



# Crown Lands Act 1989 No 6

## Status information

### Currency of version

Current version for 1 June 2016 to date (generated 8 June 2016 at 12:04).

Legislation on the NSW legislation website is usually updated within 3 working days.

### Provisions in force

All the provisions displayed in this version of the legislation have commenced. For commencement and other details see the Historical notes.

### Does not include amendments by:

Cemeteries and Crematoria Act 2013 No 105, Sch 6.1 [8] (not commenced)



New South Wales

# Crown Lands Act 1989 No 6

## Contents

---

	Page
<b>Part 1 Preliminary</b>	
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Divisions of the State	3
5 Application of Act	4
6 Crown land to be dealt with subject to this Act etc	4
7 Relationship with other Acts	4
8 Land districts	5
9 Cities, towns and villages	5
10 Objects of Act	5
11 Principles of Crown land management	5
<b>Part 2 Administration</b>	
<b>Division 1 Minister</b>	
12 Responsibility of Minister	7
13 Constitution of the Ministerial Corporation	7
14 Seal etc of the Ministerial Corporation	7
15 Functions of the Ministerial Corporation	7
16 Staff of the Ministerial Corporation	8
17 Financial year	8

---

---

	Page
18 Agency arrangements	8
<b>Division 2 Secretary</b>	
19 References by Minister to Secretary	8
20–24A (Repealed)	9
<b>Division 3</b>	
25–29 (Repealed)	9
<b>Part 3 Land assessment</b>	
30 Programme for land assessment	10
31 Inventory	10
32 Assessment of the capabilities of land	10
33 Identification of uses	10
<b>Part 4 Sale, lease etc of Crown land</b>	
<b>Division 1 General</b>	
33A Definitions	11
34 Powers of Minister in relation to Crown land	11
34AA Secondary interests in Crown reserves	12
34A Special provisions relating to Minister's powers over Crown reserves	13
35 Assessment of land	14
35A Challenge to validity of interest in Crown reserve	14
<b>Division 2 Sales of Crown land</b>	
36 Conditions that may be included in contracts of sale	15
37 Imposition of conditions on sale of certain land	15
38 Restrictions on transfer of certain land	16
39 Effect of recording in Register	16
40 Securing payment by way of mortgage etc	16
<b>Division 3 Leases of Crown land</b>	
41 Term	16
42 Certain dealings to be leases	16
43 Application of Conveyancing Act 1919	16
44 Transfer restrictions	16
44AA Subleases	17
<b>Division 3A Development districts and special purpose leases</b>	
44A Definitions	17
44B Development districts	17
44C Minister may grant special purpose leases	18
44D Provisions applicable to general purpose lease over land subject to special purpose lease	18
44E Provisions applicable to special purpose lease over land subject to general purpose lease	19
<b>Division 4 Licences</b>	
45 Licences	20
46 Certain dealings to be licences	20

---

	Page
47 Revocation of licences	20
48 Restrictions on transfer of licences	20
48A Sublicences	21
49 Licences for removal of certain minerals	21
50 Rent, royalty, fees etc	21
<b>Division 5 Easements</b>	
51 Definitions	21
52 Creation of easements	22
53 Release of easements	22
54 Effective date of creation or release of easements	22
55 Consent of holders required	22
56 Creation of easements for public access	23
57 Rights of public to use easements for public access	23
58 Rights of owners or lessees of affected land	23
59 Recording of particulars in the Register	24
<b>Division 5A Carbon sequestration and related forestry rights</b>	
59A Definitions	24
59B Application of Division	24
59C Granting and creation of carbon sequestration and related forestry rights	24
<b>Division 6 Enclosure of roads and watercourses</b>	
60 Definitions	25
61 Enclosure of roads or watercourses on application	25
62 Enclosure of additional roads or watercourses	26
63 Unauthorised enclosure of roads or watercourses	26
64 Transfer of land with which enclosure permit held	26
65 Subdivision of land with which road or watercourse is enclosed	26
66 Cancellation of enclosure permit etc	27
67 Cancellation or variation of enclosure permit on acquisition of adjacent land, closing of road etc	27
68 Amalgamation of permits	27
69 (Repealed)	28
70 Minister may direct erection of gates etc	28
71 (Repealed)	28
72 Cultivation of enclosed roads	28
73 Dividing fences	29
74 Public gates	29
<b>Division 7 Vesting of land in councils</b>	
75 Definitions	29
76 Vesting of certain land in councils	29
77 Effect of vesting	30
<b>Part 4A Restrictions and covenants imposed on land</b>	
77A Restrictions and covenants relating to protection of the environment and other significant values	32
77B Imposition of covenants relating to subdivision or separate dealings	32

## **Part 5      Dedication and reservation of land**

### **Division 1      Preliminary**

78	Definitions	34
79	Order declaring land not to be reserve	34

### **Division 2      Dedications**

80	Power of Minister to dedicate land	34
81	Addition to dedicated land	34
82	Tabling of proposed dedication or addition in Parliament	35
83	Effect of dedication on reservations	35
84	Revocation of dedication	35
85	Requirement for assessment	35
86	Scope of revocation power	35

### **Division 3      Reservations**

87	Power of Minister to reserve land	36
88	Addition to reserved land	36
89	Effect of other reservations	36
90	Revocation of reservation	36
91	Requirement for assessment	36

### **Division 4      Formation of reserve trusts**

92	Reserve trusts	37
93	Membership of trust board	38
94	Matters affecting members of a trust board	38
95	Appointment of corporation to manage reserve trust	38
96	Vacation of office by corporate manager	38
96A	Performance management for reserve trust managers	39
97	Address for service of documents on reserve trust	39
97A	Delegation of functions by reserve trust managers	39
98	Application of Local Government Act where a council manages a reserve trust	39
98A	Responsibility for certain reserves	39

### **Division 5      Trust property**

99	Operation of Division	40
100	Estate of trust	40
101	Purchase etc of other land	40
102	Consent of Minister to sale, lease, easement, licence or mortgage	40
102A	Minister's consent not required for certain leases, licences or easements	41
102B	Validity of interests in Crown reserves	43
103	Sale, lease, easement, licence or mortgage in accordance with consent	43
104	Effect of conveyance of reserve land	43
105	Execution of conveyances etc	43
106	Proceeds etc	44
106A	Limits on compensation payable to reserve trusts	44
107	Disposal of certain income of reserve trust	45
108	Temporary licences	46

	Page
109 Termination of certain leases and licences	46
110 Saving of certain leases and licences	46
111 Dissolution of trust—disposal of property	47
111A Dissolution of trust—appointment of new trust	47
<b>Division 6 Plans of management</b>	
112A Definitions	47
112 Preparation of draft plan of management	47
113 Referral and exhibition of draft plans	48
114 Adoption of plan of management	49
115 Alteration or cancellation of plan	49
116 Plan of management for submerged land	50
<b>Division 7 Administrator of trust</b>	
117 Appointment of administrator	50
118 (Repealed)	50
119 Vacancies in office of administrator	50
120 Remuneration of administrator	50
<b>Division 8 Miscellaneous</b>	
121A Minister may authorise reserve to be used for additional purpose	50
121 Liability of reserve trust, members and other persons	51
122 Reports etc by reserve trust	51
122A Financial year of reserve trust	52
123 Inspection etc of reserve trust	52
124 Removal of persons	52
125 Transitional provisions—additions to reserves	52
126 Provisions applicable to certain showgrounds etc	53
127 Provisions applicable to other reserved etc land	54
128 By-laws	54
<b>Part 6 Forfeiture of holdings</b>	
129 Minister may forfeit holdings	56
130 Notification of forfeiture	56
131 Operation of forfeiture	56
132 Reversal of forfeiture	56
133 (Repealed)	56
<b>Part 7 Miscellaneous</b>	
<b>Division 1 Acquisition etc of land</b>	
134 Power of Minister to accept gifts of land	57
135 Acquisition of land for public purpose	57
136 Withdrawal from lease or licence for public purposes	58
137 Surrender of land	59
138 Certain land may be declared to be Crown land	59
<b>Division 1A Transfer or vesting of certain land to or in Crown</b>	
138A Definitions	59
138B Transfer of private trust land to Crown by agreement with trustees	60

	Page
138C Vesting of public trust land in Crown by agreement with trustees	60
138D Revocation of reservation or dedication of public trust land	60
138E Consultation in relation to transfer or vesting of land	60
138F Effect of transfer or vesting of land	61
138G Provisions relating to assessment of transferred or vested land	61
<b>Division 2 Alteration of conditions etc</b>	
139 Alteration of conditions or purposes and suspension etc of conditions	62
140 Removal of conditions etc	62
141 Recording of directions	62
<b>Division 2A Minimum rents</b>	
141A Minimum rent	62
141B (Repealed)	63
141C Operation of Division	63
141D Division does not apply in respect of Western Division	63
141E Commonwealth leases	63
<b>Division 2B Minimum rent—Western Division</b>	
141F Minimum rent—Western Division	63
141G Operation of Division	64
<b>Division 3 Determination of rent</b>	
142 Objections and appeals against determinations or redeterminations of rent	64
143 Determination or redetermination of rent—principles	65
<b>Division 3A Redetermination and adjustment of rents for licences and enclosure permits</b>	
143A Application of Division	65
143B Minister may redetermine rents for licences and enclosure permits	66
143C Adjustment of rent in line with Consumer Price Index	67
143D Division does not apply in respect of Western Division	68
<b>Division 4 Payments</b>	
144 Liability of incoming holder to pay arrears	68
145 Certificate as to amount due	69
146 (Repealed)	69
147 Recovery of money	69
148 Interest on arrears	70
149 Forfeiture etc not to extinguish debts	70
150 Postponement, waiver etc of payments	70
151 Rebates of rent	70
152 Alteration of due dates for payments	70
<b>Division 5 Protection of public land</b>	
153 Definitions	71
154 Operation of Division	72
155 Offences on public land	72
156 Unauthorised use of structures or land	72
157 Compensation	73

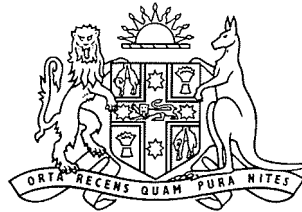
	Page
158 Removal of unauthorised structures	73
159 Removal of trespassers from public land	74
160 Vehicles on vacant public land	75
161 Liability of vehicle owner for certain offences	76
162 Penalty notices for certain offences	77
163–165 (Repealed)	78
166 Impounding of animals	78
167 Requirement to state name and address	78
168 Obstruction of authorised persons	78
<b>Division 5A Powers to enter and inspect land and to obtain information</b>	
168A Definitions	79
168B Appointment of authorised inspectors	79
168C Powers of entry and inspection in relation to land	79
168D Power to obtain information	80
168E Arrangements with other government agencies	81
<b>Division 6 Legal and evidentiary provisions</b>	
169 Title to land	81
170 Limitation on acquisition of title by possession against the Crown	81
171 Exclusion of minerals, other reservations, exceptions etc	82
172 Land with boundaries to lakes, roads etc	83
173 Evidence of land being measured	84
174 Ownership of improvements on forfeiture etc	84
175 Proceedings for offences	84
176 Offences by corporations	84
177 Certificate as to status of land etc	85
178 Certificate evidence as to authorised persons and inspectors	85
179 Removal of recordings in Register	85
<b>Division 7 General provisions</b>	
180 Delegation	85
180A Fees for services	86
180B GST may be added to certain amounts	86
180C Payments due under the Act	86
181 Notices	86
181A General provisions applicable to CPI adjustment	87
182 Minister may require information to be furnished etc	87
183 Failing to furnish information etc	88
183A Application of Environmental Planning and Assessment Act 1979	88
184 Regulations	89
184A Compensation not payable	89
185 Repeals	90
186 Savings, transitional and other provisions	90
<b>Schedules 1, 2 (Repealed)</b>	<b>91</b>
<b>Schedule 3 Provisions relating to the members of a trust board</b>	<b>92</b>
<b>Schedule 4 Pecuniary interests of members of a trust board</b>	<b>94</b>
<b>Schedule 5 Procedure of a trust board</b>	<b>96</b>
<b>Schedule 6 Transferred provisions</b>	<b>97</b>



---

	Page
<b>Schedule 7      Repeals</b>	<b>99</b>
<b>Schedule 8      Savings, transitional and other provisions</b>	<b>100</b>
<b>Historical notes</b>	
Table of amending instruments	113
Table of amendments	118





New South Wales

## Crown Lands Act 1989 No 6

---

An Act to provide for the administration and management of Crown land in the Eastern and Central Division of the State and to repeal the *Crown Lands Consolidation Act 1913*, the Closer Settlement Acts and certain other Acts.

---

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Crown Lands Act 1989*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act:

**authorised inspector** means a person appointed under section 168B.

**Commonwealth lease** means a lease to which Part 8 of Schedule 2 to the *Crown Lands (Continued Tenures) Act 1989* applies.

**Consumer Price Index** means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

**Consumer Price Index number**, in relation to a quarter, means the number for that quarter appearing in the Consumer Price Index.

**Crown cemetery trust** has the same meaning as in the *Cemeteries and Crematoria Act 2013*.

**Crown land** means land that is vested in the Crown or was acquired under the Closer Settlement Acts as in force before their repeal, not in either case being:

- (a) land dedicated for a public purpose, or
- (b) land that has been sold or lawfully contracted to be sold and in respect of which the purchase price or other consideration for the sale has been received by the Crown.

**Crown Lands Acts** means:

- (a) the Acts repealed by section 2 of the *Crown Lands Act of 1884* (except Act 22 Victoria No 17 and Act 23 Victoria No 4),
- (b) the Acts repealed by the *Crown Lands Consolidation Act 1913*,
- (c) the Acts repealed by this Act,
- (d) the provisions of the *Prickly-pear Act 1924* referred to in clause 5 (1) of Schedule 1 to the *Prickly Pear Act 1987*,
- (e) the provisions of the *Crown Lands (Amendment) Act 1932* repealed by the *Miscellaneous Acts (Crown Lands) Amendment Act 1989*,
- (f) the *Crown Lands (Continued Tenures) Act 1989*, and
- (g) this Act.

**Department** means the Department of Industry, Skills and Regional Development.

**Eastern and Central Division**—see section 4 (2).

**filming project** has the same meaning as in the *Local Government Act 1993*.

**government agency** means any public authority, and includes:

- (a) a Public Service agency or State owned corporation, and
- (b) Local Land Services,

but does not include a local council or a reserve trust within the meaning of Part 5.

**holding** means:

- (a) an incomplete purchase, a perpetual lease, a term lease, a special lease or a permissive occupancy under the *Crown Lands (Continued Tenures) Act 1989*, or

(b) a lease or licence under this Act.

**irrigation area** means an irrigation area constituted under the *Wentworth Irrigation Act 1890*, the *Murrumbidgee Irrigation Act 1910* or the *Irrigation Act 1912*.

**land district** means a land district referred to in section 8 (1), or established under section 8 (1A) or (2), and includes:

- (a) an administrative district established under section 9 of the *Western Lands Act 1901*, and
- (b) a development district declared under section 44B of this Act or section 35XB of the *Western Lands Act 1901*.

**Lord Howe Island** has the same meaning as **Island** has in the *Lord Howe Island Act 1953*.

**mineral** means:

- (a) in relation to land not in a special land district, any substance prescribed as a mineral for the purposes of this Act, or
- (b) in relation to land in a special land district, mineral within the meaning of the *Mining Act 1992*.

**Ministerial Corporation** means the Lands Administration Ministerial Corporation constituted by section 13.

**public purpose**, in relation to a provision of this Act, means any purpose for the time being declared by the Minister, by notification in the Gazette, to be a public purpose for the purposes of that provision.

**regulations** includes regulations under the *Crown Lands (Continued Tenures) Act 1989*.

**Secretary** means the Secretary of the Department.

**special land district** means a special land district declared under section 8.

**the Register** means the Register kept under the *Real Property Act 1900*.

**travelling stock reserve** has the same meaning as in the *Local Land Services Act 2013*.

**Western Division**—see section 4 (2A).

- (2) Crown land does not cease to be Crown land just because of the creation in respect of it of a folio of the Register in the name of “The State of New South Wales”.
- (3) In this Act:
  - (a) a reference to a function includes a reference to a power, authority and duty, and
  - (b) a reference to the exercise of a function includes, in relation to a duty, a reference to the performance of the duty.
- (4) Notes included in this Act do not form part of this Act.

#### 4 Divisions of the State

- (1) For the purposes of this Act, the State shall consist of 2 Divisions:
  - (a) the Eastern and Central Division, and
  - (b) the Western Division.
- (2) Subject to any regulations made under subsection (3), the Eastern and Central Division is:
  - (a) such part of the State as is not within Lord Howe Island or the Western Division, and

- (b) the coastal waters of the State within the meaning of Part 10 of the *Interpretation Act 1987* and the seabed and subsoil beneath, and the airspace above, those waters.
- (2A) Subject to any regulations made under subsection (3), the Western Division comprises that part of the State depicted in Lot 1901, Deposited Plan 1133899, recorded in the office of the Registrar-General.
- (3) The boundary between the Eastern and Central Division and the Western Division may be altered or redefined by regulation.
- (4) A proposed alteration or redefinition may not be given effect under subsection (3) unless:
  - (a) a notice describing the proposal has been published as prescribed, and
  - (b) the notice states that written objections and submissions relating to the proposal may be lodged with the Department not later than 28 days after publication of the notice.

## **5 Application of Act**

- (1) This Act applies to and in respect of:
  - (a) the Eastern and Central Division of the State,
  - (b) special land districts,
  - (c) incomplete purchases of land formerly comprised in leases under the *Western Lands Act 1901*,
  - (d) purchases of land formerly comprised in incomplete purchases referred to in paragraph (c), and
  - (e) holdings created under the Crown Lands Acts and situated in the Western Division.
- (2) In addition, this Act applies to and in respect of land in the Western Division to the extent set out in section 2A of the *Western Lands Act 1901*.
- (3) In the application of the provisions of this Act to and in respect of purchases of land or land purchased in the Western Division, a reference to “the Crown Lands Acts” or “this Act” includes a reference to the *Western Lands Act 1901*.
- (4) This Act does not apply to or in respect of Lord Howe Island.

## **6 Crown land to be dealt with subject to this Act etc**

Crown land shall not be occupied, used, sold, leased, licensed, dedicated or reserved or otherwise dealt with unless the occupation, use, sale, lease, licence, reservation or dedication or other dealing is authorised by this Act or the *Crown Lands (Continued Tenures) Act 1989*.

## **7 Relationship with other Acts**

This Act shall not be construed so as to affect the operation of a provision of any other Act which:

- (a) makes special provision for any particular kind of Crown land, or
- (b) authorises Crown land to be disposed of or dealt with in any manner inconsistent with this Act.

## **8 Land districts**

- (1) The Eastern and Central Division of the State is divided into land districts, as established and defined under the *Crown Lands Consolidation Act 1913* immediately before its repeal.
- (1A) The Minister may, by notification in the Gazette, establish land districts each comprising one or more irrigation areas or former irrigation areas that are within the Western Division.
- (2) The Minister may, by notification in the Gazette, alter or abolish existing land districts or establish and define new land districts.
- (3) The Minister may, by notification in the Gazette, declare any one or more land districts (whether in the Eastern and Central Division or the Western Division) to be a special land district. As far as practicable (but without affecting the power of the Minister to alter land districts or special land districts), a special land district is to consist of land within irrigation areas or former irrigation areas.
- (4) The Minister may, by notification in the Gazette, alter or abolish special land districts or define new special land districts.

## **9 Cities, towns and villages**

The Minister may, by notification in the Gazette:

- (a) declare Crown land to be set apart as sites for cities, towns or villages, or
- (b) correct or alter the design, plan or boundaries of any city, town or village set apart under the Crown Lands Acts.

## **10 Objects of Act**

The objects of this Act are to ensure that Crown land is managed for the benefit of the people of New South Wales and in particular to provide for:

- (a) a proper assessment of Crown land,
- (b) the management of Crown land having regard to the principles of Crown land management contained in this Act,
- (c) the proper development and conservation of Crown land having regard to those principles,
- (d) the regulation of the conditions under which Crown land is permitted to be occupied, used, sold, leased, licensed or otherwise dealt with,
- (e) the reservation or dedication of Crown land for public purposes and the management and use of the reserved or dedicated land, and
- (f) the collection, recording and dissemination of information in relation to Crown land.

## **11 Principles of Crown land management**

For the purposes of this Act, the principles of Crown land management are:

- (a) that environmental protection principles be observed in relation to the management and administration of Crown land,
- (b) that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible,
- (c) that public use and enjoyment of appropriate Crown land be encouraged,
- (d) that, where appropriate, multiple use of Crown land be encouraged,
- (e) that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and

- (f) that Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.



## Part 2 Administration

### Division 1 Minister

#### 12 Responsibility of Minister

- (1) The Minister is responsible for achieving the objects of this Act.
- (2) The Minister may establish advisory committees to give information and make recommendations with respect to:
  - (a) the development and revision of guidelines for land management, and
  - (b) such other matters as may be referred to them by the Minister.

#### 13 Constitution of the Ministerial Corporation

- (1) There is constituted by this Act a corporation with the corporate name of Lands Administration Ministerial Corporation.
- (2) The affairs of the Ministerial Corporation shall be managed by the Minister.
- (3) Any act, matter or thing done in the name of, or on behalf of, the Ministerial Corporation by the Minister, or with the authority of the Minister, shall be taken to have been done by the Ministerial Corporation.
- (4) The Ministerial Corporation is, for the purposes of any Act, a statutory body representing the Crown.
- (5) Section 50 (1) (d) of the *Interpretation Act 1987* (which authorises certain dealings with property) does not apply to the Ministerial Corporation.

#### 14 Seal etc of the Ministerial Corporation

The regulations may make provisions for or with respect to:

- (a) the custody and use of the seal of the Ministerial Corporation, and
- (b) the keeping of records concerning the acts, decisions and proceedings of the Ministerial Corporation.

#### 15 Functions of the Ministerial Corporation

- (1) The Ministerial Corporation has the functions conferred or imposed on it by or under this or any other Act.
- (2) The Ministerial Corporation may:
  - (a) enter into a contract, agreement or joint venture with any person, corporation or statutory body for the development of, or the construction or undertaking of works on, Crown land or the provision of services for Crown land,
  - (b) enter into a contract or agreement with any person, corporation or statutory body for the person, corporation or body to act as agent for the sale or lease of Crown land,
  - (c) enter into a contract, agreement or joint venture with any person, corporation or statutory body for the provision of services or information:
    - (i) to the person, corporation or body, or
    - (ii) to the Minister or the Department, and
  - (d) for the attainment of the objects of this Act or the exercise of functions under this Act:
    - (i) purchase, take on lease or licence, charter or otherwise acquire any vehicle, aircraft, vessel, plant, machinery or other thing, or

- (ii) adapt or manufacture any machinery or equipment.
- (3) For the purpose of securing a loan for:
  - (a) the development of Crown land,
  - (b) the construction or undertaking of works on Crown land, or
  - (c) the provision of services for Crown land,the Ministerial Corporation shall be taken to be the owner of the land.

## **16 Staff of the Ministerial Corporation**

The Ministerial Corporation may:

- (a) use the services of any staff or facilities of the Department, or
- (b) arrange for the use of the services of any staff or facilities of any other Public Service agency or of a public authority.

## **17 Financial year**

The financial year of the Ministerial Corporation is the year commencing on 1 July.

## **18 Agency arrangements**

- (1) The Minister may enter into an arrangement with another Minister, or with an authority constituted by or under an Act, for the exercise by the Minister or by his or her delegate, as agent of that other Minister or the authority, of a function of that other Minister or the authority.
- (2) The Ministerial Corporation may, itself or by its delegate, act as agent of a Minister administering an Act, or as agent of an authority constituted by or under an Act, in the exercise of a function of that Minister or authority.
- (3) A document executed by:
  - (a) the Minister, or a delegate of the Minister, as agent, or
  - (b) the Ministerial Corporation, or its delegate, as agent,has effect as if it had been executed by the principal.
- (4) If the Minister notifies in the Gazette that the provisions of Division 5 of Part 7 (protection of public land) apply to any land administered by the Minister or the Ministerial Corporation as agent, those provisions apply in the same way as they apply to public land.

## **Division 2 Secretary**

### **19 References by Minister to Secretary**

- (1) The Minister may refer to the Secretary for inquiry or report:
  - (a) any matter arising out of the administration of this Act, or of any other Act dealing with the administration of Crown land, or
  - (b) any other matter prescribed by the regulations.
- (2) The Secretary must inquire into a matter referred to him or her under this section.
- (3) When the inquiry is completed, the Secretary must report his or her findings in writing to the Minister.
- (4) The Secretary may delegate to a member of staff (or a group of staff members) of the Department:
  - (a) the Secretary's functions under this section (other than this power of delegation), or

- (b) the Secretary's functions under another provision of this Act or another Act to inquire or report to a Minister on a matter.

**20–24A (Repealed)**

### **Division 3**

**25–29 (Repealed)**

## **Part 3 Land assessment**

### **30 Programme for land assessment**

- (1) The Minister shall cause to be instituted a programme for the assessment of Crown land.
- (2) The assessment shall consist of:
  - (a) the preparation of an inventory of Crown land,
  - (b) an assessment of the capabilities of the land, and
  - (c) the identification of suitable uses for the land and, where practicable, the preferred use or uses.

### **31 Inventory**

- (1) The inventory of Crown land shall contain particulars of such physical characteristics of the land and such other matters affecting the land as the Minister considers necessary to assess the capabilities of the land.
- (2) The inventory shall be maintained to reflect changes in the particulars contained in it.
- (3) Information contained in the inventory may be made available to members of the public.

### **32 Assessment of the capabilities of land**

- (1) The particulars relating to land as contained in the inventory shall be assessed by the Department to determine the land's capabilities, having regard to prescribed land evaluation criteria.
- (2) For the purposes of this section, assessment of the capabilities of land includes assessment of the land's use for community or public purposes, environmental protection, nature conservation, water conservation, forestry, recreation, tourism, grazing, agriculture, residential purposes, commerce, industry or mining.

### **33 Identification of uses**

- (1) In identifying suitable uses for land and, where practicable, the preferred use or uses, regard shall be had to:
  - (a) the particulars relating to the land as contained in the inventory,
  - (b) the assessment of the land's capabilities,
  - (c) the principles of Crown land management and any current policies relating to the land approved by the Minister, and
  - (d) the views of any Public Service agency or public authority which has expressed an interest in the land.
- (2) The Minister may from time to time cause an identified preferred use to be reviewed and either confirmed or varied having regard to any changes in the particulars contained in the inventory or the capabilities of or policies relating to the land.

## Part 4 Sale, lease etc of Crown land

### Division 1 General

#### 33A Definitions

In this Part:

**Crown reserve** means land that is, or is part of, a reserve within the meaning of Part 5, and includes:

- (a) land within a travelling stock reserve, or
- (b) land within any other reserves for public purposes under the control of trustees or other authorities.

**reserved purpose**, in relation to land comprising a Crown reserve, means the public purpose for which the land has been dedicated or reserved under Part 5.

#### 34 Powers of Minister in relation to Crown land

- (1) The Minister may, in such manner and subject to such terms and conditions as the Minister determines:
  - (a) sell, lease, exchange or otherwise dispose of or deal with Crown land, or
  - (b) grant easements or rights-of-way over, or licences or permits in respect of, Crown land,on behalf of the Crown.
- (2) (Repealed)
- (3) The Minister may not, under subsection (1):
  - (a) sell or exchange Crown land,
  - (b) lease Crown land for a term exceeding 5 years, or
  - (c) lease Crown land for a term that, by the exercise of an option, could exceed 5 years,unless the relevant date for the sale, exchange or lease is at least 14 days after notice of intention to sell, exchange or lease the land has been published in a newspaper circulating in the locality in which the land is situated or in a newspaper circulating generally in the State.
- (4) For the purposes of subsection (3) the relevant date:
  - (a) for a sale or exchange by private treaty is the date on which the Minister enters into a contract to sell or exchange the land,
  - (b) for a sale by auction is the date of the auction,
  - (c) for a sale by tender is the closing date for tenders,
  - (d) for a sale by ballot is the closing date for nominations for the ballot, and
  - (e) for a lease is the date on which the lease is granted.
- (5) If, under subsection (1), Crown land:
  - (a) is offered for sale by auction and is not sold at the auction,
  - (b) is offered for sale by tender and no tender is received or accepted, or
  - (c) is offered for sale by ballot and no nomination of the ballot is received or accepted,subsection (3) does not apply to a sale of the land by private treaty.

- (6) This section does not authorise the sale of Crown land which is reserved for a public purpose.
- (7) Crown land the subject of a special purpose lease within the meaning of Division 3A may be leased under this section, but only if the granting of a lease under this section is authorised by, and complies with, the terms of the special purpose lease.

#### **34AA Secondary interests in Crown reserves**

- (1) The power of the Minister under this Part to grant a lease, licence or permit in respect of, or an easement or right-of-way over, Crown land is not limited by the land being a Crown reserve or by the reserved purpose, except as provided by this section.
- (2) A lease, licence, permit, easement or right-of-way (a *secondary interest*) cannot be granted unless the Minister is of the opinion that the use or occupation of the Crown reserve pursuant to the secondary interest would be in the public interest and would not be likely to materially harm its use or occupation for the reserved purpose.
- (3) Without limitation, the following considerations are relevant to the question of whether the use or occupation of a Crown reserve pursuant to a secondary interest would not be likely to materially harm its use or occupation for the reserved purpose:
  - (a) the proportion of the area of the Crown reserve that may be affected by the secondary interest,
  - (b) if the activities to be conducted pursuant to the secondary interest will be intermittent, the frequency and duration of the impacts of those activities,
  - (c) the degree of permanence of likely harm and in particular whether that harm is irreversible,
  - (d) the current condition of the Crown reserve,
  - (e) the geographical, environmental and social context of the Crown reserve,
  - (f) such other considerations as may be prescribed by the regulations.
- (4) For the avoidance of doubt:
  - (a) the purpose for which a secondary interest is granted need not be a public purpose and need not be ancillary or incidental to the reserved purpose, and
  - (b) the fact that the use and occupation of the Crown reserve pursuant to the secondary interest may be inconsistent or incompatible with the reserved purpose does not of itself mean that its use or occupation pursuant to the secondary interest will materially harm its use or occupation for the reserved purpose, and
  - (c) the fact that the Crown reserve may be used or occupied for the grazing of animals pursuant to the secondary interest does not of itself mean that that use or occupation will materially harm its use or occupation for the reserved purpose of public recreation or of future public requirements.
- (5) If a secondary interest has not been validly granted because of this section, the Minister can validate the grant of the secondary interest by making such changes to the purpose for which the secondary interest was granted, or to the terms and conditions on which it was granted, as may be necessary to ensure that the secondary interest is valid.
- (6) When a secondary interest is validated under this section:
  - (a) the secondary interest is taken to have been validly granted from the date of original grant, and
  - (b) the use and occupation of Crown land in accordance with the secondary interest prior to its validation under this section is taken to be and always to have been valid.

- (7) In this section, **grant** includes purported grant.

**Note.** This section applies also to a lease, licence or easement granted by a reserve trust under Part 5. See section 102B.

**34A Special provisions relating to Minister's powers over Crown reserves**

- (1) Despite any other provision of this Act, the Minister may grant a lease, licence or permit in respect of, or an easement or right-of-way over, a Crown reserve for the purposes of any facility or infrastructure or for any other purpose the Minister thinks fit. Any such lease, licence, permit, easement or right-of-way is referred to in this section as a **relevant interest**.
- (2) The following provisions apply in relation to the granting of a relevant interest:
  - (a) the Minister is to consult the following persons or bodies before granting the relevant interest:
    - (i) the person or body managing the affairs of the reserve trust (if any) appointed under Part 5 as trustee of the Crown reserve that is the subject of the relevant interest,
    - (ii) if the Crown reserve is being used or occupied by, or is being administered by, a government agency—the Minister to whom that agency is responsible,
  - (b) if the Crown reserve is to be used or occupied under the relevant interest for any purpose other than the declared purpose (as defined in section 112A) of the reserve—the Minister is to specify, by notice published in the Gazette, the purposes for which the Crown reserve is to be used or occupied under the relevant interest,
  - (c) the Minister is not to grant the relevant interest unless the Minister:
    - (i) is satisfied that it is in the public interest to grant the instrument, and
    - (ii) has had due regard to the principles of Crown land management.
- (3) Failure to comply with subsection (2) (a) does not affect the validity of the relevant interest concerned.
- (4) The proceeds from a relevant interest are to be applied as directed by the Minister.
- (5) Without limiting subsection (4), any such direction by the Minister may include any of the following:
  - (a) a direction that the proceeds (or part of the proceeds) be paid to the Consolidated Fund or to the Public Reserves Management Fund constituted under the *Public Reserves Management Fund Act 1987*,
  - (b) in the case of a relevant interest granted in respect of a Crown reserve for which a reserve trust has been appointed as trustee under Part 5—a direction that the proceeds (or part of the proceeds) be paid to the reserve trust or to another reserve trust,
  - (c) in the case of a relevant interest granted in respect of a travelling stock reserve under the care, control and management of Local Land Services—a direction that the proceeds (or part of the proceeds) be paid to Local Land Services,
  - (d) in the case of a Crown reserve referred to in subsection (2) (a) (ii)—a direction that the proceeds (or part of the proceeds) be paid to the relevant government agency.
- (6) The provisions of:
  - (a) Divisions 3 and 3A apply in relation to a lease granted under this section, and
  - (b) Division 4 apply in relation to a licence granted under this section, and

- (c) Division 5 apply in relation to an easement granted under this section as though the easement was granted or created under that Division, and
- (d) Division 6 apply in relation to a permit granted under this section as though the permit was granted under that Division.

Accordingly, in relation to the granting of a relevant instrument, a reference in Divisions 3–6 to Crown land includes a reference to a Crown reserve.

- (6A) Nothing in this section affects the operation of section 35.
- (7) (Repealed)
- (8) For the avoidance of any doubt, the power of the Minister to grant a relevant interest in respect of a Crown reserve under this section includes the power to enter into an agreement for such a relevant interest.
- (9) A Crown reserve the subject of a special purpose lease within the meaning of Division 3A may be leased under this section, but only if the granting of a lease under this section is authorised by, and complies with, the terms of the special purpose lease.

### **35 Assessment of land**

- (1) The powers of the Minister under this Part may not be exercised in respect of Crown land unless the Minister is satisfied that the land has been assessed under Part 3.
- (2) Subsection (1) does not apply if:
  - (a) the Minister is satisfied that it is in the public interest to exercise the powers without assessing the land under Part 3 and the Minister, in exercising the powers, has had due regard to the principles of Crown land management, or
  - (b) the powers are to be exercised in respect of the grant of:
    - (i) an enclosure permit, or
    - (ii) a licence which does not authorise the erection of a structure other than fencing or the removal of material.

### **35A Challenge to validity of interest in Crown reserve**

- (1) The validity of a lease, licence or permit in respect of, or an easement or right-of-way over, a Crown reserve cannot be questioned in legal proceedings unless a party to the proceedings has given the Minister not less than the prescribed period of notice of the alleged invalidity. Notice can be given before proceedings are commenced (by a prospective party to proceedings).
- (2) The prescribed period of notice under this section is 3 months or such shorter period as may be prescribed by the regulations.
- (3) The notice of alleged invalidity required by this section must be given in the form approved by the Minister and must provide the information required by the approved form.
- (4) The court before which proceedings are pending may adjourn the proceedings to enable notice of alleged invalidity to be given as required by this section.
- (5) The Minister may in a particular case, by instrument in writing, waive the requirement for the giving of notice under this section or reduce the prescribed period of notice under this section.

**Note.** This section applies also to a lease, licence or easement granted by a reserve trust under Part 5. See section 102B.



## **Division 2 Sales of Crown land**

### **36 Conditions that may be included in contracts of sale**

- (1) The Minister may include in a contract of sale of Crown land, or impose in connection with the grant of an application to purchase land that is the subject of a holding within the meaning of the *Crown Lands (Continued Tenures) Act 1989*, such conditions as the Minister determines including, but without being limited to:
  - (a) a condition for or with respect to the erection of a building on the land by the purchaser within a specified period,
  - (b) a condition for or with respect to an option or right for the Minister to repurchase the land on behalf of the Crown, or
  - (c) both of the conditions referred to in paragraphs (a) and (b).
- (2) Without affecting the generality of subsection (1), conditions relating to the option or right of repurchase may:
  - (a) confer the option or right if the purchaser has failed to comply with a condition,
  - (b) confer the option or right if the purchaser wishes to sell or otherwise dispose of the land before the expiration of a specified period,
  - (c) require the purchaser to pay to the Minister an amount determined in a specified manner if the Minister does not exercise the option or right, and
  - (d) provide for the determination of the repurchase price.
- (3) A condition included in a contract of sale of land does not merge in the transfer of title to the land on completion of the sale.
- (4) The Registrar-General shall, at the request of the Minister, make in the Register a recording to signify:
  - (a) that land specified in the request is held subject to a condition, or
  - (b) that such a recording has ceased to have effect.
- (5) The Minister shall not make a request under subsection (4) (a) except for the purpose of ensuring compliance with the conditions in the contract of sale under which the land was sold, but the Registrar-General is not concerned to inquire whether any such request has been made for the purpose.

### **37 Imposition of conditions on sale of certain land**

- (1) In this section, a reference to a purchaser, in relation to land, is a reference to a purchaser of the land from the Crown.
- (2) The Registrar-General shall, at the request of the Minister, make a recording in the Register to signify:
  - (a) that Crown land specified in the request, being land of which the State of New South Wales is then the registered proprietor, is, on a sale to a purchaser, to be held subject to conditions specified or referred to in the request, or
  - (b) that such a recording has ceased to have effect.
- (3) The conditions may include any conditions the Minister is authorised by section 36 to include in a contract for the sale of land.
- (4) If a recording under subsection (2) (a) has been made in respect of any land (being a recording that has not ceased to have effect) and the Minister subsequently enters into a contract for the sale of the land, each condition to which the recording relates has effect as a condition of the contract for the sale of the land.

- (5) A condition which has effect as a condition of a contract of sale of land does not merge in the transfer of title to the land on completion of the sale.

**38 Restrictions on transfer of certain land**

The Registrar-General shall, at the request of the Minister, make a recording in the Register to signify:

- (a) that Crown land specified in the request, being land of which the State of New South Wales is then the registered proprietor, is held subject to the restriction that, unless a specified condition has been complied with, the land may not be transferred without the consent of the Minister, or
- (b) that such a recording has ceased to have effect.

**39 Effect of recording in Register**

If a recording under section 36 (4) (a), 37 (2) (a) or 38 (a) has been made in respect of any land, the Registrar-General may not register under the *Real Property Act 1900* a transfer of the land to or by a person other than the Minister if:

- (a) the recording still has effect in respect of the land, and
- (b) the consent of the Minister to the transfer has not been given.

**Note.** Section 183A applies in relation to a condition that is subject to a recording referred to in this section.

**40 Securing payment by way of mortgage etc**

The Ministerial Corporation may on behalf of the Crown take a mortgage from a purchaser of land from the Crown in respect of any part of the purchase price of the land or other money due to the Crown.

**Division 3 Leases of Crown land**

**41 Term**

The term of a lease of Crown land (including any option for the grant of a further term) granted by the Minister is not to exceed 100 years.

**42 Certain dealings to be leases**

A disposition of Crown land by the Minister on behalf of the Crown, expressed to be a lease, is a lease even if exclusive possession of the land is not conferred on any person.

**43 Application of Conveyancing Act 1919**

The Minister may, in granting a lease of Crown land, include in the lease a condition excluding the operation of any specified provisions of the *Conveyancing Act 1919* in respect of the lease.

**44 Transfer restrictions**

- (1) The Registrar-General shall, at the request of the Minister, make a recording in the Register to signify:
  - (a) that a lease specified in the request is held subject to the restriction that the lease may not be:
    - (i) transferred or sub-leased, or
    - (ii) dealt with in any other specified manner, without the consent of the Minister, or
  - (b) that such a recording has ceased to have effect.

- (2) If a recording under subsection (1) has been made in respect of a lease, the Registrar-General may not register under the *Real Property Act 1900* any dealing referred to in the recording if:
  - (a) the recording still has effect in respect of the lease, and
  - (b) the consent of the Minister to the dealing has not been given.

#### **44AA Subleases**

- (1) The holder of a lease (whether granted under this Act or the *Crown Lands (Continued Tenures) Act 1989*) may grant a sublease to enable the carrying out of a filming project, but only with the consent of the Minister and on such terms and conditions as the Minister determines.
- (2) Subsection (1) does not require the consent of the Minister if the terms of the lease permit the grant of a sublease without the Minister's consent and use of the land for the purpose of a filming project is authorised by the lease or is generally consistent with the purposes for which the land may be used under the lease.
- (3) Consent may be given to the grant of a sublease under subsection (1) that will enable the carrying out of a filming project, and the sublease may be granted, despite any provision to the contrary in the lease.

### **Division 3A Development districts and special purpose leases**

#### **44A Definitions**

In this Division:

**designated purpose**, in relation to a development district, means a purpose designated for the district under section 44B as a purpose for which a special purpose lease may be granted over land in that district.

**development** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

**development district** means land the subject of a declaration under section 44B.

**general purpose lease** means any lease, other than a special purpose lease, granted under this Act or under the *Crown Lands (Continued Tenures) Act 1989*, and includes an incomplete purchase under the *Crown Lands (Continued Tenures) Act 1989*.

**significant improvement** means any substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, tree plantation, soil conservation work or other valuable work or structure.

**special purpose lease** means a lease granted under section 44C.

#### **44B Development districts**

- (1) The Minister may, by notification in the Gazette, declare any land within the Western Division or the Eastern and Central Division to be a development district for the purposes of this Division.
- (2) Such a declaration must designate the purposes for which a special purpose lease may be granted over land in the development district established by the declaration.
- (3) A purpose may not be designated under subsection (2) unless it is an approved purpose.
- (4) The following purposes are approved for the purposes of subsection (3):
  - (a) the construction and operation of facilities for the harnessing of energy from any source (including the sun or wind) and its conversion into electrical energy,

- (b) such other purposes as may be approved by proclamation on the recommendation of the Minister.
- (5) A recommendation for such a proclamation may not be made unless the Minister has consulted with the Minister administering the *Environmental Planning and Assessment Act 1979* as to the terms of the recommendation, but a proclamation is not invalid merely because this requirement is not complied with.
- (6) The Minister may, by notification in the Gazette, alter the boundaries of, or abolish, any development district or, subject to subsections (3) and (4), vary the designated purposes for the district.
- (7) A special purpose lease is not affected merely because the whole or any part of the land over which it is granted ceases to be in a development district as a result of a notification referred to in subsection (6).

#### **44C Minister may grant special purpose leases**

- (1) The Minister may, in accordance with section 34 or 34A, lease any Crown land within a development district for the purpose of enabling development for a designated purpose to be carried out on that land.
- (2) Despite subsection (1), a lease may not be granted under this section in respect of any land the subject of:
  - (a) a mining lease under the *Mining Act 1992*, or
  - (b) a production lease under the *Petroleum (Onshore) Act 1991*,except with the consent of the Minister administering the Act concerned.
- (3) The maximum term for which a lease may be granted under this section (including the period of any option to renew) is 100 years.
- (4) Crown land that is the subject of a general purpose lease may be leased under this section, but only with the written consent of the lessee under the general purpose lease.
- (5) A written consent given for the purposes of subsection (4) by the lessee under a general purpose lease is irrevocable and binds each successor in title to the land the subject of that lease.

#### **44D Provisions applicable to general purpose lease over land subject to special purpose lease**

- (1) The following provisions apply to a general purpose lease over land the subject of a special purpose lease, regardless of the order in which those leases were granted:
  - (a) the general purpose lease (not being an incomplete purchase under the *Crown Lands (Continued Tenures) Act 1989*) is (or remains) a lease even though it does not confer (or no longer confers) exclusive possession on the lessee under that lease,
  - (b) the general purpose lease is taken to include a condition prohibiting the lessee under that lease from doing anything that has the effect of restricting or impeding the lessee under the special purpose lease from exercising the rights conferred by that lease,
  - (c) the general purpose lease is taken to include a further condition prohibiting the lessee under that lease from carrying out development for the purposes of any dwelling-house, garden or significant improvement on any land to which both leases apply except with the written consent of the lessee under the special purpose lease.

- (2) Any sublease of a general purpose lease is taken to include the conditions that, pursuant to this section, are taken to be included in the general purpose lease.
- (3) This section applies to a general purpose lease, and any sublease of that lease, only for so long as the land over which it is granted remains subject to a special purpose lease.

**44E Provisions applicable to special purpose lease over land subject to general purpose lease**

- (1) The following provisions apply to a special purpose lease over land the subject of a general purpose lease, regardless of the order in which those leases were granted:
  - (a) the special purpose lease is (or remains) a lease even though it does not confer (or no longer confers) exclusive possession on the lessee under that lease,
  - (b) the special purpose lease is taken to include a condition prohibiting the lessee under that lease from exercising any of the rights conferred by that lease over any part of the land held under the general purpose lease:
    - (i) on which, or within 200 metres of which, is situated any dwelling-house, or
    - (ii) on which, or within 50 metres of which, is situated any garden, or
    - (iii) on which is situated any significant improvement,except with the written consent of the lessee under the general purpose lease,
  - (c) the special purpose lease is taken to include a further condition prohibiting the lessee under that lease from unreasonably withholding any consent referred to in section 44D (1) (c).
- (2) A written consent given for the purposes of subsection (1) (b) by the lessee under a general purpose lease is irrevocable and binds each successor in title to the land the subject of that lease.
- (3) The provisions of subsection (1) (b) (i) and (ii) do not prevent the lessee under the special purpose lease from travelling along any road or track that is within 200 metres or 50 metres, respectively, of a dwelling-house or garden referred to in those subparagraphs.
- (4) A special purpose lease over land the subject of a general purpose lease may include conditions agreed to between each of the lessees under those leases.
- (5) Any sublease of a special purpose lease is taken to include the conditions that, pursuant to this section, are included, or taken to be included, in the special purpose lease.
- (6) Any condition of the kind referred to in subsection (4):
  - (a) that is included in a special purpose lease over land the subject of a general purpose lease, or
  - (b) that, pursuant to subsection (5), is taken to be included in a sublease of a special purpose lease over land the subject of a general purpose lease,is enforceable, as between the lessees and sublessees for the time being under those leases, as if it were contained in a deed entered into between them.
- (7) This section applies to a special purpose lease, and any sublease of that lease, only for so long as the land over which it is granted remains subject to a general purpose lease.

## Division 4 Licences

### 45 Licences

- (1) Without limiting section 34A, a licence may authorise the use or occupation of Crown land for such purposes as the Minister thinks fit.
- (2) A licence may be granted for such term as the Minister thinks fit.
- (3) Subject to section 49, the Minister may grant a licence for any purpose over Crown land that is the subject of a lease granted under this Part or the *Crown Lands (Continued Tenures) Act 1989*, but only with the consent of the lessee.
- (4) Subject to section 49, the holder of a lease referred to in subsection (3) may grant a licence over Crown land the subject of the lease to enable the carrying out of a filming project, but only with the consent of the Minister and on such terms and conditions as the Minister determines.
- (5) Subsection (4) does not require the consent of the Minister if the terms of the lease permit the grant of a licence without the Minister's consent and use of the land for the purpose of a filming project is authorised by the lease or is generally consistent with the purposes for which the land may be used under the lease.
- (6) Consent may be given to the grant of a licence under subsection (4) that will enable the carrying out of a filming project, and the licence may be granted, despite any provision to the contrary in the lease.

**Note.** This subsection also applies to licences in respect of Crown reserves. See section 34A (6) (b).

### 46 Certain dealings to be licences

A disposition of Crown land by the Minister on behalf of the Crown, expressed to be a licence, is a licence even if exclusive possession of the land is conferred on a person.

### 47 Revocation of licences

- (1) A licence (other than a licence granted under section 45 (4) by the holder of a lease) is revocable at will by the Minister or on such notice as may be specified in the licence.
- (2) Compensation is not payable on the revocation of a licence even if the licence is revoked before the expiration of its term.

### 48 Restrictions on transfer of licences

- (1) A licence may be transferred only if:
  - (a) the conditions of the licence permit the licence to be transferred, and
  - (b) the licence specifies a parcel of land that benefits from the licence (*the benefited land*), and
  - (c) the licence is transferred to the owner or holder of the benefited land.
- (2) If the licence is, at any time, held by a person who is not the owner or holder of the benefited land, the Minister may revoke the licence without notice. Compensation is not payable on the revocation of the licence.
- (3) This section does not apply in relation to a licence authorising the use or occupation of Crown land for the purposes of constructing, operating or maintaining telecommunications infrastructure.

#### 48A Sublicences

- (1) The holder of a licence may, with the consent of the Minister, grant a sublicence but only if the conditions of the licence permit the granting of the sublicence.
- (2) A sublicence is subject to such conditions as the Minister thinks fit to impose.
- (3) A sublicence is not transferable.
- (4) Subsection (1) does not prevent the grant, with the consent of the Minister, of a sublicence that will enable the carrying out of a filming project.

#### 49 Licences for removal of certain minerals

- (1) A licence to remove gravel, sand, stone, shells or other substances, being minerals within the meaning of the *Mining Act 1992* or the *Offshore Minerals Act 1999*, may not be granted except with the approval of the Minister administering the Act concerned.
- (2) The Minister administering the *Mining Act 1992* or the Minister administering the *Offshore Minerals Act 1999*, as the case requires may waive compliance with the requirements of this section in such circumstances or cases, and to such extent, as the Minister thinks fit.
- (3) A licence to remove gravel, sand, loam, stone, clay, shells or other prescribed material (not being minerals within the meaning of the *Mining Act 1992* or the *Offshore Minerals Act 1999*) may be granted over Crown land even if it is held under a lease granted under this Act or referred to in the *Crown Lands (Continued Tenures) Act 1989*.

#### 50 Rent, royalty, fees etc

- (1) A licence may be granted subject to the payment of such rent, royalty, fees or other amount as the Minister may determine in respect of the licence.
- (2) The conditions attached to a licence may include such provisions for the determination or redetermination of any rent, royalty, fee or other amounts as the Minister thinks fit.

### Division 5 Easements

#### 51 Definitions

In this Division:

***easement*** includes an easement without a dominant tenement referred to in section 88A of the *Conveyancing Act 1919*.

***holder***, in relation to:

- (a) any prescribed land (other than land referred to in paragraph (b)), means the person who is registered in an official record as the holder of the land and, if the person appears to be a mortgagee, includes the person who, according to that record, appears to be the mortgagor, and
- (b) any prescribed land which has been brought under the provisions of the *Real Property Act 1900* (other than land of which The State of New South Wales is the registered proprietor) means any person recorded in the folio of the Register relating to the land as the holder of a lease from the Crown over the land or as a mortgagee of such a lease.

***prescribed land*** means Crown land or land dedicated for a public purpose, except:

- (a) land subject to the provisions of the *Real Property Act 1900* (other than land of which The State of New South Wales is the registered proprietor),

- (b) land comprised in a lease in perpetuity, and
- (c) (Repealed)

## **52 Creation of easements**

- (1) The Minister may:
  - (a) if prescribed land is subject to the provisions of the *Real Property Act 1900*—create an easement over the land in the way provided in that Act or in section 88B of the *Conveyancing Act 1919*, and
  - (b) if prescribed land is not subject to the provisions of the *Real Property Act 1900*—create an easement over the land:
    - (i) in the way provided in section 88B of the *Conveyancing Act 1919*, or
    - (ii) by notification in the Gazette.
- (2) The Minister may create the easement on such terms, and subject to such conditions as the Minister thinks fit, including terms and conditions relating to the payment of compensation to the Crown.
- (3) The benefit of an easement created under this section may be annexed to land even if, at the time the easement is created, the land is vested in the Crown.
- (4) An easement created under this section is not extinguished because the land having the benefit of the easement or the burden of the easement becomes, or both become, vested in the Crown.
- (5) Sections 88A and 181A of the *Conveyancing Act 1919* apply to a notification or instrument purporting to create an easement under this section.
- (6) Section 89 of the *Conveyancing Act 1919* applies to an easement created under this section.

## **53 Release of easements**

- (1) Where an easement benefiting any Crown land or other land vested in the Crown has been created in respect of the land, the Minister may, at any time:
  - (a) if the land is subject to the provisions of the *Real Property Act 1900*—release, in accordance with that Act, the easement benefiting the land, or
  - (b) if the land is not subject to the provisions of the *Real Property Act 1900*—release the easement benefiting the land by notification in the Gazette.
- (2) Nothing in this Division affects any right of any other person to release an easement created under this Division.

## **54 Effective date of creation or release of easements**

The creation or release of an easement by notification in the Gazette under this Division takes effect on the date of publication of the notification or on a later date specified in the notification.

## **55 Consent of holders required**

- (1) The Minister shall not create or release an easement under this Division unless the Minister is satisfied:
  - (a) in the case of the creation of an easement over prescribed land—that the holder (if any) for the time being of the land has consented to the creation of the easement, or



- (b) in the case of the release of an easement over prescribed land—that the holder (if any) for the time being of the land having the benefit of the easement has consented to the release of the easement.
- (2) If the Minister purports to create or release an easement under this Division, it shall be conclusively presumed that this section has been complied with in relation to the creation or release.

#### **56 Creation of easements for public access**

- (1) There shall be an easement called an easement for public access.
- (2) An easement for public access may be created for the benefit of the Crown without a dominant tenement.
- (3) An easement for public access may be created:
  - (a) over Crown land proposed to be sold under this Act—by the Minister at any time before the sale,
  - (a1) over land dedicated under this Act for a public purpose—by the Minister,
  - (a2) over Crown land authorised to be sold or transferred by the Minister under any other Act—by the Minister at any time before the sale or transfer,
  - (b) over land held under lease from the Crown—by the Minister with the consent of the lessee, or
  - (c) over freehold land—by the owner.
- (4) An easement for public access may be created:
  - (a) if the land is subject to the provisions of the *Real Property Act 1900*—in the way provided in that Act or in section 88B of the *Conveyancing Act 1919*, or
  - (b) if the land is not subject to the provisions of the *Real Property Act 1900*—in the way provided in section 88B of the *Conveyancing Act 1919*.
- (5) An easement for public access may be defined by reference to a natural or physical feature as it exists from time to time.

#### **57 Rights of public to use easements for public access**

- (1) An easement for public access confers on the public a right to enter the subject land and to carry on any activity other than a prescribed activity.
- (2) A person shall not carry on a prescribed activity on land the subject of an easement for public access.  
Maximum penalty—subsection (2): 5 penalty units.

#### **58 Rights of owners or lessees of affected land**

- (1) An owner or lessee whose land is affected by an easement for public access:
  - (a) may erect a fence or gate on the land the subject of the easement if it does not unduly hinder public entry to the land, and
  - (b) may not erect any structure, other than a fence or gate or a structure of a prescribed type, on the land the subject of the easement without the written consent of the Minister.
- (2) Section 158 (removal of unauthorised structures) applies in respect of structures erected on land the subject of an easement for public access in the same way as it applies in respect of structures erected on public land.

- (3) An owner or lessee who suffers damage caused by a person using an easement for public access contrary to this Act or the regulations may recover damages from the person.
- (4) In this section:  
*structure* includes any ditch, canal or other excavation.

#### **59 Recording of particulars in the Register**

If an easement is created or released under this Division in respect of land subject to the provisions of the *Real Property Act 1900*, the Registrar-General may record such particulars of the creation or release as the Registrar-General considers necessary in any folio of the Register relating to land which, in the Registrar-General's opinion, is affected by the creation or release of the easement.

### **Division 5A Carbon sequestration and related forestry rights**

#### **59A Definitions**

In this Division:

*carbon sequestration right* and *forestry right* have the same meanings as in section 87A of the *Conveyancing Act 1919*.

**Note.** A forestry right is defined in section 87A of the *Conveyancing Act 1919* to include a carbon sequestration right in relation to land (carbon sequestration being the process by which a tree or forest absorbs carbon dioxide from the atmosphere). This Division applies to a forestry right only to the extent that it consists in whole or in part of a carbon sequestration right.

A forestry right is, for all purposes, taken to be a profit à prendre (see section 88AB of the *Conveyancing Act 1919*).

*Crown land* includes any land dedicated under this Act for a public purpose.

#### **59B Application of Division**

- (1) This Division applies only in relation to the granting and creation of a forestry right to the extent that it consists in whole or in part of a carbon sequestration right.
- (2) Nothing in this Division limits the power of the Minister to otherwise deal with Crown land.

#### **59C Granting and creation of carbon sequestration and related forestry rights**

- (1) The Minister may, on such terms and conditions as the Minister determines, grant a forestry right in respect of Crown land.
- (2) In the case of a Crown reserve, the provisions of section 34A apply to and in respect of the granting by the Minister of a forestry right in respect of the reserve as if the forestry right were a relevant interest as referred to in that section.
- (3) In the case of Crown land that is the subject of a perpetual lease, the Minister may, on such terms and conditions as the Minister determines, consent to the lessee granting a forestry right in respect of the land the subject of the lease.
- (4) The lessee of any land that is the subject of a perpetual lease may, with the consent of the Minister under subsection (3), grant a forestry right in respect of the land on such terms and conditions as the Minister determines.
- (5) A forestry right referred to in this section:
  - (a) is, in the case of land that is subject to the provisions of the *Real Property Act 1900*, created in the way provided in that Act or in section 88B of the *Conveyancing Act 1919*, or

- (b) is, in the case of land that is not subject to the provisions of the *Real Property Act 1900*, created:
    - (i) in the way provided in section 88B of the *Conveyancing Act 1919*, or
    - (ii) if the Minister so consents, by instrument registered in the General Register of Deeds, or
    - (iii) by notification in the Gazette (except in the case of a forestry right granted by a perpetual lessee).
- (6) Without limiting the terms and conditions that may be determined by the Minister under this section, any such terms and conditions may restrict any dealings in the forestry right concerned.
- (7) The Minister may not grant a forestry right in respect of Crown land unless the Minister is satisfied that any lessee of the land has consented to the forestry right being granted.
- (8) Before granting a forestry right in respect of Crown land that is Crown-timber land within the meaning of the *Forestry Act 2012* (or before consenting to the granting of any such forestry right), the Minister must consult the Minister administering the *Forestry Act 2012*.

**Note.** In the case of Crown-timber land that is a State forest or timber reserve, it is the Forestry Corporation that may grant a forestry right in respect of the land.
- (9) Without limiting the operation of Division 4 of Part 6 of the *Conveyancing Act 1919*, restrictions on the use of land and covenants may, in accordance with that Division, be imposed on Crown land that is the subject of a forestry right granted under this section.

## Division 6 Enclosure of roads and watercourses

### 60 Definitions

In this Division:

**enclosure permit** means a permit to enclose a road or watercourse or part of a road or watercourse.

**land** includes land comprised in a holding (other than a permissive occupancy under the *Crown Lands (Continued Tenures) Act 1989* or a licence under this Act) and freehold land.

**road** means a road vested in the Crown and any other land vested in the Crown and indicated on official maps or plans as being reserved for a road or defined or left as a road:

- (a) in a subdivision of Crown land,
- (b) in the measurement or granting of Crown land, or
- (c) as a consequence of an approval by the Minister.

### 61 Enclosure of roads or watercourses on application

- (1) The Minister may, on application being made by a holder of land, grant to the holder a permit to enclose wholly or in part any road or watercourse by which the land is traversed or bounded, subject to payment of such annual rent as may be determined by the Minister.
- (2) An enclosure permit may be granted subject to:
  - (a) conditions relating to the payment of rent,
  - (b) conditions requiring the erection of gates or the provision of some other means of access or both (so as not to interfere unnecessarily with any traffic), and

- (c) such other conditions as the Minister determines.

**62 Enclosure of additional roads or watercourses**

- (1) An enclosure permit, and the conditions to which the permit is subject, may be varied by the Minister if the holder desires to enclose, or has enclosed, any additional road or watercourse.
- (2) On making a variation, the Minister shall determine the annual rent payable in respect of the additional road or watercourse.

**63 Unauthorised enclosure of roads or watercourses**

- (1) A holder of land is liable to pay an annual rent determined by the Minister for a road or watercourse by which the land is traversed or bounded if:
  - (a) the road or watercourse is enclosed as if it were part of the land held, and
  - (b) the enclosure was effected (whether before or after the commencement of this section) without the permission of the Minister.
- (2) If the road or watercourse is additional to any road or watercourse the subject of an enclosure permit granted in respect of the same land, the Minister may determine the annual rent payable in respect of the additional road or watercourse.
- (3) A determination of rent under this section in respect of a road or watercourse has effect as an enclosure permit granted to the holder of the land.
- (4) The Minister may impose conditions in respect of a road or watercourse enclosed as referred to in this section in the same way as the Minister may impose conditions in respect of a road or watercourse enclosed on the application of a holder.
- (5) This section does not affect the Minister's power to take action under section 158 (removal of unauthorised structures) in respect of any enclosure of a road or watercourse or any structure on a road or watercourse.

**64 Transfer of land with which enclosure permit held**

- (1) If an enclosure permit has been granted to a holder of land in respect of a road or watercourse and the land is subsequently transferred:
  - (a) the permit remains in force, and
  - (b) the holder for the time being of the land is liable for payment of rent (including arrears of rent and interest) in respect of the enclosure.
- (2) The transferee shall, in the prescribed manner and within the prescribed time, notify the Department of the date of the transfer and the transferee's name and address.  
Maximum penalty—subsection (2): 5 penalty units.

**65 Subdivision of land with which road or watercourse is enclosed**

- (1) This section applies where:
  - (a) an enclosure permit has been granted to a holder of land in respect of a road or watercourse, and
  - (b) the land is subsequently subdivided and transferred in such a way that parts of the road or watercourse traverse or bound parts of the land held by different holders.
- (2) If this section applies:
  - (a) an enclosure permit shall be taken to have been granted to each different holder in respect of the parts of the road or watercourse,

- (b) the holder of each enclosure permit shall pay rent at the same rate per hectare as applied to the original enclosure permit before the subdivision (subject to any prescribed minimum rent), and
- (c) the Minister may impose conditions in respect of each enclosure permit in the same way as the Minister may impose conditions in respect of a road or watercourse enclosed on the application of a holder.

**66 Cancellation of enclosure permit etc**

- (1) The Minister may:
  - (a) cancel an enclosure permit or direct that section 63 does not apply to an enclosure, or both, and
  - (b) order any fence, gate or other structure on any road or watercourse to be removed by the former holder of the enclosure permit within a stated period.
- (2) A person to whom an order under subsection (1) (b) is applicable shall, on being served with the order, comply with the order.  
Maximum penalty—subsection (2): 5 penalty units.

**67 Cancellation or variation of enclosure permit on acquisition of adjacent land, closing of road etc**

- (1) An enclosure permit authorising the enclosure of a road or watercourse as if it were part of any land shall be cancelled or varied by the Minister on:
  - (a) the acquisition by the Crown or any public authority of the land,
  - (b) if the land is comprised in a holding—the determination or forfeiture of the holding,
  - (c) the road being closed or being dedicated as a public road, or
  - (d) the road or watercourse ceasing to be enclosed.
- (2) A cancellation or variation takes effect from such date, whether before or after the decision to cancel or vary, as may be determined by the Minister.
- (3) If a permit is varied, the rental shall be at the same rate per hectare as it was before the variation (subject to any prescribed minimum rent).
- (4) If a forfeiture of a holding is reversed, the Minister may also reverse any cancellation or variation of a permit to enclose a road or watercourse as if it were part of the holding.
- (5) A reversal of a cancellation or variation relates back to the date of the cancellation or variation.

**68 Amalgamation of permits**

- (1) On application by the holder of 2 or more enclosure permits, the Minister may, subject to such conditions as the Minister considers necessary, authorise the amalgamation of the permits.
- (2) On the amalgamation of permits, the permits have effect as one permit for the purposes of this Division.
- (3) The annual rent in respect of amalgamated permits is:
  - (a) the sum of the separate rents of the permits, or
  - (b) if one or more of the permits is held at a minimum rent, such amount (not in excess of the sum of the separate rents of the permits) as the Minister may determine.

**69 (Repealed)**

**70 Minister may direct erection of gates etc**

- (1) After an enclosure permit has been granted, the Minister may, on the application of any person, direct:
  - (a) that such gates or other means of access, or both, as the Minister considers necessary be erected, provided, made or replaced so as not to interfere unnecessarily with any traffic on the road, or
  - (b) that any fence, gate or other structure (or part of or thing attached to a fence, gate or other structure) by which the road or watercourse is enclosed be removed or replaced as specified in the direction.
- (2) Notice of the terms of a direction shall be served on the holder of the permit.
- (3) Unless it is sooner revoked (and subject to any interlocutory order of the Civil and Administrative Tribunal):
  - (a) a direction to which there is no objection takes effect as from the expiration of 28 days from the date of service of the notice, and
  - (b) a direction to which there is an objection takes effect, or if varied takes effect as varied, as from the date of the Minister's decision on the objection.
- (4) A person shall not fail to comply with an effective direction given to the person under this section.  
Maximum penalty—subsection (4): 5 penalty units.
- (5) A person may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of any of the following decisions:
  - (a) a decision of the Minister refusing to give a direction under this section on the application of the person,
  - (b) a decision of the Minister to give a direction under this section in respect of land for which the person has an enclosure permit.

**71 (Repealed)**

**72 Cultivation of enclosed roads**

- (1) The Minister may, in relation to an enclosure permit for a road:
  - (a) dispense with any requirement to erect gates or provide other means of access in connection with the enclosure of the road, and
  - (b) authorise, as a term of the permit, the cultivation of the land enclosed, for such period and on such conditions as the Minister may specify.
- (2) The Minister may give a dispensation and authority under subsection (1) only if satisfied that:
  - (a) the provision of public access to the enclosed road is not justified during a particular period, and
  - (b) suspension of public access to the road would facilitate the cultivation of adjoining land by the holder of the enclosure permit.
- (3) On the giving of a dispensation and authority the road is freed from any rights of the public or any person to the use of the road, as a road, for the duration of the dispensation and authority.
- (4) Conditions imposed under subsection (1) may include a condition requiring the holder to provide, to the satisfaction of the Minister and for the duration of the

dispensation and authority, alternative public access through adjacent land of the holder.

- (5) The rights of the public or any person to use access provided under subsection (4) are the same as those applicable to the enclosed road to which the access is alternative.
- (6) The Minister may not exercise the powers under subsection (1) unless 21 days' notice inviting objections to the proposal has been given in a local newspaper and the Minister has considered any objections received.
- (7) The Minister may cancel a dispensation and authority on being satisfied that the conditions have not been complied with or on giving 6 months' (or such shorter period as may be prescribed) notice to the holder of the enclosure permit.
- (8) The Minister may, when a dispensation and authority are given or at any time while a dispensation and authority are in force, redetermine the rent of the enclosure permit.
- (9) An authority under this section to cultivate land does not authorise the carrying on of any activity prohibited under any other Act.

### 73 Dividing fences

For the purposes of any law relating to dividing fences, the holder of a permit to enclose a road or watercourse shall be taken to be the owner or lessee, as the case may require, of the land enclosed.

### 74 Public gates

If:

- (a) under this Division, the Minister directs a gate to be erected,
  - (b) a gate is erected in accordance with the direction, and
  - (c) the Minister has, in the direction, specified that the gate, when erected, is to be a public gate within the meaning of the *Roads Act 1993*,
- the gate is a public gate within the meaning of that Act.

## Division 7 Vesting of land in councils

### 75 Definitions

In this Division:

**area** has the same meaning as it has in the *Local Government Act 1993*.

**council** has the same meaning as it has in the *Local Government Act 1993*.

**prescribed land** means land that is within a reserve or is Crown land not within a reserve and, in either case, is not:

- (a) land reserved or dedicated under the *National Parks and Wildlife Act 1974* or declared to be a protected archaeological area, a wildlife refuge or a wildlife management area under that Act, or
- (b) land in respect of which any Act (other than this Act) provides that the land is to be used for a purpose referred to in that other Act or is not to be used for any purpose other than a purpose referred to in that other Act.

**reserve** has the same meaning as it has in Part 5.

### 76 Vesting of certain land in councils

- (1) Subject to section 35 (which relates to assessment of land under Part 3), the Minister may, by notification in the Gazette, vest any prescribed land in a council for an estate in fee simple if the Minister is of the opinion that:

- (a) the land:
    - (i) is a public reserve within the meaning of the *Local Government Act 1993* or is suitable for use as such a public reserve, or
    - (ii) is used, or is suitable for use, for any other purpose for which land may be acquired by a council under the *Local Government Act 1993*, and
  - (b) it is proper that, having regard to the purpose (if any) for which the land is used, the land should be vested in the council.
- (2) Land shall not be vested under this section in a council unless:
- (a) the council agrees, and
  - (b) the land is wholly within the area of the council.
- (3) The land vested may be limited to:
- (a) the surface of the land, or
  - (b) the surface of the land and a stated depth below.
- (4) A notification under subsection (1) shall include a reservation of all minerals in the land and such other reservations and exceptions as the Minister considers to be expedient in the public interest.
- (5) A vesting of land under this section takes effect subject to the reservations and exceptions contained in the notification by which the vesting is effected.
- (6) The Minister may, in a notification under subsection (1), declare the vested land to be a public reserve for the purposes of the *Local Government Act 1993*.
- (7) If land comprising the whole of a reserve is vested in a council under this section and there were trustees of the reserve holding office immediately before the vesting, the provisions of section 125 (1) and (3), as modified by any agreement under subsection (8), have effect as if:
- (a) the reserve had been added under Part 5 to another reserve,
  - (b) a reference in section 125 (3) to the former trustee were a reference to the trustees so holding office, and
  - (c) a reference in section 125 (3) to the new trustee were a reference to the council.
- (8) Before a reserve referred to in subsection (7) is vested in a council under this section, the Minister and the council may agree to except specified assets, debts and liabilities from the operation of section 125 (3).
- (9) A notification under subsection (1) takes effect on and from the date of publication or a later date specified in the notification.

## **77 Effect of vesting**

- (1) On land being vested in a council by a notification under section 76:
- (a) the land shall be taken to have been acquired under the *Local Government Act 1993* and to have been classified as community land under that Act,
  - (b) any dedication or reservation is revoked to the extent to which it affects the land,
  - (c) a provision for forfeiture or reverter in respect of any breach or non-performance of a condition, trust or proviso:
    - (i) contained in a Crown grant, or
    - (ii) contained or referred to in a folio of the Register created in respect of the land,



- shall be taken to have been released by the Crown to the extent to which it affects the land,
- (d) if a person was trustee of all or any part of the land immediately before the notification took effect, the person ceases to be such a trustee, and
  - (e) any by-laws that, immediately before the notification took effect, applied to all or any of the land are repealed in so far as they applied to the land.
- (2) If, by the operation of section 125, a lease of, or a licence in respect of, land vested in a council under section 76 is taken to have been granted by the council, the lease or licence continues in force and shall be taken to have been granted:
- (a) if the council granted the lease or licence in its capacity as trustee of the reserve—by the council otherwise than in that capacity, or
  - (b) in any other case—by the council,
- despite any condition of the lease or licence and despite section 109, any Act or any other law.
- (3) The revocation of a dedication or reservation in respect of any land under subsection (1) does not effect a revocation of a Crown grant or certificate of title issued, or a folio of the Register created, in respect of that land.

## Part 4A Restrictions and covenants imposed on land

### 77A Restrictions and covenants relating to protection of the environment and other significant values

- (1) The Minister may, in connection with the sale of Crown land under Part 4 or the grant of an application to purchase land that is the subject of a holding within the meaning of the *Crown Lands (Continued Tenures) Act 1989*, impose on the land, on behalf of the Crown, such restrictions on use or public positive covenants as the Minister considers appropriate for any one or more of the following purposes:
  - (a) protecting the environment,
  - (b) protecting or managing natural resources,
  - (c) protecting cultural, heritage or other significant values of the land or any item or work on the land.
- (2) Any such restriction or public positive covenant is to be imposed in accordance with section 88D or 88E of the *Conveyancing Act 1919* (as appropriate), and that Act applies in respect of the restriction or public positive covenant.

**Note.** See also section 183A which applies in relation to a restriction on use or public positive covenant imposed as referred to in this section.
- (3) Without limiting subsection (1), any such restriction or public positive covenant extends to:
  - (a) any separate lots created by a subsequent subdivision of the land to which the restriction or covenant relates, and
  - (b) any separate titles created as a result of a separate dealing (as referred to in section 77B) in relation to the land.
- (4) In relation to a restriction or covenant imposed as referred to in this section, the Minister may, on behalf of the Crown, exercise the functions of a prescribed authority under sections 88D and 88E of the *Conveyancing Act 1919*.
- (5) Section 88D (9) of the *Conveyancing Act 1919* does not apply in respect of any interest in the land acquired by the purchaser of the land before the restriction or public positive covenant takes effect and, accordingly, does not prevent the enforcement of the restriction or covenant. A reference in this subsection to a purchaser includes a reference to a mortgagee (or a person claiming through a mortgagee) or any other person claiming through the purchaser.
- (6) This section does not limit the Minister's power under Division 2 of Part 4 to include conditions in a contract of sale of Crown land.

### 77B Imposition of covenants relating to subdivision or separate dealings

- (1) The Minister may, in connection with the sale of Crown land under Part 4 or the grant of an application to purchase land that is the subject of a holding under the *Crown Lands (Continued Tenures) Act 1989*, impose on the land, on behalf of the Crown, such covenants as the Minister considers appropriate for the purpose of preventing or restricting:
  - (a) the subdivision of the land, or
  - (b) any dealing in relation to the land (referred to in this section as a **separate dealing**) that would result in the separate ownership of multiple lots previously contained in a single holding or of any subsequent grouping of those lots.
- (2) Any such covenant is to be imposed as a restriction on the use of the land in accordance with section 88D or 88E of the *Conveyancing Act 1919* (as appropriate), and that Act applies in relation to the covenant. For that purpose, a subdivision or separate dealing is taken to be a use of the land.

**Note.** See also section 183A which applies in relation to a covenant imposed as referred to in this section.

- (3) Without limiting the operation of subsection (1), a covenant imposed as referred to in this section extends to any subsequent dealings in relation to the land (including any subsequent separate dealings of the land or any subsequent subdivision of the separate lots created by a subdivision approved by the Minister).
  - (4) The Registrar-General must not, except with the consent of the Minister, register:
    - (a) a plan of subdivision that is the subject of a covenant (imposed as referred to in this section) for the purpose of preventing or restricting the subdivision, or
    - (b) a separate dealing in relation to land that is the subject of a covenant (imposed as referred to in this section) for the purpose of preventing or restricting the separate dealing.
  - (5) A consent authority (within the meaning of the *Environmental Planning and Assessment Act 1979*) must not grant consent under Part 4 of that Act to the subdivision of land that is the subject of a covenant (imposed as referred to in this section) preventing or restricting subdivision except with the consent of the Minister.
  - (6) The Minister may, in relation to land that is the subject of a covenant imposed as referred to in this section:
    - (a) consent to the subdivision of, or separate dealing in relation to, the land, and
    - (b) consent to the registration of a plan of subdivision or separate dealing in relation to the land.
- Note.** See clauses 9 (2) and 10 (2) of Schedule 7A to the *Crown Lands (Continued Tenures) Act 1989* which require the Minister to obtain the concurrence of relevant Ministers in certain circumstances.
- (7) If any such consent is given, the covenant concerned is to be varied accordingly.
  - (8) In relation to a covenant imposed as referred to in this section, the Minister may, on behalf of the Crown, exercise the functions of a prescribed authority under sections 88D and 88E of the *Conveyancing Act 1919*.
  - (9) Section 88D (9) of the *Conveyancing Act 1919* does not apply in respect of any interest in the land acquired by the purchaser of the land before the covenant takes effect and, accordingly, does not prevent the enforcement of the covenant. A reference in this subsection to a purchaser includes a reference to a mortgagee (or a person claiming through a mortgagee) or any other person claiming through the purchaser.
  - (10) This section does not limit the Minister's power under Division 2 of Part 4 to include conditions in a contract of sale of Crown land.

## Part 5 Dedication and reservation of land

### Division 1 Preliminary

#### 78 Definitions

In this Part and in Schedules 3, 4 and 5:

**area** has the same meaning as in the *Local Government Act 1993*.

**council** has the same meaning as in the *Local Government Act 1993*.

**ex officio member** means a person who is a member merely by being the holder of a particular office.

**member** means a member of a trust board.

**reserve** means land which is dedicated or reserved under this Act or which immediately before the commencement of this section was a reserve within the meaning of Part 3B of the *Crown Lands Consolidation Act 1913*, not in either case being:

- (a) a common within the meaning of the *Commons Management Act 1989*,
- (b) land within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, or
- (c) land, or land of a class, in respect of which an order under section 79 is in force.

**reserve trust** means a corporation constituted under Division 4 and appointed as trustee of a reserve or part of a reserve.

**trust board** means a trust board appointed under section 93 or under section 74 of the *Cemeteries and Crematoria Act 2013*.

#### 79 Order declaring land not to be reserve

- (1) If the Minister, by order published in the Gazette, so declares, land, or land of a class, specified or described in the order is not subject to the provisions of this Part.
- (2) The Minister may not make an order under subsection (1) unless at least 14 days have elapsed after notice of intention to make the order has been published in a newspaper circulating in the locality in which the land is situated or in a newspaper circulating generally in the State.

### Division 2 Dedications

#### 80 Power of Minister to dedicate land

- (1) The Minister may, by notification in the Gazette, dedicate Crown land for a public purpose.
- (2) The dedication takes effect on publication of the notification.

#### 81 Addition to dedicated land

- (1) The Minister may, by notification in the Gazette, add Crown land to any land dedicated under this Act.
- (2) On publication of the notification in the Gazette:
  - (a) the added land becomes part of the dedicated land,
  - (b) the added land becomes subject to the same dedication and trusts as the dedicated land,

- (c) any rules, regulations or by-laws applicable to the dedicated land become applicable to the added land, and
- (d) a reserve trust which is trustee of the dedicated land becomes trustee of the added land.

## **82 Tabling of proposed dedication or addition in Parliament**

An abstract of a proposed dedication of land, or proposed addition to dedicated land, under this Act shall be laid before both Houses of Parliament at least 10 sitting days before the dedication or addition is made.

## **83 Effect of dedication on reservations**

- (1) Land may be dedicated or added to a dedication of land under this Act even if it is already reserved.
- (2) On publication of a notification of a dedication or addition of land under this Act, any reservation under this Act applying to the land is, to the extent that it applies to the land, revoked.

## **84 Revocation of dedication**

- (1) The Minister may, by notification in the Gazette, revoke the whole or part of a dedication under this Act, but only if:
  - (a) subsection (2) has been complied with, and
  - (b) the proposed revocation has not been disallowed under subsection (3).
- (2) This subsection is complied with if:
  - (a) notice of the proposed revocation is published in the Gazette, and
  - (b) a copy of the notice is laid before each House of Parliament within 10 sitting days after its publication.
- (3) Either House of Parliament may pass a resolution disallowing the proposed revocation if notice of the resolution is given within 14 sitting days of the House after the copy of the notice published in the Gazette is laid before it.
- (4) On publication of the notification in the Gazette, the land affected vests in the Crown and becomes Crown land within the meaning of this Act.

## **85 Requirement for assessment**

- (1) Land shall not be dedicated unless the Minister is satisfied that the land has been assessed under Part 3.
- (2) No assessment is required if the Minister:
  - (a) is satisfied that it is in the public interest to dedicate the land without assessing the land under Part 3, and
  - (b) in dedicating the land, has had due regard to the principles of Crown land management.

## **86 Scope of revocation power**

A dedication of land may be revoked even if:

- (a) after dedication, a Crown grant has issued or a folio of the Register has been or is created, or
- (b) before dedication, the land had been alienated by the Crown and subsequently resumed, purchased or otherwise acquired by the Crown.

## **Division 3 Reservations**

### **87 Power of Minister to reserve land**

- (1) The Minister may, by notification in the Gazette, reserve any Crown land from sale, lease or licence or for future public requirements or other public purpose.
- (2) The reservation takes effect on publication of the notification.

### **88 Addition to reserved land**

- (1) The Minister may, by notification in the Gazette, add Crown land to any land reserved under this Act.
- (2) On publication of the notification in the Gazette:
  - (a) the added land becomes part of the reserved land,
  - (b) the added land becomes subject to the same reservation and trusts as the reserved land,
  - (c) any rules, regulations or by-laws applicable to the reserved land become applicable to the added land, and
  - (d) a reserve trust which is trustee of the reserved land becomes trustee of the added land.

### **89 Effect of other reservations**

- (1) Land may be reserved or added to a reservation even if it is already reserved under this Act.
- (2) On publication of a notification of reservation or addition to a reservation, any other reservation under this Act applying to the land is, unless the notification expressly provides otherwise, revoked to the extent that it applies to the land.
- (3) The revocation of a reservation does not affect any other reservation which includes all or part of the same land.

### **90 Revocation of reservation**

- (1) The Minister may, by notification in the Gazette, revoke the whole or part of a reservation of land under this Act.
- (2) The Minister may not publish a notification under subsection (1) unless at least 14 days have elapsed after notice of intention to publish the notification has been published in a newspaper circulating in the locality in which the land is situated or in a newspaper circulating generally in the State.
- (3) The revocation takes effect on publication of the notification in the Gazette.

### **91 Requirement for assessment**

- (1) Land shall not be reserved unless the Minister is satisfied that the land has been assessed under Part 3.
- (2) No assessment is required if:
  - (a) the reservation is from sale or for future public requirements, or
  - (b) the Minister is satisfied that it is in the public interest to reserve the land without assessing the land under Part 3 and, in reserving the land, has had due regard to the principles of Crown land management.

## Division 4 Formation of reserve trusts

### 92 Reserve trusts

- (1) The Minister may, by notification in the Gazette, establish and name a reserve trust and appoint it as trustee of any one or more specified reserves or any one or more parts of a reserve.
- (2) A reserve trust established under subsection (1) is constituted by this Act as a corporation having as its corporate name the name assigned to the trust in the notification of its establishment.
- (3) The Minister may, by notification in the Gazette:
  - (a) dissolve a reserve trust, or
  - (b) alter the corporate name of a reserve trust, or
  - (c) revoke the appointment of the reserve trust as trustee of any one or more specified reserves or any one or more parts of a reserve.
- (4) A reserve trust has the functions conferred on it by or under this Act.
- (5) A reserve trust is charged with the care, control and management of any reserve (or any part of a reserve) of which it is appointed trustee.
- (6) The affairs of a reserve trust are to be managed:
  - (a) by the Minister, or
  - (b) if a trust board is appointed under section 93—by the trust board, or
  - (c) if a corporation is appointed under section 95—by the corporation, or
  - (d) if an administrator is appointed under section 117—by the administrator.
- (6A) In this Division, a reference to a **reserve trust manager** is a reference to the Minister (to the extent that the Minister is responsible for managing the affairs of a reserve trust), or any such trust board, corporation or administrator.
- (6B) There can be more than one reserve trust manager for a reserve trust with the function of managing the affairs of the reserve trust allocated between them by the Minister in accordance with the following provisions:
  - (a) The Minister can allocate the exercise of functions in respect of different aspects of the affairs of the reserve trust or different parts of the reserve to different reserve trust managers, as specified in the allocation or as determined by the Minister, with those functions to be exercised in accordance with such arrangements (if any) as may be determined by the Minister.
  - (b) The Minister is the reserve trust manager for any aspect of the affairs of a reserve trust or any part of the reserve not allocated to another reserve trust manager and is accordingly allocated the function of managing the affairs of the reserve trust in respect of any such unallocated aspects of those affairs or unallocated parts of the reserve.
  - (c) A reserve trust manager has the function of managing the affairs of the reserve trust only to the extent of the allocated functions and is, for the purposes of this or any other Act or law, the reserve trust manager to that extent only.
- (6C) Subsections (6)–(6B) do not apply to a reserve trust established for cemetery or crematorium purposes on or after the commencement of section 73 of the *Cemeteries and Crematoria Act 2013*.
- (6D) In this Division, a reference to a **reserve trust manager**, in relation to a reserve trust established for cemetery or crematorium purposes on or after the commencement of section 73 of the *Cemeteries and Crematoria Act 2013*, is a reference to the Minister

administering that Act (to the extent that the Minister is responsible for managing the affairs of that reserve trust) or the trust board, corporation or administrator appointed under that section to manage the affairs of the trust.

- (7) If a reserve trust is appointed as trustee of more than one reserve (or more than one part of a reserve), a reference in this Part to the reserve (or part of the reserve) in relation to the reserve trust includes a reference to any one or more of the reserves (or any one or more of the parts of the reserve) of which the reserve trust has been appointed as trustee.
- (8) The Minister administering this Act is to consult the Minister administering the *Cemeteries and Crematoria Act 2013* before exercising any function after the commencement of section 73 of that Act with respect to a reserve trust established for cemetery or crematorium, or related, purposes.

### **93 Membership of trust board**

A trust board shall consist of at least 3, but not more than 7, members (none of them being a corporation) appointed by the Minister by notification in the Gazette and such number of ex officio members as are so appointed.

### **94 Matters affecting members of a trust board**

- (1) Schedule 3 has effect with respect to the members of a trust board.
- (2) Schedule 4 has effect with respect to pecuniary interests of members of a trust board.
- (3) Schedule 5 has effect with respect to the procedure at meetings of a trust board.

### **95 Appointment of corporation to manage reserve trust**

- (1) The Minister may, by notification in the Gazette, appoint:
  - (a) a council,
  - (b) a corporation constituted by or under an Act providing for the holding, managing of or dealing with church property, or
  - (c) any other corporation (including the Ministerial Corporation),  
to manage the affairs of a reserve trust.
- (2) A corporation so appointed has power to accept the appointment and to exercise all the functions of a manager of a reserve trust despite the provisions of the Act by or under which the corporation is constituted.
- (2A) A corporation may be appointed as the manager of a reserve trust for such term as may be specified in the notification of appointment or by any subsequent notification.
- (2B) The term of office of a corporation that has been appointed as the manager of a reserve trust may be extended by the Minister from time to time by a further notification in the Gazette.
- (3) A council may not be appointed to manage a reserve trust if the reserve is wholly or partly within the area of another council, except with the consent of the other council.
- (4) A document is sufficiently executed by a reserve trust managed by a corporation if it is executed under the seal of the corporation instead of the seal of the trust.

### **96 Vacation of office by corporate manager**

- (1) A corporation which is the manager of a reserve trust vacates the office if:
  - (a) it resigns its office by writing under its seal addressed to the Minister, or
  - (b) it is removed from office by the Minister, or



- (c) it completes a term of office and is not re-appointed.
- (2) The Minister may, by notification in the Gazette, remove such a corporation from office at any time.
- (3) If a corporation, whether appointed before or after the commencement of this subsection, is removed from office by the Minister as the manager of a reserve trust, no compensation is payable to the corporation because of the corporation ceasing to hold office.

**96A Performance management for reserve trust managers**

- (1) The Minister may, in such manner as the Minister considers appropriate, require reserve trust managers to report to the Minister on their performance in managing reserves and on such other matters as the Minister considers appropriate.
- (2) Any such requirement may specify:
  - (a) the intervals at which reserve trust managers are to report to the Minister, and
  - (b) the performance management criteria against which the performance of reserve trust managers is to be assessed by the Minister.

**97 Address for service of documents on reserve trust**

- (1) The Minister may, by order published in the Gazette, specify an address as the address for service of documents on a specified reserve trust.
- (2) The address specified is the address for service of documents personally or by post on the reserve trust.

**97A Delegation of functions by reserve trust managers**

- (1) A reserve trust manager may, with the approval of the Minister, delegate any of its functions as reserve trust manager to any other person or body.
- (2) Without limiting section 49 of the *Interpretation Act 1987*, a delegation by a reserve trust manager under subsection (1) may, with the approval of the Minister, be revoked by the reserve trust manager at any time.

**98 Application of Local Government Act where a council manages a reserve trust**

- (1) If a council is the manager of a reserve trust and the reserve (or the part of the reserve) is a public reserve, the trust has all the functions of a council under the *Local Government Act 1993* in relation to public reserves.
- (1A) However, the trust has no power to classify the public reserve or any part of it as operational land under the *Local Government Act 1993*.
- (2) This Act prevails to the extent of any inconsistency with the *Local Government Act 1993* in relation to the public reserve and this section does not authorise a failure to comply with any provision of this Act.
- (3) In this section, **public reserve** has the same meaning as it has in the *Local Government Act 1993*.

**98A Responsibility for certain reserves**

- (1) This section applies to a reserve that is a public reserve within the meaning of the *Local Government Act 1993* (other than a public reserve referred to in section 48 (1) (b) of that Act).
- (2) The Minister may, by notification in the Gazette, declare that any reserve to which this section applies is for the time being under the care, control and management of the Minister.

- (3) Accordingly, the council does not have control of the reserve as provided by section 48 of the *Local Government Act 1993*.
- (4) If the Minister, by later notification in the Gazette, revokes a notification under subsection (2) in relation to a reserve, section 48 of the *Local Government Act 1993* is taken to apply in relation to the reserve.
- (5) A reference in this section to a reserve includes a reference to any part of a reserve.

## **Division 5 Trust property**

### **99 Operation of Division**

- (1) This Division does not affect the provisions of any other Act relating to a particular reserve or reserve trust.
- (2) The functions of a reserve trust or the Minister under this Division are not affected by anything contained in any Crown grant issued for the reserve.

### **100 Estate of trust**

- (1) For the purposes only of this Part and a by-law under this Part, a reserve trust that, but for this section, would not have an estate in fee simple in the reserve has such an estate.
- (2) The reserve trust is not capable of alienating, charging, granting leases of or licences or easements in respect of, or in any way disposing of the whole or any part of the reserve, except in accordance with this Part.
- (3) Revocation of the dedication or reservation of the whole or part of a reserve divests the reserve trust of any estate in the land affected by the revocation.
- (4) The provisions of this section have effect despite anything contained in section 42 of the *Real Property Act 1900*.

### **101 Purchase etc of other land**

- (1) A reserve trust may, with the approval of the Minister:
  - (a) purchase or take a lease of, or acquire the benefit of an easement in respect of, any land (whether or not adjoining the reserve) required by the trust for use in connection with the reserve,
  - (b) expend trust money for or in connection with the improvement of land (with the consent of the owner) if the trust believes it will provide or improve access to, or facilities or amenities for visitors to, the reserve,
  - (c) make donations out of trust money to a group, organisation or body for any purpose which, in the opinion of the Minister, will be of benefit to the reserve or the community generally.
- (2) A reserve trust may expend trust money in using or improving land purchased or taken on lease by the trust or in respect of which the trust has the benefit under an easement.
- (3) If a reserve trust purchases land or takes land on lease, any rules, regulations or by-laws applicable to the reserve become applicable to the land.

### **102 Consent of Minister to sale, lease, easement, licence or mortgage**

- (1) A reserve trust may not sell, lease or mortgage land, or grant an easement or a licence (except a temporary licence) in respect of land, comprising the whole or any part of the reserve unless:

- (a) the trust has decided that it is desirable to do so on the terms and conditions specified in the decision,
  - (b) in the case of a proposed sale, the trust has caused a notice to be published in a newspaper circulating in the locality of the land setting out the date and the terms and conditions of the trust's decision, the location of the land and other prescribed particulars,
  - (c) the trust has (in the case of a proposed sale, not earlier than 14 days after the publication of the newspaper notice) applied to the Minister in writing for consent, giving full details of the proposal, and
  - (d) the Minister has consented in writing to the proposal.
- (2) The Minister may not give a consent under subsection (1) (d) to:
  - (a) a sale,
  - (b) a lease for a term exceeding 5 years, or
  - (c) a lease for a term that, by the exercise of an option, could exceed 5 years, unless at least 14 days have elapsed since notice of intention to give the consent has been published in a newspaper circulating in the locality in which the land is situated or in a newspaper circulating generally in the State.
- (3) The Minister's consent may relate to the whole or part only of the land with which the application is concerned.
- (4) If the application for consent proposes a sale, lease, easement or licence, the Minister's consent:
  - (a) may be general, authorising the proposal subject to such conditions, restrictions, reservations and covenants, and in such manner and within such time, as the Minister thinks desirable, or
  - (b) may be specific, approving of a particular contract of sale, lease or licence.
- (5) If the application for consent relates to a mortgage, the Minister's consent can only be given to the specific terms of the mortgage.
- (6) In giving consent, the Minister may:
  - (a) vary the terms and conditions to which the sale, lease, easement, licence or mortgage is to be subject, and
  - (b) impose such other terms and conditions as the Minister thinks desirable.
- (7) The Minister may, at any time, wholly or partly withdraw the consent or vary its terms, but only if to do so would not prejudice the rights of third parties.
- (8) Nothing in this section applies to or in respect of the grant of an interment right under the *Cemeteries and Crematoria Act 2013*.

**102A Minister's consent not required for certain leases, licences or easements**

- (1) This section applies to a reserve trust managed by any of the following:
  - (a) a trust board or a corporation (other than a council) that has been appointed under section 93 or 95, but only if the land comprising the reserve for which the reserve trust has been appointed as trustee is being used, occupied or administered by a government agency (other than Local Land Services),
  - (b) a council that has been appointed under section 95.
- (2) Despite any other provision of this Part, a reserve trust to which this section applies is not required to obtain the Minister's consent under section 102 to grant a lease or licence in respect of land comprising the whole or any part of the reserve for which

the reserve trust has been appointed as trustee, or to grant an easement in connection with any such lease or licence (a *related easement*), if:

- (a) the reserve trust has been authorised by the Minister, by notice in writing, to grant the lease, licence or related easement without the Minister's consent, and
  - (b) the lease, licence or related easement is granted in accordance with the Minister's authorisation, and
  - (c) the reserve trust complies with the requirements of the Minister's authorisation and the provisions of this section.
- (3) The Minister's authorisation:
- (a) may relate to any specified reserve (or class of reserves) for which the reserve trust has been appointed as trustee or generally to all reserves for which it has been appointed as trustee, and
  - (b) may specify the circumstances in which a lease, licence or related easement may be granted by the reserve trust without the Minister's consent, and
  - (c) may apply generally in relation to the reserve trust or may be limited in its application by reference to specified exceptions or factors, and
  - (d) is subject to such terms and conditions as the Minister considers appropriate.
- (4) Without limiting subsection (3), the Minister may, in authorising a reserve trust to grant leases, licences or related easements without the Minister's consent:
- (a) specify the purposes, and the terms and conditions, of any such lease, licence or easement, and
  - (b) limit the term of any such lease, licence or easement, and
  - (c) require the reserve trust to follow certain procedures in relation to the granting of any such lease, licence or easement, including procedures for public notice and consultation, procedures for tendering and procedures for dealing with objections to the proposed lease, licence or easement, and
  - (d) require the reserve trust to provide the Minister with such information as may be required by the Minister before or after any such lease, licence or easement is granted, and
  - (e) require the reserve trust to submit any proposal for such a lease, licence or easement to the Minister before it is granted, and
  - (f) require the reserve trust to indemnify the Crown against any liability or claim for compensation that may arise as a result of the granting of any such lease, licence or easement.
- (5) A reserve trust must, within 14 days of granting a lease, licence or related easement in accordance with the Minister's authorisation under this section, notify the Minister of the grant and the terms of the lease, licence or easement.
- (6) The Minister may, in making any decision in relation to an authorisation under this section, take into account such matters as the Minister thinks appropriate, including the performance of the trust board, corporation or council concerned in managing:
- (a) the affairs of the reserve trust or any other reserve trust that the trust board, corporation or council is managing or has previously managed, or
  - (b) in the case of a reserve trust managed by a council—any public land within the meaning of the *Local Government Act 1993*.
- (7) The Minister may, for the purposes of this section, request any information about a council, including information about a council's performance, from the Minister administering the *Local Government Act 1993* and that Minister is authorised to provide any such information.

- (8) Nothing in this section authorises a reserve trust to sell or mortgage land, or to grant a lease, licence or related easement for a term exceeding 21 years, without the consent of the Minister under section 102.
- (9) An authorisation by the Minister under this section may be varied or revoked by the Minister at any time by notice in writing given to the reserve trust concerned.
- (10) Any lease, licence or easement granted by a reserve trust:
  - (a) without the Minister's consent under section 102, or
  - (b) otherwise than in accordance with the Minister's authorisation under this section,has no effect except in such cases as the Minister may determine.
- (11) For the purposes of the *Residential (Land Lease) Communities Act 2013*, a lease or licence granted by a reserve trust as provided by this section is taken to be a lease or licence to which the Minister has given consent.

#### **102B Validity of interests in Crown reserves**

Sections 34AA and 35A apply to and in respect of a lease, licence or easement granted in respect of a reserve by a reserve trust as if a reference in those sections to the Minister were a reference to the reserve trust.

#### **103 Sale, lease, easement, licence or mortgage in accordance with consent**

- (1) A reserve trust may sell, lease, grant an easement or a licence in respect of or mortgage the reserve in accordance with the terms of the Minister's consent.
- (2) If the Minister's consent to a sale, lease, easement or licence is general, the sale, lease, easement or licence must not proceed unless the price agreed on, the rent reserved, the terms of the easement or the charge for the licence has been submitted to and approved by the Minister.
- (3) A mortgage under this Division may contain a power of sale.
- (4) A lease or licence must not be granted under this Division for any purpose for which an authority, permit, lease or licence may be granted under the *Fisheries Management Act 1994*.
- (5) Without limiting subsection (1), a reserve trust may grant a lease or licence under this Division for the purposes of enabling a filming project to be carried out, whether or not the project is in accordance with any plan of management adopted for the reserve under Division 6 or is consistent with the declared purpose of the reserve.

#### **104 Effect of conveyance of reserve land**

- (1) Land sold and conveyed under this Division vests in the purchaser free from all trusts to which it was subject while vested in the reserve trust by or on behalf of which it was conveyed.
- (2) When land is sold and conveyed under this Division, any dedication or reservation is revoked to the extent to which it affected the land before its conveyance.

#### **105 Execution of conveyances etc**

- (1) If a reserve trust proposes to exercise its functions under this Division, the Minister may appoint a person to execute conveyances and instruments and do all such other things as may be necessary for the due exercise of those functions.
- (2) The receipt of the appointed person is a sufficient discharge to any purchaser, lessee, grantee, licensee or mortgagee paying money in good faith in respect of a sale, lease, easement, licence or mortgage under this Division.

- (3) A transfer, mortgage or lease of land, or an instrument creating an easement in respect of land, under the *Real Property Act 1900* which is signed by the appointed person has the same effect as if signed by the registered proprietor of the land.
- (4) A purchaser, lessee, grantee, licensee or mortgagee dealing in good faith with the appointed person is not prejudiced or affected by any omission or irregularity in respect of the requirements of this Division.
- (5) If:
  - (a) a signed document purports to appoint a person for the purposes of this section, and
  - (b) the signature purports to be that of the Minister,it shall be presumed, unless the contrary is proved, that the document was signed by the Minister.

#### **106 Proceeds etc**

- (1) Compensation for the compulsory acquisition under any other Act of a reserve (or part of a reserve) or the net amount received as the proceeds:
  - (a) from a sale, lease, easement or licence (including a temporary licence) made or granted under this Division by a reserve trust, or
  - (b) from a mortgagee making a secured loan to a reserve trust,shall be applied in accordance with the directions (if any) given by the Minister.
- (2) The directions which the Minister may give include the following:
  - (a) a direction that the compensation or the proceeds be applied by the reserve trust for the purchase of other land,
  - (b) a direction that the compensation or the proceeds be paid to another reserve trust to be applied towards the care, control and management of the other trust's reserve,
  - (c) a direction that the compensation or the proceeds be paid to the Consolidated Fund or to the Public Reserves Management Fund constituted under the *Public Reserves Management Fund Act 1987*.
- (3) In the absence of a direction, the compensation or the proceeds shall be applied for the general purposes of the reserve trust and may be invested or applied by the trust accordingly.

#### **106A Limits on compensation payable to reserve trusts**

- (1) This section applies:
  - (a) to the determination of the amount of compensation payable under Part 3 of the *Land Acquisition (Just Terms Compensation) Act 1991* in respect of the compulsory acquisition of the whole or part of a reserve described in subsection (2), and
  - (b) to the determination under section 191 of the *Roads Act 1993* of the amount of compensation payable or provided under Division 2 of Part 12 of that Act in respect of the acquisition under that Division of the whole or part of a reserve described by subsection (2), and
  - (c) to the determination under section 22A of the *Pipelines Act 1967* of the amount of compensation payable in respect of the vesting of the whole or part of a reserve described by subsection (2) or the vesting of an easement over the whole or part of such a reserve.
- (2) The following reserves are described by this subsection:

- (a) a reserve in respect of which a reserve trust has been constituted, whether under this Part or by operation of Schedule 8,
  - (b) a reserve to which the provisions of this Part are applied by any other Act, or which is taken under any other Act to be a reserve under this Part, and in respect of which a reserve trust has been appointed or taken to be appointed, other than a reserve that comprises dedicated land for which a Crown grant was granted to the reserve trust or a predecessor in title before the commencement of the *Crown Lands (Land Titles) Amendment Act 1980*.
- (3) Despite section 55 of the *Land Acquisition (Just Terms Compensation) Act 1991*, in determining the amount of compensation, if any, payable to a reserve trust, regard is to be had to the following matters only (as assessed in accordance with this section):
  - (a) the value to the reserve trust of any improvements (including structures) erected or carried out by the trust on the land being acquired or vested, or over which the easement is vested, on the date the land is acquired,
  - (b) the amount of any loss attributable to the reduction in public benefit from any loss of public open space that arises from the acquisition or vesting of the land,
  - (c) the amount of any reduction in the value to the trust, as at the date the land is acquired or vests, or the easement vests, of any other improvements (including structures) erected or carried out by the trust on other land that is caused by the land acquired being severed from other land of the trust,
  - (d) the cost to the trust of acquiring additional land having environmental benefits that are comparable to the land being acquired or vested,
  - (e) any loss attributable to disturbance (within the meaning of section 59 of that Act), other than loss arising from the termination of a lease or licence over the whole or part of the land being acquired.
- (4) For the purposes of a determination of an amount of compensation:
  - (a) the Crown is taken to be the holder in fee simple of the land being acquired or vested, or over which the easement is vested, and
  - (b) section 56 (2) of the *Land Acquisition (Just Terms Compensation) Act 1991* applies as if the value of improvements (including structures) erected or carried out by the trust on the land is the market value of the trust's interest in the land.
- (5) A reserve trust that is, or is managed by, the authority acquiring the whole or part of a reserve is not entitled to compensation in respect of the acquisition or vesting if it decides not to require compensation and does not revoke that decision before the acquisition of the land concerned.
- (6) Nothing in this section affects:
  - (a) any function of the Minister with respect to a reserve trust, including the Minister's functions under sections 102 and 106, or the requirements of section 106, or
  - (b) the rights under the *Land Acquisition (Just Terms Compensation) Act 1991* of a person from whom native title rights and interests (within the meaning of that Act) in relation to land have been acquired.

#### **107 Disposal of certain income of reserve trust**

- (1) The Minister may direct a reserve trust to set aside a specified portion of its income and revenue for the payment of interest on, or the gradual extinction of, any debt.
- (2) The trust shall comply with such a direction and invest the portion as the Minister directs.

- (3) A reserve trust may invest any funds not immediately required for the exercise of its functions if it does so as authorised by the *Trustee Act 1925*.

#### **108 Temporary licences**

- (1) A reserve trust may, in respect of the whole or any part of a reserve, grant temporary licences for grazing or any other prescribed purpose.
- (2) A temporary licence may be granted subject to conditions and is also subject to such conditions as may be prescribed.
- (3) A temporary licence may not be granted for any purpose for which an authority, permit, lease or licence may be granted under the *Fisheries Management Act 1994*.
- (4) A temporary licence ceases to have effect on the expiration of the prescribed period after it is granted unless it is revoked sooner or is granted for a shorter period.

#### **109 Termination of certain leases and licences**

- (1) A lease or licence granted by a reserve trust terminates if the status of the whole or any part of the land the subject of the grant is affected unless the notification by which its status is affected otherwise provides.
- (2) The status of the land is affected only if:
  - (a) in the case of land dedicated or reserved under this Act—the dedication or reservation is revoked,
  - (b) in the case of land set apart for any public purpose (but not dedicated or reserved under this Act)—the land ceases to be set apart or is dedicated or reserved under this Act.
- (3) Before taking any action that would affect the status of part only of the land which is the subject of the lease or licence, the reserve trust and the lessee or licensee may agree that the lease or licence is to continue in force as if never granted in respect of that part.
- (4) If such an agreement is made, the lease or licence:
  - (a) does not terminate, and
  - (b) continues in force in accordance with the agreement from the time the part's status is affected.
- (5) No compensation is payable in respect of the termination of a lease or licence by this section.

#### **110 Saving of certain leases and licences**

- (1) This section applies to the land comprised in a lease or licence granted by a reserve trust if the land:
  - (a) ceases to be a reserve, and
  - (b) is added to a reserve of which a reserve trust is trustee.
- (2) The lease or licence affecting land to which this section applies continues in force:
  - (a) as if the land had not ceased to be a reserve, and
  - (b) as if the lease or licence had been granted by the reserve trust for the reserve to which the land is added.
- (3) Neither section 109 (termination of certain leases and licences) nor any term or condition of the lease or licence prevents it from continuing in force.



### **111 Dissolution of trust—disposal of property**

- (1) If a reserve trust is dissolved, any real or personal property vested in the trust (except the reserve land) may be disposed of by the Minister in such manner as the Minister considers appropriate.
- (2) For that purpose, land purchased by the trust may be dealt with by the Minister as if it were Crown land.
- (3) The Minister may execute conveyances and instruments and do all such other things as may be necessary for the effectual exercise of the Minister's functions under this section.
- (4) The proceeds of disposal of the property shall be dealt with in accordance with the Minister's directions.

### **111A Dissolution of trust—appointment of new trust**

- (1) If a new reserve trust is established, named and appointed under section 92 as trustee of any one or more specified reserves, or any one or more parts of a reserve, of which a dissolved trust was trustee, the provisions of section 125 (3) apply to the new reserve trust.
- (2) However, those provisions do not apply in respect of any of the real or personal property of the dissolved trust that the Minister has, before the appointment of the new reserve trust, disposed of under section 111.
- (3) For the purpose of those provisions:
  - (a) the trustee or trustees of the dissolved trust are called the former trustee, and
  - (b) the new reserve trust is called the new trustee.
- (4) Those provisions apply:
  - (a) with such modifications as may be necessary or as the Minister may direct, and
  - (b) only in relation to an act, matter or thing concerning the former trustee in connection with the care, control and management of the reserve, or part of the reserve, of which the new trustee is trustee.

## **Division 6 Plans of management**

### **112A Definitions**

In this Division:

***additional purpose***, in relation to a reserve, means any purpose that is additional to:

- (a) the declared purpose of the reserve, or
- (b) any purpose authorised by the Minister under section 121A in relation to the reserve.

***declared purpose***, in relation to land comprising a reserve, means the public purpose for which the land has been dedicated or reserved under this Part, and includes any purpose or use permitted under, or in connection with, the declared purpose.

### **112 Preparation of draft plan of management**

- (1) The Minister may cause a draft plan of management to be prepared for a reserve (other than a Crown cemetery within the meaning of the *Cemeteries and Crematoria Act 2013*), including a draft plan that would, if adopted, authorise the reserve to be used for an additional purpose.

- (2) A reserve trust (other than a Crown cemetery trust within the meaning of the *Cemeteries and Crematoria Act 2013*) may with the Minister's consent, and if the Minister so directs shall, prepare a draft plan of management for the reserve.
- (3) If the Minister directs a reserve trust to prepare a draft plan of management, the reserve trust shall:
  - (a) prepare it within the time directed by the Minister, and
  - (b) forward a copy of it to the Minister.
- (4) A draft plan of management prepared by a reserve trust shall include provision for such matters as the Minister requires.
- (5) Without limiting subsection (4), the Minister may, in directing a reserve trust to prepare a draft plan of management, direct the reserve trust to consider including an additional purpose as part of the draft plan.
- (6) If, in relation to a draft plan of management prepared by a reserve trust, the reserve trust proposes that the reserve is to be used for an additional purpose, the reserve trust is to advise the Minister of the proposal.
- (7) Without limiting subsection (4), the Minister may, in the case of a draft plan of management that would, if adopted, authorise the reserve to be used for an additional purpose, require the draft plan to specify or deal with the following matters:
  - (a) the condition of the reserve (including the condition of any buildings or other improvements on the reserve),
  - (b) the existing use of the reserve (including the existing use of any buildings or other improvements on the reserve),
  - (c) the nature and scale of the proposed additional purpose,
  - (d) the nature, scale and term of any lease, licence or other arrangement that is intended to be granted or entered into in relation to the additional purpose,
  - (e) any submissions made in relation to the draft plan as a result of the consultation process and public exhibition requirements under section 113.
- (8) In the case of a reserve that is being used or occupied by, or is being administered by, a government agency, the Minister may not cause, or direct, to be prepared a draft plan of management that would, if adopted, authorise the reserve to be used for an additional purpose unless the Minister has consulted with the Minister to whom that agency is responsible.
- (9) Failure to comply with subsection (8) does not affect the validity of the draft plan if adopted by the Minister under section 114.
- (10) The Minister may, at any stage in the preparation of a draft plan of management referred to in subsection (5) or (6), direct the reserve trust to cease the preparation of the draft plan.

### **113 Referral and exhibition of draft plans**

- (1) If a draft plan of management for a reserve is prepared, the Minister:
  - (a) shall refer a copy of it to the reserve trust for consideration (unless it was prepared by the reserve trust),
  - (b) may refer a copy of it to any other person for consideration, and
  - (c) shall place a copy of it on public display for not less than 28 days or shall direct the reserve trust to place a copy of it on public display for not less than 28 days.
- (2) Any person may make representations concerning the draft plan to the Minister within the time allowed by the Minister.

- (3) The Minister shall consider any such representations before adopting the draft plan.
- (4) In the case of a draft plan of management that would, if adopted, authorise a reserve to be used for an additional purpose, the Minister may, in addition to any of the other requirements of this section, require the reserve trust, by notice in writing:
  - (a) to consult on the draft plan with such persons or bodies as may be specified in the notice, and
  - (b) to exhibit the draft plan in accordance with the notice.

#### **114 Adoption of plan of management**

- (1) The Minister may adopt a plan of management for a reserve without alteration or with such alterations as the Minister thinks fit.
- (1A) In the case of a plan of management that authorises a reserve to be used for an additional purpose, the Minister may, without limiting subsection (1), adopt the plan subject to the reserve trust complying with such conditions as the Minister thinks fit to impose.
- (1B) Without limiting the conditions that the Minister may impose under subsection (1A), the Minister may impose a condition requiring the reserve trust to indemnify the Crown against any liability or claim for compensation that may arise as a result of the reserve being used for the additional purpose specified in the plan.
- (1C) In determining whether to adopt a plan of management that authorises a reserve to be used for an additional purpose, the Minister is to have regard to the following:
  - (a) the declared purpose of the reserve,
  - (b) the compatibility of the proposed additional purpose with the declared purpose,
  - (c) the principles of Crown land management,
  - (d) the public interest.
- (2) If a plan of management is adopted:
  - (a) the reserve trust shall carry out and give effect to it, and
  - (b) no operations may be undertaken on or in relation to the reserve unless they are in accordance with the plan.

**Note.** This subsection does not prevent the grant of a lease or other tenure or licence for the purposes of filming projects and certain other purposes (see sections 34A and 103 (5)).
- (3) If a plan of management is adopted authorising a reserve to be used for an additional purpose specified in the plan, the reserve may be used for the additional purpose specified in the plan.

#### **115 Alteration or cancellation of plan**

- (1) The Minister may from time to time alter a plan of management adopted under this Division or may cancel the plan.
- (2) If a plan of management is cancelled, a new plan of management may be adopted, at the same time or later, in accordance with this Division.
- (3) The Minister shall cause or direct a proposed alteration of a plan to be prepared and the alteration shall be prepared, referred and adopted as if it were a plan of management.
- (4) The plan as altered becomes the plan adopted for the purposes of this Division.

#### **116 Plan of management for submerged land**

- (1) If land usually submerged by water is wholly or partly the subject of a plan of management, the Minister shall refer the plan to the Minister administering the *Fisheries Management Act 1994* before adopting it.
- (2) The plan may not be adopted, altered or cancelled, in so far as it relates to the submerged land, except with the concurrence in writing of the Minister administering that Act.

### **Division 7 Administrator of trust**

#### **117 Appointment of administrator**

- (1) The Minister may, by notification in the Gazette, appoint an administrator to manage the affairs of a reserve trust.
- (2) Subject to this Act, an administrator holds office for such period as may be specified in the administrator's instrument of appointment.

#### **118 (Repealed)**

#### **119 Vacancies in office of administrator**

- (1) The Minister may by notification in the Gazette:
  - (a) remove an administrator from office, or
  - (b) fill a vacancy in the office of administrator.
- (2) The office of an administrator becomes vacant if the administrator:
  - (a) completes a term of office, or
  - (b) resigns the office by instrument in writing addressed to the Minister, or
  - (c) is removed from office by the Minister under this section.

#### **120 Remuneration of administrator**

- (1) If the Minister so directs, an administrator is entitled to be paid such remuneration as the Minister directs.
- (2) The office of administrator is not, for the purposes of any Act, an office or place of profit under the Crown.

### **Division 8 Miscellaneous**

#### **121A Minister may authorise reserve to be used for additional purpose**

- (1) In this section, *declared purpose* has the same meaning as in section 112A.
- (2) The Minister may, by order published in the Gazette, authorise a reserve specified in the order to be used for a purpose that is additional to the declared purpose of the reserve.
- (3) The Minister may not authorise a reserve to be used for any such additional purpose unless the Minister is satisfied that:
  - (a) the additional purpose is compatible with the declared purpose of the reserve, and
  - (b) the use of the reserve for the additional purpose is consistent with the principles of Crown land management, and
  - (c) it is in the public interest for the reserve to be used for the additional purpose.

- (4) The Minister is to consult the following persons or bodies before making an order under this section in relation to a reserve:
  - (a) the person or body managing the affairs of the reserve trust (if any) appointed as trustee for the reserve,
  - (b) if the reserve is being used or occupied by, or is being administered by, a government agency—the Minister to whom that agency is responsible.
- (5) Failure to comply with subsection (4) does not affect the validity of the order.
- (6) An order under this section may relate to any number of reserves or to a specified group of reserves.

#### **121 Liability of reserve trust, members and other persons**

- (1) No matter or thing done or omitted to be done by:
  - (a) a reserve trust managed by a trust board or by an administrator,
  - (b) a member of a trust board, or an administrator in the course of managing the affairs of a reserve trust, or
  - (c) a person acting under the direction of a trust board, or of an administrator, in the course of managing the affairs of a reserve trust,shall, if done or omitted to be done in good faith for the purposes of executing this or any other Act, subject a member, an administrator or a person so acting personally to any action, liability, claim or demand.
- (2) If a reserve trust is managed by a corporation, the corporation is jointly and severally liable with the reserve trust:
  - (a) for any liability of the reserve trust, or
  - (b) if the corporation is managing the affairs of the reserve trust with another person or body in accordance with section 92 (6B), for the liability of the reserve trust to the extent only that the liability relates to the functions of the corporation as the manager of the reserve trust.

#### **122 Reports etc by reserve trust**

- (1) A reserve trust shall:
  - (a) furnish reports to the Minister at such times, concerning such matters, and specifying such information, as may be prescribed by the regulations or as may be required by the Minister by notice in writing to the reserve trust, and
  - (b) keep such records (including accounting records) as may be prescribed by the regulations or as may be required by the Minister by notice in writing to the reserve trust.
- (2) The Minister may grant an exemption from the requirements of subsection (1) and the exemption:
  - (a) may relate to a particular reserve trust or a class of reserve trusts,
  - (b) may be unconditional or subject to conditions, and
  - (c) shall operate for a specified period, or until further notice, as may be stated by the Minister when granting the exemption.
- (3) A reserve trust shall, at the request of the Minister:
  - (a) give the Minister such information as the Minister requires in relation to the operations of the trust, and
  - (b) forward to the Minister specified records (including accounting records), or copies of or extracts from specified records, kept by the trust.

**122A Financial year of reserve trust**

The financial year of a reserve trust is the year commencing on 1 July unless otherwise specified by the Minister.

**123 Inspection etc of reserve trust**

- (1) The Minister may appoint a person to inquire into, or carry out an audit of, any of the affairs of a reserve trust.
- (2) The person appointed may, for the purposes of the inquiry or audit:
  - (a) inspect and take copies of or extracts from any records (including accounting records) of the trust, or
  - (b) require any person concerned in the management of the trust to give information and answer questions relating to the affairs of the trust.
- (3) The power of the appointed person to inspect the records of a reserve trust includes the power to inspect any records of a lessee or licensee which the trust has power to inspect under the lease or licence.
- (4) A person shall not:
  - (a) refuse or fail without lawful excuse to allow the appointed person access to records to which the person is entitled,
  - (b) refuse or fail without lawful excuse to give information or answer questions, as required by the appointed person, or
  - (c) wilfully obstruct or delay the appointed person in the exercise of a function under this section.

Maximum penalty—subsection (4): 5 penalty units.

**124 Removal of persons**

- (1) A member of the trust board for a reserve trust, an administrator of the affairs of a reserve trust or a ranger or other officer appointed by a reserve trust, may remove a person from the reserve or a public place (within the meaning of the *Summary Offences Act 1988*) if:
  - (a) the person is found contravening a by-law applicable to the reserve, or
  - (b) the person, by disorderly conduct in the reserve or public place, causes annoyance or inconvenience to persons in the reserve or going to or coming from the reserve.
- (2) For the purpose of removing a person from a reserve, whether under this section or under a by-law, the assistance of a member of the Police Force may be called in.

**125 Transitional provisions—additions to reserves**

- (1) If the whole of a reserve is added to another reserve under this Part, the transitional provisions of this section operate from the time the reserve is added.
- (2) For the purposes of this section:
  - (a) the reserve trust for the added reserve is called the former trustee,
  - (b) the reserve trust for the other reserve is called the new trustee, and
  - (c) the transitional provisions affect the former trustee only in relation to matters and things connected with the added reserve.
- (3) The transitional provisions are as follows:
  - (a) all the property of the former trustee becomes the property of the new trustee, including land purchased by the former trustee,

- (b) all money and liquidated and unliquidated claims payable to or recoverable by the former trustee are payable to or recoverable by the new trustee,
  - (c) all proceedings pending at the suit of or against the former trustee become proceedings pending at the suit of or against the new trustee,
  - (d) the new trustee may pursue the same remedies for the recovery of any such money and claims and for the prosecution of any such proceedings as the former trustee might have done,
  - (e) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the former trustee have effect as contracts, agreements, arrangements and undertakings entered into with, and securities given to or by, the new trustee,
  - (f) the new trustee may enforce and realise any security or charge in favour of the former trustee and may exercise any functions conferred on the former trustee as if the security or charge were in favour of the new trustee,
  - (g) all debts, moneys and claims, liquidated and unliquidated, that were due and payable by or recoverable against the former trustee are payable by and recoverable against the new trustee,
  - (h) all liquidated and unliquidated claims for which the former trustee would have been liable are liquidated and unliquidated claims for which the new trustee is liable,
  - (i) all other acts, matters and things done or omitted by, or done or suffered in relation to, the former trustee have the same force and effect as they would have if they had been done or omitted by, or done or suffered in relation to, the new trustee,
  - (j) an attornment to the new trustee by a lessee from the former trustee is not required.
- (4) If part only of a reserve is added, the former trustee and the new trustee shall, as soon as practicable after notification of the addition, arrange and agree on a division of the assets, debts and liabilities of the former trustee so that those appropriate to the added part and the remaining part may be determined.
- (5) If agreement is not reached, the matter may be determined by the Minister.

#### **126 Provisions applicable to certain showgrounds etc**

- (1) This section applies to land, or land of a class, which the Minister has, by order published in the Gazette, declared to be land to which this section applies.
- (2) The only land which can be the subject of such an order is land:
  - (a) which has been reserved, dedicated or held for a showground or set apart, dedicated, reserved or held for any public purpose under any Act,
  - (b) of which there are trustees, whether or not appointed under an Act, and
  - (c) which is not, or is not part of, a reserve.
- (3) Division 5 (except as provided by subsection (4) and sections 109 and 110) applies to and in respect of land to which this section applies, and to the trustees of the land, as if the land were a reserve but does so without affecting any other power of the trustees to sell, lease or mortgage the land or grant a licence in respect of the land.
- (4) If the Minister's order (or another order of the Minister published in the Gazette) so provides, Division 5 does not apply to the land and the trustees of the land to the extent specified in the order.

## **127 Provisions applicable to other reserved etc land**

- (1) If the Minister so declares by order published in the Gazette and for the time being in force, this Part (or this Part with stated modifications) applies to land described in the order which:
  - (a) has been set apart, reserved, dedicated or held for a public park or for any other public purpose, and
  - (b) is not, or is not part of, a reserve,  
as if the land so described were a reserve.
- (2) Subsection (1) has effect despite the provisions of any other Act, or a notice or other document, that provides for the appointment of trustees.

## **128 By-laws**

- (1) The Governor may make by-laws for or with respect to:
  - (a) the care, control and management of a reserve,
  - (b) the regulation of the use and enjoyment of a reserve,
  - (c) the regulation of meetings of a trust board and the conduct of business at those meetings,
  - (d) the custody and use of the seal of a reserve trust,
  - (e) the securing of decency and order on a reserve,
  - (f) the removal of trespassers and other persons causing annoyance or inconvenience on a reserve,
  - (g) the regulation or prevention of the taking of intoxicants on to, and their consumption on, a reserve,
  - (h) the regulation and control of the taking of animals on to a reserve or the permitting or suffering of animals to be on a reserve,
  - (i) the regulation, control or prohibition of parking, camping or residing on a reserve, the making of charges for parking, camping or residing on a reserve, and the collecting and receiving of those charges,
  - (j) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage or other vegetative cover on a reserve,
  - (k) the protection or removal of all dead timber, logs and stumps on a reserve, whether standing or fallen,
  - (l) the preservation, protection or removal of any rocks, soil, sand, stone or other similar substances on or under or comprising part of a reserve,
  - (m) the preservation or protection of any animals, birds and other fauna on a reserve, whether native or introduced,
  - (n) the payment of charges or entrance fees by persons, clubs or associations using or entering a reserve or improvements on a reserve, or any specified part or parts of the reserve or improvements, and the collecting and receiving of those charges and fees,
  - (o) the reservation of any portion of a reserve for such separate or exclusive uses as the by-laws may prescribe,
  - (p) the closing of a reserve or any part of a reserve and the conditions to be observed with regard to that closure,
  - (p1) the granting, transfer and revocation of exclusive rights of burial in relation to a reserve that is dedicated or used for the purposes of a public cemetery,



- (p2) the measures to be taken by way of compensation to former holders of exclusive rights of burial in the event that those rights are revoked,
  - (p3) the accounts to be kept by reserve trusts,
  - (p4) the payments to be made from one reserve trust to another,
  - (q) the regulation, control or prohibition of private trading on a reserve,
  - (r) the appointment and removal of rangers in respect of a reserve and the defining of their functions,
  - (s) the prescription of all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (2) A by-law may create an offence punishable by a maximum penalty not exceeding 5 penalty units.
  - (3) A penalty recovered for a breach of a by-law shall be paid to the reserve trust of the reserve affected by the breach, for the purposes of the reserve trust.
  - (4) By-laws made for the purposes of subsection (1) (i) have effect despite section 100 or any other Act.
  - (5) By-laws may not be made with respect to a matter if power is conferred on a reserve trust, the Governor or the Minister to make rules, regulations, by-laws or ordinances with respect to that matter under any other Act.
  - (6) A reserve trust shall ensure that a copy of the by-laws applicable to the reserve is displayed in a conspicuous place in the reserve.
  - (7) In this section:
    - animals** and **fauna** do not include fish within the meaning of the *Fisheries Management Act 1994*.
    - reserve** includes land purchased or leased by the reserve trust but does not include a Crown cemetery within the meaning of the *Cemeteries and Crematoria Act 2013*.
    - reserve trust** does not include a Crown cemetery trust.

## Part 6 Forfeiture of holdings

### 129 Minister may forfeit holdings

- (1) The Minister may declare a holding to be forfeited if:
  - (a) the holder fails to comply with a provision of this or any other Act applying to, or a condition attaching to, the holding,
  - (b) the holder fails to make any payment due under this Act or the *Crown Lands (Continued Tenures) Act 1989*, the regulations or a condition attaching to the holding within 3 months of the due date,
  - (c) the holder gives up or parts with possession of the whole or any part of the holding except as authorised by or under this Act or the *Crown Lands (Continued Tenures) Act 1989*, the regulations or a condition attached to the holding, or
  - (d) the holding has otherwise become liable to forfeiture under this Act or the *Crown Lands (Continued Tenures) Act 1989*.
- (2) This section does not apply to a failure to pay money if the payment of the money is secured by a mortgage.
- (3) The acceptance of money by the Crown in respect of a forfeited holding does not operate as a waiver of the forfeiture.
- (4) In this section:  
**holding** includes a lease to the Commonwealth under Part 8 of Schedule 2 to the *Crown Lands (Continued Tenures) Act 1989*.

### 130 Notification of forfeiture

Forfeiture of a holding takes effect:

- (a) if the holding is under the *Real Property Act 1900*—on the Minister causing a notification of the forfeiture to be entered in the Register, or
- (b) if the holding is not under the *Real Property Act 1900*—on notification of the forfeiture in the Gazette.

### 131 Operation of forfeiture

- (1) On forfeiture of a holding the land in the holding vests in the Crown and all money paid to the Crown in respect of the holding is forfeited.
- (2) Forfeiture of a holding does not operate to release the holder from any obligation to comply with a condition or provision which, by its nature, is required to be complied with after the holding is forfeited.

### 132 Reversal of forfeiture

- (1) The Minister may, conditionally or unconditionally, reverse a forfeiture of a holding.
- (2) Reversal of the forfeiture of a holding shall be effected:
  - (a) if the holding is under the *Real Property Act 1900*—on the Minister causing a notification of the reversal to be entered in the Register, or
  - (b) if the holding is not under the *Real Property Act 1900*—on notification of the reversal in the Gazette.
- (3) On reversal of a forfeiture, the forfeiture shall be deemed never to have taken effect.

### 133 (Repealed)

## Part 7 Miscellaneous

### Division 1 Acquisition etc of land

#### 134 Power of Minister to accept gifts of land

- (1) The Minister may acquire any land by gift or devise and may agree to the conditions of the gift or devise.
- (2) The rule of law against remoteness of vesting does not apply to any condition to which the Minister has agreed.
- (3) Subject to subsection (5), land acquired under this section or, where the land is or is to be divided into separate parts, each part of the land shall:
  - (a) be dedicated under section 80 or reserved under section 87, and
  - (b) be subject to the provisions of this Act:
    - (i) applicable to land dedicated under section 80 or reserved under section 87, as the case may be, or
    - (ii) if the dedication or reservation of the land is revoked under this Act—applicable to land formerly dedicated under section 80 or formerly reserved under section 87, as the case may be.
- (4) For the purposes of subsection (3) (a), land, or a part of land, acquired under this section is Crown land.
- (5) Land acquired under this section may not be dealt with in breach of a condition to which the Minister has agreed.
- (6) If a condition to which the Minister has agreed so provides:
  - (a) any part or parts of land acquired under this section may be used by any person in accordance with that condition to the exclusion or partial exclusion of the public, and
  - (b) the rights and powers of the Minister or of any other person under this Act may not be exercised in respect of land acquired under this section or may not be exercised in respect of the land to the extent specified in the condition.
- (7) Despite anything in this or any other Act or any rule of law:
  - (a) the Minister may transfer land acquired under this section, or grant a lease, permit, licence or easement of or in respect of the land, in accordance with a condition to which the Minister has agreed, and
  - (b) the land may be transferred, or the lease, permit, licence or easement may be granted, without consideration, if the condition so provides, or for such consideration as is provided for in the condition.
- (8) If a condition of a gift or devise of land to which the Minister has agreed so provides, the Minister may pay the cost or part of the cost of the transfer of the land to the Minister and of any subsequent dealing with the land.
- (9) A condition of a gift or devise of land has no effect for the purposes of this section unless it is expressed in writing in the agreement under which, or the instrument by which, the land is given or devised.

#### 135 Acquisition of land for public purpose

- (1) The Minister may acquire land (including an interest in land), for any public purpose, by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

- (2) For the purposes of the *Public Works Act 1912*, any such acquisition of land is taken to be for an authorised work and the Minister is, in relation to that authorised work, taken to be the Constructing Authority.
- (3) Sections 34, 35, 36 and 37 of the *Public Works Act 1912* do not apply in respect of works constructed under this Act.

### 136 Withdrawal from lease or licence for public purposes

- (1) The Minister may, by notification in the Gazette, withdraw from any lease or licence under this Act or the *Crown Lands (Continued Tenures) Act 1989* any land required for a public purpose.
- (2) A withdrawal does not operate to extinguish any debt to the Crown relating to the land withdrawn, except to the extent to which the Minister directs.
- (3) The Minister may, by notification in the Gazette, revoke or modify any withdrawal.
- (4) Subject to the conditions attaching to, or the provisions applying to, a lease or licence, compensation is payable for land withdrawn under this section.
- (5) The provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* relating to the payment of compensation for land acquired by compulsory process apply, with such modifications as may be prescribed, to the payment of compensation under this section.
- (6) On the withdrawal of land from a lease or licence, the Minister may:
  - (a) if the rent payable in respect of the lease or licence is subject to periodic redetermination—redetermine the rent and adjust (in proportion to the land withdrawn) any other money payable in respect of the lease or licence, or
  - (b) if the rent is not subject to periodic redetermination—proportionately adjust:
    - (i) the rent and any other money payable in respect of the lease or licence, and
    - (ii) if the withdrawal is from a lease—any rent base for the lease.
- (7) If part of a rent base apportioned under subsection (6) to a lease is less than the minimum rent base, that part of the rent base is increased to the minimum rent base.
- (8) For the purposes of the *Crown Lands (Continued Tenures) Act 1989*, a part of a rent base apportioned under subsection (6) to a lease (or, if subsection (7) applies, the minimum rent base) is taken:
  - (a) if section 4D of that Act applies in respect of the lease, to be the annual rent of the lease as at the last due date occurring before 1 July 2004, and
  - (b) if clause 5 of Schedule 5 to that Act applies in respect of the lease, to be the annual rent of the lease as at the date of commencement of that clause.
- (9) The provisions of Division 3 relating to:
  - (a) the redetermination of the rent of leases, and
  - (b) objections and appeals against redeterminations of rent,apply to the redetermination of the rent of a lease under this section as if the conditions of the lease provided for the redetermination.
- (10) In this section:  
**minimum rent base** means, if Division 2A of Part 7 applies to the lease \$350 or, if that Division does not apply in respect of the lease, \$100.

### 137 Surrender of land

- (1) The holder of any land or of any lease from the Crown under this Act or the *Crown Lands (Continued Tenures) Act 1989* may, with the consent of the Minister, surrender the whole or a part of the land or lease to the Crown.
- (2) A surrender does not operate to extinguish any debt to the Crown relating to the land or lease surrendered, except to the extent to which the Minister directs.
- (3) On surrender, the land or the land leased (to the extent to which it is not Crown land) becomes Crown land.
- (4) With the agreement of the lessee, the Minister may adjust the rent of a lease on surrender of part of the land leased.

### 138 Certain land may be declared to be Crown land

- (1) If any land was or is, before or after the commencement of this section:
  - (a) acquired by compulsory process for any public purpose and vested in a Minister of the Crown on behalf of the Crown by or under the authority of an Act,
  - (b) acquired by or on behalf of the Crown by gift or otherwise, or
  - (c) acquired by compulsory process and vested in a public authority, or otherwise acquired by or vested in a public authority, by or under the authority of an Act,the Minister may, by notification in the Gazette, declare the land to be Crown land.
- (2) The declaration may be limited to the surface of the land or to the surface and to such depth below the surface as is stated in the notification.
- (3) A declaration may not be made in respect of land vested in or acquired by or on behalf of a public authority without the consent of the public authority.
- (4) A declaration:
  - (a) may contain provisions relating to the discontinuation or continuation of any interests affecting the land, and
  - (b) has effect according to its tenor.
- (5) In this section:  
**public authority** means:
  - (a) the Water Administration Ministerial Corporation,
  - (b) a council as defined in the *Local Government Act 1993*,
  - (c) Local Land Services,
  - (d) a reserve trust established under Part 5, or
  - (e) a public body declared by the Minister, by order published in the Gazette, to be a public authority for the purposes of this section.

## Division 1A Transfer or vesting of certain land to or in Crown

### 138A Definitions

In this Division:

**institution** has the same meaning as in the *Trustees of Schools of Arts Enabling Act 1902*.

**private trust land** means any land (other than public trust land) reserved, dedicated or granted under any Act or instrument, or otherwise held, for the purposes of an institution.

**public trust land** means any land reserved, dedicated or granted under any Act or instrument, or otherwise held, for the purposes of an institution and which:

- (a) is Crown land (or land otherwise vested in the Crown), or
- (b) was Crown land (or land otherwise vested in the Crown) before being reserved, dedicated, granted or held for the purposes of an institution.

**trustees** of private trust land or public trust land means the majority of the trustees for the time being of that land.

**138B Transfer of private trust land to Crown by agreement with trustees**

- (1) The Minister and the trustees of private trust land may enter into an agreement for the land to be transferred to the Crown.
- (2) Any such agreement may specify a purpose for which the land is to be used after it is transferred to the Crown.
- (3) The trustees may enter into any such agreement to transfer private trust land, and the agreement has effect, despite the terms and provisions of any Act, deed, reservation, dedication, grant or other instrument relating to the land.
- (4) The Minister is to comply as far as practicable with the agreement.

**138C Vesting of public trust land in Crown by agreement with trustees**

- (1) The Minister and the trustees of public trust land may enter into an agreement for the land to be vested in the Crown.
- (2) Any such agreement may specify a purpose for which the land is to be used after it is vested in the Crown.
- (3) The trustees may enter into any such agreement for the vesting of public trust land in the Crown, and the agreement has effect, despite the terms and provisions of any Act, deed, reservation, dedication, grant or other instrument relating to the land.
- (4) The Minister is to comply as far as practicable with the agreement.
- (5) If an agreement is entered into under this section, the Minister may, by notification in the Gazette, vest the land in the Crown.
- (6) If the notification specifies a public purpose for which the land is to be reserved (being a public purpose for the purposes of section 87), the land is, on publication of the notification, taken to be reserved under Part 5 for that purpose.

**138D Revocation of reservation or dedication of public trust land**

- (1) The Minister may, by notification in the Gazette:
  - (a) revoke the reservation or dedication of any public trust land, and
  - (b) vest the land in the Crown.
- (2) If the notification specifies a public purpose for which the land is to be reserved (being a public purpose for the purposes of section 87), the land is, on publication of the notification, taken to be reserved under Part 5 for that purpose.

**138E Consultation in relation to transfer or vesting of land**

- (1) The Minister may, before any private trust land is transferred to, or any public trust land is vested in, the Crown under this Division:
  - (a) cause an advertisement of the proposed transfer or vesting to be published in a newspaper circulating in the area in which the land is situated, and

- (b) cause a notice of the proposed transfer or vesting to be placed in or on the land, and
  - (c) refer the matter to the Secretary for a report.
- (2) Any such advertisement or notice may invite submissions on the proposed transfer or vesting to be made to the Minister within such time as is specified in the advertisement or notice.
- (3) The Minister is to take into account any submissions received on the proposed transfer or vesting, and any report of the Secretary on the matter, before deciding to proceed with the proposed transfer or vesting.

#### **138F Effect of transfer or vesting of land**

- (1) Any land that is transferred to, or vested in, the Crown under this Division:
  - (a) becomes Crown land, and
  - (b) is freed and discharged from any trusts, estates, interests, reservations, dedications, conditions, restrictions and provisions affecting the land.
- (2) Subsection (1) (b) is subject to sections 138B (4) and 138C (4).
- (3) Any land that is vested in the Crown under this Division is vested without the need for any further conveyance, transfer, assignment, assurance or declaration.
- (4) If any land that is transferred to, or vested in, the Crown under this Division is reserved for a public purpose, the reservation does not operate to reserve the land for the purposes of an institution under the *Trustees of Schools of Arts Enabling Act 1902*.
- (5) On the transfer or vesting of any private trust land or public trust land to or in the Crown under this Division, the following provisions have effect:
  - (a) any assets, rights or liabilities in relation to the land, or in relation to the trustees of the land in their capacity as trustees, become the assets, rights or liabilities of the Crown,
  - (b) all proceedings relating to those assets, rights and liabilities that were commenced by or against the trustees before the transfer or vesting are taken to be proceedings pending by or against the Crown,
  - (c) any act, matter or thing done or omitted to be done in relation to those assets, rights and liabilities by, to or in respect of the trustees before the transfer or vesting is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted to be done by, to or in respect of the Crown.
- (6) In this section:
  - assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.
  - liabilities** means any liabilities, debts or obligations (whether present or future and whether vested or contingent).
  - rights** means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

#### **138G Provisions relating to assessment of transferred or vested land**

- (1) Any private trust land or public trust land may be assessed under Part 3 before the land is transferred to, or vested in, the Crown under this Division even though the land is not Crown land at the time when the assessment is carried out.

- (2) An assessment under Part 3 is not required in relation to the reservation of any land transferred to or vested in the Crown under this Division if the Minister is satisfied that the public purpose (if any) for which the land is to be reserved is the same, or substantially the same, as the purpose for which the land was reserved, dedicated, granted or held, or otherwise used, before being transferred or vested under this Division.

## **Division 2      Alteration of conditions etc**

### **139    Alteration of conditions or purposes and suspension etc of conditions**

- (1) On application by, or with the consent of, the holder, the Minister may direct that:
- (a) the conditions attaching to a holding or land, or
  - (b) the purpose of a holding,
- be conditionally or unconditionally altered, modified, added to or revoked.
- (2) On application by the holder, the Minister may exempt (either permanently or temporarily and to such extent as may be specified) the holder from complying with a condition attaching to a holding or land.
- (3) An exemption may be conditional or unconditional.
- (4) If any such exemption, alteration, modification, addition or revocation is made, the Minister may redetermine the rent in respect of a holding for the remainder of the current rent redetermination period applicable to the holding.

### **140    Removal of conditions etc**

- (1) The Minister may direct that any covenant, condition, reservation or provision attaching or applying to a holding or land shall cease to attach or apply to the holding or land.
- (2) This section is subject to clauses 9 (2) and 10 (2) of Schedule 7A to the *Crown Lands (Continued Tenures) Act 1989*.

### **141    Recording of directions**

The Registrar-General shall make such recordings in the Register as are necessary to give effect to a direction under this Division of which the Registrar-General is notified.

## **Division 2A    Minimum rents**

### **141A    Minimum rent**

- (1) The annual rent of a holding or an enclosure permit is not in any case to be less than the minimum rent as at the date the rent is due and payable.
- (2) If the annual rent of a holding or an enclosure permit on a due date is less than the minimum rent as at that due date, the annual rent is increased to the minimum rent.
- (3) For the purpose of this Division, the **minimum rent** of a holding or an enclosure permit at each due date is determined in accordance with the following formula:

$$M = B \times \frac{C}{D}$$

where:

**M** represents the minimum rent.

**B** represents the minimum rent base.



*C* represents the Consumer Price Index number for the last quarter for which such a number was published before the due date for the rent.

*D* represents the Consumer Price Index number for the last quarter for which such a number was published before the rent base adjustment date.

- (4) In this section:

**holding** does not include an incomplete purchase under the *Crown Lands (Continued Tenures) Act 1989*.

**minimum rent base** means \$350 or such higher amount as the regulations may from time to time prescribe.

**rent base adjustment date** means 1 July 2004 or, if the minimum rent base is prescribed by the regulations, the date prescribed by the regulations as the rent base adjustment date.

**Note.** For holdings and permits in force before 1 July 2004, the minimum rent provisions above are phased-in. See Part 4 of Schedule 8.

**141B (Repealed)**

**141C Operation of Division**

- (1) The operation of this Division in respect of the rent of a holding or enclosure permit is not a redetermination of the rent for the purposes of this Act or any of the Crown Lands Acts.
- (2) This Division has effect despite any condition to which a holding or enclosure permit is subject.

**141D Division does not apply in respect of Western Division**

- (1) Subject to this section, this Division does not apply in respect of the following:
  - (a) holdings situated in the Western Division,
  - (b) enclosure permits in the Western Division granted under this Act.
- (2) The regulations may apply the provisions of this Division, with or without modification, in respect of holdings or enclosure permits referred to in subsection (1).
- (3) If the regulations apply the provisions of this Division in respect of holdings or enclosure permits referred to in subsection (1), the regulations may modify the application of section 136 or Division 2B in respect of the holdings or enclosure permits.

**141E Commonwealth leases**

In this Division, a reference to a **holding** includes a reference to a Commonwealth lease.

**Division 2B Minimum rent—Western Division**

**141F Minimum rent—Western Division**

- (1) Subject to this section, this Division applies in respect of the following:
  - (a) holdings situated in the Western Division (except a lease the rent of which is not subject to redetermination),
  - (b) enclosure permits in the Western Division granted under this Act.
- (2) The annual rent of a holding or an enclosure permit to which this Division applies is not in any case to be less than the amount prescribed by the regulations for the purposes of this section as at the date the rent is due and payable.

- (3) If the annual rent of a holding or an enclosure permit to which this Division applies is, on a due date, less than the amount prescribed as referred to in subsection (2), the annual rent is increased to that prescribed amount.
- (4) The application of this Division is subject to any regulations under Division 2A.
- (5) In this section:  
**holding** does not include an incomplete purchase under the *Crown Lands (Continued Tenures) Act 1989*.  
**Note.** See clauses 4 and 5 of Schedule 5 to the *Crown Lands (Continued Tenures) Act 1989* in relation to minimum rents for leases of land situated in the Western Division, if the rent is not subject to redetermination.

#### **141G Operation of Division**

- (1) The operation of this Division in respect of the rent of a holding or an enclosure permit is not a redetermination of the rent for the purposes of this Act or any of the Crown Lands Acts.
- (2) This Division has effect despite any condition to which a holding or an enclosure permit is subject.

### **Division 3 Determination of rent**

#### **142 Objections and appeals against determinations or redeterminations of rent**

- (1) This Division applies to:
  - (a) a lease or licence the conditions of which provide for the redetermination of the rent by the Minister (unless those conditions provide that this section is not to apply to the lease or licence), and
  - (a1) a redetermination of rent under Division 3A, and
  - (b) a redetermination of the rent of a lease or licence under section 136 (6) (a), and
  - (c) a determination or redetermination of rent under section 61, 62, 63 or 72 (enclosure permits).
- (2) The Minister shall give notice of a determination or redetermination of the rent of a lease, licence or enclosure permit to the holder.
- (3) The notice must indicate that the holder may object to the determined or redetermined rent.
- (4) The Minister shall consider any objection lodged and by written notice inform the objector:
  - (a) whether the determined or redetermined rent is to stand or be varied, and
  - (b) of the name of the tribunal to which, under subsection (5), the objector may appeal if dissatisfied with the Minister's decision.
- (5) An appeal against the Minister's decision lies:
  - (a) to the Civil and Administrative Tribunal if the determined or redetermined annual rent does not exceed \$10,000 or such greater amount as may be prescribed, or
  - (b) in any other case, to the Land and Environment Court.**Note.** An appeal to the Civil and Administrative Tribunal under this subsection is an external appeal to the Tribunal for the purposes of the *Civil and Administrative Tribunal Act 2013*.
- (6) On such an appeal, the Civil and Administrative Tribunal or the Court may affirm the Minister's determination or redetermination or substitute its own.

- (7) A redetermination of rent of a lease or licence takes effect in accordance with the conditions of the lease or licence even if an objection or an appeal has been lodged.
- (8) A determination or redetermination of rent by the Minister under section 61, 62, 63 or 72 (enclosure permits) takes effect from the date of the determination even if an objection or an appeal has been lodged.
- (8A) A redetermination of rent under Division 3A takes effect from the date of the redetermination even if an objection or appeal has been lodged.
- (9) On completion of the objection and appeal process, any necessary adjustments may be made.

#### **143 Determination or redetermination of rent—principles**

- (1) In redetermining the rent of a lease or licence (the conditions of which provide for the redetermination of the rent) or determining or redetermining rent for the purposes of section 61, 62, 63 or 72 (enclosure permits), the Minister, the Civil and Administrative Tribunal and the Land and Environment Court shall apply the following principles:
  - (a) the rent shall be the market rent for the land comprised in the lease, licence or enclosure permit having regard to any restrictions, conditions or terms to which it is subject,
  - (b) any improvements on the land which were made by the holder, or are owned or in the course of being purchased from the Crown by the holder, shall be disregarded,
  - (c) regard may be had to any additional value which, because of the lease, licence or enclosure permit, has accrued, or may reasonably be expected to accrue, to other land held by the holder,
  - (d) regard may be had to the duration of the time for which the rent determined will be payable.
- (2) Despite subsection (1), if the Independent Pricing and Regulatory Tribunal makes a recommendation in relation to the rent of any such lease, licence or enclosure permit (or class of any such lease, licence or enclosure permit), the Minister may:
  - (a) in redetermining the rent of any lease or licence that is the subject of the recommendation, or
  - (b) in determining or redetermining the rent of any enclosure permit that is the subject of the recommendation,apply the recommendation.
- (3) If the recommendation of the Independent Pricing and Regulatory Tribunal is applied by the Minister in determining or redetermining the rent concerned, the Civil and Administrative Tribunal and the Land and Environment Court are, despite subsection (1), to apply the recommendation in determining any appeal against the Minister's decision.
- (4) This section also applies in relation to the redetermination under Division 3A of the rent of a licence or enclosure permit.

### **Division 3A Redetermination and adjustment of rents for licences and enclosure permits**

#### **143A Application of Division**

- (1) This Division applies to any licence under this Act, or enclosure permit within the meaning of Division 6 of Part 4, that is subject to the payment of any rent.

- (2) The rent of any such licence or enclosure permit is subject to redetermination by the Minister in accordance with this Division despite:
  - (a) any term or condition to which the licence or permit is subject, or
  - (b) any other provision of this Act.

**143B Minister may redetermine rents for licences and enclosure permits**

- (1) The Minister may, as provided by this section, redetermine the rent payable in respect of a licence or enclosure permit to which this Division applies.
- (2) A redetermination of the rent of a licence or enclosure permit is to be made in respect of each rent review date.
- (3) The rent review dates for a licence or enclosure permit are as follows:
  - (a) if the effective date of the last redetermination of the rent of the licence or enclosure permit was not more than 3 years before the commencement of this section:
    - (i) the first rent review date is the first due date in respect of the rent occurring on or after the commencement of this section that is not less than 3 years after the effective date of that redetermination (or such later due date as may be determined by the Minister), and
    - (ii) thereafter, rent review dates fall on the third anniversary of the previous rent review date,
  - (b) if paragraph (a) does not apply or if there has been no redetermination of the rent of the licence or enclosure permit:
    - (i) in the case of a licence or enclosure permit in force before the commencement of this section:
      - (A) the first rent review date is the first due date in respect of the rent occurring on or after the commencement of this section (or such later due date as may be determined by the Minister), and
      - (B) thereafter, rent review dates fall on the third anniversary of the previous rent review date, or
    - (ii) in the case of a licence or enclosure permit that commences on or after the commencement of this section:
      - (A) the first rent review date is the first due date in respect of the rent occurring not less than 3 years after the commencement of the licence or enclosure permit (or such other due date as may be determined by the Minister), and
      - (B) thereafter, rent review dates fall on the third anniversary of the previous rent review date.
- (4) A redetermination of rent in respect of the first rent review date for a licence or enclosure permit under this section:
  - (a) may be made at any time before the first rent review date or within 6 months after the first rent review date, and, if so made, takes effect on the first rent review date, and
  - (b) may be made more than 6 months after the first rent review date but, if so made, takes effect from the date of the redetermination.
- (5) A redetermination of rent in respect of any other rent review date for a licence or enclosure permit under this section:
  - (a) may be made within 6 months before or after a rent review date and, if so made, takes effect on the rent review date, and

- (b) may be made more than 6 months after a rent review date but, if so made, takes effect from the date of the redetermination.
- (6) Despite subsections (2) and (3), the Minister may redetermine the rent of a licence or enclosure permit to which this Division applies on an annual basis, or at such other intervals as the Minister determines, starting from such date as the Minister thinks fit.

#### 143C Adjustment of rent in line with Consumer Price Index

- (1) In this section:
  - existing licence or permit* means a licence or enclosure permit in force immediately before the commencement of this section.
  - mid-term redetermination* of rent is a redetermination of rent that takes effect on any date other than the due date for the rent.
  - minimum rent* has the same meaning as in Division 2A.
  - new licence or permit* means a licence or enclosure permit that commences after the commencement of this section.
- (2) The rent of a licence or enclosure permit at a due date that is the effective date of a redetermination of the rent of the licence or permit, or that is the next due date after a mid-term redetermination of the rent of the licence or permit, is:
  - (a) the rent as so redetermined, or
  - (b) if the minimum rent at that due date exceeds the rent as so redetermined—the minimum rent.
- (3) The rent of a licence or enclosure permit at any other due date is:
  - (a) the CPI adjusted rent at that due date or, if the Minister so determines, the rent as redetermined under subsection (2), or
  - (b) if the minimum rent at that due date exceeds the CPI adjusted rent, the minimum rent.
- (4) The *CPI adjusted rent* is to be determined in accordance with the following formula:

$$R = A \times \frac{C}{D}$$

where:

**R** represents the CPI adjusted rent.

**A** represents the determined rent, being:

- (a) in the case of an existing licence or permit—the rent as at the last due date before the commencement of this section, or as at the effective date of the last redetermination of rent to take effect on or before the due date, whichever is later, or
- (b) in the case of a new licence or permit—the rent set as at the commencement of the licence or permit, or as at the effective date of the last redetermination of rent to take effect on or before the due date, whichever is later.

**C** represents the Consumer Price Index number for the last quarter for which such a number was published before the due date for the rent.

**D** represents the Consumer Price Index number for the last quarter for which such a number:

- (a) in the case of an existing licence or permit—was published before the last due date before the commencement of this section, or as at the effective date of the last redetermination of rent to take effect on or before the due date, whichever is later, or

- (b) in the case of a new licence or permit—was published before the commencement of the licence or permit, or as at the effective date of the last redetermination of rent to take effect on or before the due date, whichever is later.
- (5) Despite subsections (2) and (3), if a mid-term redetermination of rent is made, the rent as so redetermined may be charged, on a pro rata basis, in respect of the period commencing on the date the redetermination takes effect and ending on the next due date in respect of the rent, and the rent payable may be adjusted by the Minister as appropriate (even if the rent in respect of that period has already been paid in advance).
- (6) The operation of this section in respect of the rent of a licence or enclosure permit is not a redetermination of the rent for the purposes of this Act.

**143D Division does not apply in respect of Western Division**

- (1) Subject to this section, this Division does not apply in respect of licences or enclosure permits situated in the Western Division.
- (2) The regulations may apply the provisions of this Division, with or without modification, in respect of licences or enclosure permits situated in the Western Division.
- (3) If the regulations apply the provisions of this Division in respect of licences or enclosure permits situated in the Western Division, the regulations may modify the application of any other provision of this Act in respect of those licences or enclosure permits.

## **Division 4 Payments**

**144 Liability of incoming holder to pay arrears**

- (1) For the purposes of this section:
  - (a) **holding** means a holding of a prescribed class or an enclosure permit, and
  - (b) an amount due for payment in respect of a holding includes any amount that would, but for a deferment, postponement or funding granted or directed under the Crown Lands Acts, be due for payment in respect of the holding.
- (2) A person who is the holder of a holding is liable to pay in respect of the holding any amount that, when the person became the holder, was due and unpaid under:
  - (a) the Crown Lands Acts,
  - (b) the regulations under those Acts, or
  - (c) a condition attached to the holding.
- (3) If a person who is a holder pays, in respect of a holding, any amount (other than an amount that is attributable to rent or to interest charged under section 148) that before the person became the holder of the holding, was due and unpaid under:
  - (a) the Crown Lands Acts,
  - (b) the regulations under those Acts, or
  - (c) a condition attached to the holding,the person may recover the amount as a debt owed by the person who was the holder of the holding when the amount became due.
- (4) If a person who is a holder pays, in respect of a holding, any amount:
  - (a) that is attributable to rent or to interest charged under section 148, and

- (b) that, before the person became the holder of the holding, was due and unpaid under the Crown Lands Acts, the regulations under those Acts or a condition attached to the holding,

the person may recover an amount calculated under subsection (5) as a debt owed by the person who was the holder of the holding during the period in respect of which the amount paid was due.
- (5) The amount recoverable from a person under subsection (4) is the remainder after deducting from the amount paid any part of it that, calculated on a daily basis, would be attributable to a period when the person was not the holder.
- (6) For the purposes of, but without limiting, subsections (3), (4) and (5), a person:
  - (a) is a holder during a period determined under subsection (7), and
  - (b) is not a holder during a period determined under subsection (8).
- (7) The period determined under this subsection:
  - (a) begins when the person acquires a right to be registered or recorded as the holder of an estate or interest in the holding, and
  - (b) ends when the person is registered or recorded as the holder of the estate or interest.
- (8) The period determined under this subsection:
  - (a) begins when another person acquires a right to be registered or recorded as the holder of an estate or interest in the holding, and
  - (b) ends when the other person is registered or recorded as the holder of the estate or interest.
- (9) Nothing in this section affects any agreement or any rule of law or equity with respect to the ultimate liability for payment of any amount due in respect of a holding.

#### **145 Certificate as to amount due**

- (1) The Minister or a prescribed authority or person may, in respect of any holding, issue a certificate as to the amounts payable to the Crown under the Crown Lands Acts, the regulations under those Acts or any condition attached to the holding.
- (2) A certificate under this section is admissible in any legal proceedings as evidence of the matters certified.
- (3) In this section:  
*holding* includes:
  - (a) an enclosure permit, and
  - (b) a lease to the Commonwealth under Part 8 of Schedule 2 to the *Crown Lands (Continued Tenures) Act 1989*, and
  - (c) any tenure, lease, licence or permit granted under the Crown Lands Acts which ceased to exist before the commencement of this Act.

#### **146 (Repealed)**

#### **147 Recovery of money**

- (1) Subject to subsection (3), money payable under the Crown Lands Acts is a debt due to the Crown and is recoverable by the Minister as such a debt.
- (2) A certificate of the Minister that a stated amount of money is payable under the Crown Lands Acts by a named person is, in any proceedings instituted against the person for the recovery of that money, evidence of the matters stated.

- (3) Money payable to a reserve trust under this Act or the by-laws may be recovered by the trust as a debt.

**148 Interest on arrears**

- (1) Interest accrues day by day on any amount payable to the Crown under the Crown Lands Acts and unpaid 28 days (or such other period as may be prescribed by the regulations) after the due date.
- (2) The interest shall be calculated as from the due date at the rate applying under an Act repealed by this Act or at the rate prescribed for the purpose of this subsection (whichever is applicable) during the period in which the amount was outstanding.
- (3) This section does not apply to an amount that has become payable to the Crown in respect of an incomplete purchase because the purchase has been transferred.

**149 Forfeiture etc not to extinguish debts**

The forfeiture, termination or expiration of a holding or the cancellation or variation of an enclosure permit does not operate to extinguish any debt to the Crown in respect of the holding or permit unless the Minister otherwise approves.

**150 Postponement, waiver etc of payments**

- (1) If the Minister so directs:
  - (a) payment of the whole or part of any amount payable to the Crown under the Crown Lands Acts is postponed or is waived,
  - (b) the whole or part of any debt to the Crown under the Crown Lands Acts is extinguished,
  - (c) the whole or part of any amount paid to the Crown under the Crown Lands Acts shall be refunded,
  - (d) the instalments payable to the Crown in respect of a purchase of land or in respect of any other debt payable to the Crown are varied or interest only may be paid instead of instalments,
  - (e) any interest is, or any fees, deposits, costs or other amounts payable to the Crown under the Crown Lands Acts are, varied, or
  - (f) the whole or part of any amount payable to the Crown under the Crown Lands Acts shall be funded and made payable as a separate debt.
- (2) A direction in respect of an amount may be unconditional or may be subject to conditions, including conditions:
  - (a) requiring payment of interest on the amount at a rate not exceeding the prescribed rate, or
  - (b) requiring payment of the amount in some other manner than that required under the Crown Lands Acts.
- (3) The Minister may amend or revoke a direction.

**151 Rebates of rent**

The Minister may, on such conditions as the Minister thinks fit, grant a rebate of rent in respect of a prescribed class of holder or in respect of a holding which is used for a prescribed purpose.

**152 Alteration of due dates for payments**

- (1) The Minister may, if satisfied that it is expedient for administrative purposes to do so, direct that any amounts payable at recurring times under the Crown Lands Acts



be payable at such altered times (recurring at the same intervals) as are specified in the direction.

- (2) A direction may be given in respect of amounts whether or not they have become payable.
- (3) If it is necessary to pay a proportionate part of an amount because a time of payment has been altered, it is payable at a time directed by the Minister.
- (4) Notice of a direction shall be given to the holder for the time being of the holding or enclosure permit in respect of which the amount is payable.
- (5) A direction:
  - (a) may be given in respect of all holdings or enclosure permits, any class of holding or enclosure permit or a particular holding or enclosure permit,
  - (b) on notice being given as required, has effect according to its tenor,
  - (c) may be given from time to time, and
  - (d) may be amended or revoked by the Minister.

## **Division 5      Protection of public land**

### **153    Definitions**

In a provision of this Division:

***authorised person*** means:

- (a) a member of the Police Force,
- (b) a person holding an office, position or rank prescribed for the purposes of this definition, or
- (c) a person authorised by the Minister for the purposes of the provision.

***erection***, in relation to a structure, includes any work carried out in creating the structure.

***interfere***, in relation to a substance on public land, includes removing, cutting, digging up, disturbing, displacing, stacking and heaping the substance.

***public land*** means Crown land or land within a reserve as defined in Part 5 or any other land granted, dedicated or reserved for a public purpose.

***structure*** includes:

- (a) any building,
- (b) any post, pile, stake, pipe, chain, wire or any other thing that is fixed to the soil or to anything fixed to the soil,
- (c) any roadwork, pathway or paving,
- (d) any works for the reclamation of land that are or are liable to be, or would, but for the reclamation, be or be liable to be, covered wholly or partly by water, and
- (e) any excavation works, drain, canal, sump or foundation, whether lined or unlined.

***substance***, in relation to public land, includes plants, trees, timber, turf, stone, clay, shells, earth, sand and gravel.

***vacant public land*** means public land which is not held under lease or licence from the Crown or from the trustees of the land.

#### **154 Operation of Division**

- (1) Nothing in this Division affects any other law applying to public land, but a person is not liable to be punished twice for an act or omission that constitutes an offence under both this Division and any other law.
- (2) Regulations or by-laws applying to public land may contain provisions having the effect of authorising any act or omission that would, but for the by-laws and this subsection, constitute an offence arising under this Division.
- (3) Nothing in this section authorises the making of regulations or by-laws that could not be made if this section were not in force.

#### **155 Offences on public land**

- (1) A person shall not, without lawful authority:
  - (a) reside on public land,
  - (b) erect a structure on public land,
  - (c) graze stock on public land,
  - (d) drive stock on public land,
  - (e) clear, dig up or cultivate public land,
  - (f) enclose public land (other than a road or watercourse to which section 63 applies),
  - (g) fail to pay any rent due and payable in respect of the enclosure of public land that is a road or watercourse,
  - (h) interfere with any substance, whether on or in, or forming part of, public land, or
  - (i) deposit or leave on public land:
    - (i) any rubbish, litter, refuse, dead animal, filth or other similar matter, or
    - (ii) any matter of a prescribed class or description, whether or not of a kind referred to in subparagraph (i),except in a place or receptacle provided for the purpose.

Maximum penalty: 20 penalty units.

- (2) A person shall not cause to be done anything that is prohibited by subsection (1) (b)–(f), (h) or (i).

Maximum penalty: 20 penalty units.

- (3) In proceedings for an offence under this section, the defendant has the onus of proving lawful authority in relation to the act or omission giving rise to the alleged offence.
- (4) It is a sufficient defence to a prosecution for an offence arising under subsection (1) (e) or (h) if the defendant establishes that the activity with which he or she is charged was carried out in the course of fossicking, as referred to in section 12 (1) of the *Mining Act 1992*.

#### **156 Unauthorised use of structures or land**

- (1) The Minister:
  - (a) may cause a notice to be served on a person prohibiting the person, without lawful authority, from making use of any structure erected on public land or from carrying on any prescribed activity on public land, or

- (b) may cause a notice to be displayed in a conspicuous place on or near public land prohibiting persons generally, without lawful authority, from making use of any structure or carrying on any prescribed activity on the land.
- (2) A person on whom a notice is served shall not, without lawful authority, make use of the structure or carry on the activity to which the notice relates after the expiration of a period specified in the notice.  
Maximum penalty: 20 penalty units.
- (3) A person shall not, without lawful authority, make use of a structure or carry on a prescribed activity on public land if that use or activity is prohibited by a notice displayed in a conspicuous place on or near the land.  
Maximum penalty: 20 penalty units.
- (4) In proceedings for an offence under this section, the defendant has the onus of proving lawful authority in relation to the act or omission giving rise to the alleged offence.

#### **157 Compensation**

- (1) In addition to any penalty imposed for an offence arising under section 155 or 156, a person convicted of the offence is liable to pay such amount by way of compensation (including an amount in substitution for rent that might otherwise have been payable) as the court before which the person is convicted may order.
- (2) Any amount ordered to be paid shall be paid by the offender to the clerk of the court for payment to the Secretary.
- (3) An order under this section is taken to be a fine for the purposes of the *Fines Act 1996*.
- (4) An order made by a court under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in any proceedings for an offence referred to in subsection (1) operates for the purposes of that subsection as a conviction for the offence.

#### **158 Removal of unauthorised structures**

- (1) For the purposes of this section, a structure is on public land without lawful authority if it is:
  - (a) a structure the erection of which was not, at the time of its erection, authorised by or under the provisions of this or any other Act (other than Part 11 or 12A of the *Local Government Act 1919*, Part 1 of Chapter 7 of the *Local Government Act 1993* or the *Environmental Planning and Assessment Act 1979*), not being a structure referred to in paragraph (b), or
  - (b) a structure:
    - (i) the erection or use of which was authorised by or under the provisions of this or any other Act (other than Part 11 or 12A of the *Local Government Act 1919*, Part 1 of Chapter 7 of the *Local Government Act 1993* or the *Environmental Planning and Assessment Act 1979*),
    - (ii) that is or was required, by or under those provisions, to be removed at or within a specified time, and
    - (iii) that has not been so removed.
- (2) The Minister may cause any structure that is on public land without lawful authority to be removed, together with the contents of the structure.
- (3) The Minister may cause to be displayed or published a notice requiring any person:
  - (a) who claims to have authority to erect, maintain or use a structure erected on any public land, or any part of the structure, or

- (b) who claims any interest in the structure,  
to deliver to the Minister a statement in writing signed by the person stating by what authority the person erected or is entitled to maintain or use the structure or part or by what authority the person claims any interest in the structure.
- (4) The notice shall be:
  - (a) displayed on or adjacent to the structure, or
  - (b) published in a local newspaper or such other newspaper (if any) as the Minister may determine.
- (5) A person who, within 1 month after display or publication of the notice, fails to deliver the statement to the Minister has no claim against the Minister or any other person removing the structure or contents.
- (6) The Minister may cause anything removed under this section:
  - (a) to be destroyed, sold or stored,
  - (b) to be returned to a person considered by the Minister to be its owner, or
  - (c) if it is stored under paragraph (a) and not returned under paragraph (b)—to be destroyed or sold.
- (7) The Minister may, on condition that it be removed, sell anything that the Minister may cause to be removed under this section.
- (8) The Minister may recover as a debt due to the Crown the expenses incurred in the removal, destruction, sale or storage of the structure, part or contents:
  - (a) if the structure or part was erected without lawful authority—from the person who erected the structure or caused it to be erected,
  - (b) whether the structure or part was erected with or without lawful authority—from the person who has made use of the structure:
    - (i) if a notice was served on the person under section 156 (1) in respect of the structure—after the expiration of the period specified in the notice, or
    - (ii) if a notice was displayed or published under this section in respect of the structure and it is proved that the person knew, or ought reasonably to have known, of the notice—after the expiration of a period of 1 month after which it was displayed or published,
  - (c) if the structure is a structure referred to in subsection (1) (b)—from the person who was required, by or under the provisions referred to in subsection (1) (b), to remove the structure, or
  - (d) if the expenses are recoverable under paragraphs (a), (b) and (c) from more than one of those persons—from both or all of them jointly and each of them severally.

#### **159 Removal of trespassers from public land**

- (1) An authorised person may issue to a person, and file in the Local Court, an application notice:
  - (a) alleging that the person is in unlawful occupation of public land or is unlawfully using public land, and
  - (b) requiring the person to appear before the Local Court at a specified date, time and place.
- (2) Unlawful occupation or use includes occupation or use purporting to be under a forfeited or expired holding.

- (3) On appearance of a person in answer to an application notice (or on proof of service of the notice on the person or at the person's last known place of residence or business), the Local Court shall hear and inquire into the subject-matter of the notice.
- (4) On being satisfied as to truth of the matters alleged in an application notice, the Local Court shall issue a warrant addressed to any authorised person requiring and authorising the person to:
  - (a) dispossess and remove the person in unlawful occupation of, or unlawfully using, the land,
  - (b) remove any buildings or goods from the land, and
  - (c) take possession of the land on behalf of the Crown.
- (5) The Local Court, for any reason it thinks fit, may order that the execution of a warrant be delayed for a specified time.
- (6) In proceedings under this section the Local Court may make such orders as to the payment of costs as to the Court seem just and reasonable.

#### **160 Vehicles on vacant public land**

- (1) In this section:  
**vehicle** includes:
  - (a) a motor car, motor carriage, motor cycle or other apparatus propelled on land, snow or ice wholly or partly by volatile spirit, steam, gas, oil or electricity,
  - (b) a boat or other object that, while floating on water or submerged, whether wholly or partly, under water, is wholly or partly used for the conveyance of persons or things,
  - (c) an apparatus that, while propelled in the air by human or mechanical power or by the wind, is wholly or partly used for the conveyance of persons or things,
  - (d) an apparatus propelled on land, snow or ice by human or animal power or by the wind, and
  - (e) a trailer or caravan, whether or not it is in the course of being towed.
- (2) A reference in this section to the Minister includes, if the reference is in relation to land in respect of which a reserve trust has been appointed, a reference to the reserve trust.
- (3) The Minister may give such directions as to the bringing of vehicles into, and the use and parking or mooring of vehicles in, any vacant public land as the Minister thinks fit, and any such direction:
  - (a) may be limited as to time, place or subject-matter, and
  - (b) may be varied or revoked by the Minister.
- (4) A direction given under subsection (3) has effect only while there is erected or displayed on or near, or marked on, the land to which the direction relates a sign that is notice of the direction.
- (5) The direction appearing on a sign that is:
  - (a) erected or displayed on or near, or
  - (b) marked on,any vacant public land with the authority of the Minister has effect as a direction, for the time being in force, given under subsection (3) in relation to the land, and the sign is, for the purposes of subsection (4), notice of that direction.
- (6) A person shall not contravene a direction having effect under this section.

Maximum penalty: 5 penalty units.

- (7) A person shall not interfere with, alter or remove any sign erected or displayed with the authority of the Minister on or near, or marked with that authority on, vacant public land.

Maximum penalty: 5 penalty units.

- (8) Nothing in this section affects any other provision of this or any other Act, or of any by-law, so far as the provision has effect in relation to vehicles on vacant public land.

- (9) An allegation, in an information in respect of an offence under this section:

- (a) that a sign was erected, displayed or marked with the authority of the Minister or the Minister's delegate, or
- (b) that a sign was interfered with, altered or removed without the authority of the Minister or the Minister's delegate,

is evidence of the truth of the allegation.

#### **161 Liability of vehicle owner for certain offences**

- (1) If an offence against section 160 (6) occurs in relation to a vehicle, the person who at the time of the offence is the owner of the vehicle is, by virtue of this section, guilty of an offence against the subsection as if the person were the actual offender unless:

- (a) the offence is dealt with under section 162 and the person satisfies an authorised person described in the notice served under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used, or
- (b) the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

- (2) Nothing in this section affects the liability of the actual offender but if a penalty has been imposed on or recovered from any person in relation to the offence no further penalty may be imposed on or recovered from any other person for the offence.

- (3) An owner of a vehicle is not, under subsection (1), guilty of an offence if:

- (a) the offence is dealt with under section 162 and the owner:
  - (i) within 21 days after service on the owner of a notice under that section in respect of the offence, gives an authorised person referred to in the notice an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or
  - (ii) satisfies that authorised person that the owner did not know and could not with reasonable diligence have found out that name and address, or
- (b) the owner:
  - (i) within 21 days after service on the owner of a court attendance notice in respect of the offence, gives the informant an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or
  - (ii) satisfies the court that the owner did not know and could not with reasonable diligence have found out that name and address.

- (3A) Despite any other provision of this Act, an approved nomination notice may be provided by a person served with a notice under section 162 within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.

- (3B) If the owner of a vehicle gives an approved nomination notice to an authorised person or informant for the purposes of this section, an authorised person or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.
- (4) If a statutory declaration under subsection (3B) is produced in any proceedings against the person named in the declaration that relate to the offence in respect of which it was supplied it is evidence that that person was in charge of the vehicle at all relevant times relating to the offence.
- (5) An approved nomination notice or a statutory declaration which relates to more than one offence is not an approved nomination notice or a statutory declaration for the purposes of subsection (3) or (3B).
- (6) In this section:
  - approved nomination notice** has the same meaning as in section 38 of the *Fines Act 1996*.
  - owner** of a vehicle includes the responsible person for the vehicle within the meaning of the *Road Transport Act 2013*.
  - registered** means registered within the meaning of the *Road Transport Act 2013*.
  - trader's plate** means a trader's plate within the meaning of the *Road Transport Act 2013*.

## 162 Penalty notices for certain offences

- (1) An authorised person may serve a penalty notice on anyone who appears to the authorised person to have committed an offence under this Act, the regulations or the by-laws made under section 128, being an offence prescribed by the regulations for the purposes of this section.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice:
  - (a) may be served personally or by post, or
  - (b) if it relates to an offence of which the owner of a vehicle is guilty under section 161, may be served by leaving it on, or attaching it to, the vehicle addressed to "the owner" (without stating the name or address of the owner).
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence,
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.

- (7) The amount of a penalty prescribed under this section for an offence shall not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings which may be taken in respect of offences.

**163–165 (Repealed)**

**166 Impounding of animals**

- (1) For the purposes of the *Impounding Act 1993*, the Minister is the occupier of vacant public land.
- (2) An authorised person may exercise any power conferred on the Minister by the operation of this section.
- (3) An authorised person may, on behalf of the Minister, take proceedings for the trespass committed on the vacant public land by animals impounded by virtue of this section.
- (4) For the purposes of subsection (3), the Minister shall be taken to be in exclusive possession of vacant public land.
- (5) This section:
  - (a) does not prevent an information being laid for an offence against section 155, or
  - (b) affect any proceedings for such an offence.

**167 Requirement to state name and address**

- (1) In this section:  
***motor vehicle*** means a motor car, motor carriage, motor cycle or other apparatus propelled wholly or partly by volatile spirit, steam, gas, oil or electricity.
- (2) An authorised person may require a person whom the authorised person suspects on reasonable grounds to be offending against this Act, the regulations or the by-laws to state his or her full name and place of residence.
- (3) An authorised person may require the driver of a motor vehicle on vacant public land to produce his or her driver licence and to state his or her full name and place of residence.
- (4) A person shall not:
  - (a) fail or refuse to comply with a requirement under this section, or
  - (b) in purported compliance with such a requirement, state a name that is not the person's name or a place of abode that is not the person's place of abode.Maximum penalty—subsection (4): 5 penalty units.

**168 Obstruction of authorised persons**

- (1) A person shall not obstruct entry to public land by an authorised person who produces evidence of authority to enter the land.  
Maximum penalty: 10 penalty units.
- (2) It is a defence to a prosecution under this section if it is proved that:
  - (a) the authorised person did not have reasonable cause to enter the land, and
  - (b) the defendant had a right to obstruct entry to the land.



## **Division 5A Powers to enter and inspect land and to obtain information**

### **168A Definitions**

In this Division:

**Crown Lands Acts** includes the *Hay Irrigation Act 1902*.

**Crown tenure** means any of the following:

- (a) a holding,
- (b) an enclosure permit,
- (c) a Commonwealth lease,
- (d) a lease under the *Hay Irrigation Act 1902*,
- (e) any lease or licence granted in respect of a reserve within the meaning of Part 5.

**landholder** means any person who, whether by reason of ownership or otherwise, is in lawful occupation or possession, or has lawful management or control, of private land or land that is the subject of, or is comprised in, a Crown tenure.

**private land** means any land (other than Crown land) that:

- (a) is subject to a restriction on use (including a restriction relating to subdivision or separate dealing) or public positive covenant imposed, or taken to have been imposed, by the Minister under Part 4A whether before or after the commencement of this Division, or
- (b) is held subject to a recorded condition (whether recorded before or after the commencement of this Division).

**recorded condition** means a condition to which a recording under section 36 (4) (a), 37 (2) (a) or 38 (a) relates.

### **168B Appointment of authorised inspectors**

- (1) The Minister may appoint any member of staff of the Department or of any other government agency, or of a local council, as an authorised inspector for the purposes of this Division.
- (2) The authority of an authorised inspector may be limited by the relevant instrument of appointment to the functions specified in the instrument of appointment.
- (3) An authorised inspector cannot exercise the functions of an authorised inspector under this Division unless the inspector is in possession of an identification card issued by the Secretary.
- (4) In the course of exercising the functions of an authorised inspector under this Division, the inspector must, if requested to do so by any person who is subject to the exercise of the function, produce the inspector's identification card to the person.

### **168C Powers of entry and inspection in relation to land**

- (1) An authorised inspector may:
  - (a) enter any land that is the subject of a Crown tenure for the purpose of determining whether the landholder is complying with:
    - (i) the terms and conditions of the tenure, or
    - (ii) any of the requirements of the Crown Lands Acts that apply in relation to the land, and
  - (b) enter any private land, at any reasonable time, for the purpose of:

- (i) monitoring or reviewing the effectiveness of the measures imposed by the restriction on use or covenant, or by the recorded condition, to or in respect of which the land is subject, or
  - (ii) determining whether the landholder is complying with the restriction on use or covenant, or the recorded condition, to or in respect of which the land is subject, and
- (c) enter any other land owned or occupied by a landholder for the purpose of gaining access to land that is the subject of a Crown tenure, or is private land, owned or occupied by that landholder.
- (2) An authorised inspector may enter land under subsection (1) only if:
  - (a) the landholder consents, or
  - (b) the Secretary has authorised the entry onto the land.
- (3) An authorised inspector may, while on any land that the inspector has entered under subsection (1) (a) or (b):
  - (a) conduct such investigations, make such inquiries, examinations and inspections, and take such samples and recordings (including photographs), as the inspector considers necessary, and
  - (b) require the landholder or any other person to produce to the inspector any records or documents that may relate to any of the purposes for which the inspector may enter land, and
  - (c) require the landholder or any other person to provide such reasonable assistance and facilities as may be requested by the inspector to exercise the inspector's functions under this section.
- (4) A person may accompany an authorised inspector and take all reasonable steps to assist an inspector in the exercise of the inspector's functions under this section if the inspector is of the opinion that the person is capable of providing assistance to the inspector in the exercise of those functions.
- (5) An authorised inspector is not entitled to enter any part of premises used only for residential purposes except with the consent of the landholder.
- (6) A person who, without reasonable excuse:
  - (a) obstructs an authorised inspector in the exercise of the inspector's functions under this section, or
  - (b) fails or refuses to comply with a requirement made by an authorised inspector under this section,is guilty of an offence.  
Maximum penalty: 100 penalty units.
- (7) For the purposes of subsection (6), **obstruct** includes delay, threaten or hinder.

#### **168D Power to obtain information**

- (1) In this section:  
**relevant information** means any information about:
  - (a) a possible contravention of the Crown Lands Acts or the regulations under any of the Crown Lands Acts, or
  - (b) any other matter relating to a purpose for which an authorised inspector may enter land under section 168C (1) (a) or (b).
- (2) The Secretary may, by notice in writing served on a person, require the person:

- (a) to give to an authorised inspector, orally or in writing signed by the person (or, if the person is a corporation, by a competent officer) and within the time and in the manner specified in the notice, any relevant information of which the person has knowledge, or
  - (b) to produce to an authorised inspector, in accordance with the notice, any document containing relevant information.
- (3) An authorised inspector may inspect a document produced in response to such a notice and may make copies of, or take extracts or notes from, the document.
- (4) A person must not, without reasonable excuse:
  - (a) fail to comply with such a notice to the extent that the person is capable of complying with it, or
  - (b) in purported compliance with such a notice, give information or an answer to a question, or produce a document, knowing that it is false or misleading in a material particular.

Maximum penalty: 100 penalty units.

- (5) A person is not excused from giving information, answering questions or producing documents under this section on the ground that the information, answers or documents may tend to incriminate the person.
- (6) Any information or document obtained from a natural person under this section is not admissible against the person in criminal proceedings other than proceedings for an offence under this section.

#### **168E Arrangements with other government agencies**

- (1) The Secretary may enter into an arrangement with the head of any government agency, or with a local council, for a member of staff of the government agency or council to exercise the powers of an authorised inspector under this Division.
- (2) A member of staff of a government agency or local council who exercises any such powers in accordance with such an arrangement is taken to be an authorised inspector for the purposes of this Act.

### **Division 6 Legal and evidentiary provisions**

#### **169 Title to land**

A person who has acquired land from the Crown by way of purchase or exchange (other than a person who has acquired land under a lease from the Crown by way of exchange) under this Act has an estate fee simple in the land.

#### **170 Limitation on acquisition of title by possession against the Crown**

- (1) Title to any land of the Crown which has been:
  - (a) set out as a road under an Act or in connection with the alienation of land of the Crown,
  - (b) left between Crown grants for use as a road or driftway,
  - (c) dedicated under the Crown Lands Acts or any other Act for a public purpose, or
  - (d) reserved in a Crown grant or recorded in a folio of the Register as being reserved to the Crown,may not, on the basis of adverse possession, be asserted or established against the Crown or any persons holding the land in trust for a public purpose.

- (2) Title to any land of the Crown reserved under the Crown Lands Acts or any other Act for a public purpose (not being land referred to in subsection (1)) may not, on the basis of adverse possession, be asserted or established against the Crown or any persons holding the land in trust for that public purpose.
- (3) Title to any other Crown land may not, on the basis of adverse possession, be asserted or established against the Crown.
- (4) This section does not affect the operation of section 46B of the *Real Property Act 1900*.
- (5) This section does not affect the title to any land:
  - (a) which has, in any proceedings to which the Crown has been a party, been held not to be land of the Crown:
    - (i) before the date of assent to the *Crown Lands (Amendment) Act 1931* in the case of land referred to in subsection (1),
    - (ii) before the date of assent to the *Crown Lands (Amendment) Act 1977* in the case of land referred to in subsection (2), or
    - (iii) before the date of commencement of Schedule 4 (11) to the *Crown Lands (Miscellaneous Provisions) Amendment Act 1982* in the case of land referred to in subsection (3), or
  - (b) which the Crown was debarred from recovering by the operation of the *Crown Suits Act 1769* or the *Limitation Act 1969*:
    - (i) at the date of assent to the *Crown Lands (Amendment) Act 1931* in the case of land referred to in subsection (1),
    - (ii) at the date of assent to the *Crown Lands (Amendment) Act 1977* in the case of land referred to in subsection (2), or
    - (iii) at the date of commencement of Schedule 4 (11) to the *Crown Lands (Miscellaneous Provisions) Amendment Act 1982* in the case of land referred to in subsection (3).

#### **171 Exclusion of minerals, other reservations, exceptions etc**

- (1) A sale, lease or other disposal of land by a reserve trust under Part 5 of this Act or by the Crown under this Act or the *Crown Lands (Continued Tenures) Act 1989* does not include the sale, lease or disposal of any minerals contained in the land, being minerals within the definition of **mineral** in section 3 (1) at the time when the land is contracted to be sold, the lease is commenced or the disposal takes place.
- (2) On creating a folio of the Register in respect of land under this Act or the *Crown Lands (Continued Tenures) Act 1989*, the Registrar-General shall record any qualification required by the Minister and notified to the Registrar-General.
- (3) A sale, lease or other disposal of land under this Act or the *Crown Lands (Continued Tenures) Act 1989* is subject to any qualification approved by the Minister.
- (4) In this section:  
**qualification** means:
  - (a) a reservation or exception considered by the Minister to be in the public interest, or
  - (b) without affecting any liability under the *Mine Subsidence Compensation Act 1961*—a condition having the effect of protecting the Crown and any mining lessee against any other liability that could arise from a subsidence as a result of mining operations.

## 172 Land with boundaries to lakes, roads etc

- (1) In this section:

**alienated** (except in subsection (7)) means sold, leased or otherwise disposed of under the Crown Lands Acts or any other Act relating to the alienation of land of the Crown.

**bank** means the limit of the bed of a lake or river.

**bed** means the whole of the soil of a lake or river including that portion:

- (a) which is alternately covered and left bare with an increase or diminution in the supply of water, and
- (b) which is adequate to contain the lake or river at its average or mean stage without reference to extraordinary freshets in time of flood or to extreme droughts.

**lake** includes a permanent or temporary lagoon or similar collection of water not contained in an artificial work.

**river** includes any stream of water, whether perennial or intermittent, flowing in a natural channel, and any affluent, confluent, branch or other stream into or from which the river flows.

- (2) The boundary of any land which is alienated by the Crown and which is described or alienated:

- (a) as bounded by, by reference to, or by the margin or bank, of a non-tidal lake, or
- (b) by metes expressed or shown to run to a lake or to the margin or bank of a lake, shall be taken to be the bank of the lake at the time of the Crown survey for the purposes of the alienation.

- (3) Title to land comprising the bed of a non-tidal lake does not pass, and never has passed, by any alienation of land adjoining the lake:

- (a) as bounded by, by reference to, or by the margin or bank of, the lake, or
- (b) by metes expressed or shown to run to the lake or to the margin or bank of the lake,

and no person is, by being the owner of land so alienated, entitled to any rights of access over, or to the use of, any part of the bed.

- (4) The doctrine of accretion does not apply, and never has applied, to a non-tidal lake.

- (5) A person is not, by being the owner of land sold, leased or otherwise disposed of under this Act or the *Crown Lands (Continued Tenures) Act 1989*:

- (a) as bounded by, by reference to, or by the margin or bank of, a river, or
- (b) by metes expressed or shown to run to a river or to the margin or bank of a river,

entitled to any rights of access over, or to the use of, any part of the bed of the river.

- (6) Subsection (5) does not apply to the owner of land sold under the *Crown Lands (Continued Tenures) Act 1989* if the land:

- (a) was, at the time of the sale, held as a conditional lease, homestead selection, homestead farm, week-end lease, conditional purchase lease, settlement purchase lease, closer settlement lease or group purchase lease under the Crown Lands Acts, and
- (b) was held as that holding before the bed of the adjoining river was reserved from sale or lease under the Crown Lands Acts.

- (7) If, before the commencement of this section:

- (a) the bed of a river was reserved from sale or lease under the Crown Lands Acts, and
  - (b) land adjoining the river was subsequently alienated (including alienation under any form of tenure under the Crown Lands Acts or any other Act relating to the alienation of land of the Crown):
    - (i) as bounded by, by reference to, or by the margin or bank of the river, or
    - (ii) by metes expressed or shown to run to the river or to the margin or bank of the river,
- a person is not, by being the owner of the land, entitled to any rights of access over, or to the use of, any part of the bed of the river.
- (8) If any land is or was alienated by the Crown with a boundary adjoining, or as bounded by, a road created by the Crown, no part of the road passes, or shall be taken ever to have passed, with the land.
  - (9) Nothing in this section affects any rights acquired under the *Water Management Act 2000*.

**173 Evidence of land being measured**

- (1) A measurement of Crown land is not effective until the plan of the measurement has been approved by an officer authorised by the Minister.
- (2) The signature of an authorised officer on a plan is evidence that the plan has been approved by the officer.

**174 Ownership of improvements on forfeiture etc**

- (1) On forfeiture, surrender or other determination of a holding all improvements on the land become, subject to this section and any provision or condition of the holding, the property of the Crown and no compensation is payable for those improvements.
- (2) On application made within 1 month of the forfeiture, surrender or determination the Minister may permit the former holder to remove from the land any improvements effected or owned by the holder or the holder's predecessors in title.
- (3) On removal of improvements under this section the Crown ceases to have (and shall be taken never to have had) any right to the improvements.

**175 Proceedings for offences**

Proceedings for an offence against this Act, the *Crown Lands (Continued Tenures) Act 1989* or the regulations shall be dealt with summarily before the Local Court.

**176 Offences by corporations**

- (1) If a corporation contravenes, whether by act or omission, any provision of this Act, the *Crown Lands (Continued Tenures) Act 1989* or a regulation, each person who is:
  - (a) a director of the corporation, or
  - (b) concerned in the management of the corporation,shall be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) A person may, under subsection (1), be proceeded against and convicted for a contravention of a provision whether or not the corporation has been proceeded against or been convicted for a contravention of the same provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

#### **177 Certificate as to status of land etc**

- (1) A certificate signed by the Minister certifying that, at a stated time or during a stated period:
  - (a) specified land was, or was not, Crown land,
  - (b) specified land was, or was not, granted, reserved or dedicated for a public purpose,
  - (c) specified land was, or was not, a reserve within the meaning of Part 5,
  - (d) specified land was, or was not, land in respect of which a notification under section 18 (4) (application of protection of public land provisions to other land) was in force,
  - (e) specified land was, or was not, the subject of a holding or a specified class of holding,
  - (f) a holding was, or was not, subject to a specified condition, or
  - (g) a named person was, or was not, the holder of a holding,is, in any legal proceedings, admissible as evidence of the matters certified.
- (2) If the court before which any legal proceedings are brought is satisfied that the proceedings were brought wholly or partly for the purpose of determining title to land, a certificate under subsection (1) is not admissible in the proceedings.
- (3) In this section:  
**holding** includes:
  - (a) an enclosure permit, and
  - (b) a lease to the Commonwealth under Part 8 of Schedule 2 to the *Crown Lands (Continued Tenures) Act 1989*, and
  - (c) any tenure, lease, licence or permit granted under the Crown Lands Acts which ceased to exist before the commencement of this Act.

#### **178 Certificate evidence as to authorised persons and inspectors**

- (1) A certificate:
  - (a) signed by the Minister, and
  - (b) certifying that a named person is, or was at a stated time or during a stated period, an authorised person for the purposes of a specified provision of this Act,is, in any legal proceedings, admissible as evidence of the matters certified.
- (2) A certificate signed by the Secretary and certifying that a named person is, or was at a stated time or during a stated period, an authorised inspector is, in any legal proceedings, admissible as evidence of the matters certified.

#### **179 Removal of recordings in Register**

If the Minister is satisfied that a covenant, condition, reservation or provision is no longer applicable to a holding or land the Minister may inform the Registrar-General accordingly and the Registrar-General may amend the Register in accordance with that information.

### **Division 7 General provisions**

#### **180 Delegation**

- (1) The Minister may delegate to a person the exercise of any of the Minister's functions other than this power of delegation.

- (2) The Lands Administration Ministerial Corporation may delegate to a person the exercise of any of its functions other than this power of delegation.
- (3) The Secretary may delegate to the holder of any office under the Minister's administration the exercise of any of the Secretary's functions, including (unless the instrument of delegation to the Secretary otherwise provides) a function delegated to the Secretary under this section.
- (4) If the exercise of a function is delegated under this section, the function may be exercised whether or not the delegator holds office at the time of the exercise.
- (5) In this section, a reference to functions is a reference to functions conferred or imposed by or under this Act or the *Crown Lands (Continued Tenures) Act 1989*.

**180A Fees for services**

A fee may be charged, of such amount as may be approved by the Minister from time to time, for services provided by the Department in connection with Crown lands.

**180B GST may be added to certain amounts**

- (1) If GST is payable in respect of any sale, rent or other matter under the Crown Lands Acts (including any fee charged under section 180A), the amount payable under the Crown Lands Acts in respect of the sale, rent or other matter may be increased to cover the cost of GST payable.
- (2) In this section, *Crown Lands Acts* includes the *Hay Irrigation Act 1902*.

**180C Payments due under the Act**

- (1) Any payment due under this Act must be made as a single payment when due.
- (2) However, the Minister may accept a payment by instalments on any basis that the Minister determines is appropriate.

**181 Notices**

- (1) If by or under this Act or the *Crown Lands (Continued Tenures) Act 1989* a notice, order or other document is required to be given to or served on any person, the notice, order or other document may be given or served:
  - (a) in the case of a person other than a corporation:
    - (i) by delivering it to the person, or
    - (ii) by posting it to the address, if any, specified by the person for the giving of notices or service of documents under either of those Acts or, if no such address is specified, to the person's usual or last known place of residence or last known place of business, or
  - (b) in the case of a corporation:
    - (i) by leaving it at the registered office of the corporation with a person apparently not less than 16 years of age and apparently in the service of the corporation, or
    - (ii) by posting it to the address, if any, specified by the corporation for the giving of notices or service of documents under this Act or, if no such address is specified, to the last known place of business of the corporation.
- (2) A notice, order or other document sent by post in accordance with subsection (1) is, unless evidence sufficient to raise doubt is adduced to the contrary, taken to have been given or served on the fourth working day after it was sent.



**181A General provisions applicable to CPI adjustment**

- (1) This section applies in respect of a provision of this Act that provides for the adjustment of an amount by reference to the Consumer Price Index (a ***CPI adjustment provision***).
- (2) If a CPI adjustment provision requires regard to be had to a Consumer Price Index number published before a due date in respect of rent, regard may be had to the last Index number so published before a notice or invoice of the rent payable by the person liable to pay the rent is sent to the person concerned.
- (3) If the Australian Statistician publishes a Consumer Price Index number in respect of a particular quarter after the notice or invoice is sent:
  - (a) except as provided by paragraph (b)—the publication of the later Index number is to be disregarded, or
  - (b) if the Minister so directs—regard is to be had to the later and not to the earlier Index number.
- (4) If the Australian Statistician publishes a Consumer Price Index number in respect of a particular quarter in substitution for a Consumer Price Index number previously published in respect of that quarter:
  - (a) except as provided by paragraph (b)—the publication of the later Index number is to be disregarded, or
  - (b) if the Minister so directs—regard is to be had to the later and not to the earlier Index number.
- (5) If the reference base for the Consumer Price Index is changed, regard is to be had only to Index numbers published in terms of the new reference base or to Index numbers converted to the new reference base in accordance with an arithmetical conversion factor specified by the Australian Statistician.
- (6) An adjustment under a CPI adjustment provision is to be made to the nearest whole dollar.

**182 Minister may require information to be furnished etc**

- (1) If the Minister has reason to believe that a person is capable of giving information or producing or making available books or documents relating to:
  - (a) the value of materials taken from land the subject of a lease or licence (where any rent, royalty or other payment in respect of the lease or licence is based on that value), or
  - (b) the income derived from any business or undertaking carried out on land the subject of a lease or licence (where any rent or other payment in respect of the lease or licence is based on that income),the Minister may cause to be served on the person a written notice requiring the person to act as provided by subsection (2).
- (2) The notice may require the person to:
  - (a) provide in writing, within the period and in the manner stated in the notice, any information referred to in subsection (1),
  - (b) attend before a person named in the notice at a stated time and place and answer questions relating to the value of the materials taken or the income derived from the business or undertaking, or
  - (c) produce or make available to a person named in the notice at a stated time and place books or documents in the person's custody or control relating to the value of the materials taken or the income derived from the business or undertaking.

- (3) A person is not excused from providing information, answering a question or producing or making available books or documents when required to do so on the ground that:
  - (a) the information provided,
  - (b) the answer to the question, or
  - (c) the production of, or making available, any books or documents,might tend to incriminate the person or make the person liable to a penalty.
- (4) Anything a person is required to do by the operation of subsection (3) is inadmissible in evidence against the person in any proceedings other than proceedings for an offence against section 183.
- (5) A person may make copies of, or take extracts from, books or documents produced or made available to the person under this section.

### **183 Failing to furnish information etc**

A person shall not:

- (a) refuse or fail to comply with a requirement under section 182 to the extent to which the person is capable of complying with it,
- (b) in purported compliance with such a requirement, furnish information knowing it to be false or misleading in a material particular,
- (c) when attending before a person in compliance with such a requirement, make a statement knowing it to be false or misleading in a material particular, or
- (d) when producing or making available books or documents in compliance with such a requirement, produce or make available books or documents knowing them to be false or misleading in a material particular.

Maximum penalty: 20 penalty units.

### **183A Application of Environmental Planning and Assessment Act 1979**

- (1) In this section:  
***prescribed instrument*** means:
  - (a) a condition to which a recording under section 36 (4) (a), 37 (2) (a) or 38 (a) relates, or
  - (b) a restriction on use or public positive covenant imposed in accordance with Part 4A.
- (2) For the purposes of section 28 of the *Environmental Planning and Assessment Act 1979*:
  - (a) a prescribed instrument is taken to be a regulatory instrument, and
  - (b) the Minister is responsible for the administration of such a regulatory instrument.

**Note.** Section 28 of the *Environmental Planning and Assessment Act 1979* allows an environmental planning instrument to suspend the operation of a regulatory instrument for the purpose of enabling development to be carried out. Such a suspension cannot be given effect to without the concurrence in writing of the Minister responsible for the administration of the regulatory instrument.
- (3) In relation to any particular prescribed instrument, a provision of an environmental planning instrument made under section 28 of the *Environmental Planning and Assessment Act 1979* and in force:
  - (a) immediately before the commencement of this section, or
  - (b) immediately before the prescribed instrument takes effect,

does not affect the operation of the prescribed instrument unless the provision is subsequently amended to expressly affect the operation of the prescribed instrument.

#### **184 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to the following:
  - (a) the functions of officers employed or acting in the administration or execution of this Act,
  - (b) the procedure to be followed in or in connection with an inquiry held or to be held under this Act,
  - (c) the circumstances in which fees, costs or deposits may be charged or required and the amount of any such fees, costs or deposits,
  - (d) authorising the waiver or refund of the whole or any part of any fees, costs, deposits, interest or rent paid or payable under this Act,
  - (e) determining the person to whom a refund of any fee, cost, deposit, interest or rent is payable,
  - (f) prescribing the periods within which, and the manner in which, notices may be given and objections and appeals may be made,
  - (g) the keeping of records and books of account, the furnishing of returns and records and the inspection of, and the taking of extracts from, records or books,
  - (h) the making of searches in connection with holdings, the issue of certificates relating to holdings and the effect of those certificates,
  - (i) (Repealed)
  - (j) the establishment of land offices and their functions and hours of business,
  - (k) the alteration, abolition, establishment and definition of land districts,
  - (l) applications for land and procedures in respect of conflicting applications,
  - (m) the manner of, and the places and time for, the payment of rent, purchase money or other money,
  - (n) the payment, by an incoming holder, of the value of any improvements on Crown land to the owner of those improvements,
  - (o) the form and lodgment of, and manner of dealing with, applications, dealings, instruments or documents relating to land,
  - (p) the execution of applications, dealings, instruments or documents relating to land,
  - (q) the powers and functions of the Registrar-General in respect of applications, dealings, instruments or documents relating to land.
- (2) A regulation may create an offence punishable by a maximum penalty not exceeding 5 penalty units.

#### **184A Compensation not payable**

- (1) No compensation is payable by or on behalf of the Crown because of the enactment or operation of the amendments made to the Crown Lands Acts, or to any other Act, by any of the following Acts, or as a consequence of that enactment or operation:
  - (a) the *Crown Lands Legislation Amendment (Budget) Act 2004*,
  - (b) the *Crown Lands Legislation Amendment Act 2005*.

- (2) The operation of those amendments is not to be regarded as a breach of contract.
- (3) In this section:
  - compensation* includes damages or any other form of monetary compensation.
  - the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes an officer of the Department.

**185 Repeals**

- (1) The Acts specified in Schedule 7 are repealed.
- (2) All regulations in force under those Acts are repealed.

**186 Savings, transitional and other provisions**

Schedule 8 has effect.

## **Schedules 1, 2 (Repealed)**

## **Schedule 3 Provisions relating to the members of a trust board**

(Section 94)

### **1 (Repealed)**

### **2 Maximum number of members**

- (1) A person shall not be appointed as a member (whether to fill a vacancy or otherwise) if the appointment would result in the number of members for the time being of the trust board exceeding, or being maintained above, 7.
- (2) As long as it does not exceed 7, the number of members is not limited to the number appointed when the trust board was constituted.
- (3) A person who is appointed as an ex officio member shall not be counted for the purposes of this clause.

### **3 Acting members**

- (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has and may exercise all the functions of the member and shall be taken to be a member.
- (2) The Minister may remove a person from the office to which he or she was appointed under this clause.
- (3) For the purposes of this clause, a vacancy in the office of a member shall be regarded as an absence from office of the member.

### **4 Nominee of ex officio member**

- (1) An ex officio member may, with the approval of the Minister, appoint a nominee.
- (2) The nominee may attend a meeting of the members in the place of the ex officio member.
- (3) For the purposes of the meeting the nominee shall be taken to be the ex officio member.

### **5 Term of office**

- (1) Subject to this Schedule, a member holds office for such period not exceeding 5 years as may be specified in the instrument of appointment of the member.
- (2) A member is eligible (if otherwise qualified) for re-appointment.

### **6 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member:
  - (a) dies,
  - (b) completes a term of office and is not re-appointed,
  - (c) resigns the office by instrument in writing addressed to the Minister,
  - (d) is removed from office by the Minister under this clause,
  - (e) (Repealed)
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,

- (g) becomes a mentally incapacitated person,
  - (h) except as described in subclause (2), is an ex officio member who ceases to hold the office by reason of which he or she became a member,
  - (i) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (j) is convicted of an offence under Schedule 4 (pecuniary interests) in relation to any reserve trust, unless the court which convicts the member otherwise orders.
- (2) If a person is an ex officio member because he or she holds a local government office and he or she ceases to hold the local government office, he or she continues as a member until:
- (a) 1 month has elapsed, or
  - (b) the local government office is filled,
- whichever first occurs.
- (3) Subclause (2) does not apply if the member ceased to hold office:
- (a) in circumstances giving rise to a vacancy in civic office under section 234 of the *Local Government Act 1993*, or
  - (b) because of a declaration under section 255 of that Act.
- (4) The Minister may, by notification in the Gazette, remove a member from office at any time.

## **7 Filling of vacancy**

If the office of a member becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

## **8 Ex officio members—special provision**

A person who is an ex officio member is not affected by a duty or disability which is imposed on the person as a member:

- (a) by a provision of this or any other Act or by a rule of law or equity, and
- (b) as a result of the person both being a member and holding the office or position on which the ex officio appointment is based.

## **9 Definition**

In this Schedule:

**local government office** means the office of a councillor (including a mayor) under the *Local Government Act 1993*.

## **Schedule 4 Pecuniary interests of members of a trust board**

(Section 94)

### **1 Disclosure of pecuniary interests**

- (1) If:
  - (a) a member of a trust board has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the board, and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board.
- (2) A disclosure by a member of a trust board at a meeting of the board that the member:
  - (a) is a member, or is in the employment, of a specified company or other body,
  - (b) is a partner, or is in the employment, of a specified person, or
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause shall be recorded by the trust board in a book kept for the purpose which shall be open at all reasonable hours to inspection by any person on payment of the prescribed fee.
- (4) After a member of a trust board has disclosed the nature of an interest in any matter, the member shall not, unless the Minister or the board otherwise determines:
  - (a) be present during any deliberation of the board with respect to the matter, or
  - (b) take part in any decision of the board with respect to the matter.
- (5) For the purposes of the making of a determination by a trust board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates shall not:
  - (a) be present during any deliberation of the board for the purpose of making the determination, or
  - (b) take part in the making by the board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the trust board.

### **2 Invitations for tenders**

- (1) If it is disclosed to the members of a trust board, or they have reason to believe, that a member has or may have a direct or indirect pecuniary interest in a proposed contract with the reserve trust:
  - (a) the board shall, by notice published in a newspaper circulating in the district in which the reserve is situated, invite tenders for the proposed contract, and
  - (b) shall not enter into the proposed contract unless satisfied that, in all the circumstances of the case, none of the tenders submitted is more advantageous than the proposed contract.
- (2) The notice inviting tenders shall:
  - (a) set out the nature of the work or services to be performed or the goods to be supplied under the contract, and



- (b) invite persons willing to perform the work or services or supply the goods to submit tenders on or before a specified date (at least 21 days after publication of the notice) to the trust.
- (3) This clause does not apply in the case of an emergency.

### **3 Offence**

- (1) A member who fails to comply with this Schedule is guilty of an offence.  
Maximum penalty: 5 penalty units.
- (2) It is a defence to a prosecution for such an offence if the defendant satisfies the court that he or she did not know that a contract or proposed contract in which he or she had a pecuniary interest was the subject of consideration at the meeting concerned.
- (3) The court before which a member is convicted may, if the court thinks fit in the circumstances of the case, order that the member does not vacate the office of member because of the conviction and the order has effect accordingly.

### **4 Effect of contravention**

A contravention of this Schedule does not invalidate any decision of a trust board or the exercise of any function under this Act.

## **Schedule 5 Procedure of a trust board**

(Section 94)

### **1 General procedure**

The procedure for the calling of meetings of a trust board and for the conduct of business at those meetings shall, subject to this Act and the by-laws, be as determined by the board.

### **2 Quorum**

The quorum for a meeting of a trust board is the number of members which is one more than half the number of members of the board (any fraction being disregarded), unless a greater number is fixed by a by-law applying to the board.

### **3 Voting**

A decision supported by a majority of the votes cast at a meeting of a trust board at which a quorum is present is the decision of the board.

### **4 Minutes**

A trust board must cause full and accurate minutes to be kept of the proceedings of each meeting of the board.

## Schedule 6 Transferred provisions

### Part 1 Queanbeyan Showground (Variation of Purposes) Act 1995

#### 1 Plan of management—Queanbeyan Showground

- (1) The Queanbeyan Showground Reserve Trust constituted under section 5 of the repealed Act (as in force immediately before its repeal) is taken to have been directed under section 112 of this Act to prepare a draft plan of management for the Reserve within 3 months after 1 December 1995 (being the date of commencement of the repealed Act).
- (2) The draft plan of management is to include provisions ensuring that the use of the Reserve for a public showground is not prevented or restricted by the use of the land for the other dedicated purposes and that the Reserve will be available for use by The Queanbeyan Show Society Inc on such days (not exceeding 14 each year) as are notified to the manager of the Trust by the Society.
- (3) A plan of management for the Reserve may be adopted only if it includes such provisions or The Queanbeyan Show Society Inc has consented by special resolution to the omission of such provisions.
- (4) This clause does not prevent the Minister from requiring a draft plan of management for the Reserve to include other provisions that are not inconsistent with this clause.
- (5) In this clause:  
*repealed Act* means the *Queanbeyan Showground (Variation of Purposes) Act 1995*.  
*the Reserve* has the same meaning that it had in the repealed Act immediately before its repeal.
- (6) Subclauses (1)–(4) re-enact (with minor modifications) section 6 of the repealed Act and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

### Part 2 Forestry (Darling Mills State Forest Revocation) Act 2005

#### 2 Definitions

In this Part:

*existing interest* means an existing interest, within the meaning of section 7 of the former Act:

- (a) saved by the operation of section 7 (1), and
- (b) current and in force under the *Forestry Act 2012* immediately before the repeal of the former Act.

*former Act* means the *Forestry (Darling Mills State Forest Revocation) Act 2005*, as in force immediately before its repeal.

#### 3 Former State forest to be subject to this Act

The land described in Schedule 1 to the former Act is vested in the Crown as Crown land and is subject to this Act, except as provided by clause 5.

**Note.** The land described in Schedule 1 to the *Forestry (Darling Mills State Forest Revocation) Act 2005* was formerly Darling Mills State Forest. Section 4 of the *Forestry (Darling Mills State Forest Revocation) Act 2005* revoked its dedication as a State forest (and as part of a national forest) under the *Forestry Act 1916*.

**4 Dedication of former State forest as part of Bidjigal Reserve**

- (1) The land described in Schedule 1 to the former Act is dedicated under this Act as part of the Bidjigal Reserve, reserve number D1010489.
- (2) The requirements of section 82 are taken to have been complied with in respect of all land that is part of the Bidjigal Reserve including the land described in the Erratum, published in Gazette No 143 of 10 September 2004 at page 7498, that corrects the notice entitled *Proposed Dedication of Crown Land for a Public Purpose*, published in Gazette No 134 of 13 August 2004 at page 6559.

**5 Existing interests**

- (1) An existing interest continues in force under the *Forestry Act 2012* until the existing interest is cancelled, surrendered or expires (whichever occurs first) and the *Forestry Act 2012* continues to apply in respect of the existing interest until it is cancelled, surrendered or expires.
- (2) The administration of existing interests is vested in the Minister.
- (3) For the purposes of subclause (2), the Minister has the powers, functions, authorities and duties of the Minister administering the *Forestry Act 2012*.
- (4) (Repealed)

**6 Act to bind Crown**

This Part binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

**7 Application of this Act**

- (1) (Repealed)
- (2) This Part has effect despite the provisions of this Act and, in particular, despite any different procedure for dedicating land under this Act.

**8 Transferred provisions to which Interpretation Act 1987 applies**

Clauses 3–7 re-enact (with minor modifications) sections 5–9 (except for sections 7 (4) and 9 (1)) of the former Act and are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

## Schedule 7 Repeals

(Section 185)

*Closer Settlement Act 1904 No 37*  
*Closer Settlement (Amendment) Act 1906 No 44*  
*Closer Settlement (Amendment) Act 1907 No 12*  
*Closer Settlement (Amendment) Act 1909 No 21*  
*Closer Settlement (Amendment) Act 1912 No 74*  
*Crown Lands Consolidation Act 1913 No 7*  
*Closer Settlement (Amendment) Act 1914 No 7*  
*Returned Soldiers Settlement Act 1916 No 21*  
*Closer Settlement (Amendment) Act 1916 No 53*  
*Closer Settlement (Amendment) Act 1918 No 48*  
*Closer Settlement (Amendment) Act 1919 No 46*  
*Closer Settlement and Returned Soldiers Settlement (Amendment) Act 1927 No 14*  
*Closer Settlement (Amendment) Act 1937 No 21*  
*War Service Land Settlement Act 1941 No 43*  
*Crown Lands (West Bogan Settlers) Improvements Relief Act 1943 No 33*  
*Closer Settlement Amendment (Conversion) Act 1943 No 38*  
*War Service Land Settlement and Closer Settlement Validation Act 1950 No 14*  
*Closer Settlement (Amendment) Act 1977 No 78*  
*Western Lands (Amendment) Act 1977 No 87*  
*Crown Lands (Amendment) Act 1977 No 97*

## Schedule 8 Savings, transitional and other provisions

(Section 186)

### Part 1 General provisions consequent on enactment of this Act

#### 1 Existing dedications and reservations

- (1) A dedication or reservation in force or taken to be in force under a repealed Act immediately before its repeal has effect as if it had been made under this Act.
- (2) The dedication or reservation:
  - (a) is for the same purpose and on the same terms as the original dedication or reservation, and
  - (b) dates from the date of the original dedication or reservation.
- (3) This clause applies whether or not the original reservation was temporary.

#### 2 Existing timber reserves

A timber reserve, forest reserve or reserve for timber in force under a repealed Act immediately before its repeal has effect as if it had been reserved under section 22 of the *Forestry Act 1916*.

#### 3 Existing travelling stock routes, camping places

A route or camping place set apart under section 34 of the *Crown Lands Consolidation Act 1913* immediately before its repeal has effect as if it had been reserved for travelling stock route or camping place, as the case requires, under this Act.

#### 4 Replacement of trustees by reserve trusts

- (1) On the commencement of Part 5, a reserve trust shall be taken to have been constituted under that Part as trustee of a reserve for which a trustee or trustees ("the former trustee or former trustees") held office immediately before that commencement.
- (2) If the former trustees were constituted as a corporation under a repealed Act, the corporate name of the reserve trust shall be the same as the corporate name of the corporation so constituted.
- (3) In any other case the corporate name of the reserve trust shall be the name which the Minister assigns or, if the Minister does not assign a name, the name which the reserve trust determines.
- (4) The corporate name of a reserve trust may be changed in accordance with Part 5.
- (5) On and from the commencement of Part 5, a reference in any other Act or in any instrument made under an Act to trustees of land shall, if the land is or is to be taken to be a reserve under Part 5 of which a reserve trust is trustee, be construed as a reference to that reserve trust.

#### 5 Membership of trust boards

- (1) Unless the former trustee is a corporation, each of the former trustees is appointed as a member of the appropriate trust board and the appointment has effect as if it had been made under Part 5 for the unexpired term of the original appointment.

- (2) If the former trustee is a corporation, it is appointed to manage the affairs of the reserve trust.

#### **5A Administrators of reserves**

A person holding office (immediately before the commencement of Part 5) under section 37EE or 37FF of the *Crown Lands Consolidation Act 1913* as administrator of a reserve is taken to have been appointed as administrator of the reserve trust under Part 5 which replaced the reserve for which the administrator was appointed if, on that commencement, that reserve trust is not managed by a trust board with members appointed under section 93 or by a corporation appointed under section 95.

### **6 Transfer of property etc**

- (1) If a reserve trust is constituted under this Schedule, the transitional provisions of section 125 (3) (transitional provisions—additions to reserves) apply to the reserve trust.
- (2) For the purposes of those provisions:
  - (a) the trustee or trustees of the reserve appointed to manage the affairs of the reserve trust are called the former trustee, and
  - (b) the reserve trust is called the new trustee.
- (3) Those provisions apply:
  - (a) with such modifications as may be necessary or as the Minister may direct, and
  - (b) only in relation to an act, matter or thing concerning the former trustee in connection with the care, control and management of the reserve.

### **7 References to Crown Land Agent**

On and from the date of assent to this Act, a reference in any other Act, any instrument made under an Act or in any other instrument, to a Crown Land Agent shall be read as a reference to the Manager of the appropriate Local Lands Office.

### **8 Local land boards**

- (1) On and from the commencement of Division 2 of Part 2, a reference in any other Act, in any instrument made under an Act or in any other instrument to a local land board shall be read as a reference to a local land board under this Act.
- (2) If any complaint, reference, case, dispute, inquiry, determination, redetermination or other matter is before a local land board under the provisions of a repealed Act immediately before their repeal:
  - (a) the matter shall be completed as if the provisions had not been repealed or shall be discontinued, as the local land board orders, or
  - (b) if the Minister so directs, the matter shall be dealt with by a local land board as if it had been referred by the Minister for an inquiry and report under the provisions of this Act or the *Crown Lands (Continued Tenures) Act 1989* which the Minister directs are the appropriate corresponding provisions.
- (3) For the purposes of subclause (2) (a), the membership of the local land board continues as it would have been but for the repeals, whether or not different members have been appointed under this Act.

### **9 Appeals to Land and Environment Court**

- (1) A right to appeal or to refer a matter to the Land and Environment Court existing under a repealed Act immediately before its repeal continues and may be exercised as if the repealed Act had continued in force.

- (2) An appeal or reference to the Land and Environment Court pending under a repealed Act immediately before its repeal shall proceed and be dealt with as if the repealed Act had continued in force.

#### **10 Purchases upon reclamation**

- (1) If the Minister has authorised the reclamation of land under section 68 of the *Crown Lands Consolidation Act 1913* and the purchase of the land has not been completed before the repeal of that section:
  - (a) the matter shall be dealt with as a sale of the land under Part 4, and
  - (b) there shall be taken to exist a contract for the sale of the land under Part 4 on the terms and conditions to which the authorisation to reclaim was subject.
- (2) If before the repeal of section 68 of the *Crown Lands Consolidation Act 1913* land the subject of an authorisation to reclaim under that section was brought under the *Real Property Act 1900* under section 13A of that Act:
  - (a) the Minister may issue a certificate to the effect that the reclamation has been satisfactorily completed, and
  - (b) if the Minister issues the certificate, the Registrar-General shall remove any recording in the Register of a condition providing for reclamation of the land to be completed to the satisfaction of the Minister or the local land board.

#### **11 Tenant-right in improvements**

If, immediately before its repeal, section 223 of the *Crown Lands Consolidation Act 1913* applied to a tenant-right in improvements, that section continues to apply to the tenant-right in improvements as if it had not been repealed.

#### **12 Roads of access**

If, immediately before its repeal, section 279 of the *Crown Lands Consolidation Act 1913* applied to entitle a person to a road of access, that section continues to apply to and in respect of the road of access as if it had not been repealed.

#### **13 Township settlement areas**

- (1) A notification of a township settlement area under section 38 of the *Closer Settlement Act 1904*, in force immediately before the repeal of that Act, continues in force after that repeal.
- (2) That section continues to apply to and in respect of such a notification as if it had not been repealed.

#### **14 Advances under War Service Land Settlement Act 1941**

The *War Service Land Settlement Act 1941* continues to apply, as if it had not been repealed, to and in respect of:

- (a) the security for any advance made under that Act before its repeal, and
- (b) the transfer of any such advance.

#### **15 Pending applications and other matters**

- (1) If an application was made under a provision of a repealed Act and is pending immediately before the repeal of the provision, the application, if the Minister so directs:
  - (a) shall be dealt with as if it had been made under a provision of this Act or the *Crown Lands (Continued Tenures) Act 1989* which the Minister directs is the appropriate corresponding provision,



- (b) shall continue to be dealt with under the provisions of the repealed Act as if it had not been repealed, or
  - (c) shall lapse.
- (2) If the Minister so directs, anything else that had been commenced to be done under a repealed Act but had not been completed immediately before its repeal:
  - (a) shall be taken to have been done, and shall continue to be done, under a provision of this Act or the *Crown Lands (Continued Tenures) Act 1989* which the Minister directs is the appropriate corresponding provision,
  - (b) shall continue to be done and may be completed under the repealed Act as if it had not been repealed, or
  - (c) ceases to have any effect.
- (3) The Minister may also give ancillary directions as to the manner in which such a pending application is to be dealt with or such an incomplete matter is to proceed, including (without being limited to) a direction requiring the payment of any amount appropriate to the provision of this Act or the *Crown Lands (Continued Tenures) Act 1989* under which an application is to be dealt with.
- (4) The Minister's directions under this clause may relate to a particular application or matter or to applications or matters of a particular class.

#### **16 Applications—continuation of certain provisions**

- (1) For the purpose of enabling an application under a repealed Act to continue to be dealt with under a provision of that Act (in accordance with this Schedule):
  - (a) any delegation by the Minister under a provision of the repealed Act continues in force,
  - (b) the power of the Minister to vary or revoke such a delegation, or to make a new delegation under the provision, continues as if the provision had not been repealed, and
  - (c) any other provision of the repealed Act necessary or convenient for the determination of the application continues in force as if not repealed.
- (2) The Minister may give ancillary directions requiring a reference in such an application to a provision of the repealed Act to be construed as a reference to a specified provision of this Act or the *Crown Lands (Continued Tenures) Act 1989*.

#### **17 Effect of repeals on sales, leases, road permits etc**

- (1) The repeal of a repealed Act does not of itself operate to annul, prejudice or affect any grant, sale, purchase, exchange, lease, contract, agreement or other transaction which was made, effected or validated by or under the repealed Act.
- (2) Subject to this Act and the *Crown Lands (Continued Tenures) Act 1989*, any such grant, sale, purchase, exchange, lease, contract, agreement or other transaction remains as valid and has effect as if the repealed Act had not been repealed.
- (3) A permission to enclose a road or watercourse granted under:
  - (a) section 202 of the *Crown Lands Consolidation Act 1913*,
  - (b) section 46 of the *Closer Settlement Act 1904*,
  - (c) regulation 11 of the *Returned Soldiers Settlement Regulations 1916*, or
  - (d) section 14 of the *Crown Lands Act Further Amendment Act (1888)*,and in force as at the commencement of this clause has effect as an enclosure permit granted under this Act.

- (4) If the provisions of section 109 (3), 183 (1) or 184 (1) (h) of the *Crown Lands Consolidation Act 1913* relating to payment of the cost of deferred surveys applied, immediately before their repeal, to a holding, those provisions continue to apply to the holding as if they had not been repealed.

## **18 Saving of appointments**

- (1) A person holding office under a repealed Act immediately before its repeal shall be taken to have been appointed under this Act to the corresponding office under this Act.
- (2) Subclause (1) does not apply to a member of a local land board appointed by the Minister under the *Crown Lands Consolidation Act 1913* and, on the repeal of that Act (but except for the purposes of clause 8) such a member ceases to hold office without affecting his or her eligibility (if qualified) for appointment under this Act as a member of a local land board.
- (3) A person who ceases to hold office because of the operation of subclause (2) is not entitled to be paid any remuneration or compensation because of ceasing to hold the office.
- (4) This clause applies in relation to a member of a special land board constituted under section 138 of the *Crown Lands Consolidation Act 1913* in the same way as it applies in relation to a member of a local land board appointed by the Minister.

## **19 General savings**

- (1) The repeal of a repealed Act does not of itself:
- (a) deprive any act, matter or thing done of any effect which it was declared, explained or otherwise caused to have by the repealed Act,
  - (b) render invalid any act, matter or thing which was validated by the repealed Act and which continued to be valid up to its repeal,
  - (c) prejudice any tenant-right in improvements, ownership of improvements, right to receive or liability to make payment for improvements, claim to contribution in respect of fencing or right to receive or liability to pay such a contribution,
  - (d) prejudice any other obligation as between private persons or as between the Crown and any private person, or any protection obtained for any holding,
  - (e) defeat any forfeiture for a contravention of the repealed Act, breach of any conditions contained in the repealed Act or in an instrument issued under the repealed Act, or
  - (f) affect the power to declare such a forfeiture or the right of any person to be protected from such a forfeiture.
- (2) An act, matter or thing done or omitted under or for the purposes of, and having operation immediately before the repeal of, a repealed Act:
- (a) shall be taken to have been done or omitted, as appropriate, under or for the purposes of any corresponding provision of this Act or the *Crown Lands (Continued Tenures) Act 1989*,
  - (b) in the case of any thing done or omitted by trustees of a reserve shall be taken to have been done or omitted by the reserve trust which replaced the trustees as trustee of the reserve, and
  - (c) has continuing operation and effect for that purpose.

## **20 Continuing operation of previous savings**

- (1) Any savings provision enacted or continued by a repealed Act and in force immediately before its repeal shall be taken to have been enacted by this Act.
- (2) Savings provisions enacted by a repealed Act include, but are not limited to, section 261A of the *Crown Lands Consolidation Act 1913* (retention of rights of mortgagees on conversion or purchase of holdings).

## **21 References to repealed Acts, tenures etc**

- (1) A reference in any other Act, in any instrument made under an Act or in any other instrument to the *Crown Lands Consolidation Act 1913* shall be read as a reference to the *Crown Lands Act 1989*.
- (2) If the Minister by order published in the Gazette so directs, a reference in any other Act, in any instrument made under an Act or in any other instrument to, or to a provision of, a repealed Act or to any tenure or holding under a repealed Act:
  - (a) is to be read as a reference to, or to a specified provision of, or to a specified tenure or holding under, this Act or the *Crown Lands (Continued Tenures) Act 1989*, or
  - (b) is to be read as including a reference to, or to a specified provision of, or a specified tenure or holding under, this Act or the *Crown Lands (Continued Tenures) Act 1989*.
- (3) If a direction is given in respect of a reference referred to in subclause (1), that subclause ceases to have effect in respect of the reference.

## **22 Certain statutory instruments to continue in force**

- (1) A by-law in force under Part 3B of the *Crown Lands Consolidation Act 1913* immediately before its repeal:
  - (a) continues in force on and after that repeal as if it were a by-law made under Part 5, and
  - (b) may be varied or revoked by a by-law made under Part 5.
- (2) A reference to a provision of a repealed Act in such a by-law shall be read as a reference to the corresponding provision of this Act or the *Crown Lands (Continued Tenures) Act 1989*.

## **23 Conflict of provisions**

- (1) If more than one provision of this Schedule is capable of applying to a situation so as to give different results, the provisions shall apply as directed by the Minister.
- (2) If a doubt arises as to which of the Minister and the Water Administration Ministerial Corporation is required to act under:
  - (a) a condition of a lease, or
  - (b) a recording in the Register,the action shall be taken as directed by the Minister.

## **24 Interpretation Act 1987**

This Act has effect in addition to and does not derogate from the operation of the *Interpretation Act 1987*.

## **25 Savings and transitional regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

this Act

*Crown Lands (Continued Tenures) Act 1989*

*Western Lands (Crown Lands) Amendment Act 1989*

*Miscellaneous Acts (Crown Lands) Amendment Act 1989*

*Crown Lands Amendment (Compensation) Act 2001*

*Crown Lands Legislation Amendment (Budget) Act 2004*

*Crown Lands Legislation Amendment Act 2005*

*Rookwood Necropolis Repeal Act 2009*

any Act that amends this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Provisions relating to pending applications and other matters subject to Ministerial direction under clause 15**

### **26 Commencement of Part**

This Part is taken to have commenced on 1 May 1990.

### **27 Definitions**

In this Part:

***Crown Lands Acts*** does not include this Act or the Continued Tenures Act.

***the Continued Tenures Act*** means the *Crown Lands (Continued Tenures) Act 1989*.

***the Continued Tenures Regulation*** means the *Crown Lands (Continued Tenures) Regulation 1990*.

### **28 Application of Part**

This Part applies to an application or other matter that was pending or commenced at the commencement of this Act if the Minister has issued a direction under clause 15 that it be dealt with as if the Crown Lands Acts, or section 28BB of the *Western Lands Act 1901* had not been repealed.

### **29 Purchases**

On the granting of an application (to which this Part applies) to purchase land or for the conversion or purchase of a perpetual lease, term lease or special lease under the Crown Lands Acts, the purchase has effect as an incomplete purchase in force at the commencement of the Continued Tenures Act and the provisions of that Act and the Continued Tenures Regulation relating to incomplete purchases apply to that purchase.

### **30 Perpetual leases**

On the granting of an application (to which this Part applies) to extend the term of a conditional lease, Crown-lease or prickly-pear lease to perpetuity, the lease has effect as a perpetual lease in force at the commencement of the Continued Tenures Act and the provisions of that Act and the Continued Tenures Regulation relating to perpetual leases apply to that lease.

### **31 Term leases**

On the granting of an application (to which this Part applies) to extend the term of a conditional lease, Crown-lease or prickly-pear lease for an additional term of years, the lease has effect as a term lease in force at the commencement of the Continued Tenures Act and the provisions of that Act and the Continued Tenures Regulation relating to term leases apply to that lease.

### **32 Special leases**

- (1) On the granting of an application (to which this Part applies) to extend the term of a special lease (other than a special lease granted over an expired conditional lease, the holder of which had failed to apply for extension of the term of the lease) for an additional term of years, the lease has effect as a special lease in force at the commencement of the Continued Tenures Act and the provisions of that Act (clause 5 of Part 5 of Schedule 2 excepted) and the Continued Tenures Regulation relating to special leases apply to that lease.
- (2) On the granting of an application (to which this Part applies) to extend the term of a special lease:
  - (a) to perpetuity, or
  - (b) in the case of a special lease for a term of years granted over an expired conditional lease (the holder of which had failed to apply for extension of the term of the lease), for an additional term of years,the lease has effect as a special lease in force at the commencement of the Continued Tenures Act and the provisions of that Act (clause 4 of Part 5 of Schedule 2 excepted) and the Continued Tenures Regulation relating to special leases apply to that lease.

### **33 Permissive occupancies**

On the granting of an application (to which this Part applies) for a permissive occupancy, the occupancy has effect as a permissive occupancy in force at the commencement of the Continued Tenures Act and the provisions of that Act and the Continued Tenures Regulation relating to permissive occupancies apply to that permissive occupancy.

### **34 Quarry licences**

On the granting of an application (to which this Part applies) for a quarry licence or an interim quarry licence, the licence has effect as a quarry licence in force at the commencement of the Continued Tenures Act and the provisions of that Act and the Continued Tenures Regulation relating to quarry licences apply to that licence.

### **35 Permits to enclose roads or watercourses**

On the granting of a permit to enclose a road or watercourse to which this Part applies:

- (a) pursuant to an application under section 202 of the *Crown Lands Consolidation Act 1913*, or
- (b) following a reference to a local land board under section 202 (b) of that Act,

the permit has effect as an enclosure permit granted under this Act and the provisions of this Act and the *Crown Lands Regulation 1990* relating to enclosure permits apply to that permit.

**36 Transferred provisions to which Interpretation Act 1987 applies (section 30A)**

- (1) Clauses 26–35 re-enact (with minor modification) clauses 2–11 of the *Crown Lands (Transitional Provisions) Regulation 1990*.
- (2) Clauses 26–35 are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

**Part 3 Provisions consequent on Crown Lands Amendment (Compensation) Act 2001**

**37 Compensation for past acquisitions not affected**

Section 106A, as inserted by the *Crown Lands Amendment (Compensation) Act 2001*, does not apply to or in respect of the determination of compensation payable:

- (a) in the case of an acquisition of land, if the acquisition notice in relation to the land was published under the *Land Acquisition (Just Terms Compensation) Act 1991* before the commencement of that section, or
- (b) in the case of the vesting of land or an easement under the *Pipelines Act 1967*, if the notification under section 21 (1) of that Act occurred before the commencement of section 106A of this Act.

**Part 4 Provisions consequent on Crown Lands Legislation Amendment (Budget) Act 2004**

**38 Definitions**

- (1) In this Part:

***amending Act*** means the *Crown Lands Legislation Amendment (Budget) Act 2004*.

***continued tenures lease*** means a perpetual lease, special lease, term lease or Commonwealth lease under the *Crown Lands (Continued Tenures) Act 1989*.

***cultivation enclosure permit*** means an enclosure permit in relation to which the Minister has authorised the cultivation of the land enclosed.

***holding*** does not include an incomplete purchase under the *Crown Lands (Continued Tenures) Act 1989*.

- (2) In this Part, a reference to a ***holding*** includes a reference to a Commonwealth lease.

**39 Application of amendments**

- (1) The amendments made to this Act by the amending Act extend to holdings and enclosure permits that were in force immediately before 1 July 2004, subject to this Part.
- (2) Subject to this Part, Divisions 2A and 2B of Part 7, as inserted by the amending Act, apply to the rent of a holding or an enclosure permit in respect of any due date that occurs on or after 1 July 2004 (whether or not the rent was paid in advance before 1 July 2004).

**40 Phasing-in of increase in minimum rents—holdings and cultivation enclosure permits**

- (1) This clause applies in respect of a holding (except a continued tenures lease the rent of which was not, immediately before 1 July 2004, subject to redetermination), or a cultivation enclosure permit, to which Division 2A of Part 7 (as inserted by the amending Act) applies that was in force immediately before 1 July 2004.
- (2) For the purposes of Division 2A of Part 7:
  - (a) the minimum rent of a holding or a cultivation enclosure permit to which this clause applies is taken, in respect of any due date occurring on or after 1 July 2004 and before 1 July 2005, to be \$170, and
  - (b) the minimum rent of a holding or a cultivation enclosure permit to which this clause applies is taken, in respect of any due date occurring on or after 1 July 2005 and before 1 July 2006, to be \$270.
- (3) For avoidance of doubt, in respect of a due date occurring on or after 1 July 2006, the minimum rent is to be determined as provided by Division 2A of Part 7.

**41 Phasing-in of increase in minimum rents—other enclosure permits**

- (1) This clause applies in respect of an enclosure permit (other than a cultivation enclosure permit) to which Division 2A of Part 7 (as inserted by the amending Act) applies that was in force immediately before 1 July 2004.
- (2) For the purposes of Division 2A of Part 7:
  - (a) the minimum rent of an enclosure permit to which this clause applies is taken, in respect of any due date occurring on or after 1 July 2004 and before 1 July 2005, to be \$150, and
  - (b) the minimum rent of an enclosure permit to which this clause applies is taken, in respect of any due date occurring on or after 1 July 2005 and before 1 July 2006, to be \$250.
- (3) For avoidance of doubt, in respect of a due date occurring on or after 1 July 2006, the minimum rent is to be determined as provided by Division 2A of Part 7.

**42 Phasing-in of increase in minimum rents—continued tenures leases not subject to redetermination**

- (1) This clause applies in respect of a continued tenures lease in force immediately before 1 July 2004 if the rent under the lease was not, immediately before 1 July 2004, subject to redetermination and Division 2A of Part 7 (as inserted by the amending Act) applies in respect of the lease.
- (2) For the purposes of Division 2A of Part 7:
  - (a) the minimum rent of a lease to which this clause applies is taken, in respect of any due date occurring on or after 1 July 2004 and before 1 July 2005, to be \$250, and
  - (b) the minimum rent of a lease to which this clause applies is taken, in respect of any due date occurring on or after 1 July 2005 and before 1 July 2006, to be \$350.
- (3) For avoidance of doubt, in respect of a due date occurring on or after 1 July 2006, the minimum rent is to be determined as provided by Division 2A of Part 7.

**43 Due date for payment of additional amounts**

- (1) If any additional amount of rent is payable in respect of a holding or enclosure permit as a consequence of the amendments made to this Act by the amending Act, that

additional amount does not become due and payable until the date notified to the holder of the holding or enclosure permit by the Minister as being the due date in respect of such additional amount.

**Note.** Accordingly, interest does not become payable in respect of such additional amounts under section 148 until the holder is notified of the additional amount payable.

- (2) Subclause (1) ceases to have effect on 1 July 2005.

**44 (Repealed)**

## **Part 5 Provisions consequent on Crown Lands Legislation Amendment Act 2005**

**45 Definition**

In this Part:

***amending Act*** means the *Crown Lands Legislation Amendment Act 2005*.

**46 Application of Part 4A**

Part 4A (as inserted by the amending Act) extends to an application to purchase land that is the subject of a holding under the *Crown Lands (Continued Tenures) Act 1989* that was made, but not approved by the Minister, before the commencement of that Part.

**47 Saving of existing restrictions on use and covenants**

- (1) Any restriction on use (including a restriction relating to subdivision or separate dealing) or public positive covenant imposed by the Minister in accordance with Part 4 of Schedule 7A to the *Crown Lands (Continued Tenures) Act 1989* (and in force immediately before the repeal of that Part by the amending Act), referred to in this clause as an ***existing instrument***, is taken to be a restriction on use or public positive covenant imposed by the Minister in accordance with Part 4A of this Act (as inserted by the amending Act).
- (2) Anything done for the purposes of, or in connection with, the recording or implementation of an existing instrument before the commencement of Part 4A of this Act that would have been validly done had the amendments made by the amending Act been in force when it was done is validated.

**48 Performance management in relation to reserve trust managers**

Section 96A (as inserted by the amending Act) extends to reserve trust managers appointed before the commencement of that section.

**49 Determination or redetermination of rents**

The amendments made to section 143 by the amending Act apply in relation to determinations or redeterminations of rent by the Minister whether before or after the commencement of those amendments.

**50 GST payable on certain amounts**

Section 180B (as inserted by the amending Act) extends to matters arising before the commencement of that section if GST is payable in respect of the matter and anything done with respect to the addition of GST that would have been validly done had that section been in force when it was done is validated.



## Part 6

51–57 (Repealed)

## Part 7 Provisions consequent on enactment of Civil and Administrative Legislation (Repeal and Amendment) Act 2013

### 58 Functions of local land board transferred to Director-General

- (1) This clause applies to any function:
  - (a) that, immediately before the establishment day, was conferred or imposed on a local land board, and
  - (b) that will be conferred or imposed on the Director-General on and from the establishment day (rather than the Civil and Administrative Tribunal) because of an amendment made to an Act or statutory rule by the amending Act.

**Note.** The adjudicative functions of the local land boards will be transferred to the Civil and Administrative Tribunal. See Part 2 of Schedule 1 to the *Civil and Administrative Tribunal Act 2013*.

- (2) If a local land board had commenced to exercise (but had not completed exercising) a function to which this clause applies before its abolition, the member or members of the former local land board involved in exercising that function may complete the exercise of that function despite the board's abolition.
- (3) Any such function may be exercised as if the *Civil and Administrative Tribunal Act 2013* and amending Act had not been enacted.
- (4) In this clause:

**amending Act** means the *Civil and Administrative Legislation (Repeal and Amendment) Act 2013*.

**establishment day** has the same meaning as in the *Civil and Administrative Tribunal Act 2013*.

## Part 8 Provisions consequent on Crown Lands Amendment (Multiple Land Use) Act 2013

### 59 Validation of existing secondary interests

- (1) Section 34AA extends to a secondary interest granted before the commencement of that section (an **existing secondary interest**), including any such secondary interest that is an existing interest under section 187 of the *National Parks and Wildlife Act 1974*.
- (2) It is to be conclusively presumed that when an existing secondary interest was granted the Minister was of the opinion that use or occupation of the Crown reserve pursuant to the secondary interest would be in the public interest and would not be likely to materially harm its use or occupation for the reserved purpose.
- (3) An existing secondary interest that would have been validly granted had section 34AA been in force at the time of the grant is taken to be and always to have been validly granted.
- (4) The power of the Minister under section 34AA to validate a secondary interest as referred to in that section extends to an existing secondary interest.

- (5) A reference in section 34AA to the use and occupation of Crown land in accordance with a secondary interest prior to its validation under that section extends to use and occupation before the commencement of that section.
- (6) This clause does not affect any decision of a court made before the commencement of section 34AA.
- (7) This clause does not affect any land claim (within the meaning of the *Aboriginal Land Rights Act 1983*) made before 9 November 2012 (the date of the decision in *Minister Administering the Crown Lands Act v New South Wales Aboriginal Land Council (Goomallee Claim)* [2012] NSWCA 358).
- (8) The validation of a secondary interest by operation of section 34AA and this clause is taken to be an act to which section 104A (Saving of native title rights and interests etc) of the *Native Title (New South Wales) Act 1994* applies.
- (9) This clause extends to the operation of section 34AA pursuant to section 102B.

**60 Application of amendments to existing secondary interests**

Section 35A (including in its operation under section 102B) extends to a lease, licence, permit, easement or right-of-way granted before the commencement of that section but not to proceedings pending on the commencement of that section.

**61 Period of notice for challenge to existing secondary interests**

The prescribed period of notice under section 35A in respect of a lease, licence, permit, easement or right-of-way in force immediately before the commencement of that section is 6 months (despite section 35A (2)).

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

## Table of amending instruments

Crown Lands Act 1989 No 6. Assented to 21.3.1989. Date of commencement, 1.5.1990, sec 2 and GG No 51 of 20.4.1990, p 3196. This Act has been amended as follows:

- 1989** No 226 Statute Law (Miscellaneous Provisions) Act (No 3) 1989. Assented to 21.12.1989.  
Date of commencement of the provisions of Sch 1 relating to the Crown Lands Act 1989, 1.5.1990, Sch 1.
- 1990** No 46 Statute Law (Miscellaneous Provisions) Act 1990. Assented to 22.6.1990.  
Date of commencement of the provisions of Sch 1 relating to the Crown Lands Act 1989, assent, sec 2.
- No 108 Statute Law (Miscellaneous Provisions) Act (No 2) 1990. Assented to 13.12.1990.  
Date of commencement of the provisions of Sch 1 relating to the Crown Lands Act 1989, item (17) excepted, assent, sec 2; date of commencement of item (17) of those provisions, 1.5.1990, Sch 1.
- 1991** No 17 Statute Law (Miscellaneous Provisions) Act 1991. Assented to 3.5.1991.  
Date of commencement of the provisions of Sch 1 relating to the Crown Lands Act 1989, assent, sec 2.
- No 22 Land Acquisition (Just Terms Compensation) Act 1991. Assented to 30.8.1991.  
Date of commencement, 1.1.1992, sec 2 and GG No 163 of 22.11.1991, p 9736.
- No 94 Statute Law (Miscellaneous Provisions) Act (No 2) 1991. Assented to 17.12.1991.  
Date of commencement of the provisions of Sch 1 relating to the Crown Lands Act 1989, assent, Sch 1.
- 1992** No 29 Mining Act 1992. Assented to 18.5.1992.  
Date of commencement, 21.8.1992, sec 2 and GG No 101 of 20.8.1992, p 5905.
- No 34 Statute Law (Miscellaneous Provisions) Act 1992. Assented to 18.5.1992.  
Date of commencement of the provisions of Sch 1 relating to the Crown Lands Act 1989, assent, Sch 1.
- No 57 Statute Law (Miscellaneous Provisions) Act (No 2) 1992. Assented to 8.10.1992.  
Date of commencement of the provision of Sch 1 relating to the Crown Lands Act 1989, assent, Sch 1.

- 1993** No 31 Impounding Act 1993. Assented to 8.6.1993.  
Date of commencement, 1.7.1993, sec 2 and GG No 73 of 1.7.1993, p 3343.
- No 32 Local Government (Consequential Provisions) Act 1993. Assented to 8.6.1993.  
Date of commencement of Sch 2, 1.7.1993, sec 2 (1) and GG No 73 of 1.7.1993, p 3342.
- No 33 Roads Act 1993. Assented to 8.6.1993.  
Date of commencement, 1.7.1993, sec 2 and GG No 73 of 1.7.1993, p 3343.
- No 108 Statute Law (Miscellaneous Provisions) Act (No 2) 1993. Assented to 2.12.1993.  
Date of commencement of the provision of Sch 2 relating to the Crown Lands Act 1989, assent, Sch 2.
- 1994** No 32 Statute Law (Miscellaneous Provisions) Act 1994. Assented to 2.6.1994.  
Date of commencement of the provision of Sch 1 relating to the Crown Lands Act 1989, 16.9.1994, Sch 1 and GG No 120 of 16.9.1994, p 5783.
- No 38 Fisheries Management Act 1994. Assented to 2.6.1994.  
Date of commencement, 16.1.1995, sec 2 and GG No 3 of 13.1.1995, p 44.
- No 41 Irrigation Corporations Act 1994. Assented to 2.6.1994.  
Date of commencement of items (1) (a) and (c), (3) and (4) of the provisions of Sch 3 relating to the Crown Lands Act 1989, 24.2.1995, sec 2 (1) and GG No 18 of 24.2.1995, p 914; date of commencement of items (1) (b) and (2) of those provisions, 1.7.1996, sec 2 (1) and GG No 77 of 28.6.1996, p 3283.
- 1995** No 16 Statute Law (Miscellaneous Provisions) Act 1995. Assented to 15.6.1995.  
Date of commencement of Sch 4.3, assent, Sch 4.
- No 27 Evidence (Consequential and Other Provisions) Act 1995. Assented to 19.6.1995.  
Date of commencement, 1.9.1995, sec 2 and GG No 102 of 25.8.1995, p 4355.
- 1996** No 30 Statute Law (Miscellaneous Provisions) Act 1996. Assented to 21.6.1996.  
Date of commencement of Sch 1.13, assent, sec 2 (2).
- No 58 National Parks and Wildlife Amendment Act 1996. Assented to 1.7.1996.  
Date of commencement, 1.6.1997, sec 2 and GG No 57 of 30.5.1997, p 3472.
- No 137 Mining Legislation Amendment Act 1996. Assented to 16.12.1996.  
Date of commencement of Sch 2.5, 14.3.1997, sec 2 and GG No 26 of 14.3.1997, p 1470. The proclamation appointed 8.3.1997 as the date of commencement. Pursuant to section 23 (5) of the Interpretation Act 1987, the proclamation does not fail merely because it was not published in the Gazette until after the day appointed in the proclamation, but section 23 (5) provides, in that event, for Sch 2.5 to the Act to commence on the day on which the proclamation was published in the Gazette.

- 1997** No 17     Conveyancing Amendment Act 1997. Assented to 12.6.1997.  
Date of commencement, 1.10.1997, sec 2 and GG No 102 of 19.9.1997, p 8089.
- No 107     Justices Amendment (Procedure) Act 1997. Assented to 9.12.1997.  
Date of commencement, 3.8.1998, sec 2 and GG No 112 of 24.7.1998, p 5606.
- No 119     Road Transport (Vehicle Registration) Act 1997. Assented to 9.12.1997.  
Date of commencement of Sch 2.5, 29.6.1998, sec 2 and GG No 97 of 26.6.1998, p 4429. Amended by Road Transport (Vehicle Registration) Amendment Act 1998 No 26. Assented to 3.6.1998. Date of commencement of Sch 1, 29.6.1998, sec 2 and GG No 97 of 26.6.1998, p 4428.
- 1998** No 99     Road Transport (Driver Licensing) Act 1998. Assented to 26.10.1998.  
Date of commencement of Sch 1, 1.3.1999, sec 2 and GG No 25 of 26.2.1999, p 979.
- No 143     Rural Lands Protection Act 1998. Assented to 8.12.1998.  
Date of commencement of Sch 6, 28.9.2001, sec 2 and GG No 146 of 28.9.2001, p 8183.
- 1999** No 19     Road Transport Legislation Amendment Act 1999. Assented to 1.7.1999.  
Date of commencement of Sch 2, 1.12.1999, sec 2 (1) and GG No 133 of 26.11.1999, p 10863.
- No 42     Offshore Minerals Act 1999. Assented to 8.7.1999.  
Date of commencement, 31.3.2000, sec 2 and GG No 42 of 31.3.2000, p 2490.
- No 85     Statute Law (Miscellaneous Provisions) Act (No 2) 1999. Assented to 3.12.1999.  
Date of commencement of Sch 1.9, assent, sec 2 (2).
- No 94     Crimes Legislation Amendment (Sentencing) Act 1999. Assented to 8.12.1999.  
Date of commencement of Sch 4.15, 3.4.2000, sec 2 (1) and GG No 42 of 31.3.2000, p 2487; date of commencement of sec 7 and Sch 5, 1.1.2000, sec 2 (1) and GG No 144 of 24.12.1999, p 12184.
- 2000** No 92     Water Management Act 2000. Assented to 8.12.2000.  
Date of commencement of Sch 8.5, 1.1.2001, sec 2 and GG No 168 of 22.12.2000, p 13471.
- 2001** No 8     Crown Lands Amendment (Compensation) Act 2001. Assented to 18.4.2001.  
Date of commencement, 1.7.2001, sec 2 and GG No 100 of 22.6.2001, p 4245.
- No 121     Justices Legislation Repeal and Amendment Act 2001. Assented to 19.12.2001.  
Date of commencement of Sch 2, 7.7.2003, sec 2 and GG No 104 of 27.6.2003, p 5978.
- No 122     Cemeteries Legislation Amendment (Unused Burial Rights) Act 2001. Assented to 19.12.2001.  
Date of commencement, 1.2.2003, sec 2 and GG No 14 of 17.1.2003, p 221.
- 2002** No 53     Statute Law (Miscellaneous Provisions) Act 2002. Assented to 4.7.2002.  
Date of commencement of Sch 1.4, assent, sec 2 (2).

- No 112 Statute Law (Miscellaneous Provisions) Act (No 2) 2002. Assented to 29.11.2002.  
Date of commencement of Sch 1.5, assent, sec 2 (3).
- 2004** No 63 Crown Lands Legislation Amendment (Budget) Act 2004. Assented to 6.7.2004.  
Date of commencement, 1.7.2004, sec 2.
- No 91 Statute Law (Miscellaneous Provisions) Act (No 2) 2004. Assented to 10.12.2004.  
Date of commencement of Sch 2.16, assent, sec 2 (2).
- 2005** No 11 Road Transport (General) Act 2005. Assented to 14.4.2005.  
Date of commencement of Sch 3.9, 30.9.2005, sec 2 (1) and GG No 120 of 30.9.2005, p 7674.
- No 58 Crown Lands Legislation Amendment Act 2005. Assented to 1.7.2005.  
Date of commencement, 15.7.2005, sec 2 and GG No 90 of 15.7.2005, p 3703.
- No 98 Statute Law (Miscellaneous Provisions) Act (No 2) 2005. Assented to 24.11.2005.  
Date of commencement of Sch 1, assent, sec 2 (2).
- 2006** No 58 Statute Law (Miscellaneous Provisions) Act 2006. Assented to 20.6.2006.  
Date of commencement of Sch 1.9, assent, sec 2 (2).
- No 85 Crown Lands Legislation Amendment (Carbon Sequestration) Act 2006. Assented to 2.11.2006.  
Date of commencement, 9.2.2007, sec 2 and GG No 31 of 9.2.2007, p 735.
- No 120 Statute Law (Miscellaneous Provisions) Act (No 2) 2006. Assented to 4.12.2006.  
Date of commencement of Sch 1, assent, sec 2 (2).
- 2007** No 27 Statute Law (Miscellaneous Provisions) Act 2007. Assented to 4.7.2007.  
Date of commencement of Sch 1.14, assent, sec 2 (2).
- No 82 Statute Law (Miscellaneous Provisions) Act (No 2) 2007. Assented to 7.12.2007.  
Date of commencement of Sch 1, assent, sec 2 (2).
- No 94 Miscellaneous Acts (Local Court) Amendment Act 2007. Assented to 13.12.2007.  
Date of commencement of Schs 2 and 3, 6.7.2009, sec 2 and 2009 (314) LW 3.7.2009.
- 2008** No 34 Western and Crown Lands Amendment (Special Purpose Leases) Act 2008. Assented to 25.6.2008.  
Date of commencement, assent, sec 2.
- No 39 Filming Related Legislation Amendment Act 2008. Assented to 25.6.2008.  
Date of commencement, 30.3.2009, sec 2 and 2009 (103) LW 27.3.2009.
- No 72 Dividing Fences and Other Legislation Amendment Act 2008. Assented to 28.10.2008.  
Date of commencement, 1.2.2009, sec 2 and GG No 20 of 23.1.2009, p 392.

- No 112 Rural Lands Protection Amendment Act 2008. Assented to 10.12.2008.  
Date of commencement of Sch 6.4, 1.1.2009, sec 2 (1).
- 2009** No 9 Western Lands Amendment Act 2009. Assented to 7.4.2009.  
Date of commencement of Sch 3, assent, sec 2 (1).
- No 17 Real Property and Conveyancing Legislation Amendment Act 2009.  
Assented to 13.5.2009.  
Date of commencement of Sch 3, assent, sec 2 (1).
- No 42 Rookwood Necropolis Repeal Act 2009. Assented to 26.6.2009.  
Date of commencement, 1.7.2009, sec 2 and 2009 (306) LW 1.7.2009.
- No 49 NSW Trustee and Guardian Act 2009. Assented to 26.6.2009.  
Date of commencement, 1.7.2009, sec 2 and 2009 (305) LW 1.7.2009.
- 2010** No 10 Crown Lands Amendment (Special Purpose Leases) Act 2010. Assented to 28.4.2010.  
Date of commencement, assent, sec 2.
- No 59 Statute Law (Miscellaneous Provisions) Act 2010. Assented to 28.6.2010.  
Date of commencement of Sch 2.20, 9.7.2010, sec 2 (2).
- 2011** No 62 Statute Law (Miscellaneous Provisions) Act (No 2) 2011. Assented to 16.11.2011.  
Date of commencement of Sch 4, 6.1.2012, sec 2 (1).
- 2012** No 96 Forestry Act 2012. Assented to 21.11.2012.  
Date of commencement of Sch 4.4, 1.1.2013, sec 2 and 2012 (680) LW 21.12.2012.
- 2013** No 19 Road Transport Legislation (Repeal and Amendment) Act 2013.  
Assented to 3.4.2013.  
Date of commencement, 1.7.2013, sec 2 and 2013 (329) LW 28.6.2013.
- No 51 Local Land Services Act 2013. Assented to 1.7.2013.  
Date of commencement of Sch 7, 1.1.2014, sec 2 (1).
- No 95 Civil and Administrative Legislation (Repeal and Amendment) Act 2013. Assented to 20.11.2013.  
Date of commencement, 1.1.2014, sec 2.
- No 97 Residential (Land Lease) Communities Act 2013. Assented to 20.11.2013.  
Date of commencement, 1.11.2015, sec 2 and 2015 (446) LW 7.8.2015.
- No 101 Crown Lands Amendment (Multiple Land Use) Act 2013. Assented to 27.11.2013.  
Date of commencement, assent, sec 2.
- No 105 Cemeteries and Crematoria Act 2013. Assented to 27.11.2013.  
Date of commencement of sec 143 (d) and Sch 6.1 [1]–[7] [9] and [10], 1.11.2014, sec 2 and 2014 (678) LW 24.10.2014; date of commencement of Sch 6.1 [8]: not in force.
- 2015** No 48 Regulatory Reform and Other Legislative Repeals Act 2015. Assented to 5.11.2015.  
Date of commencement of Sch 3, assent, sec 2 (1).
- No 58 Statute Law (Miscellaneous Provisions) Act (No 2) 2015. Assented to 24.11.2015.  
Date of commencement of Sch 3, 15.1.2016, sec 2 (3).

**2016** No 13      Fines Amendment Act 2016. Assented to 11.5.2016.  
Date of commencement, 1.6.2016, sec 2 and 2016 (276) LW 1.6.2016.

## Table of amendments

Sec 3	Am 1992 No 29, Sch 5; 1994 No 41, Sch 3; 2002 No 112, Sch 1.5 [1]–[3]; 2004 No 63, Sch 1 [1] [2]; 2005 No 58, Sch 1 [1]–[3]; 2008 No 34, Sch 2 [1]; 2008 No 39, Sch 1.1 [1]; 2008 No 112, Sch 6.4 [1]; 2009 No 9, Sch 3.3 [1] [2]; 2010 No 59, Sch 2.20; 2013 No 51, Sch 7.9 [1] [2]; 2013 No 95, Sch 8.5 [1]; 2013 No 105, Sch 6.1 [1]; 2015 No 58, Sch 3.27 [2] [3].
Sec 4	Am 2009 No 9, Sch 3.3 [3] [4].
Sec 5	Am 1994 No 41, Sch 3; 2009 No 9, Sch 3.3 [5].
Sec 8	Am 1994 No 41, Sch 3.
Sec 16	Am 2015 No 58, Sch 3.27 [4].
Part 2, Div 2	Subst 2013 No 95, Sch 8.5 [2].
Sec 19	Am 1990 No 108, Sch 1. Subst 2013 No 95, Sch 8.5 [2].
Secs 20–24	Rep 2013 No 95, Sch 8.5 [2].
Sec 24A	Ins 2007 No 82, Sch 1.4 [1]. Rep 2013 No 95, Sch 8.5 [2].
Part 2, Div 3	Rep 2013 No 95, Sch 8.5 [3].
Sec 25	Rep 2013 No 95, Sch 8.5 [3].
Sec 26	Am 1992 No 57, Sch 1. Rep 2013 No 95, Sch 8.5 [3].
Secs 27–29	Rep 2013 No 95, Sch 8.5 [3].
Sec 33	Am 2015 No 58, Sch 3.27 [5].
Sec 33A	Ins 2013 No 101, Sch 1 [1].
Sec 34	Am 1991 No 94, Sch 1; 1998 No 143, Sch 6.5; 2002 No 112, Sch 1.5 [4]; 2005 No 58, Sch 1 [4]; 2008 No 34, Sch 2 [2].
Sec 34AA	Ins 2013 No 101, Sch 1 [2].
Sec 34A	Ins 2005 No 58, Sch 1 [5]. Am 2007 No 27, Sch 1.14 [1]; 2007 No 82, Sch 1.4 [2]; 2008 No 34, Sch 2 [3] [4]; 2008 No 112, Sch 6.4 [2]; 2013 No 51, Sch 7.9 [3]; 2013 No 101, Sch 1 [3].
Sec 35A	Ins 2013 No 101, Sch 1 [4].
Sec 36	Am 2006 No 58, Sch 1.9 [1].
Sec 39, note	Ins 2005 No 58, Sch 1 [6].
Sec 44AA	Ins 2008 No 39, Sch 1.1 [2].
Part 4, Div 3A, heading	Ins 2008 No 34, Sch 2 [5]. Am 2010 No 10, sec 3 (1).
Part 4, Div 3A	Ins 2008 No 34, Sch 2 [5].
Sec 44A	Ins 2008 No 34, Sch 2 [5].
Sec 44B	Ins 2008 No 34, Sch 2 [5]. Am 2010 No 10, sec 3 (2).
Secs 44C–44E	Ins 2008 No 34, Sch 2 [5].
Sec 45	Subst 2005 No 58, Sch 1 [7]. Am 2005 No 98, Sch 1.6 [1]; 2008 No 39, Sch 1.1 [3].



Sec 47	Am 2005 No 58, Sch 1 [8]; 2008 No 39, Sch 1.1 [4].
Sec 48	Subst 2005 No 58, Sch 1 [9]. Am 2007 No 27, Sch 1.14 [2].
Sec 48A	Ins 2005 No 58, Sch 1 [10]. Am 2008 No 39, Sch 1.1 [5].
Sec 49	Am 1992 No 29, Sch 5; 1999 No 42, Sch 3.4 [1]–[4].
Sec 51	Am 1996 No 58, Sch 2.2; 1997 No 17, Sch 2.3.
Sec 53	Am 1990 No 108, Sch 1.
Sec 56	Am 1992 No 34, Sch 1.
Part 4, Div 5A	Ins 2006 No 85, Sch 1.
Secs 59A, 59B	Ins 2006 No 85, Sch 1.
Sec 59C	Ins 2006 No 85, Sch 1. Am 2012 No 96, Sch 4.4.
Sec 69	Rep 2013 No 95, Sch 8.5 [4].
Sec 70	Am 2013 No 95, Sch 8.5 [5]–[8].
Sec 71	Rep 2013 No 95, Sch 8.5 [9].
Sec 72	Am 1989 No 226, Sch 1.
Sec 74	Am 1993 No 33, Sch 1.
Secs 75–77	Am 1993 No 32, Sch 2.
Part 4A (secs 77A, 77B)	Ins 2005 No 58, Sch 1 [11].
Sec 78	Am 1990 No 108, Sch 1; 1993 No 32, Sch 2; 2002 No 112, Sch 1.5 [5]; 2013 No 105, Sch 6.1 [2].
Sec 84	Am 2009 No 42, Sch 1 [1].
Secs 85, 91	Am 1991 No 94, Sch 1.
Sec 92	Am 1990 No 108, Sch 1; 1992 No 34, Sch 1; 2002 No 112, Sch 1.5 [6]; 2005 No 58, Sch 1 [12]; 2005 No 98, Sch 1.6 [2] [3]; 2013 No 105, Sch 6.1 [3] [4].
Sec 93	Am 1990 No 108, Sch 1.
Sec 95	Am 2005 No 58, Sch 1 [13] [14].
Sec 96	Am 2005 No 58, Sch 1 [15] [16].
Sec 96A	Ins 2005 No 58, Sch 1 [17].
Sec 97A	Ins 2005 No 58, Sch 1 [18]. Am 2007 No 82, Sch 1.4 [3].
Sec 98	Am 1990 No 108, Sch 1; 1993 No 32, Sch 2.
Sec 98A	Ins 2005 No 58, Sch 1 [19].
Sec 100	Am 1991 No 17, Sch 1; 2009 No 17, Sch 3.5.
Sec 101	Am 1991 No 17, Sch 1.
Sec 102	Am 1990 No 108, Sch 1; 1991 No 17, Sch 1; 2013 No 105, Sch 6.1 [5].
Sec 102A	Ins 2005 No 58, Sch 1 [20]. Am 2006 No 120, Sch 1.9 [1]–[4]; 2008 No 112, Sch 6.4 [2]; 2013 No 51, Sch 7.9 [4]; 2013 No 97, Sch 3.4.
Sec 102B	Ins 2013 No 101, Sch 1 [5].
Sec 103	Am 1991 No 17, Sch 1; 1994 No 38, Sch 8; 2008 No 39, Sch 1.1 [6].
Sec 105	Am 1991 No 17, Sch 1.

Sec 106	Am 1991 No 17, Sch 1; 1991 No 94, Sch 1.
Sec 106A	Ins 2001 No 8, Sch 1 [1]. Am 2002 No 53, Sch 1.4.
Sec 108	Am 1994 No 38, Sch 8.
Sec 111A	Ins 1994 No 32, Sch 1.
Sec 112A	Ins 2005 No 58, Sch 1 [21].
Sec 112	Am 1990 No 108, Sch 1; 1992 No 34, Sch 1; 2005 No 58, Sch 1 [22] [23]; 2013 No 105, Sch 6.1 [6] [7].
Sec 113	Am 1990 No 108, Sch 1; 1992 No 34, Sch 1; 2005 No 58, Sch 1 [24].
Sec 114	Am 2005 No 58, Sch 1 [25] [26]; 2008 No 39, Sch 1.1 [7].
Sec 116	Am 1994 No 38, Sch 8.
Sec 117	Am 1990 No 108, Sch 1; 2005 No 58, Sch 1 [27].
Sec 118	Rep 2005 No 58, Sch 1 [28].
Sec 119	Am 1990 No 108, Sch 1.
Sec 121A	Ins 2005 No 58, Sch 1 [30].
Sec 121	Am 1996 No 30, Sch 1.13; 2005 No 58, Sch 1 [29].
Sec 122	Am 2005 No 58, Sch 1 [31].
Sec 122A	Ins 2005 No 58, Sch 1 [32].
Sec 128	Am 1994 No 38, Sch 8; 2001 No 122, Sch 3.1; 2009 No 42, Sch 1 [2]; 2013 No 105, Sch 6.1 [9] [10].
Sec 129	Am 1990 No 108, Sch 1.
Sec 133	Rep 1994 No 41, Sch 3.
Sec 135	Subst 1991 No 22, Sch 1. Am 1992 No 34, Sch 1.
Sec 136	Am 1991 No 22, Sch 1; 2004 No 63, Sch 1 [3] [4].
Sec 138	Am 1991 No 17, Sch 1; 1991 No 22, Sch 1; 1993 No 32, Sch 2; 2005 No 58, Sch 1 [33]; 2008 No 112, Sch 6.4 [1]; 2013 No 51, Sch 7.9 [5]; 2013 No 95, Sch 8.5 [10] [11].
Part 7, Div 1A (secs 138A–138G)	Ins 2005 No 58, Sch 1 [34].
Sec 139	Am 1990 No 108, Sch 1; 1991 No 17, Sch 1.
Sec 140	Am 2005 No 58, Sch 1 [35].
Part 7, Div 2A	Ins 2004 No 63, Sch 1 [5].
Sec 141A	Ins 2004 No 63, Sch 1 [5].
Sec 141B	Ins 2004 No 63, Sch 1 [5]. Rep 2005 No 58, Sch 1 [36].
Secs 141C–141E	Ins 2004 No 63, Sch 1 [5].
Part 7, Div 2B (secs 141F, 141G)	Ins 2004 No 63, Sch 1 [5].
Sec 142	Am 2005 No 58, Sch 1 [37] [38]; 2013 No 95, Sch 8.5 [12] [13].
Sec 143	Am 2005 No 58, Sch 1 [39]; 2013 No 95, Sch 8.5 [14].

Part 7, Div 3A (secs 143A–143D)	Ins 2005 No 58, Sch 1 [40].
Sec 144	Am 1989 No 226, Sch 1.
Sec 145	Am 1989 No 226, Sch 1; 1990 No 108, Sch 1.
Sec 146	Rep 2004 No 63, Sch 1 [6].
Sec 147	Am 2009 No 42, Sch 1 [3] [4].
Sec 148	Am 2005 No 58, Sch 1 [41].
Sec 153	Am 1991 No 94, Sch 1.
Sec 155	Am 1991 No 94, Sch 1; 1996 No 137, Sch 2.5; 1999 No 85, Sch 1.9.
Sec 157	Am 1997 No 107, Sch 2.1; 1999 No 94, Sch 4.15; 2001 No 121, Sch 2.79 [1]; 2002 No 112, Sch 1.5 [7].
Sec 158	Am 1993 No 32, Sch 2.
Sec 159	Am 2001 No 121, Sch 2.79 [2]–[6]; 2007 No 94, Schs 2, 3.
Sec 161	Am 1997 No 119, Sch 2.5 [1] (am 1998 No 26, Sch 1 [13]) [2]; 1999 No 19, Sch 2.8; 2005 No 11, Sch 3.9; 2013 No 19, Sch 4.16; 2016 No 13, Sch 2.2 [1]–[6].
Sec 162	Am 2006 No 58, Sch 1.9 [2].
Secs 163–165	Rep 1993 No 31, sec 52.
Sec 166	Am 1993 No 31, sec 53.
Sec 167	Am 1998 No 99, Sch 1.2.
Part 7, Div 5A (secs 168A–168E)	Ins 2005 No 58, Sch 1 [42].
Sec 171	Am 1990 No 108, Sch 1; 1991 No 94, Sch 1.
Sec 172	Am 1992 No 34, Sch 1; 2000 No 92, Sch 8.5.
Sec 175	Am 2001 No 121, Sch 2.79 [7]; 2007 No 94, Sch 2.
Sec 177	Am 1990 No 108, Sch 1.
Sec 178	Am 2005 No 58, Sch 1 [43].
Sec 180	Am 2002 No 112, Sch 1.5 [8] [9].
Sec 180A	Ins 2004 No 63, Sch 1 [7].
Sec 180B	Ins 2005 No 58, Sch 1 [44].
Sec 180C	Ins 2006 No 58, Sch 1.9 [3].
Sec 181	Am 1995 No 27, Sch 1.7.
Sec 181A	Ins 2005 No 58, Sch 1 [45].
Sec 183A	Ins 2005 No 58, Sch 1 [46].
Sec 184	Am 2013 No 95, Sch 8.5 [15].
Sec 184A	Ins 2005 No 58, Sch 1 [47].
Sch 1	Am 1990 No 46, Sch 1; 1999 No 94, sec 7 (2) and Sch 5, Part 2; 2009 No 49, Sch 2.18 [1]. Rep 2013 No 95, Sch 8.5 [16].
Sch 2	Am 1992 No 34, Sch 1; 2001 No 121, Sch 2.79 [8] [9]; 2007 No 94, Sch 2; 2008 No 72, Sch 2.2 [1] [2]. Rep 2013 No 95, Sch 8.5 [17].

Sch 3	Am 1990 No 46, Sch 1; 1990 No 108, Sch 1; 1993 No 32, Sch 2; 1999 No 94, sec 7 (3) and Sch 5, Part 3; 2009 No 49, Sch 2.18 [2].
Sch 5	Am 2004 No 91, Sch 2.16.
Sch 6	Rep 1991 No 22, Sch 1. Ins 2011 No 62, Sch 4.5. Am 2015 No 48, Sch 3.1 [1]–[13].
Sch 8	Am 1990 No 108, Sch 1; 1993 No 108, Sch 2; 1995 No 16, Sch 4.3 [1] [2]; 2001 No 8, Sch 1 [2] [3]; 2004 No 63, Sch 1 [8] [9]; 2005 No 58, Sch 1 [48]–[50]; 2009 No 42, Sch 1 [5] [6]; 2013 No 95, Sch 8.5 [18]; 2013 No 101, Sch 1 [6] [7]; 2013 No 105, sec 143 (d).
The whole Act (except Sch 8)	Am 2015 No 58, Sch 3.27 [1] (“Director-General” and “Director-General’s” omitted wherever occurring, “Secretary” and “Secretary’s” inserted instead, respectively).