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## CROWN LANDS ACT 1976

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## CROWN LANDS

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No. 28 of 1976

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**AN ACT to make fresh provisions with respect to the management, sale, and disposal of the lands of the Crown.**

[19 July 1976]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

### PART I

#### PRELIMINARY

**1—**(1) This Act may be cited as the *Crown Lands Act 1976*. Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.

## Interpretation.

**2** In this Act, unless the contrary intention appears—

“ assigned land ” means—

- (a) land occupied by or on behalf of the Crown; and
- (b) land assigned to the Crown under section 46;

“ contract ” means an agreement entered into between a purchaser of Crown land and the Minister under this Act or Commissioner of Crown Lands under any previous Act for the sale and purchase of the land mentioned in the agreement;

“ Crown land ” means land which is vested in the Crown, and which is not contracted to be granted in fee simple; and includes land granted in fee simple which has revested in the Crown by way of purchase or otherwise;

“ Director ” means the Director of Lands appointed under section 7;

“ improvements ” means all work done and materials used on or for the benefit of any land which visibly and effectively improves or increases the value of the land;

“ Land Valuation Court ” means the Land Valuation Court established under Part V of the *Land Valuation Act* 1971;

“ mining operations ” means mining operations within the meaning of the *Mining Act* 1929;

“ mining right ” means—

- (a) any right accruing under the *Mining Act* 1929 to the holder of a mining tenement within the meaning of that Act;
- (b) any right accruing to any person who has made an application under section 52 or section 82A of the *Mining Act* 1929;
- (c) any preferential right subsisting (whether or not its exercise has been postponed) under section 60 of the *Mining Act* 1929; or
- (d) any right accruing under section 61 of the *Mining Act* 1929 to any person who has taken possession of land under that section;

“ rural land ” means land used for agricultural, pastoral, horticultural, viticultural, forestry, growing of trees for commercial or industrial purposes, or for any other purpose of primary production.

## PART II

## ADMINISTRATION

**3** Subject to this Act the Minister has power to manage and dispose of all Crown land.

Powers of management and sale of Crown land vested in Minister.

**4—(1)** Land districts and parishes existing at the commencement of this Act are continued for the purposes of this Act.

Land districts and parishes.

(2) The Governor may by proclamation constitute, abolish, define, re-define, or name land districts and parishes for the purposes of this Act.

(3) A parish for the purposes of this Act shall not include any land within a city or town, and when a city or town is extended the area of the parish affected thereby shall, by virtue of the instrument effecting the change in the city or town, be contracted by the area so affected.

**5—(1)** For the purposes of this Act the Governor may by proclamation constitute, abolish, define, or re-define areas of town lands—

Sites for towns.

(a) which may include lands other than Crown lands; and

(b) which are—

- (i) adjacent to a city or town; or
- (ii) intended by the Governor to be sites for towns, villages, or hamlets.

(2) Areas constituted in accordance with subsection (1) (b) (ii) may, on the recommendation of the Nomenclature Board constituted under the *Survey Co-ordination Act* 1944, be assigned names in the proclamations constituting them.

**6** Crown land shall be disposed of in accordance with this Act and not otherwise.

Land to be disposed of only in accordance with this Act.

**7—(1)** The Governor may, under and subject to the provisions of the *Public Service Act* 1973, appoint, for the purposes of this Act, a person to be the Director of Lands and such other officers as the Governor may determine.

Appointment of Director of Lands and officers.

(2) The Director and other officers holding office under the *Crown Lands Act* 1935 immediately before the commencement of this Act shall be deemed to have been appointed under the authority of this section.

Public purposes  
for which land  
may be  
reserved.

**8—(1)** The Minister may, by order, reserve any Crown land to the Crown for—

- (a) public roads or streets, or other internal communications, whether by land or water;
- (b) sites for the erection of public libraries, public halls, museums, literary or scientific institutions, hospitals or homes for people who are aged, infirm, or poor, or places for the interment or cremation of the dead;
- (c) sites for public wharves or quays, breakwaters, or landing-places;
- (d) sites for survey control stations or for other purposes connected with the survey of the State;
- (e) places for the purposes of public recreation and amusement;
- (f) the preservation of water-supply and land conservation;
- (g) irrigation works, dams, reservoirs, aqueducts, water-courses, drains, sewers, or other works;
- (h) any purpose of public safety, convenience, health, or enjoyment; and
- (i) any other public purpose that he may think fit, whether similar to any of the purposes referred to in the preceding paragraphs or not.

(2) For the purposes of giving effect to any order under subsection (1), the Minister may grant a lease—

- (a) for such term not exceeding 99 years;
- (b) to such person;
- (c) at such rental; and
- (d) on such other terms and conditions,

as he may think fit, of any Crown land reserved for any of the purposes referred to in that subsection.

(3) Except as otherwise specially provided, no land reserved under this section shall be sold, leased, or otherwise disposed of under this Act while the order reserving the same remains in force.

(4) Where the Minister is satisfied that any land comprised in an order issued under subsection (1) is unsuitable or not required for the purpose for which it was reserved, the Minister may, by order, revoke the order and thereupon the land comprised in the order shall become freed from the reservation.



(5) Where the Minister is satisfied that any land reserved by an order under subsection (1) is not required for the time being for the purpose for which it was reserved, the Minister may authorize the land to be used during the period that it is not so required for some other purpose if that other purpose does not adversely affect the purpose for which it is reserved.

**9**—(1) Every lease granted under section 8 shall contain a condition that the land comprised in the lease shall be used for the purpose for which it was reserved under that section and for no other purpose, and shall also contain a condition for the absolute forfeiture of the land to the Crown upon breach or non-observance of any of the terms or conditions subject to which the lease is granted and that upon forfeiture the land so forfeited shall—

Conditions  
of lease of  
reserved land.

- (a) cease to be subject to the lease; and
- (b) become freed from the reservation.

(2) Before any forfeiture in respect of a lease granted under section 8 takes effect, the Minister shall cause to be published a notice in the *Gazette* requiring the person to whom the land is leased to show cause to the Minister, within a period of 60 days from the date of the publication of the notice, why forfeiture should not take effect.

(3) The Minister shall cause to be served on the person referred to in subsection (2) a copy of the notice referred to in that subsection within 14 days from the date of the publication of the notice in the *Gazette*.

(4) The Minister may waive forfeiture under this section if he is satisfied of the sufficiency of the cause shown, but not otherwise.

(5) Where the Minister has not waived forfeiture in accordance with subsection (4), forfeiture shall take effect upon the day following the day on which the period referred to in subsection (2) expires.

**10**—(1) When any Crown land reserved for public roads or streets or other internal communications, is no longer required for the purpose for which it was reserved, the Minister may, by order published in the *Gazette*, revoke the order or other instrument which effected the reservation in respect of that land.

Power to  
revoke certain  
reservations.

(2) An order under subsection (1) revoking another order takes effect—

- (a) if the revocation is consented to by the owners of the land adjoining the land comprised in the order before the publication of the order in the *Gazette*, on the date on which the order is so published;

- (b) if the revocation is consented to by those owners after the publication of the order in the *Gazette*, on the date on which the consent to the revocation is published in the *Gazette*; or
- (c) if the revocation is not consented to by those owners or if any of those owners lodge with the Minister, within 60 days after the order is gazetted, an objection to the withdrawal of the land from reservation, on the date on which that period expires.

(3) Where an objection is lodged with the Minister under subsection (2) (c), the Minister may, before the period referred to in that subsection expires, withdraw the order or modify it and, where the Minister modifies an order, the order as modified takes effect under that subsection.

(4) Where an order revoking another order has taken effect under subsection (2), the land comprised in that other order becomes freed from the reservation and may be dealt with by the Minister in accordance with the provisions of this Act.

(5) An order under this section is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

**Bailiffs of  
Crown lands.**

**11—**(1) A police officer is a bailiff of Crown lands and the Minister may appoint such other persons as bailiffs of Crown lands as he thinks fit.

- (2) Every bailiff shall—
  - (a) prevent intrusion, encroachment, and trespass on any Crown land or assigned land;
  - (b) levy or recover rent or licence fees payable in respect of any Crown land;
  - (c) take and recover possession of any Crown land in case of forfeiture;
  - (d) seize and cause to be towed away to any garage or other place any vehicle parked or left without lawful authority on any Crown land or assigned land and not release the same until the owner or other person acting on his behalf reimburses the Crown with the cost of the towage of the vehicle, the cost of its garaging or keeping, and the cost of its release;
  - (e) dispose of any chattels which are left or abandoned by any person on any Crown land or assigned land; and
  - (f) perform such duties as may be prescribed or as the Minister may direct.

(3) A bailiff may seize and detain any matter or thing which has been or is being unlawfully removed, or which he has reasonable cause to believe to have been unlawfully removed, from any Crown land or assigned land; and the same shall be forfeited to the Crown upon proof to the satisfaction of a justice of the peace of the unlawful removal thereof.

**12**—(1) The Minister may by order set aside Crown land to be used for the purposes of any Act, department, or statutory body on such terms and conditions as may be agreed upon between the Minister and the person administering the Act, the department, or the statutory body; and thereupon the land so set aside shall be available for that purpose subject to the terms and conditions so agreed upon.

Setting aside  
Crown land  
for purposes of  
Act, &c.

(2) Nothing in subsection (1) affects the powers of the Governor to vest or grant Crown lands in the Hydro-Electric Commission under Part V of the *Hydro-Electric Commission Act* 1944.

(3) For the purposes of giving effect to any order under this section, the Minister has power, upon receipt of the purchase price (if any) in respect of the land comprised in the order and upon fulfilment by the transferee of all conditions precedent, to convey and alienate in the name and on behalf of Her Majesty the land in fee simple in accordance with section 14 of the *Real Property Act* 1862.

(4) The Minister may, by order, if he is satisfied that any land set aside under this section will not be required for the purposes for which it was so set aside, revoke the order by which the land was so set aside or so much of the order as affects that land and thereupon the land ceases to be available for the purpose for which it was so set aside.

### PART III

#### SALE OF CROWN LAND

**13**—(1) Subject to this Act, the Minister may with the approval of the Governor, sell Crown land including any estate or interest therein in such manner, to such persons, and on such terms and conditions as he thinks fit.

Sale of  
Crown land.

(2) Notwithstanding anything in subsection (1), the approval of the Governor is not required—

- (a) for the sale of Crown land by auction or otherwise in accordance with section 18;
- (b) for the sale of any Crown land by public tender; or
- (c) for the sale of a piece of Crown land the area of which is less than 500 hectares.

(3) Before the Minister sells any Crown land, the Director shall fix the reserve price of the land and, in so fixing that price, he shall have regard to—

- (a) the valuation of the land;
- (b) the cost of any improvements effected or to be effected on, to, or in respect of the land;
- (c) the value of trees growing thereon which have or may have commercial or industrial uses; and
- (d) any expenses incurred in the sale of, and the cost of providing title to, the land.

(4) Subject to section 18 (3) (a), the Minister shall not sell any Crown land at a price that is less than the price fixed by the Director in respect of that land.

(5) Every sale of Crown land shall be effected by means of a contract in writing.

(6) Terms and conditions of a contract may provide for the payment of purchase-moneys by instalments.

(7) Where Crown land is sold under this Act, the Minister has power, in the name and on behalf of Her Majesty, to convey and alienate the land in fee simple.

(8) Before any rural land is sold under this Act the Minister shall obtain from the Forestry Commission a report in respect of that land and if the Commission recommends against the sale of that land by reason of timber growing thereon the Minister shall obtain the approval of the Governor-in-Council before he sells the land.

(9) The provisions of this section also apply to the sale of an estate or interest in Crown land.

Power of  
Minister to  
take mortgage  
upon sale of  
Crown land.

**14** Upon the sale of any Crown land the Minister may take as security a mortgage of the land in respect of any moneys owing to the Minister by the purchaser in respect of the purchase of that land.

Payment of  
interest on  
moneys owing  
upon sale of  
Crown land.

**15**—(1) There shall be payable on any money owing to the Minister upon a sale of Crown land interest at such rate as the Minister may, in any case, determine, the interest to be calculated at half-yearly rests or as may be specified in the agreement or security document.

(2) In determining interest under subsection (1) the Minister shall have regard to—

- (a) the long term bond rate on Commonwealth securities;
- (b) interest rates payable to lending institutions on mortgage in respect of land; and
- (c) any circumstances of the case which the Minister deems relevant.

(3) Notwithstanding any other provision of this section the rate of interest payable under this section shall not be less than—

- (a) 4 per cent per annum in the case of rural land; and
- (b) 5 per cent per annum in the case of any other land.

**16—**(1) Where land is sold as provided by this Act, the Minister shall in the name and on behalf of Her Majesty convey and alienate the land in fee simple in accordance with section 14 of the *Real Property Act 1862*.

Upon sale the Minister to grant land; the grant to make reservation for gold, &c.

(2) Every grant deed or transfer of any Crown land shall contain a reservation to the Crown of the right at all times of making and constructing in or on the land such drains, sewers, and waterways for sanitary or other purposes as may be deemed expedient, and also the right of altering, amending, cleansing, or repairing those drains, sewers, and waterways.

(3) No grant deed or transfer of any Crown land shall include or convey gold, silver, copper, tin, or other metals, ore, mineral, or other substances containing metals, or gems or precious stones, or coal or mineral oil, in or upon that land, and the same shall be deemed to have been excepted and reserved to the Crown.

**17—**(1) Without prejudice to the generality of the provisions of section 13 (1), the Minister has power, in respect of Crown land, to do the following acts and things or any of them, that is to say:—

Classification of Crown land and determination of terms and conditions of sale, &c.

- (a) Classify the land in such manner as he may determine;
- (b) Determine the eligibility of persons or classes of persons who may purchase the land or the land so classified; and
- (c) Determine the conditions and restrictions which may apply to the land or the land so classified; the conditions which a purchaser shall fulfil in respect of, and the improvements which he shall effect to, the land.

(2) Where the Minister classifies any Crown land or makes any determination in respect thereof under subsection (1), he shall not sell the land other than in accordance with the classification or determination.

**18—**(1) Where the Minister proposes to sell any Crown land by auction he shall cause to be published in the *Gazette* and a newspaper circulating within the district in which the land is situated, at least a fortnight before the date on which the auction is to be held, a notice setting out the time and place of the auction and the particulars of the land intended to be sold.

Special provisions relating to sale by auction.

(2) The Minister may, in respect of the sale by auction of any Crown land—

- (a) withdraw the land from sale at any time before it is sold and sell it by private treaty at a price which is not less than the reserve price fixed in respect thereof by the Director;
- (b) reserve his right to bid at the auction up to and including the reserve price fixed by the Director; and
- (c) bid or cause bids to be made on his behalf at the auction.

(3) Where bids made at an auction do not reach the reserve price, the Minister may—

- (a) sell the land to the person making the highest bid at the auction; or
- (b) request the Director to review the reserve price thereof with a view to fixing a fresh reserve price and offer the land again for auction at the reviewed reserve price.

(4) Nothing in this section shall be construed as obliging the Minister or the auctioneer to disclose the amount fixed by the Director as the reserve price of any Crown land before or after its sale by auction.

(5) Where any person conducting an auction of any Crown land makes a representation in respect of that land which he knows or ought to know to be false and, as a result of that representation, loss is suffered by the purchaser of that land, the Minister shall make good that loss.

Successful bidder to pay deposit on day of auction.

**19**—(1) No person liable for the payment of a deposit under the terms of sale by auction of any Crown land shall, if a demand for the payment thereof is made by or on behalf of the Minister, fail to pay forthwith the amount thereof.

Penalty: Double the amount of deposit in respect of which default has been made.

(2) Any failure by any person to pay any deposit in accordance with subsection (1) shall terminate the agreement in respect of which the deposit is payable.

Land not to be transferred, &c., unless conditions of contract fulfilled.

**20**—(1) The Minister shall not transfer or convey any Crown land until—

- (a) all moneys payable in respect of the sale thereof have been paid; or

- (b) where the Minister agrees to take a mortgage for the moneys owing upon sale thereof, the documents relating thereto have been completed and handed over to the Minister; and
- (c) all conditions to which the purchaser is subject under this Act and under the contract have been fulfilled.

(2) The provisions of subsection (1) do not apply to any transaction that consists of the exchange of lands and no financial adjustment is involved.

**21**—(1) Every purchaser of Crown land who by the terms and conditions of his contract is bound to effect improvements to the land shall furnish to the Director a declaration on the anniversary of the purchase of the land and thereafter at yearly intervals showing—

Purchaser agreeing to effect improvements to furnish declaration as to expenditure.

- (a) particulars of the improvements effected on or to the land purchased by him;
- (b) particulars of the value and the cost of such improvements; and
- (c) such other particulars as the Director may require or determine.

(2) If the purchaser—

- (a) fails to furnish a declaration in accordance with subsection (1); or
- (b) furnishes a declaration that does not comply with the requirements of that subsection,

he shall be guilty of an offence and liable to a penalty of \$100.

(3) A certificate, purporting to be under the hand of the Director, that such a declaration as is referred to in subsection (1) has not been furnished to him by the purchaser, or that the declarations attached thereto are the only declarations that have been furnished, shall be evidence of the facts stated therein.

**22**—(1) Where default is made in the payment of any instalment of the purchase-money in respect of any Crown land and the default continues for a period of 60 days or more the Minister shall, unless he is satisfied that forfeiture would inflict undue hardship upon the purchaser, by notice published in the *Gazette*, declare that land to be forfeited to the Crown.

Forfeiture for non-payment of instalments.

(2) Before the Minister declares any land to be forfeited as provided in subsection (1) he shall—

- (a) cause to be published in the *Gazette* a notice of his intention to declare the land to be forfeited at the expiration of 30 days from the date of the publication of the notice; and
- (b) cause a copy of the notice to be served on the purchaser.

(3) A notice under this section is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

Forfeiture for  
breach of  
conditions.

**23**—(1) Where the purchaser of any Crown land under contract has, in the opinion of the Minister, failed to comply with, or otherwise breached, any condition of the contract other than non-payment of instalments payable thereunder, the Minister shall give notice in writing to the purchaser that he intends to declare the land to be forfeited to the Crown.

(2) The notice shall specify the alleged cause of forfeiture and the purchaser's right to object against the forfeiture to the Minister in accordance with subsection (3).

(3) If the purchaser desires to object against the forfeiture, he shall, within the period of 30 days of the notice of forfeiture being served on him, serve on the Minister, his objection in writing setting forth the grounds of his objection and the Minister shall consider the objection and advise the purchaser in writing of his decision.

(4) If the decision of the Minister is to proceed with forfeiture, the purchaser may, within 30 days from the date the Minister's decision is served on him, serve on the Registrar of the Land Valuation Court an objection in writing against the forfeiture and that court shall hear and determine the objection.

(5) Where the Land Valuation Court hears an objection under subsection (4), it may uphold the objection or dismiss it.

(6) Subject to this Act, the like provisions apply with respect to the hearing and determination of an objection under this section as apply to the hearing and determination of objections referred to the Land Valuation Court under the *Land Valuation Act 1971*, and the provisions of that Act apply and have effect accordingly.

(7) Subject to subsection (8), if the purchaser fails to object against forfeiture in accordance with subsection (2) or he has complied with that subsection but failed to comply with subsection (3) or he has complied with both of those subsections but the Land Valuation Court has dismissed his objection, the Minister



shall, by notice published in the *Gazette*, declare the land to be forfeited to the Crown.

(8) The Minister may, before the publication in the *Gazette* of the notice referred to in subsection (7) and in his absolute discretion, extend any of the times referred to in this section.

(9) A notice under subsection (7) is not a statutory rule within the meaning of the *Rules Publication Act* 1953.

**24** Upon publication of a notice in the *Gazette* pursuant to sections 22 (1), 23 (7), or 27 (2) in respect of any land— Effect of forfeiture.

- (a) the deposit and all instalments paid in respect of the land up to the date of the publication of the notice are absolutely forfeited;
- (b) the land is freed from the contract; and
- (c) the land reverts to the Crown.

**25**—(1) Any assignment, transfer, or other dealing by any holder of Crown land of his interest shall be of no effect unless the consent in writing of the Minister is first obtained, the consent not to be unreasonably withheld. Dealing with land held under contract.

Penalty: \$500.

(2) No assignment, transfer, or other dealing with, or transmission of, any interest of the holder of Crown land under contract shall be effectual unless the assignment, transfer, other dealing, or transmission—

- (a) is prepared in a form approved by the Director;
- (b) is forwarded to the Director with the prescribed fee; and
- (c) is registered by the Director.

(3) Without prejudice to the power of the Minister to withhold his consent under this section on any other ground, the Minister shall not consent to any assignment, transfer, or other dealing of any Crown land held under contract unless he is satisfied that the proposed assignee or transferee—

- (a) is a person to whom the land would have been sold if it were not under contract; and
- (b) is able to fulfil the conditions of the contract.

**26**—(1) Where a purchaser of Crown land under contract has died and the Director is of the opinion that the value of the estate left by the purchaser is not sufficient to justify the proving of the will or the taking out of letters of administration, the Director may Transmission without probate or administration in certain cases.

cause transmission of the interest of the purchaser in the land to be entered in the records of the Department of Lands in favour of the person entitled to benefit from the death of the purchaser if he died intestate or in favour of the person entitled to a grant of probate or letters of administration with the will annexed if he leaves a will.

(2) The person in whose favour such transmission is entered up shall thereupon have all the rights, powers, and liabilities in respect of the land as he would have had if probate or letters of administration of the estate of the deceased person had been granted to him.

Surrender of  
interest under  
contract.

**27**—(1) Any holder of land under contract may surrender his interest under the contract and the Minister may accept the surrender on such terms and conditions as he thinks fit or refuse to accept the surrender.

(2) If the Minister accepts the surrender, he shall cause the contract to be cancelled and shall publish in the *Gazette* a notice of such cancellation, and thereupon all the right, title, and interest of every person under the contract shall cease and determine, and all moneys paid in respect thereof shall belong to the Crown, and the land comprised therein shall revert to the Crown.

Purchase of  
Crown land by  
false  
representation.

**28**—(1) No person shall, for or in connection with the purchase of any Crown land, make any representation which he knows to be false.

Penalty: \$500 or 12 months' imprisonment.

(2) Where any person becomes the purchaser or registered proprietor of any Crown land under this Act by making a false representation, the Minister may, if he is of the opinion that the representation is in respect of a material particular, by notice published in the *Gazette* declare that all the right, title, and interest of that person in that land is extinguished, and—

(a) lodge with the Recorder of Titles a copy of the notice, if the land is under the *Real Property Act* 1862; or

(b) register the notice under the *Registration of Deeds Act* 1935, if the land is not under that Act.

(3) Where—

(a) a notice is lodged with the Recorder of Titles in accordance with subsection (2) (a), he shall register the Crown as the proprietor of the land; and

(b) a memorial of a notice is lodged with the Registrar of Deeds in accordance with subsection (2) (b), he shall register the memorial.

(4) Upon registration of a notice in accordance with subsection (2) (b) or subsection (3)—

- (a) all contracts, agreements, securities, or other documents made, entered into, or given in respect of the purchase of the land shall become illegal and void;
- (b) the right, title, and interest of that person, or his assignee having notice of the representation, and all moneys paid in respect of that land shall become forfeited to the Crown; and
- (c) the land, with all improvements thereon, shall revert to the Crown.

(5) A notice under subsection (2) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

## PART IV

### LEASES

#### *Division I—Lease of Crown land*

**29**—(1) Subject to this Act, the Minister may lease Crown land Lease of Crown land. in such manner, to such persons, for such purposes, at such rent, and on such terms and conditions as he thinks fit.

(2) No Crown land shall be leased for a period exceeding 99 years.

(3) Notwithstanding the provisions of subsection (2), the period of a lease of Crown land—

- (a) for rural purposes other than for forestry shall not exceed 21 years; and
- (b) other than land bordering on, or forming the bed of, tidal or inland waters or the sea, for industrial or business purposes, shall not exceed 50 years.

(4) The Minister, in his absolute discretion, may renew a lease of Crown land referred to in subsection (3) for a further period not exceeding the period referred to in that subsection that is applicable to the lease on and subject to such terms and conditions as the Minister may determine.

(5) No lease of Crown land under this Act confers on the lessee any right to, or interest in, any minerals or mining products or, except as otherwise expressly provided, any timber or forest products upon or in the demised land.

(6) The Minister may grant, appurtenant to any Crown land comprised in a lease, an easement or other right in or over any other Crown land on such terms and conditions as he thinks fit.

(7) A lessee may assign his lease to any person if he—

(a) obtains the approval of the Minister to the assignment thereof;

(b) lodges with the Director a transfer in the form approved by the Director; and

(c) pays the prescribed fee.

(8) The Minister may, in his absolute discretion, refuse to give his approval to the assignment of any lease or he may grant his approval on such terms and conditions as he may think fit.

*Division II—Lease of land for industrial, business, residential, or other purposes*

Lease of land for industrial or residential purposes.

**30**—(1) Where the Minister leases Crown land to a person for industrial or business purposes or for the purposes of the erection of residential buildings or for such other purpose, as the Minister thinks fit, he may—

(a) grant an option to the lessee thereof to purchase the land; and

(b) specify conditions upon the fulfilment of which the lessee may exercise the option.

(2) Where an option to purchase any Crown land is granted to any lessee the price at which the land shall be sold shall be fixed at the time the option is exercised by the lessee in the same manner as is fixed, under section 13 (2), the reserve price of Crown land for sale.

*Division III—Lease of land for rural purposes*

Lease of land for rural purposes.

**31**—(1) Except in a special case where the Minister determines that it is just and reasonable to lease any Crown land by private treaty, the lease of every Crown land for rural purposes shall, in the first instance, be submitted for public competition by way of an auction.

(2) Before an auction is held under this section the Minister shall—

(a) cause to be advertised in the *Gazette* and a newspaper circulating within the district in which the land is situated at least a fortnight before the date on which the auction is to be held a notice setting out—

(i) the time and place of the auction;

(ii) the particulars of the land intended to be leased;

- (iii) the place or places and the times at which the plans of the land and the conditions under which the lease will be granted may be inspected; and
  - (iv) any other particulars that he deems relevant; and
- (b) ensure that the plans of the land and the conditions of the lease are available for inspection at the places and at the times referred to in the notice.

(3) Where bids at an auction held under subsection (1) do not reach the rent reserved by the Director for the lease of the Crown land, the Minister may—

- (a) lease the land to the highest bidder;
- (b) lease the land by private treaty; or
- (c) withdraw the land from leasing.

(4) The Minister may withdraw any land from auction at any time before the auction in respect thereof is held.

**32**—(1) Every lease of Crown land for rural purposes shall contain a provision for the re-assessment by the Minister of rent at the end of the 5th, 10th, and 15th years of the lease.

Re-assessment of rent in respect of land leased for rural purposes.

(2) A lessee of land the rent of which has been re-assessed in accordance with subsection (1) may, within one month after the date on which the notice of the re-assessment of the rent is served on, or forwarded by certified mail service to, him, appeal to the Land Valuation Court by serving on the Registrar of the Land Valuation Court a notice setting out the grounds of his appeal and, on hearing the appeal, the Land Valuation Court (unless it dismisses the appeal) may quash the notice or vary the rent.

**33**—(1) A lease for rural purposes may—

- (a) with the approval of the other party, be terminated by either the Minister or the lessee; or
- (b) with the approval of the Minister, be surrendered by the lessee on such notice, not exceeding 12 months, as the Minister may determine,

Termination, or surrender of lease.

on such terms and conditions as may be agreed upon between the Minister and the lessee.

(2) Where any lease of Crown land—

- (a) is surrendered to the Minister;
- (b) expires; or
- (c) is terminated,

all improvements in or on the land vest in the Crown absolutely.

(3) Where a lease is surrendered or terminated by mutual agreement of the Minister and the lessee, and the Minister has received moneys from the sale of the improvements—

(a) effected by the lessee on or to the land; or

(b) for which the lessee paid valuable consideration at the time of the purchase of the lease,

the Minister may, in his absolute discretion, pay to the lessee so much of the value of the improvements as he thinks fit or refuse to make any payment in respect thereof.

(4) Where the Minister makes any payment under subsection (3) the payment shall not exceed the amount received by the Minister under that subsection for those improvements.

(5) The provisions of subsection (2) do not apply to a termination or surrender of a lease for the purpose of its consolidation with any other lease.

The Director to keep record of improvements effected by a lessee.

**34—**(1) The Director may, at any time during the currency of a lease of Crown land for rural purposes or at the termination thereof, either by the effluxion of time or otherwise, cause the Valuer-General to make a valuation of all improvements effected thereon.

(2) For the purposes of this section, the Director may establish and maintain a record of the valuations made by the Valuer-General under subsection (1), such record to contain all or any of the following particulars, that is to say:—

(a) The value of the demised land including the valuation of the improvements effected thereon at the time of the leasing thereof;

(b) The value of improvements effected thereon by the lessee;

(c) The value of improvements purchased by a subsequent lessee;

(d) The value of improvements effected thereon by the subsequent lessee up to the date of the termination, surrender, or expiration of the lease.

Grant of option to purchase to outgoing lessee or payment of value for improvements effected on Crown land.

**35—**(1) Where, upon the expiration by effluxion of time of a lease of land for rural purposes the Minister is satisfied that the improvements effected thereon are of such a nature that it is desirable to sell the estate in fee simple in the land to the lessee he may, in his absolute discretion, grant the lessee, subject to section 13 (2) and on such terms and conditions as he thinks fit, an option to purchase the land.

(2) Where the lessee is not granted an option under subsection (1) or is granted an option but fails to exercise it or advises the Minister that he does not wish to exercise the option, the Minister shall, when offering the land for lease, fix in the price for the leasing of that land an amount that he considers to be the fair and reasonable value of the improvements effected to that land.

(3) Where the Minister fixes under subsection (2) an amount in respect of improvements, he shall, by a notice in writing served on the lessee, notify the lessee that he has so fixed the amount, and if the lessee is aggrieved thereby he may, within one month from the date of the service of the notice, appeal to the Land Valuation Court which shall consider such evidence and reports as it thinks fit and, unless it dismisses the appeal, fix such amount in respect of those improvements as it may seem to it to be just and the amount so fixed shall be final and binding on the Minister and the lessee.

(4) The person who is granted a lease of the land referred to in subsection (2) shall pay to the Minister at the time he leases the land the amount affixed by the Minister as the value of the improvements and in default of payment thereof the land shall not be leased to that person but shall forthwith again be offered for leasing.

(5) Where the Minister has received money under subsection (4) in respect of the value of any improvements effected on the land referred to in subsection (2), he may pay to the outgoing lessee an amount that represents the lessee's interest in the value of those improvements so long as the payment does not exceed the amount so received by him.

*Division IV—General provisions as to leases*

**36** The Minister may cancel any lease where—

(a) the rent payable in respect thereof is not paid for a period exceeding one month after it has become due and the rent remains unpaid at the end of the period specified in the notice served on the lessee by the Minister—

(i) requesting the lessee to pay the rent within the period specified in the notice; and

(ii) advising the lessee that the lease will be cancelled if the rent and interest thereon at the prescribed rate is not paid within the period so specified;

or

Forfeiture or  
cancellation of  
lease for  
non-payment of  
rent or breach  
of conditions.

- (b) the Minister considers that the lessee has committed a breach of any condition of the lease and, upon notice served on the lessee by the Minister specifying the breach and requiring the lessee to satisfy the Minister within the period specified in the notice that the lessee has not committed the breach, the lessee fails to so satisfy the Minister.

Termination of lease where land required for public or other purposes.

**37**—(1) Where, in the opinion of the Minister, any land subject to a lease under this Act—

- (a) is required for any public purpose;  
 (b) is required for the purposes of any other Act; or  
 (c) should be made available for any purpose which he considers desirable in the public interest,

the Minister may, upon giving the lessee three months' notice in writing specifying the land or portion of the land which is required or should be made available and the purpose or purposes for which the land is so required or should be made so available, by notice in the *Gazette*, cancel the lease in respect of the land so required or that should be made so available.

(2) Where the lease is cancelled as to portion only of the land comprised in the lease, the lease shall have effect in respect of the land remaining under the lease and the Director shall determine the rent payable under the lease in respect of that land and the rent so determined shall be the rent payable thereafter under the lease.

(3) In determining the rent under subsection (2), the Director shall make due allowance for the diminution, if any, in the relative value of the land—

- (a) by reason of the reduction in the area of land to be held under the lease; or  
 (b) for such other reason as the Director thinks fit.

(4) A notice under subsection (1) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

Termination of lease in consequence of mining operations.

**38**—(1) Where the Minister is satisfied that, by reason of any mining operations being carried out under the *Mining Act 1929* in, on, or under any land which is leased under this Act, that land cannot reasonably be used for the purposes for which it is authorized to be used under the lease, he shall, on the application in writing of the lessee, cancel the lease as to the land affected by those operations.



(2) Section 37 (2) and (3) shall have effect in respect of the cancellation of a lease under this section as they have effect in respect of the cancellation of a lease under that section.

**39**—(1) Where any lease is cancelled as provided by section 37, the Minister shall pay to the lessee compensation for the lessee's interest in the improvements effected by the lessee for the purposes for which the lease was granted including those paid for by him and taken over from the previous lessee of the land but no compensation shall be paid to the lessee in respect of any improvements effected on or to the land after the service of the notice on him under that section. Compensation for improvements.

(2) The compensation referred to in subsection (1) shall be determined by valuation.

(3) A lessee who is aggrieved by the amount of compensation payable to him by the Minister under subsection (1) may, within one month from the date the Minister serves on the lessee his notification as to the amount of the compensation payable to the lessee, require the Minister in writing to refer the matter to the Land Valuation Court for its determination of the amount of compensation payable to the lessee.

(4) Where any matter is referred to the Land Valuation Court by the Minister under subsection (3), it shall consider any reports or evidence submitted to it by the Minister and such other reports or evidence that may seem to it to be relevant and determine the amount of compensation payable to the lessee.

(5) Any determination of the Land Valuation Court under this section shall be final and binding on the Minister and the lessee.

## PART V

### LICENCES

#### *Division I—Licences to take material from Crown land*

**40**—(1) The Minister may grant to any person a licence, on such terms and conditions as he thinks fit, for all or any of the following purposes, namely:— Licences to remove gravel and stone, &c.

- (a) Obtaining and removing gravel, clay, or stone from any Crown land, or to make bricks or pottery, or quarry stone, sand, clay, shells, or marl thereon, and to remove the sand, clay, shells, or marl thereon, and to remove therefrom those bricks, pottery, stone, sand, clay, shells, or marl;

(b) Any other purpose which the Minister thinks fit, whether similar to those referred to in paragraph (a) or not.

(2) The Minister may issue to any person a licence, subject to such conditions as are agreed upon between the Minister and the Forestry Commission, to obtain, quarry, and remove sand and gravel from Crown land reserved for forestry.

**Kelp licences.**

**41**—(1) The Minister may grant to any person a licence called a “kelp licence” for taking kelp or seaweed, either generally, or such species, in such quantities as he may determine, from lands adjoining the foreshore and covered by the territorial waters of the sea.

(2) The Minister may also grant a licence for taking kelp or seaweed cast by the sea on Crown land or land which is under the control of the Minister.

(3) Every kelp licence shall—

(a) specify the area or areas from which kelp or seaweed may be taken either exclusively or in conjunction with other kelp licence-holders;

(b) set out the rent or royalty, or both, payable to the Minister under or in respect thereof; and

(c) set out such other terms and conditions under which the licence may be exercised including any condition as to its forfeiture as the Minister may determine.

(4) A kelp licence shall be subject to the provisions of the *Marine Act 1921*.

(5) No transfer or assignment of any kelp licence shall have any force or effect unless made or granted with the consent in writing of the Minister.

*Division II—Temporary licences*

**Temporary licences.**

**42**—(1) The Minister may grant to any person a licence called a “temporary licence” to take possession of and hold, for any time not exceeding 12 months from the date the licence is issued, any Crown lands therein specified for such purposes and on such terms and conditions as may be specified in the licence.

(2) The terms and conditions in respect of temporary licences, the areas in respect of which they may be issued, and the fees payable therefor, respectively, may vary according to the purposes for which those licences are issued.

(3) The holder of a temporary licence may, upon payment of the prescribed fee and subject to the prescribed conditions, transfer the licence to any other person to whom a temporary licence may be granted under this Act.

(4) An instrument of transfer under this section shall be in such form as is approved by the Director and shall be executed and attested in the prescribed manner.

(5) The Minister may grant to any person a licence authorizing him to possess land subject to the condition that the licence may be determined by the Minister by giving him 3 months' notice at any time.

### *Division III—General provisions as to licences*

**43** No holder of any licence issued under this Act shall fail, or refuse, without reasonable excuse to produce the same upon demand to any bailiff of Crown lands, or to any person duly authorized by the Minister to demand the production thereof.

When lawfully required holder to produce licence.

Penalty: \$20.

**44** Any licence issued under this Part may be cancelled by the Minister if he is satisfied that the holder thereof is using the land to which the licence relates for any purpose other than that for which the licence was issued.

Cancellation of licence when land used for other purposes.

**45—(1)** No compensation is payable in respect of any improvements effected on land held or occupied by any person under a temporary licence, but any improvements so effected may be removed in such cases, and upon and subject to such terms and conditions, as may be prescribed.

Improvements on land held under temporary or occupation licence.

(2) Notwithstanding the provisions of subsection (1), where a person has been in occupation of land under a lease for grazing, pastoral, or agricultural purposes and his occupation is continued by a temporary licence, the Minister may—

- (a) permit him, during the currency of the temporary licence, to remove any improvements which he would have been authorized to remove under that lease; and
- (b) pay him such compensation as he might have received under section 35 if that lease had continued until the expiration of the licence.

## PART VI

## UNLAWFUL ACTS RELATING TO CROWN LAND, &amp;c.

Unlawful user.

**46**—(1) No person shall, without lawful authority—

- (a) use, occupy, or be found in possession of any Crown land or assigned land;
- (b) keep or depasture any sheep, cattle, or other stock thereon;
- (c) cut, dig, or take therefrom any timber, wood, gravel, stone, limestone, salt, guano, shells, sand, loam, brick-earth, or any other natural substance whatever;
- (d) strip or remove bark from any tree growing or being thereon;
- (e) cut, remove, take, or damage any trees or vegetation thereon;
- (f) subject to subsection (7), light thereon any fire; or
- (g) deposit any litter as defined by the *Litter Act* 1973 including any vehicle or any part of a vehicle thereon.

(2) No person shall, without lawful authority or the consent in writing of the Minister, erect on any Crown land or assigned land any structure including a sign.

(3) No person shall, without lawful authority—

- (a) drive or park any motor vehicle or trailer including a caravan on any Crown land or assigned land where the driving or parking of a motor vehicle, trailer, or caravan is prohibited by means of a sign or otherwise; or
- (b) drive any vehicle on a part of any beach or foreshore that is being used by people for bathing, playing, or other recreational purposes.

(4) Where any litter is deposited on any Crown land or assigned land in contravention of subsection (1) (g) or any structure is erected in contravention of subsection (2), a bailiff may remove the litter or structure therefrom and all costs incurred in the removal thereof shall, upon demand for the payment thereof by the Director from the person depositing the litter or erecting the structure, be paid by that person to the Director.

(5) No person shall resist or obstruct—

- (a) the Minister or any person authorized by him in that behalf in resuming any Crown land or assigned land or entering thereupon; or
- (b) any bailiff of Crown lands, or any person assisting him, in the execution of any warrant directed to the bailiff under this Act.

(6) The owner of any land may, with the approval of the Director, assign to the Crown the land or any part of the land (in this section referred to as "assigned land") and upon the assignment of the land such of the provisions of this Act as are applicable in respect thereof shall apply.

(7) Notwithstanding the provisions of subsection (1) (f) a person may light a fire for the purpose of cooking food if the lighting of the fire is authorized under the *Rural Fires Act 1967* but where such a fire is lit the person lighting the fire shall commit an offence if he—

- (a) leaves the fire unattended at any time;
- (b) does not take proper precautions before lighting the fire to ensure that the fire does not spread; or
- (c) does not extinguish the fire before leaving the place of the fire.

**47—**(1) No person shall wilfully obstruct any track or reserved road on any Crown land, such track or road not being under the care, control, and management of any municipal council, so as to prevent the free passage of any person, carriage or other vehicle, or stock. Obstructing roads.

(2) A bailiff of Crown lands may remove, take down, or level any obstruction caused by any person upon any track or road referred to in subsection (1).

**48—**(1) Where any person obstructs the Minister or any person authorized by him in that behalf in resuming any land or entering thereupon, or remains in the unlawful possession thereof, or where any person is in the unlawful possession of any Crown lands and has not quitted the same upon being required by the Minister to do so or has erected any fence or other thing upon the land and has not taken down and removed the same upon being required by the Minister to do so within such time as the Minister fixes for that purpose, the Minister may issue on the Crown's behalf a warrant addressed to a bailiff of Crown lands requiring him forthwith to dispossess and remove that person from the land, and to repossess the same on behalf of the Crown or to take down and level any such erection, as the case may require. Dispossession of persons in unlawful occupations.

(2) The bailiff to whom a warrant issued under subsection (1) is addressed shall execute the warrant according to the tenor and exigency thereof, and all police officers shall, on being required to do so by the bailiff, aid and assist him in the execution of the warrant.

(3) No action shall be maintainable against any bailiff for anything done by him in accordance with the tenor or exigency of a warrant issued by the Minister under this section which may be lawfully necessary for the execution thereof, but in case any warrant is issued unlawfully, an action lies against the Minister.

## PART VII

### MISCELLANEOUS

Neglect or refusal to sign lease, &c.

**49**—(1) No person who is required under this Act to sign any lease, agreement, contract, declaration, or other document shall fail, neglect, or refuse to sign the same within 60 days after being called upon to do so by a notice of the Minister, or any person authorized by him in that behalf.

(2) Any failure, neglect, or refusal by any person to sign any lease, agreement, contract, declaration, or other document in accordance with the requirements of subsection (1) shall not exempt him from liability to pay any rent, fee, or other money which would be payable by him if the lease, agreement, contract, declaration, or other document had been signed.

General penalty.

**50** A person who is guilty of an offence against this Act for which no other penalty is expressly prescribed elsewhere in this Act is liable to a penalty of \$200.

Acquisition of land.

**51** The Minister may purchase, acquire, and take, under the provisions of the *Lands Resumption Act 1957* or any other Act providing generally for the acquisition of land for public purposes, such land as he may think necessary for the purpose of constructing or completing any road, bridge, tramway, wharf, jetty, or drain, or for the purposes referred to in section 8 (1) (e) and (f).

Power to close and dispose of old road.

**52** Where any deviation or alteration is made in any road which passes through land held under contract and for which the grant deed or the grant by way of transfer has not been issued, and by reason of such deviation or alteration the old road or part thereof is, in the opinion of the Minister, rendered useless or unnecessary for road purposes, the Minister may close the old road or part thereof that has been so rendered useless or unnecessary and may dispose of the same to the owner of that land upon such terms and conditions as to its price or otherwise as the Director thinks reasonable and proper.

**53**—(1) Subject to subsection (2), no person shall reclaim any land below the level of high water that forms, or forms part of, the shore, the bed of the sea, or other Crown land. Reclamations from the sea, &c.

(2) The Minister may, upon such terms and conditions as he thinks fit, lease or sell any land referred to in subsection (1) for the reclamation thereof or grant a licence or otherwise authorize the reclamation thereof for use—

- (a) by the Crown or any of its instrumentalities including marine boards;
- (b) by councils for municipal purposes; or
- (c) for industrial, commercial, recreational, or such other purposes whether similar to the foregoing or not as the Minister thinks fit,

or he may license, lease, or sell for those purposes any reclaimed land.

(3) Where the Minister—

- (a) leases or sells any land in pursuance of subsection (2) or grants a licence in respect thereof; or
- (b) otherwise authorizes the reclamation thereof,

he shall forthwith upon leasing or selling the land, granting a licence in respect thereof, or otherwise authorizing the reclamation thereof, give notice in the *Gazette* thereof, and upon publication of the notice in the *Gazette* the public right of—

- (c) navigation in and near the waters thereby affected; and
- (d) fishing therein,

shall cease and determine absolutely.

(4) Where the value of any land adjoining the land being reclaimed under this section is diminished by the loss of riparian or littoral rights, the owner of the land so affected is entitled to compensation for that loss under the *Public Authorities' Land Acquisition Act 1949* or the *Lands Resumption Act 1957*, according to whichever Act applies to that case.

(5) Where any compensation is payable to any person under subsection (4), the person on whose behalf or for whose benefit the land is reclaimed shall, if required by the Minister to do so—

- (a) reimburse the Minister with the amount of any compensation paid by the Minister to that person; or
- (b) where no compensation is paid by the Minister, pay compensation to that person.

Crown lands to be alienated as regards surface only.

**54—**(1) All Crown land which is sold or in respect of which a lease or licence (other than a lease or licence under the *Mining Act* 1929) is issued, shall be deemed to have been sold or a lease or licence in respect thereof issued only as regards the surface, and to a depth of 15 metres below the surface unless the Minister, in any case, otherwise determines.

(2) Subject to the *Underground Water Act* 1966, nothing in subsection (1) or in any direction given by the Minister shall be construed to restrict the right of the owner, lessee, or licensee of the surface to sink wells for water and to use and enjoy any wells and springs which may at that time be found upon the land and which supply water for domestic, farming, agricultural, manufacturing, or irrigation purposes; and with respect to those wells and springs the owner, lessee, or licensee shall have rights as though he held or occupied the land without any limitation as to depth.

(3) Nothing in this Act authorizes the holder of any lease or licence under this Act or any previous Act to take, divert, or use any water in derogation of any mining right, and the right of any person, by virtue of a lease or licence under this Act or any previous Act, to take, divert, or use any water shall be deemed not to be a prior right for the purposes of section 87 of the *Mining Act* 1929.

Closure of highway; land how dealt with.

**55—**(1) Where a highway or part thereof is closed so that it ceases to exist as such—

(a) if the land upon which the highway or part of the highway is situated is owned in fee simple by any person, the public right of use thereof shall absolutely determine and the land shall merge into the fee simple; and

(b) in any other case, the land shall become Crown land.

(2) The Minister may exchange any land referred to in subsection (1) (b) or any other Crown land for any land of any other person for the purpose of constructing a road or highway thereon.

Leases and licences of land subject to mining rights

**56—**(1) Where it is proposed to grant a lease or licence under this Act in respect of any land that is subject to a mining right, the Minister shall give the person in whom the right is vested at least one month's notice in writing to make representations in respect of the proposed granting of the lease or licence and consider any representations made by that person before granting the lease or licence.



(2) If he considers it necessary to do so in order to facilitate or prevent interference with mining operations on any land subject to a lease or licence under this Act, or any previous Act, the Minister may by notice in writing direct the lessee or licensee thereof not to institute, or to discontinue, any such practice as may be specified in the notice.

(3) Any directions given to a lessee under subsection (2), so long as they remain in force, shall, for the purposes of section 36, have effect as if they were conditions contained in the lease.

(4) Where the Minister is satisfied that a licensee has not complied with any direction given to him under subsection (2), he may cancel the licence.

(5) Except as is otherwise expressly provided in this Act or the *Mining Act 1929*, nothing in a lease or licence under this Act or any previous Act derogates from any mining right, or entitles the lessee or licensee thereof to interfere with or obstruct the exercise of any mining right, or to interfere with any work constructed or thing done in the exercise of any mining right.

**57** Where, in the opinion of the Minister, it is desirable to reserve Crown land—

- (a) abutting on any permanent river, stream, or lake; or
- (b) that is contiguous to the sea or an estuary,

he shall reserve, from any sale of that Crown land, land to the extent of at least 15 metres in width on each bank of the river, stream, lake, or the high-water mark of the sea or estuary.

**58** The acceptance by or on behalf of the Crown of any purchase-money, or any part thereof, due in respect of any Crown land, or of any interest on the balance thereof, or of rent or other payment under any lease or licence, shall not operate as a waiver by the Crown of any forfeiture accruing by reason of the breach of any condition, precedent or subsequent, in respect of the estate or interest of a purchaser, lessee, or licensee.

**59**—(1) The Minister may, in the name and on behalf of the Crown, accept the surrender of any land from any person entitled to surrender that land.

(2) The surrender of any land pursuant to this section shall be effected by an instrument in a form approved by the Recorder of Titles, and, in relation to that land, the instrument is in this section referred to as an instrument of surrender.

Reservation of land abutting on streams.

No waiver by acceptance of purchase-money, interest, or rent.

Surrender of land to the Crown.

(3) Subject to the *Real Property Act 1862* and the *Registration of Deeds Act 1935*, where the surrender of any land is effected under this section that land reverts to and vests in the Crown freed and discharged from all estates and interests, except those to which the estates or interests of the persons surrendering the land were subject and as may be otherwise provided in the instrument of surrender.

(4) For the purposes of the *Real Property Act 1862* an instrument of surrender shall be treated as an instrument that is in a form of transfer prescribed by that Act.

(5) Section 23A of the *Real Property Act 1886* does not apply to land surrendered pursuant to this section unless there is endorsed on the instrument of surrender a memorandum signed by the Director stating that the land is to remain subject to that Act.

(6) For the purposes of the *Registration of Deeds Act 1935* an instrument of surrender in respect of any land shall be deemed to be an instrument executed for valuable consideration and the Minister shall be deemed to be a party thereto as purchaser of the land.

(7) Section 21 of the *Lands Resumption Act 1957* applies in relation to instruments of surrender in respect of land that is not subject to the *Real Property Act 1862* as it applies in relation to the deeds referred to in that section.

(8) No fees are payable—

(a) under the *Real Property Act 1862* in respect of the registration of an instrument of surrender, or the cancellation, or endorsement of a certificate of title, or the issue of a new certificate of title, consequent upon that registration; or

(b) under the *Registration of Deeds Act 1935* in respect of the registration of an instrument of surrender.

(9) No duty is payable under the *Stamp Duties Act 1931* in respect of the endorsement of a grant or certificate of title, or the issue of a new certificate of title, consequent upon the surrender of any land pursuant to this section.

(10) Where any land has reverted to and revested in the Crown under this section that land may, subject to this section, be disposed of or otherwise dealt with in accordance with this Act, and the land shall be deemed to be Crown land.

(11) Where the Minister accepts the surrender of any land under this section he may, in his absolute discretion, pay to the person surrendering the land such costs as he thinks fit and he may take the land by notification under the *Lands Resumption Act 1957*.

**60**—(1) No error, misdescription, or inaccuracy in the written description in any instrument or document of title in respect of any land dealt with under this Act shall nullify or prejudice the dealing in respect of which the same occurs if the Minister is satisfied that the land occupied by the holder of the instrument or document is substantially the land for which he entered into an agreement for sale or lease. Effect of error in written description.

(2) The survey boundaries of any piece of land—

(a) marked on the ground at the time of the Crown survey thereof by posts, pegs, trenches, or other survey marks; and

(b) granted or demised by the Crown before or after the commencement of this Act,

shall be deemed to have been the true boundaries of that piece of land, whether the boundaries upon admeasurement are or are not found to be of the same dimensions, or to include the same area as the boundaries or description of the piece of land given in the Crown grant or Crown lease thereof, and the grant or lease shall be deemed to have granted or demised the land as shown by the survey.

(3) Nothing in subsection (2) shall apply to any such land as is referred to in that subsection where it can be shown to the satisfaction of the Minister that a patent mistake or error was made in the description of the land or boundaries, and the Minister may correct the mistake or error by endorsement upon the grant or lease.

(4) Upon the discovery of any error, misdescription, or inaccuracy as is referred to in subsections (1), (2), and (3), and in any other case where any discrepancy or mistake is discovered, the Minister may cause the same to be corrected, adjusted, and rectified.

(5) Where the Director is satisfied that any instrument under this Act or any grant deed, not being an instrument to which the provisions of section 136 of the *Real Property Act 1862* are applicable, has been issued in error or contains any misdescription of land or boundaries, or that the grant has been fraudulently obtained, he may require the person by whom such grant deed is held to deliver the same to him for the purpose of its being cancelled or corrected, as the case may require.

(6) If the holder of any grant deed for the delivery of which the Director has made a request refuses to deliver the same in accordance with the request, or he cannot be found, the Director may apply to a judge by summons for an order directing that person to deliver the grant deed to the Director, and thereupon the judge may hear and determine the summons and make such order in respect of the grant deed as to him seems just.

Financial provisions.

**61** The Minister, Director, or any other person authorized by this Act to receive moneys thereunder shall pay the moneys so received, at the direction of the Treasurer, into the Consolidated Revenue or Loan Fund and all payments to be made, or expenses incurred, thereunder shall be paid out of the moneys provided by Parliament for the purpose.

Pounds on Crown lands.

**62**—(1) The Minister may—

- (a) by notice in the *Gazette* establish pounds on Crown land; and
- (b) appoint keepers thereof.

(2) Except as otherwise provided in this section, Division XII of Part XVI of the *Local Government Act* 1962 excepting section 567 (3), (4), and (5), section 577, and section 582 of that Act applies to and in respect of pounds under this section as if—

- (a) the Director were mentioned instead of the clerk and the corporation; and
- (b) no mention were made of a member of the council.

(3) A bailiff of Crown lands, or any person authorized by the Director, may impound any animal taken on Crown land by way of distress for damage done thereon.

(4) Where an animal has been sold under this section the Director shall, on demand by the owner of the animal, deduct from the moneys realized from the sale thereof any charges and expenses payable in respect of the animal under this section, and pay the remaining moneys to the owner.

(5) Any act done by a pound keeper under this section or in respect of a pound or animal impounded under this section if done by a municipal pound keeper in respect of a pound or animal impounded under Division XII of Part XVI of the *Local Government Act* 1962 would be an offence against that Act is an offence against this section and subject to the like penalty.

**63**—(1) Any land purchased, acquired, or taken in accordance with the provisions of the *Lands Resumption Act 1957* may be leased to any person, or a licence may be granted to any person in respect thereof, by the Minister, as if that land were land reserved under section 8, or were Crown land.

Powers with respect to land acquired under the *Lands Resumption Act 1957*.

(2) The power conferred on the Minister by this section shall be in addition to any powers conferred by the Act under the authority or for the purposes of which the land was purchased, acquired, or taken, but such power shall not be exercised except on the recommendation of the Minister, board, commission, or other authority having the administration of that Act.

**64**—(1) Where the Minister proposes—

- (a) to dispose of any Crown land whether by way of sale, lease, exchange for proper consideration, or otherwise; or
- (b) to grant any land listed in the Grants of Lands for Ecclesiastical Purposes contained in House of Assembly paper No. 46 of 1866,

Grant or sale of Crown land otherwise than in accordance with this Act.

otherwise than in accordance with the provisions of this Act, he shall, in respect of the land—

- (c) publish in the *Gazette* a notice setting out the terms and conditions of the proposal; and
- (d) cause the notice to be laid before each House of Parliament,

and if the proposal in the notice is deemed to have received the approval of each House of Parliament as provided for in subsection (2) the Minister may sell, lease, or grant (as the case may be) the land in accordance with the terms and conditions set out in the notice.

(2) A proposal in a notice laid before a House of Parliament shall be deemed to have received the approval of that House if during the 5 sitting days following the laying of the notice before the House no notice is given of a motion for that House to disallow the proposal, or if such a notice is so given, it is withdrawn or the motion is negatived.

Offence to prevent free and open competition at auctions.

**65**—(1) No person shall enter or offer or propose to enter into an agreement with any person or collude with any person to do any act or thing at or in respect of any sale or lease by auction of Crown land under this Act which—

- (a) affects or is likely to affect adversely the outcome of; or
- (b) prevents or is likely to prevent free and open competition at, the auction.

Penalty: \$100.

(2) Any agreement entered into in respect of any of the matters referred to in subsection (1) shall be wholly illegal and void.

Serving of notices.

**66** A notice required to be served on any person under this Act may be so served—

- (a) by delivering it to him personally;
- (b) by leaving it for him at his usual or last-known place of abode or business with some person apparently over the age of 16 years apparently residing or employed thereat; or
- (c) by sending it by certified mail addressed to him at his usual or last-known place of abode or business.

Appeals in certain cases.

**67**—(1) Any person who is aggrieved by—

- (a) the notice of the Minister declaring all rights, title, and interest of any person to be extinguished under section 28 (2); or
- (b) the cancellation by the Minister of any lease under section 36 (b),

may, not later than the expiration of a period of 30 days from the date on which—

- (c) the notice is published in the *Gazette* in the case of paragraph (a); or
- (d) the lease is cancelled in the case of paragraph (b),

appeal to the Land Valuation Court which, unless it dismisses the appeal, may direct the Minister to take such action relating to the matter in respect of which the appeal is made as to it may seem just.

(2) The Minister shall give effect to any directions given to him by the Land Valuation Court under subsection (1).

(3) An appeal under this section shall be made, heard, and determined as prescribed.

**68** The Governor may make regulations for the purpose of this Act. Regulations.

**69** Regulations under this Act may prescribe—

- (a) the care, protection, and management of Crown lands and of public reserves and places of public recreation which are reserved to Her Majesty, and of which the care and control are not by law vested in some local body, and for the preservation of good order and decency therein;
- (b) conditions under and subject to which Crown land or any specified class or description of such land or any public reserve, or any track or means of communication on Crown land, may be used; and may prohibit or regulate the doing of specified acts upon or in relation to any Crown land or specified class of such land;
- (c) the conditions under which any Crown lands or any classes of Crown lands may be used for, or in connection with, the agistment of stock; and may prohibit the agistment of stock on Crown lands generally or on any specified classes of Crown lands except under the authority of licences issued for the purpose; and may provide for, and regulate generally, the making of applications for, and the issue of, such licences;
- (d) penalties of not more than \$200 for the breach of any regulation so made, and the cases in which and conditions under which any person may be arrested if found committing a breach of any specified regulation; and
- (e) conditions under which motor vehicles may be driven or used on any Crown land including any foreshore reservation, land occupied by or on behalf of the Crown, and assigned land.

Regulations with respect to the management, &c., of Crown lands.

**70** Regulations under this Act may provide for—

- (a) the fees to be paid generally in respect of all matters under this Act;
- (b) the payment in specified cases of royalties in lieu of fees, and the manner in which the rates of such royalties shall be determined; and
- (c) the variation of the fees payable in respect of any matters under this Act in accordance with the classes of land in respect of which such fees are payable.

Fees.

Delegation of powers by Minister.

**71**—(1) Where the Act or regulations made thereunder confer on the Minister any power or place upon him a duty in relation to any matter or class of matters the Minister may, by notice delegate such powers and duties as may be prescribed to the Director so that the delegated powers and duties may be exercised by the Director with respect to the matter or class of matters specified in the instrument.

(2) A notice under this section is a statutory rule within the meaning of the *Rules Publication Act 1953*.

Saving for other Acts.

**72** Except as otherwise expressly provided herein nothing in this Act prejudicially affects the operation of any other Act in respect of Crown lands.

Repeals and transitional provisions.

**73**—(1) The Acts that are specified in Schedule I are repealed.

(2) Notwithstanding the provisions of subsection (1) the provisions of Schedule II have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

Consequential amendments.

**74** The Acts that are specified in Schedule III are amended to the extent specified therein.

SCHEDULE I

[Section 73 (1)]

ACTS REPEALED

| Year and number of Act | Short title of Act                  |
|------------------------|-------------------------------------|
| 26 Geo. V No. 35       | <i>Crown Lands Act 1935</i>         |
| No. 1 of 1963          | <i>Crown Lands Act 1963</i>         |
| No. 79 of 1963         | <i>Crown Lands Act (No. 2) 1963</i> |
| No. 57 of 1965         | <i>Crown Lands Act 1965</i>         |

SCHEDULE II

[Section 73 (2)]

TRANSITIONAL PROVISIONS

1 In this Schedule “repealed Act” means the *Crown Lands Act 1935*.

2 Any proclamation made under section 7 of the repealed Act and in force immediately before the commencement of this Act continues to have effect as an order under section 8 of this Act.

3 Any lease granted under section 7 of the repealed Act continues to have effect as if granted under this Act.

4 Any lease or licence granted under any provision other than section 7 of the repealed Act has effect as if this Act had not been passed.



5 Any contract for the sale of any Crown land under the repealed Act shall have effect as if this Act had not been passed but a purchaser of any Crown land who is paying instalments under the terms of purchase under the repealed Act may, on or after the commencement of this Act, obtain the issue of a grant in respect of that land upon payment, with the approval of the Minister, of the balance purchase price together with interest and any other sum owing in respect thereof.

6 Where a notice of an auction for the sale of any Crown land has been given under section 29 of the repealed Act or for an auction lease of any Crown land under section 80 of that Act the auction shall be held and the land sold or leased (as the case may be) as if this Act had not been passed.

7 Any bailiff of Crown lands appointed under section 13 of the repealed Act shall be deemed to have been appointed under section 11 of this Act.

8 Upon the repeal of sections 12 and 13 of the *State Sinking Fund Act 1929* by this Act the moneys remaining in the special fund constituted under those sections shall be paid by the Commissioners into the Loan Fund at the request of the Treasurer at such times and in such amounts as the Treasurer may consider desirable or expedient.

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### SCHEDULE III

(Section 74)

#### AMENDMENT OF OTHER ACTS

##### *Abandoned Lands Act 1973*

(No. 42 of 1973)

Section 12 is amended by omitting from subsection (1) "1935" and substituting "1976".

##### *Boundary Fences Act 1908*

(8 Edw. VII No. 40)

Section 4 is amended by inserting in paragraph (c) of the definition of "owner" after the words "*Crown Lands Act 1935*" the words ", *Crown Lands Act 1976*".

##### *Closer Settlement Act 1957*

(No. 100 of 1957)

1 Section 3 is amended by omitting from the definition of "Crown land" the year "1935" and substituting "1976".

2 Sections 12, 13, and 47 are repealed.

3 Section 18 is amended by omitting subsection (3).

4 Section 19 is amended by omitting from subsection (2) "1935" and substituting "1976".

##### *Education Act 1932*

(23 Geo. V No. 22)

Section 16 is amended by omitting subsections (2) and (3) and substituting the following subsection:—

“ (2) The Minister, with the approval of the Governor, may, in respect of any land so vested—

(a) lease the land to any person;

(b) issue to any person a licence in respect thereof; or

(c) permit any person to otherwise occupy the land,  
on such terms and conditions as he thinks fit.”.

*Evidence Act 1910*

(1 Geo. V No. 20)

The third Schedule is amended by omitting from Column 2 “ The Minister for Lands, the Secretary for Lands, or the Surveyor-General ” and substituting “ The Minister administering the *Crown Lands Act 1976* or the Director of Lands ”.

*Flood Relief Act 1960*

(No. 1 of 1960)

Section 16 is repealed.

*Forestry Act 1920*

(11 Geo. V No. 60)

Section 4 is amended by omitting the definition of “ Crown land ” and substituting the following definition:—

“ ‘ Crown land ’ has the meaning assigned to that expression by section 2 of the *Crown Lands Act 1976*; ”.

*Highways Act 1951*

(No. 83 of 1951)

Section 5 is repealed.

*Homes Act 1935*

(26 Geo. V No. 98)

1 Section 10 is repealed.

2 Sections 14 and 14B are amended by omitting “ set apart under section ten ” (wherever occurring) and substituting “ set aside under section 12 of the *Crown Lands Act 1976* ” in each case.

3 Section 43 is amended by omitting from subsection (1) (c) “ section ten ” and substituting “ section 12 of the *Crown Lands Act 1976* ”.

*Hospitals Act 1918*

(9 Geo. V No. 70)

1 Section 29 is repealed.

2 Section 29A is amended by omitting from subsections (1) and (2) “ Secretary for Lands ” (wherever occurring) and substituting “ Director of Lands ” in each case.

*Hydro-Electric Commission Act 1944*

(8 and 9 Geo. VI No. 22)

Section 64 is amended by inserting in subsections (2) and (5) after the words "*Crown Lands Act 1935*" (wherever occurring) the words "or the *Crown Lands Act 1976*" in each case.

*Industrial Development Act 1954*

(No. 71 of 1954)

Section 10 is amended by omitting from subsection (1) (b) "1935" and substituting "1976".

*Lands Resumption Act 1957*

(No. 88 of 1957)

1 Section 9 is amended by omitting from subsection (2) "or under section one hundred and seventeen of the *Crown Lands Act 1935*".

2 Section 19 is amended by omitting from subsection (5) "Secretary for Lands" and substituting "Director of Lands".

3 Section 20 is amended by omitting from subsection (3) "Secretary for Lands" (wherever occurring) and substituting "Director of Lands" in each case.

4 Section 21 is amended by omitting from subsection (1) "Secretary for Lands" and substituting "Director of Lands".

5 Sections 22 and 23 are repealed.

6 Section 67 is amended by omitting from subsection (1) (b) "1935" and substituting "1976".

*Launceston Corporation Act 1963*

(No. 82 of 1963)

Section 196 is amended by omitting from subsection (2) "1935" and substituting "1976".

*Litter Act 1973*

(No. 13 of 1973)

Section 3 is amended by omitting from subsection (1) (c) "thirteen of the *Crown Lands Act 1935*" and substituting "11 of the *Crown Lands Act 1976*".

*Local Government Act 1962*

(No. 67 of 1962)

1 Section 468 is amended by omitting from subsection (1) (b) "1935" and substituting "1976".

2 Section 473A is amended by omitting from subsection (4) "1935" and substituting "1976".

3 Section 693 is repealed.

4 Section 770 is amended by omitting from subsection (8) "1935" and substituting "1976".

*Mining Act 1929*

(20 Geo. V No. 71)

Section 2 is amended by omitting the definition of "Crown land" and substituting the following:—

"'Crown land' has the meaning assigned to that expression by section 2 of the *Crown Lands Act 1976*";

*Noxious Weeds Act 1964*

(No. 3 of 1964)

Section 3 is amended by adding at the end of subsection (2) (c) "or the *Crown Lands Act 1976*".

*Pulpwood Products Industry (Eastern and Central Tasmania) Act 1968*

(No. 71 of 1968)

Section 24A is amended—

- (a) by omitting from subsection (1) "ninety-five of the *Crown Lands Act 1935*" and substituting "37 of the *Crown Lands Act 1976*";
- (b) by omitting from that subsection "ninety-six" and substituting "39";
- (c) by omitting from subsection (2) "eighty-five" and substituting "34 or 35 (as the case may be)";
- (d) by omitting from that subsection all the words following the words "pay him" and substituting "under those sections if the run had been sold by auction to a solvent purchaser under sections 30 or 31 (as the case may be) of that Act";
- (e) by inserting in paragraph (a) of that subsection after "1935" the words "or under Division III of Part IV of the *Crown Lands Act 1976*"; and
- (f) by omitting from paragraph (b) of that subsection "eighty" and substituting "30 or 31 (as the case may be)".

*Railways Clauses Consolidation Act 1901*

(1 Edw. VII No. 14)

Sections 45 and 48 are repealed.

*Railway Management Act 1935*

(26 Geo. V No. 33)

Section 8A is amended by omitting from subsection (3) "*Crown Lands Act 1935*" and substituting "*Crown Lands Act 1976*".

*Roads and Jetties Act 1935*

(26 Geo. V No. 82)

Section 9E is amended by omitting from subsection (1) "Surveyor-General" (wherever occurring) and substituting "Director of Lands" in each case.

*Rural Fires Act 1967*

(No. 75 of 1967)

Section 29 is amended by inserting after “ 1935 ” the words “ or the *Crown Lands Act 1976* ”.

*Rural Reconstruction Act 1971*

(No. 49 of 1971)

1 Section 13 is amended by inserting in subsection (2) after “ 1935 ” the words “ or the *Crown Lands Act 1976* ”.

2 Section 19 is amended by inserting in subsection (1) (e) after “ 1935 ” the words “ or the *Crown Lands Act 1976* ”.

*State Advances Act 1935*

(26 Geo. V No. 41)

1 Section 19 is amended by inserting in subsection (10) after “ the *Crown Lands Act 1935* ” the words “ or the *Crown Lands Act 1976* ”.

2 Section 22 is amended by adding at the end of subsection (2) “ or the *Crown Lands Act 1976* ”.

3 Section 26 is amended by inserting in subsection (3) after “ *Crown Lands Act 1935* ” the words “ or the *Crown Lands Act 1976* ”.

4 Section 28A is amended by adding at the end of subsection (2) the words “ or the *Crown Lands Act 1976* ”.

*State Sinking Fund Act 1929*

(7 Geo. V No. 5)

Sections 12 and 13 are repealed.

*Survey Co-ordination Act 1944*

(7 and 8 Geo. VI No. 86)

Section 20 E is amended by omitting from subsection (1) (b) “ four A of the *Crown Lands Act 1935* ” and substituting “ 5 of the *Crown Lands Act 1976* ”.

*Vermin Destruction Act 1950*

(No. 68 of 1950)

1 Section 4 is amended by omitting from subsection (1) the definition of “ Crown land ” and substituting the following definition:—

“ ‘ Crown land ’ has the meaning assigned to that expression by section 2 of the *Crown Lands Act 1976*; ”.

2 Section 10 is amended by omitting from subsections (1), (2), and (3) “ Secretary for Lands ” (wherever occurring) and substituting “ Director of Lands ” in each case.

*War Service Land Settlement Act 1950*

(No. 82 of 1950)

1 Section 3 is amended by omitting from the definition of "Crown land" the year "1935" and substituting "1976".

2 Sections 7 and 43 are repealed.

3 Section 9 is amended by omitting from subsection (2) "seven" and substituting "12 of the *Crown Lands Act 1976*".

4 Section 11 is amended by omitting subsection (3).

5 Section 16 is amended by omitting from subsection (1) "one hundred and one of the *Crown Lands Act 1935*" and substituting "42 of the *Crown Lands Act 1976*".

6. Section 39A is amended by omitting the words "seven, section eight," and substituting "8".