specified time of such conditions (if any) as are specified in the statement, the Minister shall, subject to this Ordinance, make a grant of an estate in fee simple of land, in accordance with the statement—

(a) where conditions to be fulfilled are specified in the statement—on fulfilment of the conditions within the specified time; or

(b) in any other case—as soon as is convenient.

(8.) The Administrator may, with the approval of the Minister, of his own accord or after considering written representations from the applicant, amend a statement furnished in accordance with sub-section (5.) of this section, but not so that the statement is amended to the disadvantage of the applicant.

(9.) A notification under this section may be given personally to the applicant or forwarded to him by post at the address set out in his application; and if so forwarded shall be deemed to have been received on the date on which it would normally be delivered at that address in the ordinary course of post.

8.—(1.) The provisions of the next three succeeding sub-sections do not apply to or in relation to an application by—

(a) a lessee applying in respect of a lease referred to in section four of this Ordinance if the lessee has not erected all buildings and fences required to be erected on land included in the lease, in accordance with the covenants, conditions and provisions contained in the lease or to which the lease is subject; or

Procedure where applicant is in breach of covenant, &c., contained in lease.

(b) a lessee applying in respect of a lease referred to in section six of this Ordinance if the lessee has not fulfilled all covenants, conditions, and provisions, contained in the lease or to which the lease is subject, relating to the cultivation or fencing of the land included in the lease or the erection of buildings on that land.

(2.) Subject to the last preceding sub-section, where a lessee, being an applicant, is in breach of a covenant, condition or provision which is contained in the lease or to which the lease is subject, the Administrator's Council shall, if requested in writing to do so by the Administrator, advise the Administrator whether or not in all the circumstances of the case the lessee should be granted an estate in fee simple of all or portion of the land included in the lease if the breach is made good or its consequences are mitigated.

(3.) If the Administrator's Council advises the Administrator that the lessee should be granted an estate in fee simple of all or portion of that land if the breach is made good or its consequences are mitigated, the Administrator in Council shall recommend accordingly to the Minister, specifying the action (if any) he considers should be taken by the lessee to make good the breach or mitigate its consequences, and the time within which that action should be taken.

(4.) If the recommendation specifies an action which the Administrator in Council considers should be taken by the lessee to make good the breach or mitigate its consequences, and the Minister approves the recommendation, the Administrator shall include in a notification under sub-section (2.) of the last preceding section a statement that the Minister is not prepared to grant an estate in fee simple of all or portion of the land included in the lease unless that action is taken within such time, being the time specified in the recommendation, as the Administrator specifies in the statement.

9. The Minister shall make a grant of an estate in fee simple applied for under section four or six of this Ordinance or give further consideration to an application made under one of those sections if—

(a) the lessee is not in breach of a covenant, condition or provision which is contained in the lease or to which the lease is subject; or being in breach of such a covenant, condition or provision, has taken such action as the Administrator specifies within such time as he specifies in a statement under sub-section (5.) of section seven of this Ordinance; and

Application to be granted or further consideration given unless lessee in breach of condition, &c.

- (b) the lessee has paid the purchase price of the land and all other amounts payable in respect of a grant of an estate in fee simple of the land.

10. Where the Minister makes a grant of an estate in fee simple applied for under section four or six of this Ordinance in respect of portion only of land held by the applicant under a lease, the Administrator may vary the reservations, covenants, conditions and provisions of the lease in such manner as he thinks appropriate for their application to the land included in the lease that is not included in the land granted for an estate in fee simple.

Administrator may vary covenants, &c., in a lease on grant of freehold.

11.—(1.) An estate in fee simple of agricultural land shall not be granted under section nine of this Ordinance to an incorporated company.

Restrictions on granting and dealing with freehold agricultural land.

(2.) Where agricultural land is held for an estate in fee simple granted under this Ordinance, the person holding the estate shall not—

- (a) without the consent in writing of the Administrator transfer or lease or otherwise part with possession of the land or a portion of the land;
- (b) transfer or lease or otherwise, except in accordance with this Ordinance, part with possession of the land or a portion of the land to an incorporated company; or
- (c) mortgage the land or a portion of the land to an incorporated company unless the incorporated company is—
- (i) a body corporate authorized under Part II. of the *Banking Act* 1959 to carry on banking business in Australia; or
- (ii) an incorporated company approved for the purposes of this Ordinance by the Administrator in Council by notice in the *Gazette*,

and the Administrator consents in writing to the mortgage.

(3.) The Administrator shall not consent to a mortgage under this section if it contains a right of foreclosure; and a mortgagee has no right of foreclosure under a mortgage to which the Administrator consents under this section notwithstanding any other law which implies that right or confers it on the mortgagee.

(4.) An incorporated company is not entitled to a beneficial interest in agricultural land granted for an estate in fee simple under this Ordinance except as the mortgagee under a mortgage of the land given in accordance with sub-section (2.) of this section.

(5.) In this section "the person holding the estate" includes a person having the power to sell, lease or mortgage the land or portion of the land comprised in the estate.

Provisions where body corporate is mortgagee in possession of agricultural land.

12.—(1.) Where a mortgagee, being a body corporate, enters into possession of agricultural land held for an estate in fee simple granted under this Ordinance, the mortgagee—

(a) may remain in possession of the land for a period not exceeding five years; and

(b) may, with the consent in writing of the Administrator, and subject to this Ordinance—

(i) transfer the land; or

(ii) lease the land, without a right of renewal, for a term not exceeding the remainder of the period during which the mortgagee may remain in possession.

(2.) Notwithstanding the provisions of the last preceding sub-section, if the Administrator is satisfied that such a mortgagee has made all reasonable efforts, but has failed, to sell the land, the Administrator may extend the period during which the mortgagee may remain in possession of the land but not so that the total period during which the mortgagee remains in possession of the land exceeds six years.

(3.) If such a mortgagee has not sold the land within five years from the time when he first entered into possession of the land, or within such further period as the Administrator has allowed under the last preceding sub-section, the mortgagee's rights under the mortgage in respect of the land are forfeited and the land becomes Crown land.

Mortgagee's consent to application required.

13. Where an application is made under section four or six of this Ordinance in respect of land that is mortgaged, the application shall be accompanied by a written statement, signed by the mortgagee, that the mortgagee consents to the making of the application.

Purchase price.

14.—(1.) Subject to section sixteen of this Ordinance, the purchase price of land of which a grant of an estate in fee simple is made under this Ordinance is the amount determined by the Administrator to be, at the date on which the application for the grant is made, the unimproved capital value of the land.

(2.) The purchase price shall be payable over a period determined by the Administrator not exceeding—

- (a) in the case of land leased under a lease referred to in section four of this Ordinance—ten years; or
- (b) in the case of land leased under a lease referred to in section six of this Ordinance—twenty years.

(3.) Subject to the last preceding sub-section, the purchase price shall be payable on such terms as the Administrator determines.

15.—(1.) An applicant under section four or six of this Ordinance who has received a notification under section seven of this Ordinance that the Minister is prepared to grant to him an estate in fee simple may, within the prescribed time, inform the Administrator that he is prepared to accept the proposed grant.

Applicant to advise, within prescribed time, if he is prepared to accept proposed grant.

(2.) For the purposes of the last preceding sub-section the prescribed time is—

- (a) where the applicant does not apply to a Local Court under the next succeeding section—within sixty days after the date on which he receives the notification;
- (b) where the applicant applies to a Local Court under the next succeeding section but does not appeal to the Supreme Court under the next succeeding section—within sixty days after the date on which the Local Court determines the purchase price of the land in respect of which the Minister is prepared to grant an estate in fee simple; or
- (c) where the applicant appeals to the Supreme Court under the next succeeding section—within sixty days after the date on which the Supreme Court determines the purchase price of that land.

(3.) If an applicant does not inform the Administrator within the prescribed time that he is prepared to accept the proposed grant he shall be deemed to have abandoned his application.

16.—(1.) An applicant who is dissatisfied with a determination of the Administrator under section fourteen of this Ordinance as to the unimproved capital value of land in respect of which the Minister is prepared to grant an estate in fee simple may, within thirty days of the date on which the Administrator gives him notice in writing of the determination, appeal to a Local Court against the determination.

Appeal in respect of unimproved capital value.

(2.) The Local Court shall hear the appeal and determine the unimproved capital value of the land.

(3.) Subject to sub-section (6.) of this section, the unimproved capital value so determined is the purchase price of the land.

(4.) An appeal lies to the Supreme Court in respect of a determination by a Local Court under this section.

(5.) The Supreme Court shall hear the appeal and determine the unimproved capital value of the land.

(6.) Where the Supreme Court makes a determination under the last preceding sub-section, the unimproved capital value so determined is the purchase price of the land.

(7.) In this section "Local Court" means a Local Court continued or established under the *Local Courts Ordinance 1941-1957* and constituted by a Stipendiary Magistrate.

Maximum
area that
may be
held in
fee simple.

17.—(1.) For the purposes of this section—

"Division A land" means land classified by the Administrator as Division A land in pursuance of section sixty of the *Crown Lands Ordinance 1931-1961*;

"Division B land" means land classified by the Administrator as Division B land in pursuance of section sixty of the *Crown Lands Ordinance 1931-1961*;

"freehold agricultural land" means agricultural land held for an estate in fee simple;

"maximum permissible area" means—

(a) in the case of Division A land—two thousand five hundred and sixty acres;

(b) in the case of Division B land—twenty thousand four hundred and eighty acres;
or

(c) in the case of land consisting partly of Division A land and partly of Division B land—twenty thousand four hundred and eighty acres including not more than two thousand five hundred and sixty acres of Division A land.

(2.) A person shall not—

(a) hold for his own use and benefit freehold agricultural land the total area of which land exceeds the maximum permissible area;

(b) have a beneficial interest in freehold agricultural land the total area of which land exceeds the maximum permissible area; or

- (c) hold for his own use and benefit freehold agricultural land and, at the same time, have a beneficial interest in other freehold agricultural land the total area of which lands exceed the maximum permissible area.

Penalty: One thousand pounds.

(3.) The Administrator may, at any time, by notice in writing to a person who holds or has a beneficial interest in freehold agricultural land, require that person to make and cause to be delivered to the Administrator, within such time as is specified in the notice, a statutory declaration setting forth particulars of the areas of all the freehold agricultural land which, on a date specified in the notice, that person held or in which he had, on that date, a beneficial interest.

(4.) A person shall not fail to comply with a notice given to him under the last preceding sub-section.

Penalty: One hundred pounds.

(5.) Where freehold agricultural land is transferred, the transferee is not entitled to obtain the registration of the transfer of the estate in fee simple in that land if the area of the land comprised in the transfer exceeds the maximum permissible area or if the area of that land when added to the area of—

- (a) other freehold agricultural land held by the transferee for his own use and benefit;
- (b) other freehold agricultural land in which the transferee has a beneficial interest; or
- (c) other freehold agricultural land held by the transferee for his own use and benefit and other freehold agricultural land in which the transferee has a beneficial interest,

exceeds the maximum permissible area.

(6.) For the purposes of this section, a person who holds or has a beneficial interest in freehold agricultural land, jointly or in common with one or more other persons, is deemed to hold, or to have a beneficial interest in, an area of that land which bears the same proportion to the whole area as that person's undivided share in the land or interest bears to the whole of that land or interest.

(7.) Where—

- (a) a person holds, or has a beneficial interest in, freehold agricultural land; and
- (b) the spouse of that person also holds, or has a beneficial interest in, freehold agricultural land,

each of them shall, for the purposes of this section, be deemed to hold, or have a beneficial interest in, all freehold agricultural land which either of them holds, or in which either of them has a beneficial interest.

(8.) The last preceding sub-section does not apply in relation to spouses who are living apart under a decree or order of judicial separation, whether made in the Territory or not.

(9.) Where the Administrator is satisfied that a person has contravened sub-section (2.) of this section, the Administrator or a person authorized by him in writing to do so may lodge a caveat with the Registrar-General forbidding the registration of any instrument, transmission or dealing affecting—

- (a) freehold agricultural land held by that person or in which that person has a beneficial interest; or
- (b) such portion of that land as is specified in the caveat.

(10.) Where a complaint is made for an offence against sub-section (2.) of this section and no caveat is lodged under the last preceding sub-section, the person making the complaint may lodge a caveat with the Registrar-General forbidding the registration of any instrument, transmission or dealing affecting—

- (a) freehold agricultural land held by the person against whom the complaint is made, or in which that person has a beneficial interest; or
- (b) such portion of that land as is specified in the caveat.

(11.) Where a person has been convicted of an offence under sub-section (2.) of this section or the Administrator is otherwise satisfied that a person has contravened that sub-section, the Administrator may forfeit or sell all or such portion as the Administrator determines of the land included in—

- (a) any freehold agricultural land which that person holds; or
- (b) any freehold agricultural land in which that person has a beneficial interest.

(12.) The Administrator shall not, in pursuance of the last preceding sub-section, forfeit land which has been acquired, or in which a beneficial interest has been acquired, by a *bona fide* purchaser for value without notice that a person has committed an offence against sub-section (2.) of this section in respect of that land.

(13.) Where, under sub-section (11.) of this section, the Administrator forfeits freehold agricultural land the land so forfeited becomes the property of the Commonwealth.

(14.) Where, under sub-section (11.) of this section, the Administrator sells freehold agricultural land the proceeds of the sale shall be applied—

- (a) firstly in payment of the expenses occasioned by the sale;
- (b) secondly, in payment of such amounts in respect of encumbrances registered at the date of the sale as are ascertained in accordance with the next succeeding sub-section; and
- (c) thirdly, in payment of the residue (if any) to such persons, including any person referred to in sub-section (11.) of this section, as are beneficially interested in the land sold.

(15.) The amounts payable in pursuance of paragraph (b) of the last preceding sub-section are—

- (a) where all the land included in land held for an estate in fee simple is sold—the amounts necessary to discharge all the encumbrances registered in respect of the land at the date of the sale; or
- (b) where portion only of the land included in land held for an estate in fee simple is sold—
 - (i) such amounts as are determined by agreement between the Administrator and the encumbrancees; or
 - (ii) in default of such agreement—such amounts as bear to the total of the sums secured by the encumbrances the same ratio as the area of land sold bears to the total area of the land in the estate.

(16.) The order or payment of amounts payable in respect of encumbrances is the order of registration of the encumbrances.

(17.) Nothing in this section—

- (a) prohibits a person from holding freehold agricultural land if he holds it as executor, administrator or trustee and has no beneficial interest in it; or
- (b) prohibits, during the period specified in the next succeeding sub-section, a person from holding, or having a beneficial interest in, freehold agricultural land if he acquired the land or his beneficial interest in it by rights of survivorship, or as next of kin, devisee or legatee of a deceased person.

(18.) The period referred to in the last preceding sub-section is the period that expires—

- (a) five years after the date upon which the person acquired the land or the beneficial interest in it; or
- (b) where the Administrator, for the purpose of enabling the person to dispose of so much of the land or so much of his beneficial interest in the land as will enable the person to comply with the provisions of sub-section (2.) of this section, approves in writing to the person a period expiring after that date—on the expiry date specified in the approval.

(19.) Where freehold agricultural land is mortgaged, the interest of the mortgagee under the mortgage is deemed not to be a beneficial interest—

- (a) unless he is and has been in possession of the land for more than five years;
- (b) unless the mortgage has been foreclosed; or
- (c) if the Administrator has given his written consent for the mortgagee to remain in possession of the land for a period, specified by the Administrator, after the foreclosure of the mortgage and that period has not expired.

Appeals
against
forfeiture
or sale.

18.—(1.) The Administrator shall not forfeit or sell land under the last preceding section unless he has served notice of his intention to do so on all persons registered as registered proprietors under the *Real Property Act and Ordinance 1886* to 1955 and on all other persons whom the Administrator considers to be beneficially interested in the land at least twenty-eight days before the date of the proposed forfeiture or sale.

(2.) Such notice may be served—

- (a) personally;
- (b) by registered post addressed to the person to be served at his usual or last known place of abode or business; or
- (c) if both the methods specified in the last two preceding paragraphs have been found to be impracticable, by publication in the *Gazette*.

(3.) A person so served with a notice of intention to forfeit the land may, not later than twenty-one days after the date of the service, appeal to the Supreme Court against the proposed forfeiture.

(4.) The appeal shall be by notice in writing served on the Administrator and shall state the grounds of the appeal.

(5.) A copy of the notice of appeal shall be lodged with the Master of the Supreme Court.

(6.) The grounds on which the appeal may be made are—

(a) that the proposed forfeiture is not authorized by the power to forfeit given under sub-section (11.) of the last preceding section; or

(b) that having regard to all the circumstances the purpose of the last preceding section can in the particular case be satisfactorily achieved if the Administrator exercises his power of sale under sub-section (11.) of that section.

(7.) For the purposes of paragraph (b) of the last preceding sub-section—

(a) the circumstances include any hardship to any person beneficially interested in the land that is likely to arise from the proposed forfeiture; and

(b) the purpose of the last preceding section shall be deemed to be the limiting of the area of agricultural land held for an estate in fee simple that a person may hold or in which he may have a beneficial interest to the area permitted in accordance with that section.

(8.) The Supreme Court shall hear and determine the appeal and shall make such order as it thinks fit.

(9.) The Supreme Court may adjourn the hearing from time to time and may make such order as to costs as it thinks fit.

19. The Registrar-General shall not register a transfer or lease of land comprised or included in an estate in fee simple granted in respect of agricultural land under this Ordinance except on the production to him of the written consent of the Administrator to the transfer or lease.

Certain registrations prohibited except with consent of Administrator.

20.—(1.) Where an estate in fee simple is forfeited in accordance with this Ordinance the Administrator shall publish in the *Gazette* a notice that the estate has been forfeited.

Notice of forfeiture to be published.

(2.) The production of a copy of a notice in the *Gazette* published in accordance with the last preceding sub-section, shall, in the absence of evidence to the contrary, be proof that the estate has been forfeited.

(3.) Where the Administrator has published a notice in the *Gazette* that an estate in fee simple has been forfeited he shall forward a copy of the notice to the Registrar-General and upon the receipt of the copy the Registrar-General shall enter upon the register a memorial that the estate has been forfeited.

Party-walls.

21. Where a grant is made under this Ordinance of an estate in fee simple in land included in the land described in the Schedule to the *Darwin Lands Acquisition Act 1945*, section thirty-two of the *Darwin Town Area Leases Ordinance 1947-1961* shall apply to and in relation to the land comprised in the grant and the grantee as if the estate in fee simple were a lease of land subject to that Ordinance and the grantee were a lessee under that Ordinance.

Reservation of minerals.

22. The grant of an estate in fee simple under this Ordinance shall be subject to a reservation to the Crown of all minerals and mineral substances in or upon the land included in the grant, including gold, silver, copper, tin, metals, ores and substances containing metals, gems, precious stones, coal, shale, mineral oils, and valuable earths and substances, together with the right to authorize any persons to enter upon the land to mine, work for, win, recover and remove them or any of them, and to do all things necessary or convenient for those purposes.

Grant of fee simple does not confer property rights, &c., in water.

23. The grant of an estate in fee simple under this Ordinance does not confer upon the grantee any property in, or the right to the use or flow or to the control of, the water at any time in any lake, spring or watercourse on or in the land comprised in the estate or contained by, or forming part of, the boundaries of that land.

Easements.

24. Where under this Ordinance a grant is made of an estate in fee simple of land included in a lease, the grant is subject to the reservation of all easements over the land reserved under the lease or the grant.

Applications after rejection or withdrawal.

25. The rejection or withdrawal of an application under section four or six of this Ordinance does not prevent the making of another application in respect of the same land.

Saving.

26.—(1.) Where, in respect of the same land, a person—

(a) is entitled under section four or six of this Ordinance; and

(b) at a time prior to the date of commencement of the *Crown Lands Ordinance 1943* was entitled under the *Crown Lands Ordinance 1931-1939*,

to make application for a grant to him of an estate in fee simple, he may make application for such a grant under this Ordinance or those sections of the *Crown Lands Ordinance 1931-1939* deemed by virtue of section ten of the *Crown Lands Ordinance 1943* to be still in force.

(2.) Where such a person makes an application for a grant to him of an estate in fee simple of land, the application shall be deemed to be made under this Ordinance unless the contrary intention is expressed in the application.

(3.) Subject to this section, the provisions of this Ordinance do not affect the operation of section ten of the *Crown Lands Ordinance* 1943.

27. The Administrator in Council may make regulations, **Regulations.** not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance.



