

CHAPTER 132

CROWN LANDS

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

SECTION

1. Short title.
2. Interpretation.
3. Crown land not to be alienated save in accordance with Act.

PART II—LAND ACQUIRED OR LEASED BY THE CROWN

4. Title to land acquired by the Crown to be taken in the name of Director of Lands.
5. Director of Lands to be deemed lessee.

PART III—CROWN GRANTS

6. Grants of Crown Land.
7. Reservations in grants.
8. Land acquired for public purposes may revert to native land.
9. Grants to religious bodies subject to conditions.

PART IV—LEASES AND LICENSES OF CROWN LAND

10. Power to grant leases or licences of Crown land.
11. Director of Lands to be deemed lessor or licensor.
12. Form of lease, registration and fees.
13. Protected leases.
14. Form of licence, registration and fees.
15. Rent or fee in arrear in respect of licences.
16. Who may not be lessee or licensee.
17. Forfeiture of interest in unexecuted lease or licence in certain cases.
18. Transmission of interest in unexecuted lease or licence in certain cases.
19. Transmission of lease or licence in certain cases without probate or administration.

PART V—SPECIAL PROVISIONS RELATING TO FORESHORE LAND AND SOIL UNDER WATERS OF FIJI

20. Reservation of foreshores, etc.
21. Leases of foreshore to be approved by Minister.
22. Special provisions to be contained in leases of foreshore.
23. Saving of rights of the Crown to foreshore where land raised by execution of works.
24. Application of sections 21, 22 and 23.

PART VI—SPECIAL PROVISIONS RELATING TO LICENCES FOR
LAYING DOWN TRAMLINES, ETC.

25. Certain licences to be subject to approval by Minister.
26. Special conditions may be attached.

PART VII—GENERAL

27. Power to enter and inspect land and premises.
28. Indemnification of Director of Lands and officers.
29. Proceedings to be brought in name of Attorney-General.
30. Service of notices, etc.
31. Publication of notices, etc.
32. Trespass.
33. Right of Crown to sue not to be barred by limitation.
34. Suit for rent not barred by limitation.
35. Debt to Crown not extinguished by forfeiture.
36. Acceptance of rent not to operate as a waiver of forfeiture.
37. Right of way not to be presumed against the Crown.
38. Obstruction of officers.
39. Penalty for false declaration.
40. Penalty.
41. Regulations.

CHAPTER 132

CROWN LAND

Ordinances Nos. 15 of 1945, 20 of 1951, 21 of 1959, 37 of 1966, Order 31st Jan., 1967, 6 of 1967, 10 of 1970, Act No. 10 of 1972, 8 of 1974, 8 of 1975.

AN ACT RELATING TO THE CONTROL, ADMINISTRATION AND
DISPOSAL OF CROWN LAND

[1st August, 1946.]

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Crown Lands Act.

Interpretation

2. In this Act, unless the context otherwise requires—
“authorised officer” means any person authorised, whether generally or specially, by the Director of Lands in writing to perform any of the duties or exercise any of the powers imposed or conferred by this Act;
“Crown land” means all public lands in Fiji, including foreshores and the soil under the waters of Fiji, which are for the time being subject to the

control of Her Majesty by virtue of any treaty, cession or agreement, and all lands which have been or may be hereafter acquired by or on behalf of Her Majesty for any public purpose.

(Amended by Order 31st Jan., 1967.)

Crown land not to be alienated save in accordance with Act

3. Subject to the provisions of the Native Land Trust Act, the Mining Act, the Oil Mines Act and the Forest Act, or any other Act for the time being in force, no Crown land shall be sold or leased and no licence in respect of Crown land shall be granted save under and in accordance with the provisions of this Act:

(Cap. 134) (Cap. 146) (Cap. 148) (Cap. 150)

Provided that the Governor-General may set aside Crown land as a native reserve in the manner provided by section 18 of the Native Land Trust Act.

(Cap. 134)

PART II—LAND ACQUIRED OR LEASED BY THE CROWN

Title to land acquired by the Crown to be taken in the name of Director of Lands

4.—(1) Where the freehold estate of any person in land in respect of which a Crown grant or native grant has been issued is acquired by the Crown, the title to such land shall be taken in the name of the Director of Lands of Fiji for and on behalf of the Crown.

(2) Notwithstanding anything contained in the Land Transfer Act, upon the registration of any transfer of land to the Director of Lands for and on behalf of the Crown, or in respect of any land which is registered in the name of the Director of Lands for and on behalf of the Crown, the Registrar of Titles shall, if directed in writing by the Director of Lands, cancel, either in whole or in part, the title in respect of such land:

(Cap. 131)

Provided that, in respect of any title against which are registered any encumbrances, no such direction shall be given, without the written consent of the encumbrancee. *(Substituted by 8 of 1974, s. 2)*

(3) For the purpose of subsection (2), the expressions "encumbrancee" and "encumbrances" shall have the same meaning as in the Land Transfer Act.

(Substituted by 8 of 1974, s. 2)

(Cap. 131)

Director of Lands to be deemed lessee

5. Where any land is taken on lease by or on behalf of the Crown, the lease shall be made out to the Director of Lands of Fiji for and on behalf of the Crown, and the person for the time being holding the office of Director of Lands shall, whilst he holds such office, be deemed the lessee in such lease.

PART III—CROWN GRANTS

Grants of Crown land

6.—(1) Subject to the provisions of the Constitution and of any written law, the Minister, after consultation with the Cabinet, may, in the name of Her Majesty, and on her behalf, sell portions of Crown land and make and execute under the Public Seal of Fiji grants in fee simple thereof.

(Amended by Order 7th October, 1970)

(2) Every such grant shall be in duplicate in the prescribed form and, except as otherwise provided in section 9, shall be subject to the provisions of section 10 of the Land Transfer Act. (Cap. 131)

(3) In addition to the power conferred by subsection (1), the Minister may, with the respective consent of the proprietary unit to which the native land belongs and of the Native Land Trust Board and after consultation with the Cabinet, wherever he considers such an action to be expedient, exchange portions of Crown land for portions of native land, in which case the Crown land the subject of the exchange shall be recorded in the name of the unit from which the Crown obtains title in the Register of Native Lands kept under the provisions of section 8 of the Native Lands Act. (Inserted by 8 of 1975, s. 2) (Cap. 133)

Reservations in grants

7.—(1) A grant under this Act shall not confer any right to any precious metals, coals or minerals of any description including crude oil as defined in the Petroleum (Exploration and Exploitation) Act. (Cap. 148)

(2) There is hereby reserved to the Crown the right to enter upon any land granted under this Act and at all times to search, dig for and carry away any such metals, coals or minerals as aforesaid.

(3) Nothing in this section shall affect the rights of the Crown under any equivalent reservation contained in any Crown grant issued before the commencement of this Act, but every such reservation shall be deemed to be a reservation under this section and the provisions of subsection (2) shall apply accordingly.

Land acquired for public purposes may revert to native land

8. When any native land which has been acquired by the Crown for public purposes under the provisions of the Crown Acquisition of Lands Act or any other written law is no longer required for such purposes, the Minister, after consultation with the Cabinet, may, by order, declare such land to be native land and such declaration shall be recorded in the name of the unit from which it was acquired in the Register of Native Lands kept under the provisions of section 8 of the Native Lands Act. (Substituted by 8 of 1975, s. 3) (Cap. 135) (Cap. 133)

Grants to religious bodies subject to conditions

9. Notwithstanding the provisions of subsection (1) of section 6 and of section 10 of the Land Transfer Act, which require that grants shall be made in fee simple, it shall be lawful for the Minister to make grants of portions of Crown land to religious bodies, as defined in the Religious Bodies Registration Act, subject to conditions regulating the use and transfer of the land so granted and providing that in the event of such land ceasing for the space of twelve consecutive months to be used for the prescribed purpose the interest of the proprietor thereof shall cease and be determined whereupon the ownership of the land shall be resumed by and revert to the Crown. (Cap. 131) (Cap. 68.)

PART IV—LEASES AND LICENCES OF CROWN LAND

Power to grant leases or licences of Crown land

10. Subject to the provisions of sections 21, 22, 25 and 26, and to the general or special directions of the Minister, the Director of Lands may grant leases or

licences of portions of Crown land for such purposes and subject to such conditions as to forfeiture, renewals or otherwise as may be specified or prescribed.

Director of Lands to be deemed lessor or licensor

11. Any lease or licence in respect of land under the provisions of this Act shall be made out from and in the name of the Director of Lands for and on behalf of the Crown, and such lease or licence shall be executed by the person then holding the office of Director of Lands as lessor or licensor, and the person for the time being holding the office of Director of Lands shall, while he holds such office, be deemed the lessor or licensor of such lease or licence

Form of lease, registration and fees

12.—(1) All leases of Crown land shall be in such form and subject to such conditions and covenants as may be prescribed, and such leases shall be recorded in a register to be kept by the Registrar of Titles entitled "Register of Crown Leases", and it shall be lawful for the Director of Lands to charge and collect in respect of the preparation of any lease or for any matter in connexion therewith such fees as may be prescribed.

(2) When a lease made under the provisions of this Act has been registered, it shall be subject to the provisions of the Land Transfer Act, so far as the same are not inconsistent with this Act in the same manner as if such lease had been made under that Act and shall be dealt with in a like manner as a lease so made.

(Cap. 131.)

(3) It shall be lawful for the Registrar of Titles to charge and collect in respect of any lease registered under the provisions of this Act, or in respect of any dealing with such lease, the fees prescribed under the Land Transfer Act, in the same manner as if such lease was a lease under that Act.

(Cap. 131.)

Protected leases

13.—(1) Whenever in any lease under this Act there has been inserted the following clause:—

"This lease is a protected lease under the provisions of the Crown Lands Act"

(hereinafter called a protected lease) it shall not be lawful for the lessee thereof to alienate or deal with the land comprised in the lease of any part thereof, whether by sale, transfer or sublease or in any other manner whatsoever, nor to mortgage, charge or pledge the same, without the written consent of the Director of Lands first had and obtained, nor, except at the suit or with the written consent of the Director of Lands, shall any such lease be dealt with by any court of law or under the process of any court of law, nor, without such consent as aforesaid, shall the Registrar of Titles register any caveat affecting such lease.

Any sale, transfer, sublease, assignment, mortgage or other alienation or dealing effected without such consent shall be null and void.

(2) On the death of the lessee of any protected lease his executors or administrators may, subject to the consent of the Director of Lands as above provided, assign such lease.

(3) Any lessee aggrieved by the refusal of the Director of Lands to give any consent required by this section may appeal to the Minister within fourteen days after being notified of such refusal. Every such appeal shall be in writing and shall be lodged with the Director of Lands.

(4) Any consent required by this section may be given in writing by any officer or officers, either solely or jointly, authorised in that behalf by the Director of Lands by notice published in the Gazette. The provisions of subsection (3) shall apply to the refusal of any such officer or officers to give any such consent.

(Inserted by 21 of 1959, s. 2)

(5) For the purposes of this section "lease" includes a sublease and "lessee" includes a sublessee.

Form of licence, registration and fees

14. All licences of Crown land shall be in such form and subject to such conditions as may be prescribed, and such licences shall be recorded in a register to be kept by the Director of Lands entitled "Register of Licences in respect of Crown Land", and it shall be lawful for the Director of Lands to charge and collect in respect of the preparation and registration of any licence and for any matter in connexion therewith such fees as may be prescribed.

Rent or fee in arrear in respect of licences

15. If any rent, fee or other charge payable under any licence granted under this Act is in arrear for the space of one calendar month, or in case default is made in the fulfilment of any other covenant or condition whether expressed or implied in such licence on the part of the licensee, and continues for the space of two calendar months, it shall be lawful for the Director of Lands to determine such licence without prejudice to any claim against the licensee which shall have already accrued under such licence.

Who may not be lessee or licensee

16.—(1) No person, who at the time of making his application for a lease or licence has made any arrangement or agreement to permit any other person to acquire by transfer or otherwise the land in respect of which his application is made, or any part thereof, or the applicant's interest therein, and does not inform the Director of Lands of the existence of such arrangement, shall become a lessee or licensee under this Act.

(2) Every person who wilfully commits, or incites, instigates or employs any other person to commit a breach of the provisions of this section shall be guilty of an offence against this Act.

(3) Any lease or licence acquired by any breach of the provisions of this section shall be liable to be forfeited.

Forfeiture of interest in unexecuted lease or licence in certain cases

17. If a person to whom a lease or licence in respect of Crown land has been granted fails to execute the lease or licence within six months of the service of notice that such lease or licence is ready for execution, the grant of such lease or licence may be rescinded, and if any such person leaves Fiji before he has executed such lease or licence and, without giving to some person residing in Fiji a power of attorney in respect of his interest in the said lease or licence remains absent from Fiji for a period exceeding six months, the interest of such person in such lease or licence may be forfeited and determined.

Transmission of interest in unexecuted lease or licence in certain cases

18. If a person to whom a lease or licence in respect of Crown land has been granted dies before such lease or licence has been executed by him and no probate has been granted or letters of administration issued and no application for grant of probate or issue of letters of administration has been filed within six months after the death of such person, and the Director of Lands is of the opinion that the deceased person's interest in the lease or licence is of so small a value that it is expedient so to do, he may grant the lease or licence to the persons entitled thereto under the will or intestacy of the deceased, or to any one or more of them in trust for all.

Transmission of lease or licence in certain cases without probate or administration

19.—(1) If on the death of the lessee or licensee of a Crown lease or licence no probate has been granted or letters of administration issued and no application for grant of probate or issue of letters of administration has been filed within six months after the death of such lessee or licensee and the Director of Lands is of the opinion that the lease or licence is of so small a value that it is expedient to exercise the powers hereby conferred upon him, he may either sell the lease or licence and execute a transfer of the same to any person, and receive the purchase money on account of the persons entitled thereto under the will or intestacy of the deceased, or he may execute a transfer of the lease or licence to the persons entitled thereto under the said will or intestacy, or to any one or more of them in trust for all.

(2) In the case of a lease, any Act or law to the contrary notwithstanding, the Registrar of Titles shall, on production to him of a request by the Director of Lands to enter up a transfer under this section, enter up and duly register such transfer.

(3) In the case of a licence, the Director of Lands shall enter up and duly register such transfer in the Register of Licences in respect of Crown land.

PART V—SPECIAL PROVISIONS RELATING TO FORESHORE LAND
AND SOIL UNDER WATERS OF FIJI

Reservation of foreshores, etc.

20. A grant or lease under this Act shall not, unless otherwise expressly provided therein, confer any right to the foreshore or to soil under the waters of Fiji.

Leases of foreshore to be approved by Minister

21.—(1) No lease of any Crown foreshore land or of any soil under the waters of Fiji shall be made without the express approval of the Minister and such approval shall not be granted unless the Minister declares that such lease does not create a substantial infringement of public rights.

(2) Before such approval is given or declaration made, the substance of the lease together with a sufficient description of the property intended to be comprised therein, shall be inserted by the applicant, with the prior approval of the Director of Lands—

(a) in two consecutive issues of the ordinary Gazette; and

(b) twice, within seven days of such first issue, in a newspaper circulating in Fiji,

together with a notice calling upon persons having objections to the making of such lease to send them in writing to the Director of Lands not later than thirty days after the date of such second insertion in the Gazette.

(3) All such objections made in accordance with the provisions of subsection (2) shall be considered by the Minister. (*Subsections (2) and (3) inserted by 6 of 1967, s. 2*)

Special provisions to be contained in leases of foreshore

22.—(1) Every lease of any part of the foreshore or of any soil under the waters of Fiji shall specify the purposes for which such foreshore or soil is required, and shall vest the same in the lessee free and discharged from all public rights and privileges which may have existed or may be claimed in or over every such foreshore so far as is necessary for carrying out the said purposes and shall contain such covenants and provisions as may be approved in each case by the Minister with regard to the construction and use of any works to be made and done upon the premises comprised in the lease and as to the time within which such works shall be commenced and completed.

(2) In the event of the lessee, his executors, administrators, assigns or successors, as the case may be, failing at any time during the continuance of the term of the said lease to use the property comprised therein for the purposes so specified as aforesaid then the Director of Lands may declare the lease forfeited and may enter upon and take possession of the premises.

(3) In the event of any alienated or native land abutting upon or adjoining any foreshore leased under the provisions of this Act, the lessee thereof shall pay to the owner of such land compensation for any rights that may be infringed and, in the event of any dispute as to the amount of such compensation, compensation shall be determined in the manner provided in the Crown Acquisition of Lands Act.

(Cap. 135.)

Saving of rights of the Crown to foreshore where land raised by execution of works

23.—(1) If any foreshore land or land to the seaward of any such land embanked or reclaimed under a lease made under the provisions of this Act or any former Ordinance at any time after the completion of such embankment or reclamation becomes raised in height or reclaimed, whether gradually and imperceptibly or otherwise, so as to be above instead of below the line of ordinary high-water mark, no person or body shall, by virtue of any title to any land which he or it was empowered to reclaim as aforesaid, have any estate, right or interest in or to the land so raised in height or reclaimed by reason that such raising or reclamation has been gradual and imperceptible, or has been wholly or partially caused by such embankment or reclamation as aforesaid.

(2) The right and title of such lands so raised and reclaimed shall continue vested in the Crown as if the same had continued subject to the flow and reflow of the ordinary tides.

Application of sections 21, 22, and 23

24. The provisions of sections 21, 22 and 23 shall not apply to any river or stream within Fiji nor shall they affect in any way the provisions of the Harbour Act in so far as it relates to the erection of private wharves, piers, jetties or landing places in any declared harbour.

(Cap. 184)

PART VI—SPECIAL PROVISIONS RELATING TO LICENCES FOR
LAYING DOWN TRAMLINES, ETC.

Certain licences to be subject to approval by Minister

25.—(1) No licence to—

- (a) use any public road or any part thereof for the purpose of laying down, maintaining and using tramlines thereon;
- (b) erect and maintain gates and level crossings on any public road in the event of tramlines being licensed to cross such public road;
- (c) build and maintain bridges over, or passages or tunnels under, any public road, or over or under any river, navigable or otherwise, or to dredge any such river,

shall be granted without the express approval of the Minister.

(2) Any such licence shall be deemed to confer upon the licensee power to obstruct traffic for the purpose of carrying out the object or objects for which such licence was granted in so far as such obstruction is essential for the building, making, working or maintaining of any such tramlines, bridges, passages or tunnels, or for the dredging of any such river, without his being held responsible for any loss or damage occasioned by such obstruction as aforesaid.

Special conditions may be attached

26.—(1) Any such licence as is mentioned in section 25 shall be granted subject to such terms and conditions as may be approved by the Minister to prevent any substantial infringement of public rights being created or committed by the licensee in the exercise of the power conferred by the licence.

(2) In the event of the intended working being of a permanent nature the preliminary procedure prescribed in subsection (2) of section 21 shall be complied with so far as the same is applicable.

PART VII—GENERAL

Power to enter and inspect land and premises

27. The Director of Lands and any authorised officer shall for any purpose relating to this Act have power at all reasonable times to enter upon any land the subject of a Crown lease or licence or to enter any premises or place on such land and there to make such inspection, examination and inquiry and to call for such information as may be necessary for carrying into effect any of the provisions of this Act.

Indemnification of Director of Lands and officers

28. Neither the Director of Lands nor any authorised officer shall be liable to any action, suit or proceeding for or in respect of any act or matter bona fide done or omitted to be done in the exercise of the powers conferred by this Act.

Proceedings to be brought in name of Attorney-General

29. All actions, suits and proceedings respecting Crown land or respecting any lease, licence or permit relating thereto, or respecting the breach of any covenant contained in any such lease, licence or permit or respecting any trespass on such land, or any damages accruing by reason of such trespass or for the recovery of any rents or fees, or relating to any damage or wrong whatsoever in respect of such land, may be commenced, prosecuted and carried on in the name and title of the Attorney-General. (*Amended by 20 of 1951, s. 33*)

Service of notices, etc.

30.—(1) Any application, statement, demand, instrument, notice or other document authorised or required by this Act, or any regulation made thereunder, may be served on the person to whom it is to be given either personally or by leaving it for him at his last known place of abode in Fiji or by sending it through the post in a registered letter addressed to him there.

(2) Where any such document is to be served on a person by being sent through the registered post, it shall be deemed to have been served not later than the thirtieth day succeeding the day on which it was posted, and for proof of such service it shall be sufficient to prove that the letter containing the notice was properly addressed, registered and posted.

Publication of notices, etc.

31.—(1) Any order, notice or other document required by this Act, or any regulation made thereunder, to be published, may, when no particular method is provided or indicated, be published by affixing a copy in the office of the Commissioner of the Division and in some other public or conspicuous place in the area concerned, and, where it is deemed necessary by publishing it in the Gazette.

(2) Such publication or affixing shall be deemed good and sufficient publication and notice to all persons concerned.

(3) Any person who without lawful cause or excuse tears, defaces, alters, injures or removes any notice so affixed shall be guilty of an offence against this Act and shall be liable to a fine of twenty dollars.

Trespass

32. Any person not claiming bona fide under a subsisting lease or licence or otherwise under any Act relating to the occupation of Crown land who is found occupying any Crown land or is found residing or erecting any hut or building, depasturing stock or cutting any timber grown thereon, or clearing, digging up, inclosing or cultivating any part thereof, shall be liable to immediate eviction and shall be guilty of an offence against this Act:

Provided that nothing in this Act shall deprive the public of the right to quiet enjoyment, for recreational purposes, of the foreshore.

(Proviso inserted by 10 of 1972, s. 2)

Right of Crown to sue not to be barred by limitation

33. No action or other remedy by or on behalf of the Crown for the recovery of the possession of Crown land shall be barred or affected by any Act or other law of limitation.

Suit for rent not barred by limitation

34. No Act or other law of limitation shall bar or affect any action or remedy for the recovery of any rent due under any lease granted under this Act.

Debt to Crown not extinguished by forfeiture

35. No forfeiture shall operate to extinguish any debt to the Crown in respect of any rent or payment to be made by a lessee or licensee under a lease or licence forfeited.

Acceptance of rent not to operate as a waiver of forfeiture

36. The acceptance by or on behalf of the Crown of any rent shall not be held to operate as a waiver by the Crown of any forfeiture accruing by reason of the breach of any covenant or condition, express or implied, in any lease or licence under this Act.

Right of way not to be presumed against the Crown

37. No right of way shall be presumed or allowed to be asserted or established against the Crown by reason only of user, whether such user commenced before or after the commencement of this Act.

Obstruction of officers

38. Any person who refuses to permit the Director of Lands or any authorised officer to carry out any of the powers conferred by this Act or any regulation made thereunder, or obstructs or hinders any such person in the execution of his duty under this Act or any regulation made thereunder, or fails to give any information that may be required under the provisions of section 27 or furnishes false information to any such person, shall be guilty of an offence against this Act.

Penalty for false declaration

39. Any person who makes a false declaration in relation to any matter or thing required to be done by this Act or by any regulation made thereunder, or who produces any false declaration or certificate, knowing the same to be false in any material particular, shall be guilty of an offence against this Act.

Penalty

40.—(1) Every omission or neglect to comply with, and every act done or attempted to be done, contrary to the provisions of this Act or of any regulation or order made thereunder shall be deemed to be an offence against this Act.

(2) For every offence against this Act for which no penalty is specially provided an offender shall be liable to a fine of one hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

Regulations

41. The Minister may make regulations not inconsistent with this Act providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act, and, without prejudice to the foregoing powers, providing for all or any of the matters following, that is to say:—

- (a) controlling the administration, occupation and use of Crown land and prescribing fees for admission thereto; (*Substituted by 10 of 1970, s. 2*)
- (b) regulating the grant and form of grants and leases in respect of Crown land and all matters relating thereto;
- (c) prescribing the form and terms of leases of Crown land and the covenants and conditions upon and subject to which leases may be issued;
- (d) regulating the issue of licences on Crown land in respect of—
 - (i) cattle grazing;
 - (ii) the removal of sand, lime and common stone;

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- (iii) the cultivation of annual crops;
 - (iv) residence;
 - (v) special purposes;
 - (e) prescribing the form and term of licences and the conditions upon and subject to which licences may be issued or forfeited;
 - (f) the definition of boundaries and the maintenance of boundary marks;
 - (g) surveys and plans;
 - (h) revision of rents;
 - (i) the forfeiture of deposits;
 - (j) penal rents;
 - (k) prescribing the fees which may be charged and collected in respect of the preparation of any Crown grant or lease and in respect of the preparation and registration of any licence;
 - (l) prescribing the royalties to be paid in respect of sand, lime and common stone got and removed pursuant to licences issued under this Act;
 - (m) prescribing the agistment fees to be paid by persons depasturing animals on Crown land;
 - (n) prescribing the manner in which certified copies of or certificates in respect of lost licences may be issued and the fees therefor;
 - (o) prescribing the manner in which registers shall be kept;
 - (p) prescribing any other matter required by this Act to be prescribed.

Controlled by Lands and Mineral Resources