

CROWN LANDS ACT 1929

Reprint No. 1-1.7.91	
Reprint No. 2-26.5.94	[Whole Act replaced]
Reprint No. 3-1.7.94	[New Part 8 and Appendix]
Reprint No. 4-1.1.95	[New Part 17 and Appendix]
Reprint No. 5-15.7.01	[New Parts 1, 8 and Appendix]
Reprint No. 6-24.11.03	[Whole Act replaced]

[Each Part is numbered from page 1. Subscribers to the Consolidation Service will receive complete replacement Parts incorporating amendments to this Act as they come into force.]

South Australia

CROWN LANDS ACT 1929

An Act relating to Crown lands.

*This Act is published under the Legislation Revision and Publication Act 2002 and incorporates all amendments in force as at **24 November 2003**.*

Please note-References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.

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being

Crown Lands Act 1929 No. 1923 of 1929
[Assented to 4 December 1929]

as amended by

Crown Lands (Administration) Act 1930 No. 1990 of 1930 [Assented to 20 November 1930]
 Crown Lands Amendment Act 1931 No. 2060 of 1931 [Assented to 9 December 1931]
 Crown Lands Act Amendment Act 1933 No. 2120 of 1933 [Assented to 2 November 1933]
 Statute Law Revision Act 1935 No. 2246 of 1935 [Assented to 19 December 1935]
 Crown Lands Act Amendment Act 1935 No. 2256 of 1935 [Assented to 21 December 1935]
 Statute Law Revision Act 1936 No. 2293 of 1936 [Assented to 8 October 1936]
 Crown Lands Act Amendment Act 1936 No. 2299 of 1936 [Assented to 5 November 1936]
 Crown Lands Act Amendment Act 1937 No. 2363 of 1937 [Assented to 1 December 1937]
 Crown Lands Act Amendment Act 1938 No. 2408 of 1938 [Assented to 1 December 1938]
 Crown Lands Act Amendment Act 1939 No. 3 of 1939 [Assented to 7 September 1939]
 Crown Lands Act Amendment Act (No. 2) 1939 No. 40 of 1939 [Assented to 21 December 1939]
 Crown Lands Act Amendment Act 1940 No. 23 of 1940 [Assented to 7 November 1940]
 Crown Lands Act Amendment Act 1941 No. 25 of 1941 [Assented to 3 December 1941]
 Crown Lands Act Amendment Act 1944 No. 26 of 1944 [Assented to 14 December 1944]
 Soil Conservation Act Amendment Act 1945 No. 44 of 1945 [Assented to 24 January 1946]
 Statute Law Revision Act 1952 No. 42 of 1952 [Assented to 4 December 1952]
 Crown Lands Act Amendment Act 1957 No. 27 of 1957 [Assented to 31 October 1957]
 Crown Lands Act Amendment Act 1960 No. 46 of 1960 [Assented to 24 November 1960]
 Crown Lands Act Amendment Act 1965 No. 27 of 1965 [Assented to 25 November 1965]
 Decimal Currency Act 1965 No. 60 of 1965 [Royal Assent proclaimed 4 February 1966]¹
 Crown Lands Act Amendment Act 1966 No. 50 of 1966 [Assented to 28 October 1966]
 Crown Lands Act Amendment Act 1967 No. 4 of 1967 [Assented to 30 March 1967]
 Crown Lands Act Amendment Act (No. 2) 1967 No. 50 of 1967 [Assented to 26 October 1967]
 Crown Lands Act Amendment Act 1968 No. 45 of 1968 [Assented to 19 December 1968]²
 Crown Lands Act Amendment Act 1969 No. 52 of 1969 [Assented to 4 December 1969]³
 Crown Lands Act Amendment Act (No. 2) 1969 No. 98 of 1969 [Assented to 18 December 1969]
 Age of Majority (Reduction) Act 1971 No. 15 of 1971 [Assented to 8 April 1971]⁴
 Mining Act 1971 No. 109 of 1971 [Assented to 9 December 1971]⁵
 Crown Lands Act Amendment Act 1972 No. 110 of 1972 [Assented to 23 November 1972]⁶
 Crown Lands Act Amendment Act 1973 No. 17 of 1973 [Assented to 13 September 1973]
 Crown Lands Act Amendment Act 1974 No. 25 of 1974 [Assented to 11 April 1974]⁷ (as amended by Statute Law Revision Act (No. 2) 1974 No. 84 of 1974 [Assented to 21 November 1974])
 Statute Law Revision Act 1974 No. 42 of 1974 [Assented to 11 April 1974]
 Crown Lands Act Amendment Act 1975 No. 13 of 1975 [Assented to 20 March 1975]⁸
 Statute Law Revision Act (No. 3) 1975 No. 88 of 1975 [Assented to 20 November 1975]
 Crown Lands Act Amendment Act 1977 No. 6 of 1977 [Assented to 28 April 1977]⁹
 Crown Lands Act Amendment Act 1978 No. 46 of 1978 [Assented to 13 April 1978]¹⁰
 Harbors Act Amendment Act 1978 No. 109 of 1978 [Assented to 7 December 1978]¹¹
 Statutes Amendment (Property) Act 1980 No. 32 of 1980 [Assented to 17 April 1980]¹²
 Crown Lands Act Amendment Act 1980 No. 43 of 1980 [Assented to 26 June 1980]
 Crown Lands Act Amendment Act (No. 2) 1980 No. 77 of 1980 [Assented to 13 November 1980]
 Crown Lands Act Amendment Act 1983 No. 17 of 1983 [Assented to 12 May 1983]
 Statutes Amendment and Repeal (Crown Lands) Act 1985 No. 39 of 1985 [Assented to 18 April 1985]¹³

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NOTE:

ù Asterisks indicate repeal or deletion of text.

ù Entries appearing in bold type indicate the amendments incorporated since the last reprint.

ù For the legislative history of the Act see Appendix.

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Crown Lands Act Amendment Act 1986 No. 84 of 1986 [Assented to 4 December 1986]
Crown Lands (Liability of the Crown) Amendment Act 1994 No. 26 of 1994 [Assented to 26 May 1994]

Irrigation Act 1994 No. 39 of 1994 [Assented to 2 June 1994]¹⁴

Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994 No. 59 of 1994 [Assented to 27 October 1994]¹⁵

Statutes Amendment (Corporations) Act 2001 No. 23 of 2001 [Assented to 14 June 2001]¹⁶

River Murray Act 2003 No. 35 of 2003 [Assented to 31 July 2003]¹⁷

Statute Law Revision Act 2003 No. 44 of 2003 [Assented to 23 October 2003]¹⁸

¹ Came into operation 14 February 1966: s. 2(2).

² Came into operation 30 January 1969: *Gaz.* 30 January, 1969, p. 338.

³ Came into operation 21 May 1970: *Gaz.* 21 May 1970, p. 1842.

⁴ Came into operation 15 April 1971: *Gaz.* 15 April 1971, p. 1598.

⁵ Came into operation 3 July 1972: *Gaz.* 29 June 1972, p. 2689.

⁶ Came into operation 7 December 1972: *Gaz.* 7 December 1972, p. 2534.

⁷ Came into operation 26 April 1974: *Gaz.* 26 April 1974, p. 1457.

⁸ Came into operation 24 April 1975, being the day on which the Real Property Act Amendment Act, 1975, came into operation: *Gaz.* 24 April 1975, p. 1626: s. 2.

⁹ Came into operation 28 July 1977: *Gaz.* 28 July 1977, p. 232.

¹⁰ Came into operation 15 June 1978: *Gaz.* 15 June 1978, p. 2034.

¹¹ Came into operation 21 December 1978: *Gaz.* 21 December 1978, p. 2303.

¹² Came into operation 22 May 1980: *Gaz.* 22 May 1980, p. 1373.

¹³ Came into operation 15 July 1985: *Gaz.* 4 July 1985, p. 4.

¹⁴ Came into operation 1 July 1994: *Gaz.* 30 June 1994, p. 1842.

¹⁵ Came into operation 1 January 1995: *Gaz.* 8 December 1994, p. 1942.

¹⁶ Part 12 (s. 71) came into operation 15 July 2001 (being the day on which the *Corporations Act 2001* of the Commonwealth came into operation: *Commonwealth of Australia Gazette* No. S 285, 13 July 2001): *Gaz.* 21 June 2001, p. 2270.

¹⁷ **Schedule (cl. 4) came into operation 24 November 2003: *Gaz.* 20 November 2003, p. 4203.**

¹⁸ **Schedule 1 came into operation 24 November 2003: *Gaz.* 13 November 2003, p. 4048.**

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Schedule 12-Form of perpetual (special development) lease

Schedule 13-Extended form of reservations, covenants and conditions of perpetual (special development) lease

**APPENDIX
LEGISLATIVE HISTORY**

Crown Lands Act 1929 1

The Parliament of South Australia enacts as follows:

Part 1-Preliminary**Short title**

1. This Act may be cited as the *Crown Lands Act 1929*.

* * * * *

Interpretation

4. In this Act, except where the subject matter or context or some other provision requires a different construction-

"**agreement**" means an agreement containing a covenant to purchase land made since the fourteenth day of November, 1902, but does not include any lease with a right of purchase;

"**block**" or "**block of land**" includes two or more pieces of land contiguous to each other, or separated from each other only by a road or roads;

"**blockholder**" includes the transferee, devisee, or personal representatives of the lessee to whom a perpetual lease, or a lease with right of purchase, of a homestead block has been granted pursuant to Part 7 of the *Crown Lands Act 1888*, and the Acts incorporated therewith, or of the lessee or purchaser to whom a lease or agreement has been granted under Part 9 of the *Crown Lands Act 1903*, or under Part 9 of the *Crown Lands Act 1915*, or of the lessee or purchaser to whom a lease or agreement is granted under Part 9 of this Act, as well as the lessee or purchaser;

"**board**" means the Land Board;

"**cattle**" means camels, horses, geldings, mares, asses, mules, bulls, bullocks, and cows, and foals and calves over six months old;

"**Crown lands**" means all lands in the State, except-

- (a) dedicated lands;
- (b) lands lawfully granted, or contracted to be granted, in fee simple by or on behalf of the Crown;
- (c) lands subject to any agreement, lease or licence lawfully granted by or on behalf of the Crown (except a lease or licence granted in pursuance of the *Mining Act 1971*, as amended),

and includes all lands which, having been granted or held under agreement, lease or licence, have been or are surrendered, or, having been dedicated, have been or are lawfully resumed, and all lands which, having been lawfully held by any person for any estate or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted or revert to, or have been or are acquired by, the Crown (but does not include lands that have been forfeited, or have reverted to the Crown, or have been resumed or acquired by the Crown where the lands are comprised in a certificate grant or other muniment of title that has not been cancelled in pursuance of this Act);

"**Crown Lands Acts**" means this Act and all the repealed Acts;

"**dedicated lands**" means all lands dedicated for any purpose by the Governor or the Minister under any of the Crown Lands Acts;

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"**excluded area**" means an area delineated on a map published in accordance with section 66F of this Act as varied from time to time in accordance with a map forwarded in accordance with subsection (2) of that section;

"**fixed rate**" means the annual rate of interest fixed by the Treasurer under section 190 which is in force at the time when the block in question is offered for sale;

"**homestead block**" means any land (the subject of a lease or an agreement)-

- (a) offered pursuant to section 126 of *The Crown Lands Act 1888*, and the Acts incorporated with that Act; or
- (b) offered as a homestead block pursuant to section 117 of this Act as in force before the commencement of the *Crown Lands Act Amendment Act 1968*, or pursuant to any corresponding previous enactment;

"**the Land and Valuation Court**" means the Land and Valuation Court constituted under the *Supreme Court Act 1935*;

"**lease**" means a perpetual lease or a miscellaneous lease;

"**lessee**" includes the assignee or transferee of a lease from the Crown, and the devisee or personal representatives of the original lessee or of such assignee or transferee, as well as the original lessee;

"**the Minister**" means the Minister of Lands;

"**miscellaneous lease**" means any lease other than a perpetual lease;

"**Murray-Darling Basin**" has the same meaning as in the *Murray-Darling Basin Act 1993*;

"**park lands**" means lands adjacent to a town and dedicated for the use, benefit, or recreation of the inhabitants of that town;

"**perpetual lease**" means a lease granted in perpetuity;

"**public map**" means a map-

- (a) prepared under the direction of, and officially certified by, the Surveyor-General or Deputy Surveyor-General; and
- (b) delineating any of the lands of the Crown; and
- (c) deposited in the Department of Lands at Adelaide;

"**purchaser**" includes the person entitled to or holding lands under an agreement;

"**receiver**" means the Receiver of Rents under Part 10;

"**repealed Act**" means any Act repealed by this Act or by any Act heretofore repealed, which dealt with Crown lands or with closer settlement;

"**repurchased lands**" means lands acquired by the Crown under Part 10 of this Act or under the corresponding provisions of any repealed Act, and whether acquired pursuant to agreement or compulsorily;

"**sheep**" means rams, goats, wethers, and ewes, and lambs over six months old;

"**special development lands**" means lands for the time being declared by proclamation under section 66D of this Act to be special development lands;

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"**suburban lands**" means all Crown lands surveyed in sections of not greater area than 10 hectares each situated within 4 kilometres of any town lands or park lands, or any lands set apart under paragraph (h) of section 5;

"**swamp lands**" means all lands which, in the opinion of the Minister, are liable to be wholly or partially flooded by overflow of a river or otherwise;

"**town lands**" means all Crown lands set apart, surveyed, or laid out in lots as the site for a town;

"**unimproved value**" means the actual value of any land less the amount of the value of all improvements (if any) on the land;

"**vermin**" means rabbits, wild dogs, foxes and any other animals declared by proclamation to be vermin for the purposes of this Act.

Adjacent lands

4A. For the purposes of this Act, land shall be deemed to be adjacent to other land if it-

- (a) abuts on that other land; or
- (b) is separated from that other land only by a road, railway or a travelling stock route.

Transitional provisions

4B. (1) A lease, agreement to purchase or licence granted under an Act repealed by the *Statutes Amendment and Repeal (Crown Lands) Act 1985*, and in force immediately prior to the commencement of that Act shall, upon that commencement, be deemed to be a lease, agreement or licence granted and in force under this Act.

(2) An easement granted under the *Irrigation Act 1930*, and in force immediately prior to the commencement of the *Statutes Amendment and Repeal (Crown Lands) Act 1985*, shall, upon that commencement, be deemed to be an easement granted and in force under this Act.

(3) Any lands that were, immediately before the commencement of the *Statutes Amendment and Repeal (Crown Lands) Act 1985*, reserved lands within the meaning of this Act as then in force shall, upon that commencement, be deemed for all purposes-

- (a) to be dedicated lands; and
- (b) to have been dedicated for the purpose for which they were reserved.

(4) Nothing in the *Statutes Amendment and Repeal (Crown Lands) Act 1985* has the effect of repealing a proclamation of the Governor in force under this Act immediately before the commencement of that first mentioned Act.

(5) Where the Minister exercises, by notice in the *Gazette*, any of his powers under this Act in relation to lands in respect of which a proclamation made by the Governor under this Act is in force, the notice shall, if it is inconsistent in any respect with the terms of the proclamation, operate as a revocation of the proclamation to the extent of the inconsistency.

Grant etc of Crown lands by Governor without advice and consent of Executive Council

4C. (1) A grant, lease or other alienation of Crown lands by the Governor under any of the Crown Lands Acts or any other Act dealing with the disposal of lands of the Crown shall not be held to be invalid by reason of the fact that the Governor granted, leased or otherwise alienated the lands without the advice and consent of the Executive Council.

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(2) Where the Governor exercises a power to grant, lease or otherwise alienate Crown lands, whether under this Act or any other Act dealing with the disposal of lands of the Crown, he may exercise that power without first obtaining the advice and consent of Executive Council.

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PART 2

Crown Lands Act 1929 1**Part 2-Powers of the Governor and the Minister to deal with Crown lands and dedicated lands****Power of the Governor to grant Crown lands and to resume certain dedicated lands**

5AA. (1) The Governor may, subject to the provisions of this Act, and in the name and on behalf of the Crown-

- (a) grant the fee simple of any Crown lands to any person; or
- (b) grant to any person the fee simple of any dedicated lands in trust for the purposes for which the lands were dedicated; or
- (c) by proclamation resume and, if required, cancel the grant of any dedicated lands-
 - (i) where, in the opinion of the Minister, the lands are being used for a purpose other than one for which they were dedicated; or
 - (ii) where, in the opinion of the Minister, the lands are no longer used or required for the purpose for which they were dedicated; or
 - (iii) where, in the opinion of the Minister, no registered proprietor of the lands is able or willing to have the care, control and management of the lands; or
 - (iv) where the registered proprietor of the lands requests, or consents to, resumption of the lands; or
- (d) by proclamation free from the trusts and, if required, cancel the grant of any lands (other than dedicated lands) set apart for a particular purpose-
 - (i) where, in the opinion of the Minister, the lands are being used for a purpose other than the purpose for which they were set apart; or
 - (ii) where, in the opinion of the Minister, the lands are no longer used or required for the purpose for which they were set apart; or
 - (iii) where, in the opinion of the Minister, no registered proprietor of the lands is able or willing to have the care, control and management of the lands; or
 - (iv) where the registered proprietor of the lands requests, or consents to, revocation of the trusts.

(2) Nothing in this Act empowers the Governor to grant a person the fee simple of any foreshore.

Payment of premium where lands are freed from restrictions or trusts

5AB. Where-

- (a) the registered proprietor of dedicated lands seeks the resumption of the lands pursuant to section 5AA(1) (c) so that the lands may thereby be freed from the restrictions or trusts imposed by the dedication; or
- (b) the registered proprietor of lands set apart for a particular purpose and subject to trusts seeks to have the lands freed from those trusts pursuant to section 5AA(1) (d),

the Minister may require the registered proprietor of the lands to pay to the Crown,

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as a condition of the exercise by the Governor of his powers under that section, a premium fixed by the Minister.

Minister's powers to deal with Crown lands

5. The Minister may, subject to the provisions of this Act, from time to time-

- (a) on behalf of the Crown, sell, lease or otherwise alienate (other than by way of a grant of fee simple) any Crown lands;
- (b) on behalf of the Crown, grant, in such terms and for such purposes as he thinks fit, an easement to any person over or in relation to any of the following lands:
 - (i) Crown lands or dedicated lands;
 - (ii) land held under licence from the Crown;
 - (iii) that part of the lands comprised in a lease or agreement to purchase (being a lease or agreement from the Crown under any of the Crown Lands Acts or any other Act dealing with the disposal of lands of the Crown) in relation to which the Crown or a Minister of the Crown has acquired or reserved certain rights for the purpose of granting easements;
- (c) accept the transfer of such an easement for the purpose of the extinguishment of the rights created by the easement and take such steps as may be necessary to extinguish those rights and add them to the tenure of the servient lands;
- (d) by notice in the *Gazette* dedicate any Crown lands for any of the following purposes:
 - (i) for the preservation of water supply;
 - (ii) for public roads or other internal communications, whether by land or water. The delineation of any public road in a public map shall be in itself a dedication of that road to the public use;
 - (iii) for quays, wharves, or landing-places;
 - (iv) for public reservoirs, aqueducts, or water-courses;
 - (v) for hospitals, asylums, or cemeteries;
 - (vi) for market places or abattoirs;
 - (vii) for institutions for public instruction or amusement;
 - (viii) for public buildings and schools not intended for ecclesiastical or denominational purposes;
 - (ix) for park lands or places for the recreation and amusement of the inhabitants of any city, town, or place;
 - (x) for any purpose of public safety, convenience, health, or enjoyment;
 - (xi) for the purposes of military defence;
 - (xii) for forest reserves;
 - (xiii) for travelling stock reserves;

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- (xiv) for tramways, railways or railway stations;
- (xv) for airfields or airstrips;
- (xvi) for any other purpose he thinks fit, whether similar to the purposes referred to in the preceding subparagraphs or not,

and may, at any time before the grant of the fee-simple of any such lands, resume the same wholly or in part by notice in the *Gazette*, provided that the Minister has had prior consultation with the person (if any) who has the care, control and management of the land the subject of the proposed resumption;

* * * * *

- (fa) by notice in the *Gazette* declare that any dedicated lands shall be under the care, control, and management of any Minister, municipal or district council, any body corporate, or any association, subject to such prohibitions, restrictions or conditions relating to the use or development of the lands as the Minister thinks fit and specifies in the notice;
- (fb) by notice in the *Gazette* revoke or vary any notice given under paragraph (fa);
- (g) by notice in the *Gazette*-
 - (i) constitute and define the boundaries of new counties, hundreds, and towns, and distinguish each by a name;
 - (ii) declare that any county, hundred, or town shall cease to exist as such, and that all or any of the roads in any town so ceasing to exist shall be closed;
 - (iii) extend or diminish the area of any county, hundred, or town and declare that all or any of the roads in any land by which the area of a town is so diminished shall be closed;
 - (iv) alter the boundaries, or name of any county, hundred, or town;
 - (v) distinguish by a name or alter the name of any place, whether a county, hundred, or town, or any other place whatsoever;
 - (vi) add the area taken away from one county or hundred to any adjacent county or hundred;
 - (vii) divide any county or hundred into two or more counties or hundreds, and give each a distinguishing name;
- (h) by notice in the *Gazette* set apart any Crown lands as town lands or suburban lands;
- (ha) by notice in the *Gazette* declare that any lands which have been set apart as town lands or suburban lands and which have not been alienated from the Crown or which have reverted to the Crown, or any allotments of any such lands shall cease to be town lands or suburban lands;
- (i) by notice in the *Gazette* except any suburban lands from being dealt with by the board, either altogether or for such period as he determines;

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- (ii) by notice in the *Gazette* declare that any suburban lands which have been excepted from being dealt with by the board and have either not been alienated from the Crown or have reverted to the Crown, or any allotments of any such lands may be dealt with by the board.

* * * * *

Effect of extinguishment of easement rights

5A. Upon the Minister accepting the transfer of an easement pursuant to this Act and the extinguished easement rights being added to the tenure of the servient lands, any mortgage, charge, encumbrance or other interest to which the tenure, or a part of the tenure, is subject shall, by virtue of this section, extend over the tenure, or the part of the tenure, as enlarged by those rights.

Form of grants, leases etc

6. All grants, leases, and other alienations, and all dedications under this Act, shall be made in such form as the Minister thinks fit.

Form of grants

6A. All grants issued under this Act or any other Act dealing with the disposal of lands of the Crown shall be signed by the Governor, the Minister and the Registrar-General and shall have the seal of the State affixed to them.

Effect of conveyance of Crown land to the Commonwealth

6B. (1) Where an agreement is entered into by or on behalf of the Commonwealth and by or on behalf of the Crown in right of the State for the acquisition by the Commonwealth of Crown land or any estate or interest therein (including minerals), a land grant, lease or other instrument or assurance executed by the Governor, or by the Minister, as the case may require, for the purpose of carrying out that agreement shall, notwithstanding anything contained in this Act be valid and effectual to vest the land or any estate or interest therein (including minerals) in the Commonwealth according to the tenor of such land grant, lease or other instrument or assurance.

(2) In subsection (1) of this section the Commonwealth shall be deemed to include any corporate body or instrumentality of the Commonwealth created by any Act or law of the Commonwealth.

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Crown Lands Act 1929 1**Part 3-Further powers of the Minister****Further powers of the Minister**

9. The Minister, in addition to, but without limiting, any other right, power, or authority vested in him under this Act, may-

- (a) cause auctions to be held at such times and places as he thinks fit, and appoint persons to preside over and regulate the same, after notifying in the *Government Gazette* the times and places and the lands to be offered thereat;
- (b) authorise any person to conduct any sale without that person having an auctioneer's licence, or incurring any liability in connection therewith;
- (c) withdraw from sale or lease any Crown lands, and re-offer any such lands for sale or lease after advertisement in the *Government Gazette* notifying such re-offer for sale or lease;
- (d) decline, notwithstanding anything contained in this Act, any application for the purchase or lease of lands containing or supposed to contain minerals, or which he deems it desirable to dedicate for public purposes;
- (e) receive, except where otherwise provided in this Act, any purchase-money, rent, instalment, or interest, or any notice after the time appointed for the payment or receiving of the same, and, where moneys are paid or notice is given as herein provided, the same shall be deemed to have been paid or given in due time;
- (f) waive compliance, in part or in full, with any covenant or condition of a grant, agreement, mortgage to the Minister, lease or licence, subject to such conditions as the Minister thinks fit;
- (g) extend the time in which the owner, purchaser, mortgagor, lessee or licensee of lands must perform a condition of his grant, agreement, mortgage to the Minister, lease or licence for such period, and subject to such conditions (including a condition requiring payment of a fee) as the Minister thinks fit;
- (ga) reduce the purchase price, rent, interest or any other amount fixed or payable under any agreement, lease or licence, subject to such conditions as the Minister thinks fit;
- (gb) waive or defer payment of any sum due under any agreement, mortgage to the Minister, lease or licence, subject to such conditions as the Minister thinks fit;
- (gc) vary the terms or conditions of any agreement, mortgage to the Minister, lease or licence so as to give effect to the exercise by him of any of the powers referred to in this section;
- (h) levy or recover any amounts due under any leases or agreements, except leases or agreements of re-purchased lands, in like manner as any rent or fine is leviable or recoverable by law, and his written order shall be a sufficient authority to distrain where such rent is levied by distress;
- (i) by himself, or any person authorised by him, enter leased lands to search for water, sink wells, construct dams, reservoirs, and embankments, and to do all acts necessary to search for and conserve water;
- (j) authorise charges to be made for water supplied to any person or animal by the lessee of lands resumed by the Governor whereon water has been found or conserved;

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- (k) do all acts necessary to reclaim swamp lands and to construct public watering places thereon for cattle and sheep;
- (l) cause any reclaimed land to be surveyed in such blocks and offered on lease on such terms and conditions as he determines, subject to the rent being fixed and the allotment being decided by the board;
- (la) develop and improve Crown lands for any agricultural, pastoral, residential, commercial or industrial purpose, or for any other purpose whatsoever;
- (lb) provide for-
 - (i) the reticulation or supply of water; or
 - (ii) the laying of sewers or other drains; or
 - (iii) the making of roads; or
 - (iiia) the erection of buildings, structures or fences; or
 - (iv) the supply of electricity or gas; or
 - (v) any other services,
 in relation to any Crown lands;
- (m) authorise any person to take possession of lands, messuages, or tenements belonging to the Crown whereon any person is in unauthorised possession or occupation, and to forcibly eject every person therefrom;
- (n) give permission to any person to erect or construct and maintain gates, grids, and ramps or any of them on any road or way, not being a main road or way, vested in His Majesty, and not being within any municipality or district council district; and may let the right of depasturing thereon;
- (na) impose conditions on the grant of any permission under paragraph (n) of this section, and revoke any permission upon breach of any condition thereof;
- (o) consent to a mortgage, transfer, or subletting of lands now or hereafter held under any Crown Lands Act;
- (p) correct, at the cost of the lessee, any clerical error, name wrongly spelt, or any incorrect or defective plan attached to any lease; and may attach a corrected plan to any such lease having his signature thereon, and, in every such case, the description of the parcels in the lease shall be taken to refer to the corrected plan, which shall form part of the lease;
- (q) charge any person the fees prescribed under this Act, or if no fees are prescribed in relation to any matter under this Act, such fees as he fixes for that matter;
- (r) appoint a sufficient number of persons to be Crown lands inspectors and rangers;
- (s) forfeit any agreement, lease, or licence obtained by any false declaration or statement;
- (t) notwithstanding the forfeiture of any agreement or lease under any of the

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Crown Lands Acts, or the *Educational Lands Act 1881*, rescind or annul any such forfeiture, upon such terms as he thinks fit;

* * * * *

- (v) by himself or any person authorised by him enter upon any lands held under lease, agreement or licence, any lands the grant of the fee simple of which is subject to conditions, or any dedicated lands.

Delegation by Minister and Director

9A. (1) The Minister may, by instrument in writing, delegate to the Director of Lands any of his powers, functions, duties or responsibilities under this Act (except for Part 2) or under any other Act dealing with the disposal of lands of the Crown.

(2) The Director of Lands may, with the approval of the Minister and by instrument in writing, delegate to any officer of the Department of Lands any of the powers, functions, duties and responsibilities vested in, imposed upon, or delegated to, the Director under this Act.

(3) A delegation under this section is revocable at will and does not prevent the exercise or performance of any power, function, duty or responsibility by the Minister or the Director of Lands.

Crown Lands Act 1929 1**Part 4-The Land Board****Division 1-Constitution****Continuance of the Land Board**

10. The Land Board constituted under the repealed Acts and existing at the passing of this Act is hereby continued, under the name of "The Land Board", subject to the provisions of this Act; and the members of the said board in office at the said passing are hereby continued in office, subject as aforesaid.

Constitution of the board

11. The board shall consist of not less than three and not more than six members: Provided that the Governor may appoint any member or members of the Pastoral Board constituted under the *Pastoral Act 1936* to be an additional member or additional members of the board for any period during which he may be a member of the Pastoral Board, and the person or persons so appointed shall, whilst holding office under that appointment, have all the powers, duties and functions of ordinary members of the board.

Appointment of members

12. The Governor may from time to time appoint members of the board.

Term of office

13. Every member shall hold office for not exceeding five years from the date of his appointment, and shall be eligible for re-appointment.

Appointment of chairman and deputy chairman by Minister

14. The Minister shall nominate a chairman and a deputy chairman of the board. The chairman or in his absence the deputy chairman shall preside at all meetings of the board at which he is present. In the absence of both the chairman and the deputy chairman, the board shall elect one of their number to be chairman for any meeting.

Quorum

15. Any two members shall form a quorum, and may exercise all the powers and authorities vested in the board.

Meetings of board

16. The board shall meet whenever required by the Minister.

Member of board not to be interested in application

17. (1) No person whilst a member of the board shall be eligible as an applicant, or be interested in any application, for a lease or agreement.

(2) No member of the board shall hear or deal with any application in which any partner or relative of that member is interested.

(3) If any member of the board acts contrary to any provision of this section he shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred dollars.

(4) Any allotment of land made or application granted contrary to any provision of this section shall be absolutely void, except as against any purchaser who is not a partner or relative of the member offending against the said provision, and who has purchased *bona fide* for value without notice of the offence having been committed.

Division 2-Powers of board in addition to all other powers**General powers of the board**

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18. (1) The board, in addition to and without prejudice to any other powers vested in it, shall-

- (a) decide, except in the case of town lands, upon the area to be included in each separate block and the area to be held by any one person, and the area of land included in each separate block which is to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof;
- (b) fix the price or annual rent under any agreement or lease;
- (c) consider, decide, and, if necessary, accept or reject applications, and thereupon report its decision to the Minister;
- (d) require the personal attendance of and, when necessary, examine all applicants, objectors, and necessary witnesses;
- (e) subdivide or alter the boundaries of any block where there is one or more than one applicant, and adjust the rentals or purchase-money;
- (f) deal with all other matters referred to it by the Minister.

(2) Every such decision of the board, except when made pursuant to paragraph (c) or paragraph (d) of subsection (1) hereof, shall be subject to the approval of the Minister.

Power of delegation for board

18A. (1) The board may, with the approval of the Minister, delegate any of its powers, functions, duties or responsibilities under this Act or any other Act to a member of the board, or to an officer of the Department of Lands.

(2) A delegation under this section is revocable at will and does not derogate from the power of the board to act itself in any matter.

Access to land etc

19. (1) The board, or a person authorised in writing by the board, may-

- (a) after giving reasonable notice to the occupier of any land, enter upon the land and make any inspection, measurement or survey necessary or expedient for the purposes of this Act; or
- (b) put to the owner or occupier of the land, or any person thereupon, any questions necessary to obtain information in relation to the land required for the administration of this Act.

(2) A person shall not hinder or obstruct the board, or a person authorised in writing by the board, in the exercise of the powers conferred by subsection (1) of this section, or refuse or fail truthfully to answer a question lawfully put to him under that subsection.

Penalty: Fifty dollars.

Access to documents in possession of public authorities

19A. (1) The board, and any person authorised in writing by the board, shall have full and free access to all maps, plans, documents and books that are relevant to the determination of the value of any land, in the possession or power of any Department of Government or any council within the State.

(2) A person shall not prevent or attempt to prevent the board, or a person authorised in writing by the board, from having access to any such maps, plans, documents or books.

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Penalty: Fifty dollars.

Valuation made by chairman or member to be effectual when confirmed by the board

20. Any valuation made by the chairman of the board or by any member thereof authorised by the board shall, when confirmed by the board, be deemed to be a valuation by the board.

Powers of board to require evidence to be on oath

21. (1) The board may require evidence given before it to be on oath or affirmation.

(2) Notwithstanding the provisions of any Act to the contrary, the chairman of the board, or any member or members thereof nominated by the board, are hereby authorised and empowered when obtaining evidence preliminary to the allotment or transfer of any lands to administer the prescribed oath or affirmation to any person.

(3) The evidence given by any such person shall be taken down in writing, and shall be signed by him, and be countersigned by the chairman or member taking the same.

(4) The oath may be in the following form: "The evidence which you shall give before this board shall be the truth, the whole truth, and nothing but the truth-so help you God."

(5) Where any witness conscientiously objects to take an oath he may make the following affirmation: "I, A.B., do declare and affirm that I will state the truth, the whole truth, and nothing but the truth to all questions that may be asked me." And the same shall be of the same effect as an oath taken in the form hereinbefore provided.

Valuation for Minister etc

21A. The Minister administering any Act, or Department of Government, may request the board to value any land for the purposes of that Act or Department and the board, upon receipt of that request, shall value the land or cause it to be valued as soon as practicable.

Crown Lands Act 1929 1**Part 5-Perpetual leases and agreements****Division 1-The offering of Crown lands****Offering of Crown lands on perpetual leases, or agreements**

22. (1) All Crown lands may be offered on perpetual lease or agreement, provided-

- (a) the said lands have been previously surveyed; or
- (b) the boundaries of the said lands have been delineated in the public maps.

(2) Where, before any Crown lands are offered pursuant to subsection (1) of this section, those lands have been occupied by any person under licence from the Crown or the Minister and permanent improvements have been carried out by the person or he satisfies the Minister that it is his intention to carry out permanent improvements immediately on the grant of a perpetual lease or agreement to him and such person desires the grant of the Crown lands to him under perpetual lease or agreement a grant of those Crown lands by way of perpetual lease or agreement may, with the approval of the Minister, be offered to such person at a rent or purchase price fixed by the board.

Allotment of marginal lands

22A. Notwithstanding the other provisions of this Act, where the board is of opinion that any Crown lands are marginal lands within the meaning of the *Marginal Lands Act 1940*, or are so situated that they can conveniently be worked in conjunction with any marginal lands as so defined, those Crown lands may be allotted in accordance with section 4 of the *Marginal Lands Act 1940* as if they were lands purchased by the Minister for purposes of that Act, and the said section 4 shall be deemed to extend and apply to such lands accordingly.

Allotment of land less than living area

22B. (1) Notwithstanding any other provision of this Act, if the board is of the opinion that any parcel of Crown Land is not sufficient to provide a living area, but can conveniently be worked by a lessee or purchaser in conjunction with the land comprised in his lease or agreement, the Minister, on the application of that lessee or purchaser and the recommendation of the board, may direct that a lease or agreement of the parcel of land shall be granted to the lessee or purchaser.

(2) If such a direction is given it shall not be necessary to invite applications for the land whether by notice in the *Gazette* or otherwise.

(3) The rent or price payable for any such parcel shall be determined by the Minister on the recommendation of the board.

Division 2-Classification of lands, and applications**Notice of land being opened**

23. The Minister, after approving the area, price, and rent recommended by the board of any Crown lands, may, by notice in the *Government Gazette*, specifying-

- (a) the land; and
- (b) the area thereof which is to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof; and
- (c) the payments to be made,

declare that the said lands may be applied for on perpetual lease or agreement.

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Applications

24. Every application for any such land shall be made to the Minister in writing, giving the name, address, and occupation of the applicant, and specifying the land applied for.

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Reference of all applications to the board

26. All applications shall forthwith be referred by the Minister to the board, unless the land is withdrawn from leasing or sale.

Simultaneous applications

27. (1) All applications for the same land received up to and on the date named for receiving the same shall be dealt with as simultaneous applications. After that date all applications received on one and the same day for land not before applied for shall be considered and dealt with in like manner.

(2) Simultaneous applications may be decided by lot by the chairman of the board where any difficulty arises in deciding the successful applicant.

(3) Whenever the number of simultaneous applications for the same lands is not more than three, or is reduced by the board to not more than three, and the qualifications and claims of the applicants are in the opinion of the board equal, then the applications shall be publicly decided by the chairman of the board by lot.

* * * * *

Power of Minister to offer lands not taken up on reduced terms

30. If no application is made within three months from the date on and after which any lands were last declared to be open under this Part, or if all applications received before the lands are again offered on lease or agreement as herein provided are rejected or refused, the Minister may offer the lands at such reduced rent or purchase-money as he, with the advice of the board, deems proper.

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Power of corporations and district councils to apply

32. Any municipal corporation or district council may apply for and obtain lands under lease or agreement under this Part.

Division 3-Perpetual leases

Rent under perpetual leases

33. The board, in fixing the rents to be paid under any perpetual lease except-

- (a) a lease to which the Minister directs that section 48 shall apply; or
- (b) a lease granted by virtue of section 199; or
- (c) a lease granted under any provision of Part 11; or
- (d) in any case where the Minister directs to the contrary,

shall, as nearly as practicable and subject to section 47, fix the same for the first three years according to the following scale:

- (e) for the first year, one-fifth of the amount which but for this section would be payable annually; and
- (f) for the second year, one-third of the said amount; and

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(g) for the third year, two-thirds of the said amount.

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Form of perpetual leases

35. (1) A perpetual lease shall vest the land leased in the lessee in perpetuity, and shall contain the provisions for rent and the reservations, covenants, and conditions set forth in Schedule 3, subject to such modifications thereof, deletions therefrom or additions thereto as are required for giving effect to the provisions of this Act, or as the Minister thinks fit, and shall also contain such other provisions as the Minister thinks fit, together with a right of re-entry, and shall be read and construed as if any reservations, covenants, and conditions in the form in Schedule 3 had been expressed in the extended form in Schedule 4, and the lessee and all persons entitled to any benefit of the lease shall be bound thereby.

(2) Without limiting the generality of subsection (1) of this section, where it is proposed that a perpetual lease be granted to-

- (a) a charitable or religious body; or
- (b) a body formed to promote sport or any other social or community activity; or
- (c) a body formed to promote any other public purpose,

the Minister may, in the exercise of the powers conferred by subsection (1) of this section, make a modification in the terms of the lease providing for a more limited right to compensation in the event of resumption of land comprised in the lease than is prescribed in Schedule 3.

* * * * *

Liability to land tax of perpetual leases not subject to re-valuation

37. All perpetual leases not subject to revaluation of rent shall be liable to the land tax, and the rent originally reserved shall be payable during the whole of the term.

Fixing of subsequent rent

38. The rent for each period of fourteen years (except the first such period) of a perpetual lease, subject to revaluation, shall be fixed by the board at least twelve months before the expiration of the next preceding period of fourteen years thereof.

Improvements not to be considered on revaluation

39. In revaluations of rent under perpetual leases the value of the improvements made by the lessee shall not be considered.

Notice of revaluation to be given

40. Notice of the amount of revaluation shall forthwith be given by the Minister to the lessee.

Lessee not accepting revaluation to forfeit at expiry of then current fourteen years of his lease

41. (1) In case the lessee does not, within the period of six months after notice of any revaluation, signify to the Minister his willingness to pay the same, his lease shall determine at the expiration of the then current period of fourteen years of his lease, subject however to the provisions of subsections (3), (4), and (5) hereof.

(2) In case the lease is to determine under subsection (1) hereof, then after the expiration of the said period of six months the land comprised in the lease shall be offered in one or more blocks under this Part at the rental fixed by the board;

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and the improvements made by the outgoing lessee shall be paid for by the incoming tenant to the Minister at a price to be fixed by the board; and the amount so paid shall be paid by the Minister to the outgoing lessee, less any amount that may be due by him under the determined lease.

(3) If the land comprised in the lease, or any part of that land, has not been taken on perpetual lease or agreement when offered pursuant to subsection (2) hereof, the Minister may receive the lessee's signification of his willingness to pay the rent fixed under section 38 at any time not being later than two months from the determination of the lease.

(4) Any lease in respect of which the Minister exercises the power conferred by subsection (3) hereof shall, notwithstanding its previous determination, be deemed to have continued without interruption of the term thereof.

(5) Where part of the land has been taken when offered as mentioned in subsection (3) hereof, subsections (3) and (4) hereof shall apply only in respect of the part not so taken.

Division 3A-Perpetual leases of town lands

Offering of Whyalla land on perpetual lease

41A. (1) The Minister may, by notice in the *Gazette*, offer any specified blocks of town land in the town of Whyalla on perpetual lease.

(2) The Minister shall not give notice as aforesaid in respect of any blocks unless the board recommends that it is desirable that those blocks should be used as sites for dwelling-houses.

(3) The notice shall set forth-

- (a) the blocks to be leased;
- (b) the rent of each block as fixed by the board, which rent shall not be subject to revaluation;
- (c) any obligations, duties, or restrictions to be imposed on the lessee in relation to the use of the land, the erection of buildings or carrying out of other improvements thereon, or personal residence on the land by the lessee;
- (d) a day, not earlier than one month after the publication of the notice in the *Government Gazette* before which applications for the blocks mentioned in the notice must be made.

Applications and allotments

41B. The provisions of sections 24 to 30 inclusive of this Act shall apply to applications for and the allotment of town lands under this Division.

Form and conditions of lease

41C. (1) Subject to this section every perpetual lease of town land in the town of Whyalla shall be in such form and contain such terms, covenants, and conditions as the Minister approves on the recommendation of the board.

(2) Without restricting the generality of subsection (1) of this section, it is declared that such covenants and conditions may provide-

* * * * *

- (b) that the lessee shall, within such time as is specified in the lease, erect a dwelling-house on the said land in accordance with plans and specifications to be approved by the Minister, and that the lessee will

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not without the consent in writing of the Minister erect on the said land any other premises;

- (c) that the lessee shall not transfer, mortgage, sublet, or otherwise dispose of the said land except in accordance with such conditions as are set out in the lease.

(3) The Minister may, on the recommendation of the board, and if he thinks that special circumstances exist which justify him in so doing, exempt a lessee from the obligation to comply with any such covenant as mentioned in subsection (2).

Purchase of fee simple of Whyalla town lands

41D. (1) Any lessee holding town land in the town of Whyalla under perpetual lease may apply to the Minister for the right to surrender to the Crown the whole or any part of that land and to purchase the fee simple of the land so surrendered.

(2) If the Minister is satisfied that the covenants and conditions of the lease have been complied with, or that, although the covenants and conditions have not been complied with it is expedient to absolve the lessee from compliance therewith, either upon conditions or otherwise, the Minister shall refer the application to the board.

(3) If the board considers that the application should be granted it shall fix the price at which the fee simple of the land may be purchased; and the lessee may thereupon surrender the land and purchase the fee simple thereof at the price fixed by the board.

(4) The Governor shall, upon payment of the said price, issue to the purchaser a grant of the fee simple of the surrendered land.

(5) A land grant of the fee simple of land surrendered under this section may contain all or any of the following conditions, namely:

* * * * *

- (b) that the grantee or his successor in title shall within such time as is specified in the condition erect on the land such premises as are specified in the condition;
- (c) a condition regulating or restricting in such manner as is specified in the condition the purposes for which the land may be used;
- (d) that the land shall not be transferred, mortgaged, or otherwise dealt with within a period specified in the condition, but not exceeding six years from the date of the land grant, without the consent in writing of the Minister.

If the land grant contains any such conditions, subsections (2) to (8) inclusive of section 232H of this Act shall apply to every such condition in the same way as they apply to conditions under that section.

This subsection shall be deemed to have come into force on the seventh day of September, 1939.

Application of other provisions to leases of town lands

41E. The following sections of this Act shall apply *mutatis mutandis* to perpetual leases of town lands in the town of Whyalla in the same way as they apply to perpetual leases of other lands, namely, sections 32, 37, 47, 52, 53, 54 to 64 inclusive, 66, 204B, 205, 206, 208A, 217, 218, 219, 222, 223, 224.

Application of ss. 41A - 41E to Leigh Creek

41F. Sections 41A to 41E (inclusive) of this Act shall apply in relation to any

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town constituted after the thirtieth day of September, 1944 on the Leigh Creek coalfield, in the same way as they apply in relation to the town of Whyalla, and the said sections shall be construed as if every reference therein to the town of Whyalla were also a reference to any town constituted as aforesaid.

Division 4-Agreements (under this Part)

Agreement to contain covenant to purchase by instalments

42. (1) In every agreement under this Part the purchaser shall covenant-

- (a) to purchase his block at the price fixed by the board; and
- (b) except in a case where section 48 applies, to pay the purchase-money and interest for land and improvements, if any, at not less than the rate of two dollars per centum per annum by not more than sixty equal half-yearly instalments, which instalments shall be paid in advance: Provided that if the Minister on the recommendation of the board so approves, the covenant for payment of purchase-money and interest may be as follows:
 - (i) for the first four years the purchaser shall pay in advance half-yearly instalments of interest only on the purchase-money, but no instalments of principal, and that interest shall be at the following rates:
 - (A) for the first year at one-fifth of the full rate of interest provided for in the agreement;
 - (B) for the second year at one-third of the said full rate;
 - (C) for the third year at two-thirds of the said full rate;
 - (D) for the fourth year at the said full rate;
 - (ii) For the balance of the term of the agreement the purchaser shall pay the purchase-money with interest thereon at the full annual rate provided for in the agreement in equal half-yearly instalments of principal and interest, and the instalments shall be payable in advance.

(2) Notwithstanding subsection (1) hereof or anything contained in the agreement, the purchaser, having complied with the terms and conditions of his agreement, shall have the option of completing the purchase of his block at any time after the expiration of six years or the term of the agreement, whichever period is the lesser, on paying the balance of the purchase-money and all interest due up to the time of purchase.

* * * * *

Form of agreements

44. (1) The agreement shall contain all the conditions, covenants, and provisions set forth in Schedule 5, subject to such modifications thereof, deletions therefrom or additions thereto as are required for giving effect to the provisions of this Act or as the Minister thinks fit and shall also contain such other provisions as the Minister thinks fit, together with a right of re-entry. Provided that where an agreement is granted upon the surrender of a perpetual lease, any condition, covenant or provision of the agreement restricting the right of the purchaser to complete purchase, or binding the purchaser to erect any fence or carry out any other work, may differ from the condition, covenant or provision prescribed by Schedule 5 in relation to the same matter, in such manner as the Minister deems just, having regard to the length of time during which the purchaser held the land under the surrendered lease or any previous lease or agreement, and the obligations which that lease or

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agreement imposed upon him and the extent to which those obligations were fulfilled.

* * * * *

Agreement liable to forfeiture for breach of covenant

46. (1) An agreement shall be liable to forfeiture if any instalment thereunder is in arrear for six months, the purchaser having had at least three months previous notice in writing demanding its payment, or if any breach is made of the terms and conditions of the agreement.

(2) Upon any such forfeiture the right, interest, or claim, either at law or in equity, of the purchaser in and to the lands included in the forfeited agreement, and to any moneys paid on account of his purchase, shall be absolutely determined, and the lands may be dealt with as the Minister may determine.

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Crown Lands Act 1929 1**Part 6-Provisions applicable to leases and agreements****Minimum rent or instalment**

47. (1) Notwithstanding any provision to the contrary in this Act or any other Act-

- (a) the annual rent under a lease granted after the commencement of the *Statutes Amendment and Repeal (Crown Lands) Act 1985*; or
- (b) an instalment under an agreement entered into after that commencement,

shall not be less than the sum of twenty-five dollars, or such other amount as the Minister may from time to time fix by notice in the *Gazette*.

(2) Subsection (1) (a) applies to a lease under any of the Crown Lands Acts or any other Act dealing with the disposal of lands of the Crown.

Rates of instalments and rent under agreements and leases, where Minister directs that this section shall apply

48. (1) The following provisions shall apply to every agreement (except an agreement under Part 10) and perpetual lease to which the Minister directs that this section shall apply, namely:

- (a) no instalment or rent shall be payable for the first four years of the term;
- (b) from the end of the fourth to the end of the tenth year of the term, instalments or rents shall be paid, and the said instalments or rents shall be at the rate of two per centum per annum on the value of the land as stated in the advertisement in the *Government Gazette* declaring the land open for application. In the case of an agreement the instalments paid for the years mentioned in this subdivision shall be regarded as interest only, and not as part of the purchase-money;
- (c) from the end of the tenth year of the term, the interest included in the instalments, or the rent (as the case may be), shall be at the rate of four per centum per annum on the value stated as mentioned in subdivision 2 hereof;
- (d) the agreement shall be for a term of forty years, and the purchase-money shall be paid by sixty half-yearly instalments payable during the last thirty years thereof; so that from the end of the tenth year of the term the instalments shall include purchase-money in addition to interest as provided by subdivision 3 of this subsection;
- (e) all instalments or rents shall be payable in advance;
- (f) the purchaser under the agreement, having complied with the terms and conditions of his agreement, shall have the option of completing the purchase at any time after the expiration of the first six years of the term, on payment of the purchase-money, or the balance thereof, with interest, at the rate or rates charged by the agreement, on the purchase-money or on the balances thereof from time to time remaining unpaid, from the commencement of the term to the date of payment;
- (g) notwithstanding anything in this section, if the purchaser or lessee transfers his agreement or lease before the end of the tenth year of the term, instalments or rent shall, if the Minister on the recommendation of the board so directs, be paid as from the time of the allotment of the land or any subsequent time not later than the time when the transfer takes effect; and, in the case of an agreement, the instalments shall be at the rate of four per centum per annum on the value stated as mentioned in subdivision 2 hereof until the end of the said tenth year, and, in the case

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of a lease, the rent shall be as provided by subdivision 3 hereof.

(2) In the case of any agreement or perpetual lease to which the Minister has directed that this section shall apply, where, in the opinion of the Minister, the enforcement of the provisions of the agreement or lease as to payment of instalments or rent would inflict great hardship upon the holder of the agreement or lease, the Minister may, by notice given to the holder, extend the period during which, under the agreement or lease, no instalment or rent is to be payable, for such further period, not exceeding four years, as he thinks fit.

(3) Upon the giving of any notice of extension, as mentioned in subsection (2) hereof, the said period shall be extended in accordance with the said notice, and all dates and periods mentioned in the agreement or lease shall be postponed and, in the case of an agreement, the term shall be extended, according to the period of the extension. The agreement or lease shall be construed so as to give effect to this subsection, and shall be binding on the parties as so construed.

Power in certain cases to surrender existing agreement or lease for agreement or lease under section 48

49. (1) Subject to subsection (6) hereof, in the case of any agreement (except an agreement under Part 10 of the *Crown Lands Act 1903*) or perpetual lease, entered into or granted before the nineteenth day of November, 1914, to which the Minister, on the recommendation of the Surveyor-General, directs that this section shall apply, the board shall revalue the land comprised in the agreement or lease, and fix the purchase-money or annual rent for the purposes of an agreement or lease to be entered into or granted pursuant to this section.

(2) When the board has fixed the purchase-money or annual rent pursuant to subsection (1) hereof, the purchaser or lessee may surrender his agreement or lease in exchange for an agreement or perpetual lease to be entered into or granted in accordance with the provisions of section 48 of this Act at the purchase price or annual rent fixed as aforesaid: Provided that-

- (a) the surrender shall have no effect unless or until accepted by the Minister, who may, in his discretion, accept or reject the surrender in the name and on behalf of His Majesty;
- (b) only an agreement may be obtained in exchange for a surrendered agreement, and only a lease may be obtained in exchange for a surrendered lease.

(3) The term of the new agreement or the new lease shall commence on the date of the commencement of the term of the surrendered agreement or lease.

(4) When an agreement or lease has been obtained pursuant to this section, the amount of the instalments or rents (as the case may be) theretofore paid under the surrendered agreement or lease shall be credited against the instalments or rents (as the case may be) which have already fallen due in accordance with the new agreement or lease; and if there is any surplus, it shall be credited against the future instalments or rents.

(5) If the agreement or lease to be surrendered is subject to a mortgage, the provisions of section 224 shall apply.

(6) This section shall not apply to any agreement or lease of land situate within any of the following hundreds, namely, the Hundreds of Pygery, McLachlan, Wannamana, Wudinna, and Yaninee, and such other hundreds as the Minister directs.

* * * * *

Power to extend agreement

50A. (1) In any case of an agreement (except an agreement under Part 10 of the *Crown Lands Act 1903*, Part 10 of the *Crown Lands Act 1915* or Part 10 of this Act)

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the Minister may direct the board to consider whether an extension of the term of the agreement should or should not be granted under this section.

(2) The board shall thereupon consider the matter, and-

- (a) may recommend that the term be extended for such period (if any) as the board thinks fit, but not so as to extend it beyond sixty-five years from the commencement thereof as fixed by the agreement;
- (ab) may, where the extension is sought by the purchaser, recommend that the rate of interest payable under the agreement be increased to a specified rate not exceeding the rate of interest then being fixed in respect of new agreements;
- (b) for the purpose of fixing the amounts of the instalments under paragraph (c) hereof may capitalise, and add to the purchase-money, the whole or any part of such amounts of any instalments then in arrear as represent interest;
- (c) if the board recommends an extension, shall fix the instalments of purchase-money to be paid during the remainder of the term (as so extended) and for such purpose may fix the instalments so that the balance of the purchase-money and any arrears of interest capitalised as aforesaid, together with interest thereon, shall be paid in equal instalments throughout the balance of the said term so extended, or may fix the instalments at such amount as would be necessary to pay the purchase-money and interest thereon in equal instalments if the instalments were spread over the whole term of the agreement as so extended from the time when instalments of principal were first payable.

(3) If the Minister approves of the recommendations of the board he may grant the extension on the terms recommended, and from the time when notice in writing stating the period of the said extension and the terms on which it is granted is given to the purchaser, the agreement shall be construed so as to give effect to the said extension and terms, and shall be binding on the parties as so construed.

(4) Except so far as may be necessary to give effect to this section, the agreement shall not be affected by anything in or done under this section; and the terms, covenants, conditions, and provisions thereof shall continue in force subject to any variations which may be necessary to give effect to this section.

* * * * *

Lands suitable for pastoral purposes only

51. In respect of any lands which, on account of deficiency of rainfall, are, in the opinion of the board, only suitable for pastoral purposes, the rent shall be fixed at pastoral rates; and, in fixing the said rents, the board shall have regard to the rates of rental of pastoral lands under similar conditions of soil and climate.

Preparation and execution of lease or agreement

52. (1) As soon as conveniently may be after land offered on lease or agreement is allotted to any person under any provision of this Act, or any other Act incorporated with this Act, or any person becomes entitled to a lease or agreement pursuant to any surrender which has been accepted, the Minister shall cause a lease or agreement, as the case may be, to be prepared in duplicate, and shall forward it to that person or his agent.

(2) The said person shall within twenty-eight days after receipt of the lease or agreement or within such further time as the Minister allows, execute the lease or agreement and return it to the Minister, together with the first year's rent or instalment (if any), and the prescribed fees or the unpaid balances thereof.

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(3) If any person fails to comply with subsection (2) of this section, the Minister may by notice in writing, served on him personally or by post, declare that he has forfeited all moneys paid by him and his right to a lease or agreement, and the Minister may thereafter re-offer or deal with the land comprised in the lease or agreement as unallotted Crown lands.

Power to resume land for certain purposes

53. (1) The Minister, on giving three months notice to any lessee or purchaser, may resume lands included in the lease or agreement for roads, railways, tramways, sites for towns, park lands, mining purposes, or for any other purpose whatsoever.

(2) The lessee or purchaser shall be entitled to compensation for any loss sustained by the said resumption.

(2a) Where the amount of compensation is disputed, the Minister shall refer the matter to the Land and Valuation Court for determination.

(2b) The practice and procedure relating to the hearing and determination of a matter so referred shall be as prescribed by the appropriate rules of the Supreme Court.

(2c) In assessing compensation under this section, the Land and Valuation Court shall give effect to any provisions of the lease relating to compensation.

(3) Nothing in this section shall affect or apply to the exercise of any power given to the Governor by the *Mining Act 1930*.

(4) In this section-

"lease" means perpetual lease and "lessee" means lessee holding land under perpetual lease.

* * * * *

Penalty to be added to overdue amount under lease or agreement

58. (1) Notwithstanding anything contained in any lease or agreement, if any rent, principal or interest payable under any lease or agreement before the commencement of the *Crown Lands Act Amendment Act 1968* is not paid within thirty days after the day appointed for payment thereof, interest at the rate of five per centum per annum shall be added to the said rent, principal, or interest and if any such rent, principal or interest so payable after such commencement is not paid within thirty days after the day so appointed, interest at the rate of ten per centum per annum shall be added to such rent, principal or interest: Provided that this subsection shall not authorise the charging of interest on interest added pursuant to the foregoing provision of this subsection.

(2) The interest added under subsection (1) shall be calculated from the day appointed for payment of the arrears on which the interest is charged, and shall be payable on the balance of such arrears owing from time to time until such arrears are paid.

(2a) Notwithstanding any provision to the contrary in this Act or any other Act, or in a lease or agreement, where an amount becomes payable under a lease or agreement after the commencement of the *Statutes Amendment and Repeal (Crown Lands) Act 1985*, and remains unpaid for thirty days after the day upon which it became payable, a penalty shall be added to that amount forthwith, and to the amount (including any penalty added pursuant to this section) that remains unpaid upon the expiration of each year thereafter.

(2b) The penalty to be added to an unpaid amount pursuant to subsection (2a) shall

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be-

- (a) the prescribed percentage of that amount, being a percentage fixed by the Minister from time to time by notice in the *Gazette*; or
- (b) the prescribed minimum penalty, being a minimum penalty fixed by the Minister from time to time by notice in the *Gazette*,

whichever is the greater.

(3) The Minister, without prejudice to his right to recover in any other way, may, by action brought in any court of competent jurisdiction in the name of the Minister of Lands, sue for any amount due and payable under a lease or agreement, together with any interest or penalty added pursuant to this section.

(4) The Minister may, in any case that seems to him to be appropriate, remit the whole, or part, of any interest or penalty added to an unpaid amount pursuant to this section.

(5) This section applies to all leases and agreements granted or made under any of the Crown Lands Acts or any other Act dealing with the disposal of lands of the Crown.

Forfeiture of lease or agreement

59. (1) Where the rent of any lands or any money due under any lease or agreement is in arrear for six months after the same is due, the lessee or purchaser (as the case may be) having had at least three months previous notice in writing demanding its payment, or where there has been a breach of any of the covenants or conditions contained in or implied by any such lease or agreement, the Minister may cancel the lease or agreement, and may thereupon insert a notice in the *Government Gazette* declaring the lease or agreement to be forfeited.

(2) Every such notice shall be taken to be *prima facie* evidence that the lease or agreement therein mentioned was legally cancelled and forfeited.

(3) The land comprised in any such lease or agreement may be dealt with in all respects as if the lease or agreement had never been granted.

Instead of forfeiture, a penalty may be imposed

60. (1) In any case in which the Minister has power, under section 59, to cancel a lease or agreement, he may, instead of exercising that power, by notice in writing to the lessee or purchaser, impose a penalty of such sum as is fixed by the board in the particular case.

(2) Any penalty imposed under this section shall be recoverable in the same manner as rents or instalments under the lease or agreement (as the case may be) are recoverable when in arrear.

Defaulting purchaser's or lessee's interest in land may be sold by auction

61. (1) In lieu of the forfeiture under section 59 of any agreement or lease, the Minister may, after two weeks' notice in the *Government Gazette*, offer the defaulting purchaser's or lessee's interest in the agreement or lease for sale by auction.

(2) If at the said offering the said interest is not sold, then the agreement or lease (as the case may be) may at any time thereafter be transferred by the Minister to any applicant at the upset price or rental fixed at the sale; and if there are more applicants than one, the transferee shall be decided by lot.

(3) Out of any premium paid at the sale, or for the transfer (as the case may be), after deducting therefrom all expenses attending the sale or offering, and all

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moneys then due by the defaulting purchaser or lessee to the Crown, the defaulting purchaser or lessee may be paid the value of any substantial improvements, consisting of buildings, fencing, dams, tanks, wells, clearing, cultivating, and planting, made by him on the land, which permanently increase the capital value thereof, and also all purchase-money paid by him, apart from interest, excepting thereout the first instalment.

(4) After notice has been given under subsection (1) hereof, the defaulting purchaser's or lessee's interest shall not be withdrawn from sale unless the said purchaser or lessee has paid to the Minister such penalty as is imposed by the Minister, in addition to the upset price at which his said interest was, or was to be, offered.

(5) The Minister may, in exercising the power to sell or transfer a defaulting purchaser's or lessee's interest in any agreement or lease conferred by this section, exercise any such power with respect to the whole or, from time to time, with respect to any part or parts of the land comprised in the agreement or lease, as he thinks fit.

(6) All the provisions of this Act with respect to the sale or transfer of the defaulting purchaser's or lessee's interest in the agreement or lease shall, *mutatis mutandis*, apply to the sale or transfer of his interest in part only of the land comprised in the agreement or lease.

(7) In case of the sale or transfer of the defaulting purchaser's or lessee's interest in part only of the land comprised in the agreement or lease, the Minister may cancel the agreement or lease as to the whole of the said land or as to any part thereof so sold, and may prepare and issue to the purchaser of such part a new agreement or lease therefor, and the new agreement or lease shall be effectual for all purposes as a transfer to the purchaser of the right, title, and interest of the defaulting purchaser or lessee in the part of the said land comprised in the new agreement or lease.

Liability of purchaser for future defaults

62. When a defaulting purchaser's or lessee's interest in an agreement or lease, or any part thereof, has been sold under section 61, the purchaser at the sale shall be liable for the payment of all instalments or rents (as the case may be) and other (if any) moneys falling due under the agreement or lease after the date of the sale in respect of the whole or of the part thereof sold (as the case may require), and from that date shall be bound by and subject to all the terms, covenants, conditions, and provisions of the agreement or lease.

Power to execute transfer of interests sold

63. (1) When the sale of any interest under an agreement or lease has been effected by the Minister, he may transfer all the right, title, and interest of the defaulting purchaser or lessee to the purchaser at the sale; and the Registrar-General shall, when requested and on payment of the necessary fees, register the transfer, whereupon the same shall be effectual for all purposes as if the purchaser or lessee to whom the transfer is made were the original purchaser or lessee of the lands described and comprised in the agreement or lease.

(2) If the agreement or lease cannot be obtained by the Minister, he may cancel the same and prepare a new agreement or lease in lieu thereof for the purchaser at the sale.

Service of notices

64. Any notice to be given to any lessee, licensee, or purchaser shall be deemed to have been duly given if the same has been sent through the post office enclosed in an envelope addressed to the lessee, licensee, or purchaser at-

(a) any address stated in any recent application, letter, or document received

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from the lessee, licensee, or purchaser; or

- (b) the lessee's, licensee's, or purchaser's usual or last known place of abode in the State; or
- (c) the care of any solicitor, attorney, or agent acting in the lessee's, licensee's, or purchaser's behalf in the particular matter in respect whereof the notice is given,

and notice as aforesaid shall be deemed to have been given on, and time shall run from, the day of the posting thereof.

Duty of lessees and purchasers not to impound in certain cases

65. No lessee or purchaser shall be entitled to impound any cattle or sheep trespassing on leased land or land under agreement forming portion of or adjoining a travelling stock reserve unless the said land is enclosed with a fence which is sufficiently substantial and close to ordinarily resist the trespass of cattle or sheep, as the case may be.

Statute of limitation no bar to action

66. No statute of limitation shall bar or affect any action or remedy for the recovery of any principal, rent, interest, or instalments due under any lease or agreement.

Power to add parcels of land to leases and agreements

66A. (1) Where a parcel of Crown land-

- (a) is adjacent to the land comprised in a lease or agreement; or
- (b) is, in the opinion of the Minister, so situated that it may conveniently be worked in conjunction with the land comprised in a lease or agreement,

and, in the opinion of the Minister, there is no sufficient reason for inviting applications for the land, the Minister may, on the recommendation of the board-

- (c) allot the parcel of land to the lessee or purchaser under the lease or agreement on such terms as are recommended by the board and accepted by the lessee or purchaser; and
- (d) by a certificate of alteration, alter the lease or agreement to include the parcel of land and make any consequential alterations or additions to the terms, covenants or conditions of the lease or agreement.

* * * * *

(3) Every certificate of alteration under this section shall be signed by the Minister.

(4) The Minister shall forward the certificate of alteration, together with the lessee's or purchaser's copy of the lease or agreement (if produced to the Minister) to the Registrar-General of Deeds.

The Registrar-General of Deeds shall register the certificate of alteration in the Lands Titles Office and assign a number thereto, and shall enter a memorial thereof on the copy of the lease or agreement in the Register of Crown Leases, and on the lessee's or purchaser's copy (if it is forwarded to him) and after entry of the memorial on that copy he shall return it to the Minister of Lands.

(5) The land included in a lease or agreement pursuant to a certificate of alteration shall be subject to the mortgages, encumbrances, subleases or other interests to which the other land comprised in the lease or agreement is subject, unless the certificate otherwise provides. The Minister shall, upon the request of

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the lessee or purchaser, include in the certificate, a statement that the land to which it relates is not subject to any mortgage, encumbrance, sublease, or other interest specified in the certificate.

* * * * *

Power to add parcels of land to existing certificates of title

66B. (1) Where a parcel of Crown land-

- (a) is adjacent to the land comprised in a land grant or certificate of title; or
- (b) is, in the opinion of the Minister, so situated that it may conveniently be worked in conjunction with the land comprised in a land grant or certificate of title,

and, in the opinion of the Minister, there is no sufficient reason for making a general offer of the land for sale, the Minister may, on the recommendation of the board, sell the parcel of land for cash to the registered proprietor of the land comprised in the land grant or certificate of title at such price as is recommended by the board and accepted by the registered proprietor.

(2) Where a sale has been effected pursuant to the power conferred by subsection (1) of this section and where pursuant to the provisions of this Act, (apart from this subsection) a land grant for the said parcel of land would be issued to the said registered proprietor then, unless the Minister otherwise directs, the following provisions shall apply:

- (a) the Minister shall give a certificate to the Registrar-General that the said parcel of land is to be vested in the said registered proprietor and if the said land is to be subject to any easement or reservation the certificate shall describe the easement or reservation;
- (b) in lieu of a land grant being issued for any parcel of land sold under this section, a certificate of title shall on payment of the prescribed fee be issued by the Registrar-General comprising the said parcel of land and the land comprised in the land grant or certificate of title of the registered proprietor;
- (c) every certificate of title so issued shall be expressed to be subject and the land therein described shall be subject to such encumbrances, liens, interests, reservations, easements and trusts as were shown by the certificate of title for the land immediately prior to its consolidation and by the certificate given by the Minister as aforesaid.

(3) For the purpose of giving effect to subsection (2) of this section the Registrar-General may make such alterations in the Register Book as are necessary.

(4) For the purposes of the public records of the State, where a consolidation of adjacent lands is effected under this section, the parcel of land so consolidated shall, if the Minister so determines, be deemed to be merged with and have the same identity as the adjacent land comprising the land grant or certificate of title of the registered proprietor with which it is consolidated. If any consolidation would affect land in any plan deposited in the General Registry Office or the Lands Titles Registration Office, the Registrar-General may call for any survey and may describe the land in the consolidated certificate of title in such manner as he deems advisable.

* * * * *

Crown Lands Act 1929 1**Part 6A-Special development lands****Definition of lease**

66C. In this Part-

"lease" means a perpetual (special development) lease granted under this Act.

Special development lands

66D. (1) Where the board is of the opinion that the unrestricted use of any Crown lands, by reason of-

- (a) the nature of the soil or topography of those lands; or
- (b) the situation of those lands in an area of doubtful rainfall,

would be likely to result in a hazard to the stability or productivity of those lands or of any lands, whether Crown lands or not, adjacent to those lands, then the board may recommend to the Minister that those lands be declared special development lands.

(2) Where a recommendation made in accordance with subsection (1) of this section has been approved by the Minister, the Governor may by proclamation declare the lands specified in the proclamation to be special development lands and may, after a like recommendation and approval, by proclamation amend, vary or revoke that proclamation.

Leases of special development lands

66E. (1) Notwithstanding anything in this Act, special development lands shall not be offered except on lease and in accordance with this Part.

(2) A lease under this Part shall be designated a perpetual (special development) lease and shall, subject to this Act, vest the land comprised in it in the lessee in perpetuity.

(3) A lease shall contain the provisions for rent and the reservations, covenants and conditions set forth in Schedule 12, subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act, or as the Governor thinks fit and shall also contain such other provisions as the Governor thinks fit, together with a right of re-entry, and shall be read and construed as if any reservations, covenants and conditions in the form of Schedule 12 had been expressed in the extended form set forth in Schedule 13 and the lessee and all persons entitled to any benefit of the lease shall be bound thereby.

Excluded areas

66F. (1) In a notice under section 23 of this Act relating to special development lands the Minister shall cause to be delineated on a map as excluded areas any areas of land comprised in the proposed lease which, on the advice of the board, he considers should not be cleared, cultivated or used for grazing.

(2) The Minister may at any time after the grant of a lease, on the advice of the board, vary the boundaries of the areas delineated in accordance with subsection (1) of this section by causing a map showing those variations to be forwarded to any lessee affected thereby.

(3) In advising the Minister for the purposes of this section the board shall consult with and act on the advice of the person for the time being holding or acting in the office of Soil Conservator under the *Soil Conservation Act 1939*.

Powers of board in connection with leases

66G. (1) Subject to subsection (2) of this section, the board shall not accept an application for the grant of a lease or recommend the granting of an application under subsection (1) of section 225 of this Act, unless it is satisfied that the

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intended lessee, transferee or sublessee, as the case may be-

- (a) is not the holder of or otherwise interested in a lease; and
- (b) has the capacity to develop and manage the land in connection with which the application is made; and
- (c) possesses the financial or other resources necessary to develop and manage that land.

(2) Where the board is satisfied as to the matters referred to in paragraphs (b) and (c) of that subsection it may recommend the transfer of all or portion of a lease to a person who is the holder of a lease if the board is satisfied that the lease or portion of a lease intended to be transferred will be amalgamated with the lease held by that person.

Application of the Act

66H. (1) Sections 35, 57, 61, 210 and 212 of this Act shall not apply to or in relation to special development lands or leases as the case may be.

(2) This Act other than the sections and subsections referred to in subsection (1) of this section shall, subject to this Part, apply to and in relation to-

- (a) Crown lands being special development lands; and
- (b) leases as if those leases were perpetual leases offered otherwise than as perpetual (special development) leases,

as the case may be.

Crown Lands Act 1929 1**Part 7-Leases other than perpetual**

* * * * *

Division 2-Miscellaneous leases

* * * * *

Miscellaneous leases

77. (1) Leases may be granted of any Government buildings not required for Government purposes, of any dedicated lands under the care, control and management of the Minister, or of any Crown lands, or other lands belonging to or vested in the Crown, for such term, at such rent, and upon such terms and conditions as the Minister thinks fit, for any of the following purposes, that is to say-

- (a) for obtaining and removing therefrom guano or other manure;
- (b) for obtaining and removing therefrom stone and clay, or other earth;
- (c) for sites for inns, stores, smithies, bakeries, or other buildings for business purposes which the Minister approves in thinly-populated districts;
- (d) for sites for bathing-houses, bathing-places, mail stations, toll or punt houses;
- (e) for sites for tanneries, factories, sawmills, or papermills;
- (f) for sites for wharves, quays, jetties, or landing places, and for sites for the depositing of materials or produce;
- (g) for sites for ship or boat building, or repairing;
- (h) for any purposes for which licences may be granted under this Act;
- (i) for grazing and cultivation, or for grazing only;
- (j) for any other purpose approved by the Minister, whether similar to any of the above-mentioned purposes or not.

(2) Any lease granted under this section may provide that the rent thereunder shall be payable either quarterly or half-yearly or annually.

Allotment of land, covenants and provisions in leases granted under s. 77

78. Every lease granted under section 77 shall-

- (a) be allotted in the discretion of the board;
- (b) contain, in addition to other covenants, a covenant by the lessee to use the land *bona fide* solely for the purpose for which it is leased;
- (c) contain a provision for forfeiture upon breach of any covenant.

Renewal of miscellaneous lease by written notice

78A. (1) The lessee under a miscellaneous lease granted under this Division may, not less than three months (or such shorter period as the Minister may allow) before the end of the term of the lease, apply in writing to the Minister for the renewal of the lease.

(2) Upon application being made by a lessee in accordance with subsection (1), the Minister may, by notice in writing to the lessee, renew the lease for such term

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as he thinks fit and may, by that notice, vary the terms and conditions of the lease (including the rent payable under the lease) or add or delete any conditions.

(3) The Minister may, if he thinks fit, entertain an application for the renewal of a miscellaneous lease notwithstanding that the application is made out of time or after the lease has expired.

(4) Upon a lease being renewed pursuant to this section, the lease as renewed shall be deemed to have been granted to the lessee under this Act and the Minister shall cause the Registrar-General to endorse the register book accordingly.

Life leases for certain shacks

78B. (1) The Minister may, upon the expiry or surrender of-

- (a) a miscellaneous lease for holiday accommodation purposes granted under this Act or the *Irrigation Act 1930* prior to the first day of January, 1984, for a term not exceeding ten years; or
- (b) a licence for a shack site granted under this Act or the *Irrigation Act 1930*,

grant a lease under this section over the lands comprised in the expired or surrendered lease or licence.

(2) A lease under this section-

- (a) may only be granted-
 - (i) to a person who was a lessee or licensee under the expired or surrendered lease or licence; or
 - (ii) to an existing or surviving spouse or putative spouse of a person referred to in subparagraph (i) or of a lessee under a lease granted under this section, or to a person who is, in the opinion of the Minister, an existing or surviving spouse *de facto* of such a person or lessee; or
 - (iii) to any other person whose use or enjoyment of the lands has been such that the Minister believes he should be granted a lease under this section; and
- (b) may contain such terms, conditions, covenants and reservations as the Minister thinks fit.

(3) Where a lease is granted under this section to a natural person, his interest in the lease is extinguished upon his death.

(4) Where a lease is granted under this section to a body corporate, the interest of the lessee in the lease is extinguished on the thirty-first day of December, 1999, or on the body corporate ceasing to exist, whichever first occurs.

Division 3-Variou

Education lands to be dealt with by board

79. All leases of lands vested in the Commissioner of Educational Lands from and after the eighth day of December, 1888, shall continue to be perpetual leases or agreements. All such lands which have not heretofore been dealt with shall hereafter be dealt with by the board under Part 5.

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Crown Lands Act 1929 1**Part 8-The Lyrup Village Settlement****Division 1-Interpretation and application****Interpretation**

82. In this Part, except where the subject matter or context, or some other provision requires a different construction-

"**association**" means the Lyrup Village Association mentioned in Division 2 of this Part;

"**district**" means district of the association;

"**improvements**" means substantial and permanent improvements, consisting of buildings, fencing, dams, tanks, wells, drainage and irrigation works, clearing, grading, cultivating, planting with fruit trees, vines, grasses, or cereals;

"**irrigation works**" means all channels, watercourses, machinery, and other property and improvements constructed or erected in the district of the association for irrigation, drainage and domestic water supply purposes, and belonging to the association;

"**reserved lands**" means the land reserved for or occupied by the association or by the members thereof;

"**rules**" means rules made by the Minister pursuant to this Part;

"**trustees**" means the trustees for the time being of the association.

This Part to apply so far as repealed Acts not exhausted

83. The provisions of this Part shall apply, in and with respect to the district, only to the extent to which the operation of the corresponding provisions of the repealed Acts has not been exhausted, with respect to the district, before the passing of this Act.

Passing of this Act not to affect operation of Irrigation Act

84. In case any of the provisions of this Part are inconsistent with anything lawfully done before the passing of this Act, or with the power to do anything after the said passing, in or with respect to the district or any lands in the district, under the *Irrigation Act 1930*, the *Irrigation Act 1922*, or any Act thereby repealed, the passing of this Act shall not be held to affect the validity of any such thing or to affect any such power.

Division 2-Constitution of the Lyrup Village Association**Continuance of Lyrup Village Association**

85. (1) The constitution and registration of The Lyrup Village Association are hereby further confirmed, and the association shall continue a body corporate, having perpetual succession and a common seal (of which the corporate name of the association shall form part) and the right and liability to sue and be sued, and shall have and be subject to the rights, authorities, duties, and liabilities hereinafter appearing.

(2) Subject to subsection (3) of this section, the association shall be comprised of persons-

- (a) who are lessees for the time being of land within the district; and
- (b) who are otherwise qualified, in accordance with the rules, for membership of the association.

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(3) Where a lease is held in the name of two or more persons, only the lessee whose name appears first in the lease shall be a member of the association.

Association not subject to Corporations Act 2001

86. The association is declared to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies.

Lands to be set apart and subdivided

87. (1) Out of the reserved lands the Minister shall set apart-

- (a) such land as he considers fit for horticultural purposes, hereinafter termed "horticultural lands"; and
- (b) such land as he considers fit for agricultural purposes, hereinafter termed "commonage lands"; and
- (c) land whereon any irrigation works are situated; and
- (d) such other land as he thinks fit for any other purpose.

(2) The Minister may approve the subdivision of the lands set apart under subsection (1) of this section into blocks of such area as he determines.

District of association

88. The lands set apart shall form the district of the association.

Horticultural blocks

88A. (1) The land described in Schedule 10 is hereby declared to be added to the district of the association.

* * * * *

Determination of district and leases

89. The Governor may, by proclamation, rescind the proclamation of the district, and determine any lease granted under this Part, under the *Lyrup Village Association (District Extension) Act 1921*, under Part 8 of the *Crown Lands Act 1915*, or under Part 8 of the *Crown Lands Act 1903*, if the conditions of the lease are not well and faithfully observed and performed to the satisfaction of the Minister.

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Division 4-Leases

Determination of occupation and grant of lease

94. (1) The Governor may, by proclamation, determine the occupancy by any person or the association of the reserved land in the district, and the said land shall thereupon revert to the Crown free from encumbrance.

(2) The Minister may lease any blocks in the district by perpetual lease.

* * * * *

(4) Notice shall be given in the *Government Gazette* that any unleased blocks are open to application, and the notice shall contain such particulars as the Minister thinks proper.

(5) The blocks shall be allotted by the board.

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(7) The Minister may, on granting a lease, obtain from the lessee such premium (if any) as he may think fit, and the said premium shall be the property of the association.

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Rent

96. The annual rent to be reserved by any lease shall be fixed by the board, and shall commence at a date to be fixed by the Minister.

* * * * *

Covenants etc in leases

99. Every lease of land within the district shall be prepared by the Minister, and shall contain such covenants, conditions, and reservations as the Minister determines; and every lease shall contain the right to assign or sublet the same with the consent of the Minister.

* * * * *

Power to forfeit lease

101. If the lessee fails to comply in any respect with the provisions of this Act or of his lease or ceases to be a member of the association, the Minister may forfeit the interest of the lessee in the block, and cause that interest to be sold by auction or disposed of to any person, on such terms as he thinks fit. Any person so acquiring any such block shall be deemed to stand in the position of the original lessee.

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Division 6-Management of the association**Management**

105. The business and affairs of the association shall be managed by a board of trustees appointed in the manner prescribed by the rules.

Payment of contributions

106. (1) The association may, in respect of any financial year, by notice in writing, require the members of the association, and the occupiers of land within the district, to pay to the association such contributions (which may be determined upon such basis as the association thinks fit) towards the expenses incurred, or to be incurred by the association in that financial year, as it considers just.

(2) Any such notice shall fix a date on or before which the contribution must be paid.

(3) Where the contribution is not paid on or before the date fixed by the notice, the contribution shall be augmented by interest at the prescribed rate.

(4) The association may-

- (a) charge such membership fees (which shall be repayable at the discretion of the trustees upon cessation of membership); and
- (b) make such charges for goods supplied, or services rendered, by the association,

as the association thinks fit.

(5) Any contribution, fee, charge or interest payable under this section may be recovered by the association as a debt.

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Restriction of further advance to association

107. Except as is provided by section 107A of this Act, no advances or allowances shall hereafter be made by the Minister to the association.

Advances to association

107A. * * * * *

(3) Any loan made by the Treasurer pursuant to subsection (2) shall be subject to such terms and conditions as the Treasurer may determine.

(4) The amount paid to the association by way of loan pursuant to this section before the commencement of the *Crown Lands Act Amendment Act (No. 2) 1980* shall be repaid by the association to the Treasurer with interest at the rate of five per centum per annum, computed from the thirtieth day of June, 1974, by forty equal annual payments to be made on the first day of July in each year commencing on and including the first day of July, 1975.

* * * * *

Management of commonage lands

110. (1) The commonage lands to be leased to the association shall be under the control of the association and shall be worked by the association for the common good and benefit of the members thereof upon the principles of co-operation and equitable division, and the said lands may be sublet or transferred by the association in whole or in part: Provided that the consent of the Minister to the subletting or transferring shall be obtained in accordance with section 225 of this Act.

* * * * *

Accounts and audit

111. (1) The board of trustees of the association shall cause proper accounts to be kept of the financial affairs of the association and shall in respect of each financial year prepare a statement of the accounts of the association.

(2) The accounts and statement of accounts of the association shall in respect of each financial year be audited by auditors appointed by the association.

Annual report

112. (1) The board of trustees of the association shall in respect of each financial year prepare a report upon the conduct of the business of the association during that financial year.

(2) The board of trustees of the association shall submit a copy of the report and audited statement of accounts in respect of a financial year to the members of the association at the annual general meeting of the association next succeeding the expiration of that financial year and to the Minister before the expiration of the period of fourteen days commencing upon the day on which the annual general meeting is held.

Service of proceedings on association

113. Any process or document served upon a trustee of the association shall be deemed to have been served upon the association.

Annual instalments of charge and irrigation expenses recoverable by distress

114. The proportion of irrigation expenses, and the annual instalments of the association's debts and of the members' debts payable by the association or by any member of the association, shall, amongst other ways, be recoverable by distress and sale of the goods and chattels of the association or person in default, together with such charges as are prescribed.

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Public inspection of rules and accounts

115. The association shall, upon the request of any person and payment of the amount of one dollar, make a copy of any annual report or audited statement of accounts of the association available for the inspection of that person.

Rules

116. The Minister may make such rules as are necessary or expedient for the purposes of this Part.

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PART 9

Crown Lands Act 1929 1**Part 9-Homestead blocks****Division 1-Acquirement and re-offering of lands**

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Transfer of homestead blocks

118. Homestead blocks may be transferred, and held in any area.

* * * * *

Division 2-Leases and agreements**Lease or agreement may be granted of more than one block**

122. A lease or agreement may include one or more block or blocks of land.

Receipts for rent or instalments to constitute holding title

123. The receipts for current rent or instalments shall be a sufficient holding title so long as the lessee or purchaser continues to reside on his land, but in case of transfer or mortgage a lease or agreement shall be taken out.

Division 3-Protected homestead blocks

* * * * *

Effect of endorsement

125. (1) The effect of any endorsement made pursuant to section 124 of this Act as in force before the commencement of the *Crown Lands Act Amendment Act 1968*, or made under any corresponding previous enactment and, in either case, not having been cancelled pursuant to this section or any corresponding previous enactment shall be-

- (a) that no subsequent encumbrance by the blockholder of the land or his estate or interest therein, or of any part thereof respectively, except the loan agreement provided for in Division 6 of this Part shall have any validity;
- (b) that the land, or any part thereof, or the estate or interest of the blockholder therein, or any part thereof, shall not be liable to be seized or taken in execution for debt under process of any court, except for the payment of rates and taxes; and shall not vest in the trustee of his estate, in case of the blockholder's insolvency, or unless otherwise expressly provided by the will of the blockholder, become, on his death, assets for the payment of debts: Provided that this subdivision shall not apply to the recovery of any such debt incurred by the blockholder prior to the date of endorsement, or to any legal proceedings that may be taken in respect thereof.

(2) The land, and the blockholder's interest or estate therein, shall, notwithstanding subsequent transfer, continue to be so protected unless before registration of the transfer the transferee subscribes upon the transfer a request that the protection may be removed, or unless the blockholder forwards to the Minister a request in writing that the protection may be removed; in either of which cases the Minister shall cancel the endorsement before the lease, agreement, land grant, or certificate of title, as the case may be, is issued or returned to the transferee or blockholder, and the protection shall cease to operate accordingly as from the date of the cancellation.

Division 4-Special provisions

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When blockholder may assign or sublet

129. When the Minister is satisfied that the blockholder is unable to continue in occupation of his block, he may allow him to assign or sublet his block, together with the improvements thereon.

Division 5-Agreement or lease on surrender

Homestead lease may be surrendered for agreement or perpetual lease

130. The lessee of any homestead lease, having complied with the provisions contained in his lease, and repaid all moneys due under his loan agreement, may make written application to surrender the lease under Part 11, and to obtain in lieu thereof an agreement or perpetual lease.

* * * * *

Crown Lands Act 1929 1**Part 10-Closer settlement****Division 1-Power to acquire lands****Acquisition of land by repurchase**

144. The Minister may, by repurchase, acquire land for the purposes of this Part at a cost not exceeding twelve hundred thousand dollars in any period of two financial years (reckoning the first of such periods to have commenced on the first day of July, 1910), subject to the following conditions, namely:

- (a) that the repurchase is recommended and the improvements are valued by the board;
- (b) that within thirty days after any repurchase, if Parliament is then in session, or if Parliament is not then in session, then within thirty days after the commencement of the next session, there shall be laid before both Houses copies of all recommendations and valuations pursuant to which the purchase has been made, and full particulars of-
 - (i) the locality, area, and quality of the land repurchased, and of the improvements thereon; and
 - (ii) the names of the vendors and of all persons interested in the sale; and
 - (iii) the price paid and the land tax assessment.

Acquisition of land compulsorily

145. (1) The Minister may also acquire land for the purposes of this Part, as provided by Division 2 of this Part.

(2) The provisions of section 144, *mutatis mutandis*, shall apply in respect of the land so acquired, and the cost limited by that section shall include the cost of that land.

Registrar-General to make necessary entries and cancel certificates of title

146. (1) Upon the transfer or conveyance of any land acquired under this Part pursuant to agreement being lodged with the Registrar-General, or upon the Minister furnishing the Registrar-General with a copy of the proclamation under section 163 as to any land, the Registrar-General shall make any entry in the register-book or other book at the Lands Titles Registration Office or General Registry Office necessary or proper to evidence the vesting of the land in His Majesty.

(2) If any of such land is under the provisions of the *Real Property Act 1886*, the Registrar-General shall, upon the lodging of the transfer with him, or receiving the said copy of the proclamation (as the case may be), make an entry on the folium relating thereto in the register-book as follows: "Cancelled, the land (or part of the land) having been acquired by the Crown", and shall sign the entry. Thereafter the land referred to in this subsection shall, for the purposes of the *Real Property Act 1886*, and until again alienated from the Crown, be dealt with and regarded in all respects as if it had never been alienated from the Crown.

(3) Upon receiving the grant, certificate of title, or other muniment or muniments of title of the land referred to in the next preceding subsection the Registrar-General shall cancel the same by endorsing thereon the words-"Cancelled, the within land (or part of the within land) having been acquired by the Crown", and shall sign the endorsement.

Part to cease to apply to closer settlements within Murray-Darling Basin

146A. Despite any other provision of this Part, the Minister must not, after the commencement of this section, acquire under this Part land within the Murray-Darling

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Basin solely or predominantly for the purposes of closer settlement.

Division 2-Compulsory acquisition of lands

Interpretation

147. In this Division-

"Crown lease" means-

- (a) any agreement under any of the Crown Lands Acts containing a covenant to purchase; and
- (b) any lease or agreement for a lease, and any licence, permit, right to occupy or use, or similar right or interest, or agreement thereof, whether the same is in perpetuity or for a term of years or otherwise, and whether containing or not containing a right to purchase, and under whatever Act or other authority the same may have been granted or made,

before or after the passing of this Act granted or made by or on behalf of the Crown, or by or on behalf of any person or authority holding lands belonging to the Crown, or in whom or which lands belonging to the Crown were or are vested;

"large estate" means the whole or any part or parts of the land, not being situated within the boundaries of any city, town, or township, owned in fee simple by the same owner or owners in a case in which the unimproved value of the aggregate of all the land so owned by the said owner or owners exceeds forty thousand dollars, and of which land the owner is not at the time of the preliminary notice under section 156, according to the certificate of the Surveyor-General, cultivating annually at least one-third of the arable land;

"owner", when used with reference to-

- (a) a large estate, means the owner of a freehold estate in possession;
- (b) other land, means the owner of a freehold estate in possession, except where the land is comprised in a Crown lease, in which case it means the lessee thereof;

"purchase-money" or "price" includes compensation for the resumption of a Crown lease or consideration to be paid for the surrender thereof;

"River Murray" includes every tributary, affluent, effluent, creek, ana-branch, or extension of, and every lake or lagoon connected with, the River Murray;

"sale" includes surrender of a Crown lease;

"transfer" includes surrender of a Crown lease.

What lands to be deemed to be adjoining lands

148. Subject to subsection (5) of section 153, in administering this Division lands shall not be deemed not to adjoin other lands merely because they are separated therefrom by a public or other road or by a stream or water-course.

Division to apply notwithstanding Real Property Act 1886

149. The provisions of this Division shall apply notwithstanding anything contained in the *Real Property Act 1886*.

Incorporation of the Compulsory Acquisition of Land Act 1925

150. The provisions of sections 10, 35, 36, 37, 40, 41, 55 to 63, both inclusive, 78, and subsection (11) of section 29 of the *Compulsory Acquisition of Land Act 1925*,

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so far as applicable and not inconsistent with the provisions of this Division, are incorporated with and shall form part of this Division, and, for the purposes of this Division, the following expressions when used in the said Act shall have the following meanings, namely: "**promoters**" shall mean the Minister of Lands: and "**special Act**" shall mean this Division.

Power to acquire lands (other than large estates) which are subject to Crown leases

151. (1) When any land-

- (a) is comprised in a Crown lease; and
- (b) might, if it were held for a freehold estate, be acquired under the provisions of this Division otherwise than as being a large estate,

the said land may be acquired by the Minister under the provisions of this Division; and for the purpose of carrying out the acquisition thereof the Governor may accept the surrender of the said lease or resume the land comprised therein.

(2) Every reference in this Division to the acquiring or acquisition of land, other than a large estate, shall be read as including a reference to the acceptance on surrender of a Crown lease, or the resumption of the land comprised therein; and, for the purposes of anything to be done under this Division, in a case where the land is comprised in a Crown lease, the provisions of this Division shall be read as varied in such a manner as may be appropriate for dealing with land comprised in a Crown lease.

(3) For the purposes of sections 159, 160, and 162, land comprised in a Crown lease shall be regarded as land under the *Real Property Act 1886*.

Acquisition of large estates and lands adjacent to River Murray

152. (1) Large estates may be acquired by the Minister for the purposes of extension of agriculture and closer settlement in manner prescribed by this Division; and large estates and any lands adjacent to the River Murray suitable for reclamation or irrigation may be acquired by the Minister for the purposes of extension of agriculture and closer settlement in manner prescribed by this Division.

(2) A certificate signed by the Surveyor-General stating that any land therein specified is adjacent to the River Murray, and a certificate given by the board stating that any land therein specified is suitable for reclamation or irrigation, shall be conclusive as to the matters so stated.

(3) No land shall be acquired under this Division, as being land adjacent to the River Murray suitable for reclamation or irrigation, except on the written recommendation of the board: Provided that this subsection shall not apply to the acquisition of any land as being a large estate or part thereof.

Acquisition of lands required for working lands adjacent to River Murray

153. (1) Subject to subsection (2) of this section, any land of any kind which adjoins land adjacent to the River Murray and suitable for reclamation or irrigation, may be acquired by the Minister under the provisions of this Division.

(2) No land shall be so acquired by virtue of the power conferred by this section unless-

- (a) the land which it adjoins as aforesaid is at the same time or has previously been so acquired, or is otherwise vested in His Majesty the King or in some person on behalf of His Majesty; and
- (b) the Surveyor-General has signed a certificate stating that the land adjoins lands adjacent to the River Murray and the board has given a certificate

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stating that the lands are suitable for reclamation or irrigation; and

* * * * *

(d) the board has recommended in writing that the land be so acquired; and

(e) the Minister has offered the occupier of the land the right to select a block of swamp or reclaimed or irrigable land and an area of other land in conjunction therewith.

(3) Any such certificate of the Surveyor-General or the board shall be conclusive as to the matters stated therein.

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to land to be acquired, or land which has been acquired, by virtue of the power conferred by this section.

(5) Notwithstanding anything in this Division contained, no land shall, for the purposes of this section, be deemed to adjoin land from which it is separated by the main stream of the River Murray, and not merely by a creek, affluent, effluent, ana-branch, or extension of, or lagoon connected with, the said river.

Land irrigable by waters from the River Murray

154. (1) Subject to subsection (2) of this section, any land which, by means of irrigation with water from the River Murray, is capable of being rendered suitable for closer settlement may be acquired by the Minister in manner prescribed by this Division, for the purposes of extension of agriculture and closer settlement, notwithstanding that the said land is neither adjacent to the River Murray nor adjoining land adjacent to that river, as mentioned in sections 152 and 153.

(2) No land shall be so acquired by virtue of the power conferred by this section, unless the board has certified that, by means of irrigation with water from the River Murray, the land is capable of being rendered suitable for closer settlement, and the board has recommended in writing that the land be so acquired.

(3) The certificate of the board shall, for the purposes of this Division, be conclusive as to the matters stated therein.

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to the land to be acquired or acquired by virtue of the powers conferred by this section.

Land requiring drainage

155. (1) Subject to subsection (2) of this section, any land which, by means of drainage works, is capable of being rendered suitable for closer settlement may be acquired by the Minister in manner prescribed by this Division, for the purposes of extension of agriculture and closer settlement.

(2) No land shall be so acquired by virtue of the power conferred by this section unless the board after obtaining a report from the Engineer-in-Chief as to the possibility of draining the land has certified in writing that, by means of drainage works, the land is capable of being rendered suitable for closer settlement, and has recommended in writing that the land be so acquired.

(3) The certificate of the board shall, for the purposes of this Division, be conclusive as to the matters stated therein.

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to land to be acquired or acquired by virtue of the power conferred by this section.

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156. (1) When the Minister considers it advisable to acquire any large estate or other land under this Division he may direct an inspection thereof to be made; and he shall, not less than four weeks prior to the date of the proposed inspection of the land, give a preliminary notice in writing to the owner thereof of his intention to inspect and of the date when an inspection of the land will be made.

(2) The notice shall specify the area, description, and boundaries of the land so far as the same are known to the Minister.

Power to enter land for inspection

157. After notice under section 156 has been given as to any large estate or other land, the Minister or any person authorised by him may enter at any time or times upon the large estate or other land and inspect the same and the improvements thereon, and may remain thereon for any reasonable time to acquire all necessary information for the purpose of making an inspection of the land and improvements.

Notice of intention to acquire

158. (1) When the Minister intends to acquire any large estate as to which a preliminary notice has been given under section 156, he shall send to the owner a further notice, stating that at the expiration of two years from the date of the last-mentioned notice it is the Minister's intention to acquire the land, and what price he is prepared to give for it.

(2) When the Minister intends to acquire any land adjacent to the River Murray, as to which land a preliminary notice has been given under section 156, he shall send to the owner a further notice, stating that at the expiration of one year from the date of the last-mentioned notice it is the Minister's intention to acquire the land and what price he is prepared to pay for it.

Duties of Registrar-General to note in register-book

159. After notice under section 158 as to any land has been given, the Minister may send a copy of the notice to the Registrar-General, at the Lands Titles Registration Office, and the Registrar-General shall thereupon note the same in the register-book if the land is under the *Real Property Act 1886* and if the land is not under the *Real Property Act 1886*, the Registrar-General shall register a memorial of the said notice in the General Registry Office for Deeds.

Effect of notice to bind all persons interested

160. As regards land under the *Real Property Act 1886*, when a notice under section 158 has been noted as provided by section 159, and as regards land not under that Act, when a memorial of a notice given under section 158 has been registered as provided by section 159, the said notice shall be deemed to have been duly given to all persons-

- (a) at the time of the noting or registration, as the case may be; or
- (b) after the said time and within a period of two years, as regards a large estate, or one year as regards other land, after the giving of the preliminary notice under section 156,

having any right, estate, or interest in the land; and the Minister may, at any time within six months after the expiration of the said period of two years or one year, as the case may be, acquire the land under this Division, notwithstanding any disposition of the land or any part thereof, or of any right, estate, or interest in or over the land or any part thereof, or any other dealing with or in any way affecting the land or any part thereof, and notwithstanding the noting in the register-book or registration in the General Registry Office for Deeds of any such disposition or dealing.

Rights of owner to reserve land not exceeding forty thousand dollars in value

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161. (1) At any time before the expiration of the notice given under section 158 as to any large estate, the owner thereof, unless he has in the meantime agreed in writing with the Minister for the sale thereof, shall have the right, by notice in writing given to the Minister, to select and retain out of the large estate, for the purpose of his residence or business, or both, land in one block where possible, and if land of the value of forty thousand dollars cannot be retained in one block, then in not more than two blocks specified in the notice: Provided that in no case shall the value of the lands selected and retained, exclusive of the value of the improvements thereon, exceed in the aggregate forty thousand dollars.

(2) When a notice in accordance with subsection (1) of this section has been given, the land properly comprised in the notice shall cease to be affected by the notice given under section 158.

(3) This section shall not apply to any land on or adjacent to the River Murray suitable for reclamation, whether the land is or is not a large estate or part thereof.

Rights of owner to require whole estate to be taken

162. (1) At any time before the expiration of the notice given under section 158 as to any large estate or other land, the owner thereof, unless he has in the meantime agreed in writing with the Minister for the sale thereof, may, by notice in writing given to the Minister, require him to take all lands specified in the last-mentioned notice of which he is the owner, and which adjoin and are occupied together with the land comprised in the said notice under section 158.

(2) After a notice in accordance with subsection (1) of this section has been given, the land comprised in the said notice under section 158 shall not, without the consent in writing of the owner thereof, be acquired under this Act, unless the land properly comprised in the said notice under subsection (1) of this section is also acquired, nor shall the last-mentioned land be so acquired without the said consent, unless the land comprised in the said notice under section 158 is also so acquired.

(3) When a notice under subsection (1) of this section has been given as to any land the Minister shall, except for the purposes of section 161, be deemed to have duly given a notice under section 158 of his intention to acquire that land. The Minister may send to the Registrar-General a notice in writing of his intention to acquire that land, and the said notice shall be noted in the register-book if the land is under the *Real Property Act 1886*. Upon such noting, if the land is under the said Act, or upon the giving of the notice by the owner to the Minister, if the land is not under the said Act, the provisions of section 160 shall apply to the said land.

Mode of acquiring the land

163. (1) Subject to sections 161 and 162, at any time within six months after the expiration of the period of two years, as regards a large estate, or one year as regards other land, from the giving of the preliminary notice under section 156 if-

(a) the amount of the purchase-money to be paid therefor has been agreed between the Minister and the owner or has been ascertained by arbitration as mentioned in section 165; and

(b) the amount of the said purchase-money has been paid or tendered; and

(c) the owner of the large estate or other land, as the case may be, has refused or failed to sign a conveyance or transfer thereof to His Majesty the King,

it shall be lawful for the Governor, by proclamation published in the *Government Gazette*, to declare that the provisions of this Division shall apply to the land

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comprised in the notice, and that the same is thereby compulsorily taken and acquired.

(2) On and after the date of the publication of the proclamation in the *Government Gazette* the land therein specified shall, without further or other authority than this Act, become and be absolutely vested in His Majesty the King, free and discharged from all leases, licences, contracts, trusts, obligations, estates, interests, charges, rates, and easements, whatsoever.

(3) For the purposes of this section, the tender of an order on the Treasurer of the State, signed by the Director of Lands, the Assistant Director of Lands, or the Surveyor-General for the amount of the purchase-money to be paid for a large estate or other land, shall be deemed to be a tender of the amount of the said purchase-money.

Copy of proclamation to be furnished to Registrar-General

164. When a proclamation has been made under section 163 as to any land the Minister shall furnish the Registrar-General with a copy of the proclamation.

Price to be determined by arbitration failing agreement

165. Where any land is acquired under this Division, the price to be paid for the same and the improvements thereon shall, failing agreement between the Minister and the owner within one month after notice in writing given by one party to the other of the price which he is willing to pay or accept in settlement, be determined by the arbitration of three arbitrators, one of whom shall be a Judge of the Supreme Court, who shall act as president and umpire, and one of whom shall be appointed by the Minister and one by the owner: Provided that if either party fails to appoint an arbitrator within one month after notice in writing by the other of the appointment of his arbitrator, the matter shall be determined by the Judge and the arbitrator already appointed.

Price

166. (1) The price to be paid for any land and improvements acquired by proclamation under this Division, if the price is fixed by arbitration, shall not, where the owner acquired the land by purchase for a money consideration, be less than that money consideration.

(2) Subject to subsection (1) hereof, where money has, prior to the twelfth day of January, 1911, been *bona fide* lent on the sole security by way of mortgage or other encumbrance of land acquired under this Division, no less sum shall, without the consent of the mortgagee or encumbrancee, be paid as the price of the land than the amount of the money so lent and unpaid at the time of so acquiring the land, together with any interest thereon due and unpaid at the time of the said acquisition.

Award of arbitrators and right of appeal to Supreme Court

167. (1) Either party to the arbitration shall have the right to appeal to the Supreme Court, but only on a question of law, and the said court may, on any such appeal, make such order as it deems proper, and the arbitrators shall give effect to the order; but otherwise the decision of the arbitrators shall be final and not subject to any appeal.

(2) Where an arbitrator has misconducted himself he may be removed by the Supreme Court or a Judge thereof.

(3) Where an award has been improperly procured the said court or a Judge thereof may set the award aside.

(4) The award may be made an order of the Supreme Court on the application of the Minister or the owner, and may thereafter be enforced accordingly.

(5) The arbitrators or, on appeal, the Supreme Court, may make such award and

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directions as to the costs of any parties concerned in the arbitration as he or they deem just.

Service of notices

168. All notices required to be given under this Division to any owner shall be deemed to be duly given when posted to or left at his usual or last known place of abode or business.

This Division not to apply to town lands

169. This Division shall not apply to any land within the boundaries of any city, town, or township.

Division 3-Purchase of land by arrangement

Purchase of land by arrangement with intending settlers

170. (1) If-

- (a) the owner of any land suitable for subdivision into two or more blocks makes an offer in writing to the Minister offering to sell the said land to the Minister at a price named in the offer; and
- (b) two or more persons (according to the number of blocks into which the land is suitable for subdivision) in writing request the Minister to purchase the land for the purpose of subdividing it into blocks for allotment to the said persons under agreement for sale and purchase, containing such terms and conditions as agreements under Division 5 of this part contain and submit to the Minister a scheme for subdividing and allotting the land in blocks,

the Minister may cause the said land to be valued by the board with a view to purchasing the same as hereinafter mentioned.

(2) If-

- (a) the value placed on the land by the board is equal to or greater than the price required by the owner of the land and the applicants are willing to pay to the Minister a sum equal to one-tenth of the said price; or
- (b) the value placed upon the land by the board is less than the price required by the owner of the land, but the applicants are willing to pay to the Minister a sum equal to one-tenth of the said value and also the difference between the said value and the said price, and the Minister consents thereto; and

* * * * *

- (d) the board is satisfied that the applicants are eligible and suitable persons to hold the said land; and
- (e) the Minister, on the recommendation of the board, approves of the scheme for subdividing and allotting the land; and
- (f) the applicants pay in any case where the said value is equal to or greater than the price required by the owner, a sum equal to one-tenth of the said price and in any case where the said value is less than the said price, one-tenth of the said value and also the difference between the said value and the said price, and make a deposit of the prescribed amount and severally agree-
 - (i) to pay to the Minister each his due proportion of the cost of inspecting, surveying, and subdividing the land; and

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- (ii) to purchase the land from the Minister in blocks according to the scheme submitted, and comply with any conditions prescribed or imposed by the Minister,

the Minister may purchase the said land and, when purchased, the land shall be allotted to the applicants in accordance with the scheme, without any notice being published in the *Gazette*, as required by section 171.

(2a) The provisions of Divisions 5 and 6 of this Part shall, with the necessary modifications, apply to land allotted and agreements issued under this section.

(3) In this section-

"land" includes land held for any estate of freehold, or under a Crown lease or agreement; and "owner" includes the lessee under a Crown lease or the purchaser under an agreement.

Purchase of land for allotment to one settler

170A. (1) Subject to this section, where any person holds under lease or agreement any land which is not a living area, the Minister may out of moneys provided by Parliament, purchase other land for allotment to that person under agreement for the purpose of increasing his holding to a living area: Provided that no land shall be purchased under this section unless-

- (a) it forms part of an existing holding which in the opinion of the Minister is more than a living area; or
- (b) it forms the whole of an existing holding which in the opinion of the Minister is less than a living area.

(2) The person desiring land to be purchased for allotment to him under this section shall submit to the Minister the following particulars:

- (a) a description of the land to be purchased and, if that land is part of an existing holding, of the balance of the holding from which it will be severed;
- (b) the price at which the owner of the land offers to sell it;
- (c) the area of the other land intended to be worked as one holding in conjunction with the land to be purchased;
- (d) the estimated value of the land to be purchased and, if that land is part of an existing holding, of the balance of the holding from which it will be severed.

(3) The Minister may, if he thinks fit, cause the land sought to be purchased to be valued by the board.

(4) No land shall be purchased-

- (a) at a price in excess of the value placed upon it by the board.

* * * * *

(5) No land shall be allotted to any applicant unless-

- (a) the board is satisfied that he is a suitable person to hold a block;
- (b) he has first paid to the Minister one-tenth of the price paid by the Minister for the land in addition to any moneys payable on or in respect of the granting of the agreement.

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(7) The provisions of Divisions 5 and 6 of this Part shall, with necessary modifications, apply to land allotted, and agreements issued under this section.

(8) In this section the expression "**living area**" means an area which in the Minister's opinion is sufficiently large to provide a reasonable living for one family.

Loans for schemes of closer settlement

170B. (1) Subject to this section, the Minister may out of moneys provided by Parliament, make loans for the purpose of-

- (a) enabling any two or more intending settlers to buy any existing holding which in the Minister's opinion is capable of being subdivided so as to provide a living area for each settler; or
- (b) enabling any settler whose holding is less than a living area to purchase for the purpose of increasing his holding to a living area, any land which-
 - (i) forms part of an existing holding which, in the opinion of the Minister, is more than a living area; or
 - (ii) forms the whole of an existing holding which, in the opinion of the Minister is less than a living area.

(2) The person or persons desiring such a loan shall submit to the Minister the following particulars:

- (a) the price at which the owner of the land intended to be purchased offers to sell it;
- (b) where any land is to be purchased for subdivision the proposed mode of subdivision and the persons who will hold the blocks into which the land is to be subdivided and the estimated value of each block;
- (c) where part of an existing holding is being purchased, the estimated value of the remainder of the holding;
- (d) particulars of any other land held by the person or persons desiring the loan.

(3) The Minister may, if he thinks fit, cause any land sought to be purchased to be valued by the board.

(4) No loan made in respect of any block shall exceed-

- (a) nine-tenths of the value placed upon that block by the board.

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(5) No loan shall be made to any applicant unless-

- (a) the board is satisfied that he is a suitable person to hold a block;
- (b) the applicant executes a first mortgage of his block to the Minister, such mortgage to be in such form and containing such terms, covenants and conditions as the Minister approves, and gives the Minister such other security (if any) for the loan as the Minister requires.

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(7) The Minister may under this section make loans upon the security of land held for any estate of freehold or under a perpetual lease from the Crown or an agreement granted by the Crown.

(8) No stamp duty shall be payable on any transfer or mortgage executed to carry out any transaction under this section.

(9) In this section the expression "**living area**" means an area which in the Minister's opinion is sufficiently large to provide a reasonable living for one family.

Division 4-How acquired lands to be dealt with**How land acquired is to be dealt with**

171. Subject to sections 170, 172 and 173, all land acquired under this Part, or under the provisions of any repealed Act dealing with closer settlement, shall be dealt with as follows:

(a) town lands may be sold by auction for cash, and any land may be dedicated for a purpose for which, and in the manner in which, Crown lands may be dedicated;

(b) any town lands offered for sale by auction and not sold by auction may, on the recommendation of the board, be sold by private contract for cash at any price not less than the upset price at which the lands were last offered at auction;

(c) the land, except such portions as may be required for town lands or for dedication, shall be cut up into blocks;

* * * * *

(d) when the board considers there are more improvements on any block than are required for working the block, then only the value of such improvements shall be added to the price of the block as, in the opinion of the board, are reasonable, having regard to the size and situation of the block; and the balance of the value of the said improvements shall be added to the price which has been paid for the whole estate of which the said block forms a part;

(e) before the blocks are offered the board, subject to the approval of the Minister, shall fix the value of every block and of the improvements thereon, including the reasonable cost of any work effected by the Government: Provided that the price so fixed shall not in the aggregate be less than the amount paid for the land, together with the cost of necessary accommodation works, and of offering the same for sale;

(f) notice shall be given in the *Government Gazette* that the blocks are open to be purchased, and the notice shall contain particulars of the area of every block and the value of the improvements thereon, the area to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof, the annual instalments of principal and interest to be paid in respect of the purchase-money of the block and improvements, and such other particulars as the Minister thinks proper;

(g) the blocks shall be allotted by the board.

Power to postpone allotment of closer settlement lands

172. (1) Any lands acquired for the purposes of closer settlement, as to which

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a resolution of both Houses of Parliament has been passed, whether before or after the acquisition thereof, to the effect that this section shall apply, may, until such time as the Governor by proclamation declares that they shall be used for closer settlement, be dealt with as provided by subsection (2) hereof as if they were Crown lands not acquired for the purposes of closer settlement.

(2) Any such land may be let on miscellaneous lease for any term, subject, however, to a condition that after the publication in the *Government Gazette* of a proclamation under this section as to the said land, or as to the said land and any other land, the term of the said lease shall be determinable by the Minister by not less than six months' notice in writing to the lessee.

Occupation of lease of lands acquired, pending execution of drainage or other improvements

173. (1) When any land has been acquired for the purposes of closer settlement, but it is necessary or desirable for drainage, irrigation, or other works or improvements to be carried out, in order to render the land suitable or more suitable for closer settlement, the Minister may permit the person who, prior to the acquisition of the land, was the owner thereof, to remain in occupation thereof for such time, and, upon such terms and conditions as are agreed between the parties.

(2) If in such a case as mentioned in subsection (1) of this section the person therein referred to does not, within one month after the land is acquired, apply in writing to the Minister to be allowed to continue in occupation, or, if in any case no arrangement is made under the said subsection within two months after the land is acquired, the land may be let in one block or in such blocks as the Minister thinks proper, to such persons and for such terms and on such terms and conditions as the Minister thinks proper.

Division 5-Agreements for sale and purchase

Covenants to be contained in the agreement

174. (1) The blocks shall be offered for sale, and, subject to section 175, the purchaser shall enter into an agreement for the term of thirty-five years for sale and purchase (hereinafter called the "agreement") as follows:

- (a) to purchase his block and the improvements (if any) thereon at the price fixed by the board, and to pay the purchase-money and interest thereon by the following half-yearly instalments, to be paid in advance, namely: The first ten half-yearly instalments shall be equal and shall be calculated at the fixed rate on the price fixed as aforesaid, and each of the subsequent sixty half-yearly instalments shall be equal and shall be calculated at a rate sufficient to repay during the said term of thirty-five years the price fixed as aforesaid together with interest at the fixed rate on the balance thereof from time to time remaining unpaid: Provided that the purchaser-
 - (i) shall have the option of completing the purchase of his block at any time after the expiration of six years from the date of the agreement on paying the balance of the purchase-money under the agreement and all interest due at the time of the completion of his purchase, and complying with all the terms, covenants, conditions, and provisions of the agreement;
 - (ii) may, on the date appointed by the agreement for the payment of any of the half-yearly instalments, pay in advance any part (being the sum of one hundred dollars or a multiple thereof) of the purchase-money under the agreement, whereupon interest on the amount so paid shall cease, and the amounts of the instalments subsequently falling due shall be decreased ratably to the amount so paid;

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(iii) may pay the whole or any part of the purchase-money for improvements at any time;

(b) to spend on his block during every year of the first five years a sum equal to six dollars for every two hundred dollars of his purchase-money in substantial improvements, consisting of buildings, fencing, or water improvements: Provided that-

(i) the amount so spent by the purchaser in excess of the amount required to be expended in any one year shall be set off against the expenditure required in the next or following years; and

(ii) so much of any amount of the purchase-money paid by him as was paid on account of improvements may be deducted from the amount to be expended under this section.

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(2) The provisions of section 47 apply to an agreement under this Part.

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Provision in case of undeveloped land

174A. (1) In any case where the Minister is of opinion that, by reason of the undeveloped condition of any block, this section should apply to the agreement in respect of the block, the Minister may direct that this section shall apply. In any such case the term of the agreement shall be for fifty-nine years and the purchase-money and the interest thereon shall be payable by the following instalments, namely:

(a) five per centum of the purchase-money shall be paid at the time of the application to purchase;

(b) for the first four years of the term of the agreement no instalments of principal or interest shall be payable;

(c) during the next five years of the said term no portion of the purchase-money shall be payable, and interest only at the fixed rate on the balance of the purchase-money shall be payable in half-yearly instalments;

(d) thereafter the balance of the purchase-money and interest thereon at the fixed rate (including the amount of interest accruing during the first four years of the said term) over the whole term of the agreement shall be payable in such equal half-yearly instalments as will pay the full amount of the balance of the purchase-money and interest as aforesaid during the said term.

(2) Except as provided by subsection (1) (a), every instalment shall be paid at the end of the period in respect of which it is payable, and not in advance.

* * * * *

(4) If any application is made to the Minister for the transfer of any such agreement the Minister may, before giving his consent to the transfer, require the applicant to pay the whole or any part of the interest which has accrued during the first four years of the term of the agreement. If any such amount is paid, the amount of the half-yearly instalments subsequently falling due shall be decreased ratably to the amount so paid.

(5) In a case in which this section applies, the agreement shall contain the terms, covenants, conditions, and provisions provided for by section 174: Provided that

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the purchaser shall have the option of completing the purchase at any time after the expiration of six years from the date of the agreement, on paying the purchase-money, or the balance thereof, with interest at the fixed rate on the purchase-money, or on the balances thereof, from time to time remaining unpaid, from the date of the agreement to the date of completion, and complying with all the terms, covenants, conditions, and provisions of the agreement.

Terms and covenants in certain cases

175. (1) In the case of an agreement to which the Minister directs that this section shall apply, the term shall be either fifty-five years or sixty-four years, as the Minister directs, and the purchase-money and the interest thereon shall be payable by the following half-yearly instalments, namely:

- (a) during the first two and one-half years of the term of the agreement no portion of the purchase-money shall be payable, and only one-half of the interest at the fixed rate on the purchase-money shall be payable;
- (b) during the next two and one-half years of the said term no portion of the purchase-money shall be payable, and interest only at the fixed rate shall be payable;
- (c) thereafter the purchase-money and interest thereon at the fixed rate (including the amounts of interest accruing during the first two and one-half years of the said term) over the whole of the term of the agreement shall be payable in such equal half-yearly instalments as will pay the full amount of the purchase-money and interest as aforesaid during the said term.

(2) The first of the said instalments shall be paid at the time of the application to purchase, and every subsequent instalment shall be paid at the close of the period in respect of which it is payable, and not in advance.

(3) In a case in which this section applies, the agreement shall contain the terms, covenants, conditions, and provisions provided for by section 174: Provided that the purchaser shall have the option of completing the purchase at any time after the expiration of six years from the date of the agreement, on paying the purchase-money, or the balance thereof, with interest at the fixed rate on the purchase-money or on the balances thereof from time to time remaining unpaid, from the date of the agreement to the date of completion, and complying with all the terms, covenants, conditions, and provisions of the agreement.

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Power to extend existing agreements to term not exceeding sixty-four years on recommendation of board

176. (1) In the case of an agreement under Part 10 of the *Crown Lands Act 1903*, Part 10 of the *Crown Lands Act 1915*, or Part 10 of this Act, the Minister may direct the board to consider whether an extension of the term of the agreement should or should not be granted under this section.

(2) The board shall thereupon consider the matter, and-

- (a) may recommend that the term be extended for such period (if any) as they think fit, but not so as to extend it beyond sixty-four years from the commencement thereof, as fixed by the agreement;
- (b) if the board recommends an extension, shall fix the amount of the instalments of purchase-money to be paid during the remainder of the term (as so extended), and may, if the board thinks proper, recommend that the said term be subdivided into periods of any lengths respectively, fixing for the several periods different amounts of instalments of

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purchase-money, and, if the board thinks proper, different rates of interest to be included in the instalments;

- (c) for the purpose of fixing the amounts of the instalments, may, in any case it thinks fit, assume that the provisions of subsection (1) of section 175 applied to the agreement at the time of the making thereof, and that the instalments payable during the first five years of the term of the agreement were as provided in the said subsection; and in any case to which this paragraph applies the amounts of the instalments fixed pursuant to this section shall be fixed accordingly;
- (d) for the purpose of fixing the amounts of the instalments, may capitalise, and add to the purchase-money, the whole or any part of such amounts of any instalments then in arrear as represent interest.

(3) If the Minister approves of the recommendations of the board he may grant the extension on the terms recommended, and, from the time when notice in writing stating the period of the said extension and the terms on which it is granted is given to the purchaser, the agreement shall be construed so as to give effect to the said extension and terms, and shall be binding on the parties as so construed.

(4) Except so far as may be necessary to give effect to this section, the agreement shall not be affected by anything in or done under this section; and the terms, covenants, conditions, and provisions thereof shall continue in force subject to any variations which may be necessary to give effect to this section.

Power of board to capitalise arrears of interest on agreement

176A. (1) In the case of any agreement under Part 10 of the *Crown Lands Act 1903*, Part 10 of the *Crown Lands Act 1915*, or Part 10 of this Act, the board may capitalise the whole or any part of such amounts of any instalments then in arrear as represent interest.

(2) Any amount so capitalised shall be added to the purchase-money, and shall be payable at the times the instalments of the said purchase-money are payable. Each of such payments thereof shall be equal, and shall be calculated to repay during the period the said instalments are payable, the said capitalised amount together with interest at the fixed rate on the balance thereof from time to time remaining unpaid.

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Form of agreement

178. Every agreement shall contain the terms, provisions, and conditions stated in Schedule 9 (subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act), which terms, provisions, and conditions shall be in the form set forth in the said Schedule, or in a form to the like effect: Provided that where an agreement is granted upon the surrender of a perpetual lease, any condition, covenant or provision of the agreement restricting the right of the purchaser to complete purchase, or binding the purchaser to erect any fence or carry out any other work, may differ from the condition, covenant or provision prescribed by Schedule 9 in relation to the same matter, in such manner as the Minister deems just, having regard to the length of time during which the purchaser held the land under the surrendered lease or any previous lease or agreement and the obligations which that lease or agreement imposed upon him, and the extent to which those obligations were fulfilled.

Execution of agreement

179. Every agreement shall be forwarded and executed in manner provided by section 52.

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Lands unallotted may be let

182. (1) When any block or blocks remain unallotted for one year after being first offered, as mentioned in section 174, the same may be let on miscellaneous lease at a rental and on terms to be fixed by the board, subject to the approval of the Minister; or if the board so recommends, the land may, with the approval of the Minister, be sold by public auction, a reserve price being fixed by the board, on the following terms, namely: Twenty-five per centum of the purchase-money in cash, and the balance in five yearly instalments, bearing interest at the fixed rate on the amount paid for the land; or, with the like recommendation and approval, the land may be offered for sale under section 174 at a reduced price fixed by the board.

(2) Any such land so offered for sale by auction and not sold at auction may, on the recommendation of the board, be sold by private contract at any price not less than the upset price at which the land was last offered for sale by auction and on the other terms and conditions on which it was so offered.

Power of lessees of certain perpetual leases to surrender for agreement under this Act

183. (1) The lessee of any perpetual lease of repurchased land granted under the provisions of any repealed Act, passed before the *Crown Lands Act 1903*, dealing with closer settlement may, having fulfilled all the covenants and conditions contained in his lease, and given three months notice of his intention so to do, surrender the said lease, and obtain in lieu thereof an agreement under this Act.

(2) The purchase-money to be paid under any such agreement shall be the value of the block and improvements as fixed by the *Government Gazette* notice when the block was last allotted, after deducting therefrom all moneys paid on account of improvements thereon up to the date of the surrender of the lease; or, if the *Gazette* notice contains no value, then at a price to be fixed by the board, and approved by the Minister, but so that the price fixed shall not be less than the original price paid for the land and the cost of offering.

Power to surrender miscellaneous lease

184. (1) The lessee of any lease of repurchased land granted under the provisions of this Act or the *Crown Lands Act 1903*, or any repealed Act passed after the latter Act, and the lessee of any miscellaneous lease of repurchased land may, having fulfilled all the covenants and conditions contained in his lease, apply in writing to surrender the lease and obtain in lieu thereof an agreement or lease under this Part at a price or rent to be fixed by the board, and approved by the Minister.

(2) The provisions of section 211, *mutatis mutandis*, shall apply to and in respect of the said application and surrender.

Power to surrender agreement as to lands purchased after 18th December, 1902

185. (1) The holder under agreement of any lands purchased by the Crown since the eighteenth day of December, 1902, may surrender his agreement for an agreement in terms of section 174, and the new agreement when executed shall be dated as and from the date of the surrendered agreement.

(2) The moneys (if any) remaining to the credit of the holder under the surrendered agreement shall, after deducting therefrom all interest, charges, and costs due in respect of the said land by the holder, be applied towards payment for the lands held by him under the new agreement: Provided that all moneys paid for improvements under the surrendered agreement shall be accepted as payment on account of those improvements under the new agreement.

Power of holder of existing agreement to pay part of purchase-money in advance

186. Notwithstanding anything in any of the Crown Lands Acts, the provisions of proviso (b) to subdivision 1 of subsection (1) of section 174 shall also apply to agreements which have been made under Part 10 of the *Crown Lands Act 1903*.

Crown Lands Act 1929 17**Reservations as to growing timber**

187. No growing timber shall be cut or otherwise injured or destroyed during the first five years of the term of any agreement under this Part or under the corresponding provision of any repealed Act, except for the purposes of improvement on the land or for cultivation, and then only with the written consent of the Minister.

Application of payments

188. All moneys received by the Minister from either lessees or purchasers of any repurchased lands shall be dealt with as follows:

- (a) moneys repaid on account of principal, whether for land or improvements, shall be paid to the credit of the Land Repurchase Loan Fund, and shall be used for the redemption of stock, or for the purchase of land under this Act;
- (b) moneys paid as interest or rent, whether on the price of improvements or on the price of land, shall be paid into the general revenue.

Statement to be laid before Parliament

189. (1) The Director of Lands shall, in the month of July in every year, prepare a statement containing the following particulars in connection with repurchased lands for the financial year ending on the thirtieth day of June immediately preceding the said month:

- (a) the amount advanced from the loan fund and the amount of interest paid thereon;
- (b) the amount received as principal and interest from purchasers holding land under agreement;
- (c) the amount of arrears of principal and interest, if any.

(2) Every such statement shall be laid before both Houses of Parliament, if Parliament is then sitting, and if Parliament is not then sitting, then within thirty days after the beginning of the next session of Parliament.

Power to fix annual rate of interest on closer settlement lands

190. (1) The Treasurer may, from time to time, by notice published in the *Government Gazette*, fix the annual rate of interest to be paid on the purchase price of blocks offered for sale under this Part, and may, in the same manner, annul any rate so fixed.

(2) Any rate so fixed shall come into force on the fourteenth day after the date of the *Government Gazette* in which the same is published, and shall continue in force until the fourteenth day after the date of the *Government Gazette* in which the notice annulling the same is published.

Division 6-The collection and recovery of rents**Receiver of rents**

191. The collection of rents, instalments, and interest payable under the provisions of this Part, or under the provisions of any repealed Act dealing with closer settlement, shall be under the control, direction, and management of an officer employed in the Department of Lands, appointed by the Governor, and to be styled the "Receiver of Rents".

Action may be maintained in the name of the receiver

192. (1) If any rent, instalment, or interest is in arrear the receiver, without prejudice to his right to recover in any other way, may sue for the same, together with interest at the rate of-

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- (a) five per centum per annum, on the amount of any such rent, instalment or interest which was in arrear before the commencement of the *Crown Lands Act Amendment Act 1968*; and
- (b) ten per centum per annum, on the amount of any such rent, instalment or interest which shall be in arrear after such commencement,

and the costs attendant thereon, in any court of competent jurisdiction as a debt due to the receiver.

(2) Any such action may be maintained in the name of the receiver without specifying the name of the person holding the office, and shall not be liable to be abated by any vacancy or change in the office of the receiver or otherwise.

(3) This section applies only to and in relation to any rent, instalment or interest that became payable before the commencement of the *Statutes Amendment and Repeal (Crown Lands) Act 1985*.

Extension of time for payment

193. The receiver may extend the time for payment of any amounts due under an agreement: Provided that on all such extensions, granted before the commencement of the *Crown Lands Act Amendment Act 1968*, interest shall be charged on the said amounts at the rate of five per centum per annum and on all such extensions granted after such commencement, interest shall be charged on those amounts at the rate of ten per centum per annum: Provided, further, that in any case of hardship the receiver may remit the whole or any part of such interest, whether chargeable before or after the passing of the *Crown Lands Act Amendment Act 1933*.

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Forfeiture

195. (1) An agreement shall be liable to forfeiture if any instalment thereunder is in arrear for six months, the purchaser having had at least three months previous notice in writing demanding its payment.

(2) Upon any such forfeiture all moneys paid to the State by the intending purchaser shall immediately and absolutely be the property of the State Government.

Power to cancel lease or agreement liable to forfeiture

196. (1) Where-

- (a) any lease or agreement is liable to forfeiture; or
 - (b) any instalment under any agreement is in arrear as mentioned in section 195; or
 - (c) there has been a breach of any of the covenants or conditions contained in or implied by any lease or agreement,
- the Minister may, on the recommendation of the receiver, by notice in the *Government Gazette*, cancel the lease or agreement.

(2) The Registrar-General, at the request of the receiver, shall make the necessary entries in the register book for giving effect to the cancellation.

(3) Upon any such cancellation the purchaser shall have no further interest or title, either at law or in equity, in the land included in the lease or agreement, or in or to any money which may have been paid thereunder.

(4) The land included in the cancelled lease or agreement shall thereafter be dealt with as if it were a block newly offered under this Part: Provided

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that the Minister may, at the request of the receiver, offer the interest of any defaulting purchaser or lessee in the land held by him for sale, in manner provided by section 61, and execute a transfer as provided by section 63: Provided further that the Minister may in any case in which, on the recommendation of the board, he thinks fit, dispose of the land or any part thereof included in the cancelled lease or agreement in any manner provided in section 182 notwithstanding that the land has not remained unallotted for one year after being first offered.

(5) The Minister may, in exercising the power to sell or transfer a defaulting purchaser's or lessee's interest in any agreement or lease conferred by this section exercise any such power with respect to the whole or, from time to time, with respect to any part or parts of the land comprised in the agreement or lease, as he thinks fit.

(6) All the provisions of this Act with respect to the sale or transfer of the defaulting purchaser's or lessee's interest in the agreement or lease shall, *mutatis mutandis*, apply to the sale or transfer of his interest in part only of the land comprised in the agreement or lease.

(7) In case of the sale or transfer of the defaulting purchaser's or lessee's interest in part only of the land comprised in the agreement or lease, the Minister may cancel the agreement or lease as to the whole of the said land or as to any part thereof so sold, and may prepare and issue to the purchaser of that part a new agreement or lease therefor, and the new agreement or lease shall be effectual for all purposes as a transfer to the purchaser of the right, title, and interest of the defaulting purchaser or lessee in the part of the said land comprised in the new agreement or lease.

Returns of cancellations to be placed before Parliament

197. The receiver shall cause a return of all cancellations, setting forth the reasons therefor, to be annually placed before Parliament before the first day of September.

Division 7—Special provisions with regard to closer settlement lands

* * * * *

Surrender of agreement for perpetual lease

199. (1) The holder of any block under an agreement entered into under Part 10 of the *Crown Lands Act 1903*, Part 10 of the *Crown Lands Act 1915*, or Part 10 of this Act, may, with the consent of the Minister, surrender the agreement for a perpetual lease of the said block.

(2) Upon an application being made under this section the board, subject to the approval of the Minister, shall fix—

- (a) the annual rent at which the lease may be obtained in perpetuity;
- (b) the annual rent at which the lease may be obtained for the first ten years after which the rent shall be fixed in perpetuity as hereinafter provided;
- (c) the provisions (if any) to be inserted in the perpetual lease for the purpose of binding the applicant to pay for all or any of the improvements on the land.

In fixing the rents pursuant to this section the board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

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(3) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (a) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (b) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the board, subject to the approval of the Minister.

(3a) The rent to be fixed under any such lease shall in no case exceed an amount equal to interest on the price at which the applicant could have completed purchase at the time of the surrender of the agreement, calculated for one year at the rate of interest provided for in the agreement.

(3b) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the board subject to the approval of the Minister. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

(4) The provisions of subsections (2), (3), and (4) of section 211, *mutatis mutandis*, shall apply to and in respect of any such application and surrender.

(5) The holder of the block surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the block. In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease, at the price at which the lessee could have completed purchase at the time of the surrender, but so that such right may be exercised not earlier than six years after the surrendered agreement came into force, and not later than the expiration of the term of the surrendered agreement.

* * * * *

Power to grant privileges under section 199 may be granted notwithstanding rent in arrear

201. (1) An application under section 199 to surrender an agreement for a perpetual lease may be granted, notwithstanding that instalments payable under the agreement are in arrear.

(2) When in any such case an application is made, the Minister, on the recommendation of the board, shall determine to what extent, if any, and at what times or in what circumstances, and subject to what other terms and conditions as to interest or otherwise, the arrears of interest under the agreement shall be paid by the applicant. The application shall not be granted unless the applicant accepts the terms and conditions determined by the Minister.

If the application is granted, a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Minister shall, in the case of the surrender of an agreement for a perpetual lease, be inserted in the lease issued in place of the surrendered agreement.

* * * * *

Power to re-sell or let surrendered lands

202A. (1) When any lease or agreement issued under this Part has been absolutely surrendered to the Crown the land included therein may, according as the board recommends-

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- (a) be offered for sale under section 174 at a price fixed by the board; or
- (b) be let on miscellaneous lease at a rental and on terms to be fixed by the board with the approval of the Minister; or
- (c) be sold by public auction, a reserve price being fixed by the board, on the following terms, namely:

Twenty-five per centum of the purchase-money to be paid in cash and the balance of the purchase-money together with interest at the fixed rate on the amount for the time being outstanding, to be paid in five equal yearly instalments.

(2) Any such land so offered for sale by auction and not sold at auction may, on the recommendation of the board, be sold by private contract at any price not less than the upset price at which the land was last offered for sale by auction, and on the other terms and conditions on which it was so offered.

* * * * *

Crown Lands Act 1929 1**Part 11-Surrenders****Acceptance of surrenders**

204B. (1) No surrender under this Part of any lease or agreement shall be of any effect unless and until accepted by the Minister.

(2) The Minister is hereby authorised to accept any such surrender in the name and on behalf of His Majesty.

(3) Any surrender shall be in the prescribed form and be made and executed in the prescribed manner.

Power of lessee to surrender his lease

205. (1) Any lessee may surrender his lease.

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Surrender for new lease

206. (1) A lessee may surrender his lease or any part or parts thereof and the Minister may grant, in accordance with the provisions of this Act, a new lease or leases of the land so surrendered to such person or persons as are nominated in that behalf by the lessee surrendering.

The lessee surrendering may nominate himself or any other person, or any persons (of whom the said lessee may be one) as the person or persons to whom a lease or leases of the whole or any part or parts of the surrendered land may be granted: Provided that a lease shall not be granted to a person other than the lessee surrendering unless the transfer to that person has been approved in the usual manner.

(2) A lease granted under this section shall be a perpetual lease or a miscellaneous lease, according to the type of lease surrendered.

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Power to surrender agreement

207. The purchaser under any agreement may surrender his agreement.

Power to deal with surrendered lands

207A. The land comprised in any lease or agreement (not being a lease or agreement issued under Part 10 of this Act) which has been absolutely surrendered may be dealt with in all respects as if the lease or agreement had never been granted.

Surrender of agreement for new agreement

208. (1) The purchaser under an agreement may surrender his agreement, or any part or parts thereof, and the Minister may grant an agreement or agreements of the land so surrendered to the person or persons nominated in that behalf by the purchaser surrendering. The purchaser surrendering may nominate himself, or any other person, or any persons (of whom the said purchaser may be one) as the person or persons to whom an agreement or agreements of the whole or any part or parts of the surrendered land may be granted: Provided that an agreement shall not be granted to a person other than the purchaser surrendering unless a transfer to that person has been approved in the usual manner.

(2) If the agreement is wholly surrendered, and only one new agreement is granted in lieu of the surrendered agreement, it shall be granted for the unexpired period of the term of the surrendered agreement and for the balance unpaid of the purchase-money thereof, but in other respects shall be subject to the same terms and conditions as the agreement surrendered.

(3) If the agreement is partially surrendered or if the agreement is surrendered

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in whole and two or more agreements are granted in lieu thereof each new agreement granted in lieu of the surrendered agreement or part thereof shall be granted for the unexpired period of the term of the surrendered agreement, and the balance unpaid of the purchase-money mentioned in the original agreement shall be apportioned between each of the new agreements and the balance not surrendered, if any, by the Minister on the recommendation of the board. In other respects each such agreement shall be subject to the same terms and conditions as the agreement surrendered or partially surrendered.

Provisions on surrender

208AA. (1) Any surrender under section 206 or 208 may be accepted, notwithstanding that any rent payable under the lease or any instalment or part thereof payable under the agreement is in arrear. In any case where the lease or agreement is partially surrendered or where the lease or agreement is surrendered in whole and two or more leases or agreements are granted in lieu thereof, the amount of the said arrears shall be apportioned between each of the new leases or agreements, as the case may be, and the balance not surrendered, if any, by the Minister on the recommendation of the board. If the lease or agreement is wholly surrendered and only one lease or agreement is granted in lieu thereof, the whole of the amount of the arrears shall be payable in respect of the new lease or agreement. The amount of the said arrears or, as the case may be, the amount of arrears apportioned as aforesaid, together with interest thereon at such rate of interest not exceeding five dollars per centum per annum as is fixed by the board, subject to the approval of the Minister, shall be paid in such instalments, and at such times and within such period as is fixed by the board, subject to approval of the Minister and shall be payable and recoverable in the same manner as the said rent or instalments to become due. The payment of the said instalments of arrears shall be deemed to be a covenant implied in the leases or agreements issued in place of the surrendered or partially surrendered lease or agreement and in the leases or agreements, if any, partially surrendered.

(2) If any such surrender comprises part only of any such lease or agreement, the lease or agreement shall upon registration of the surrender be deemed to be cancelled so far as regards the land comprised in the surrendered part, and the preceding sections of this Part so far as they relate to the term and conditions of the lease or agreement so partially cancelled, and to the fixing of the rent or purchase price thereunder shall, *mutatis mutandis*, be deemed to apply to the lease or agreements so partially cancelled.

Rights of surrender of mortgages etc

208A. (1) Any mortgagee or encumbrancee under any mortgage or encumbrance registered under the *Real Property Act 1886*, of any lease or agreement who in the exercise of any power under the mortgage or encumbrance or the said Act, sells the lease or agreement or any part thereof may, for the purpose of giving effect to any such sale, exercise all the powers of surrender under the preceding sections in this Part which the mortgagor or encumbrancer could exercise or could have exercised.

(2) Notwithstanding the provisions of the *Real Property Act 1886*, or section 224 of this Act, upon the registration, under the *Real Property Act 1886*, of any surrender aforesaid, the estate or interest of the mortgagor or encumbrancer therein described shall pass to and vest in the person nominated in the surrender, freed and discharged from any liability in respect of the mortgage or encumbrance or of any mortgage or encumbrance registered subsequent thereto. Any lease or agreement issued consequent upon such surrender shall be issued free of the said mortgage or encumbrance and of any mortgage or encumbrance registered subsequent thereto but shall be issued and be subject to any mortgage or encumbrance registered prior to the said mortgage or encumbrance, and such prior mortgage or encumbrance shall be noted on the lease or agreement so issued and shall be of the same force and effect and be construed as if it were a mortgage or encumbrance of the lease or agreement so issued.

(3) If any such surrender comprises part only of any such lease or agreement, the lease or agreement comprised in the mortgage shall, upon registration of the surrender as aforesaid, be deemed to be cancelled so far as regards the land comprised

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in the surrendered part, and the preceding sections of this Part so far as they relate to the term and conditions of the lease or agreement so partially cancelled, and to the fixing of the rent or purchase-price thereunder shall, *mutatis mutandis*, be deemed to apply to the lease or agreements so partially cancelled.

(4) Nothing in this section shall be deemed to authorise any mortgagee or encumbrancee to sell or transfer any lease or agreement or any part thereof except subject to the provisions of this Act.

Lands under any tenure may be surrendered

209. Any person holding land under any tenure may surrender any portion of the said land on such terms as the board recommends subject to the consent of the Minister.

Surrender of lease or agreement for marginal land lease

209A. (1) Where a person holds any marginal land on lease or agreement the Minister on the recommendation of the board may-

- (a) permit him to surrender that lease or agreement as to the whole or any part of the land comprised therein;
- (b) on any such surrender grant him a lease under the *Marginal Lands Act 1940* of the land surrendered;
- (c) if more than one such lease or agreement is surrendered by the same person, grant him one lease under the *Marginal Lands Act 1940* comprising all the land surrendered.

(2) Section 4 of the *Marginal Lands Act 1940* shall apply to any lease so granted.

(3) In this section-

"**marginal land**" means land which has been used principally for wheat growing, but which in the Minister's opinion, because of inadequate rainfall, with or without other causes, is unsuitable for wheat growing as the principal operation carried on thereon.

Power of lessee to surrender for perpetual lease or agreement

210. Any lessee under any Crown lease granted under any of the Crown Lands Acts, may apply in writing to surrender his lease for a perpetual lease or an agreement under Part 5.

Mode of obtaining perpetual lease or agreement

211. (1) Upon an application made under section 210 being approved by the Minister, the board shall recommend to the Minister, and the Minister shall fix, the annual rent or purchase-money at which the perpetual lease or agreement may be obtained: Provided that the price fixed for repurchased lands under an agreement shall not be less than the cost of the same to the State, together with the cost of offering the same.

* * * * *

(1a) Any application as aforesaid may be granted notwithstanding that any rent payable under the lease is in arrear.

(1b) When in any such case an application is made, the Minister, on the recommendation of the board, shall determine to what extent, if any, and at what times or in what circumstances and subject to what other terms and conditions, whether as to interest on the arrears or otherwise, the arrears of rent shall be paid.

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(1c) The application shall not be granted unless the applicant accepts the terms and conditions so determined by the Minister.

(1d) If the application is granted, a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Minister shall be inserted in the perpetual lease or agreement issued in place of the surrendered lease.

(2) Upon the annual rent or purchase-money being so fixed, notice in writing of the amount thereof shall be given to the applicant, and the applicant, upon surrendering the lease, may, subject to subsection (3) hereof, obtain a perpetual lease or agreement at the said rent or purchase-money.

(3) The applicant shall, within three months after the giving of notice under subsection (2) hereof, accept or refuse the terms offered; and in the event of his agreeing to purchase, he shall forward with the notification of his acceptance an amount equal to the first half-yearly instalment of purchase-money.

(4) The Minister shall forthwith cancel the lease surrendered as aforesaid, so far as regards the land for which a perpetual lease or agreement has been granted, and the applicant shall, within the time and in manner prescribed, execute a new lease or agreement pursuant to Part 5.

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Power of lessee to surrender lease and purchase the fee simple

212. (1) The lessee under any Crown lease granted under any of the Crown Lands Acts may apply in writing to surrender his lease and purchase the fee simple thereof.

(2) Upon an application under this section being approved by the Minister, the board shall recommend to the Minister, and the Minister shall fix, the sum at which the fee simple of the land may be purchased and shall give notice thereof in writing to the applicant.

(3) The applicant shall, within three months after the giving of the notice under subsection (2) of this section, notify the Minister whether he accepts or refuses the terms offered. If he accepts, and if within one month after the Minister receives notice of his acceptance he surrenders his lease and pays the purchase-money and all proper fees he shall be entitled to receive a land grant for the land: Provided that the Minister may extend the time for surrender and payment.

* * * * *

Annual statement of surrenders disallowed

213. The Minister shall once in every year lay before Parliament a statement of all cases in which he has declined to allow a surrender under sections 210, 211, or 212, stating in every case the reasons for the refusal.

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Conditions of agreement or lease obtained in lieu of homestead lease

215. Where any lessee of a homestead lease heretofore has surrendered the same pursuant to section 174 of the *Crown Lands Act 1903*, or section 212 of the *Crown Lands Act 1915*, or hereafter surrenders the same pursuant to section 210 of this Act, and has obtained or obtains a perpetual lease or agreement in lieu thereof, the said perpetual lease or agreement shall, notwithstanding, be and remain subject to all the conditions relating to homestead leases, and the lessee or purchaser shall be and remain bound by all the covenants and provisions relating to those leases.

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Crown Lands Act 1929 5**Powers of trustees and executors**

217. If any person having a right to surrender a lease in exchange for a lease or agreement dies, or is adjudicated bankrupt, or executes a statutory deed of assignment for the benefit of his creditors, his executors or administrators, or the trustee or other person in whom the lease or agreement vests under his will, or by virtue of the bankruptcy or assignment, may exercise all powers of surrender and exchange, and powers incidental thereto, which the said person could have exercised.

Appeal from first decision of board

218. (1) Any person surrendering his lease for a lease or agreement under this Act shall have a right of appeal to the Minister against the decision of the board fixing the amount of rent and purchase-money, or either, as the case may be.

(2) The appeal shall be made within three months from the notification to the intending lessee or purchaser of the amount of the rent or purchase-money.

(3) The Minister shall refer the appeal to the board for reconsideration and a report thereon, and may, after receiving the report from the board, reduce the rent and purchase-money, or either: Provided that the purchase-money of any repurchased lands shall not be less than the cost of the same to the State, together with the costs of offering the same.

(4) The appellant shall, within three months after the decision of the appeal, accept or refuse the payment of the rent or purchase-money as fixed by the Minister in deciding the appeal.

Power of lessee to apply to surrender from time to time

219. If a lessee does not accept, or if he refuses, the terms offered, or the payment of the rent or purchase-money, as provided by subsection (3) of section 211, or subsection (4) of section 218 (according to the nature of the case), the said lessee may make a fresh application under section 210, and may, in similar circumstances, if he so desires, make fresh applications under that section from time to time.

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Surrender of agreement for lease

221. (1) The purchaser under any agreement (except an agreement under Part 10 of the *Crown Lands Act 1903*, Part 10 of the *Crown Lands Act 1915*, or Part 10 of this Act) may apply in writing to surrender his agreement for a perpetual lease of the land comprised therein.

(2) Upon an application being made under this section the board, subject to the approval of the Minister, shall fix-

- (a) the annual rent at which the lease may be obtained in perpetuity; and
- (b) the annual rent at which the lease may be obtained for the first ten years after which the rent shall be fixed in perpetuity as hereinafter provided; and
- (c) the provisions (if any) to be inserted in the perpetual lease for the purpose of binding the applicant to pay for all or any of the improvements on the land.

(2aaa) In fixing the rents pursuant to this section the board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

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(2aa) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (a) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (b) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the board, subject to the approval of the Minister.

* * * * *

(2aab) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the board subject to the approval of the Minister. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

(2a) Any application under this section may be granted notwithstanding that the instalments payable under the agreement are in arrear.

(2ab) When in any such case an application is made, the Minister on the recommendation of the board, shall determine to what extent, if any, and at what times or in what circumstances and subject to what other terms and conditions, whether as to interest on the arrears or otherwise, the arrears of interest under the surrendered agreement shall be paid.

(2ac) The application shall not be granted unless the applicant accepts the terms and conditions so determined by the Minister.

(2ad) If the application is granted a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Minister shall be inserted in the lease issued in place of the surrendered agreement.

(3) The provisions of subsections (2), (3), and (4) of section 211, *mutatis mutandis*, shall apply to and in respect of any such application and surrender.

(4) The purchaser under any agreement surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the land. In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease, at the price at which the lessee could have completed purchase at the time of the surrender, but so that such right may be exercised not earlier than six years after the surrendered agreement came into force, and not later than the expiration of the term of the surrendered agreement.

Surrender of agreement or lease of a small estate

222. (1) The Minister may, upon the application-

- (a) of the executor of any deceased lessee or purchaser under any Crown lease or agreement, who has left a will, or of any person entitled to obtain letters of administration of the estate of such deceased lessee or purchaser or of any part of such estate left unadministered; or
- (b) of the widow, widower, or next of kin of any deceased lessee or purchaser under any Crown lease or agreement, who has died intestate,

permit the surrender of the lease or agreement by the said executor, person, widow, widower, or next of kin, in the name of the deceased lessee or purchaser without

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probate of his will or letters of administration of his estate or of any part thereof left unadministered having been granted, if the Minister is satisfied that-

- (c) the applicant is the person entitled to prove the will of the deceased, or to obtain letters of administration of his estate, or of the part thereof left unadministered; and
- (d) the whole of the estate of the deceased does not exceed in value the sum of four hundred dollars; and
- (e) all the lawful debts and funeral expenses of the deceased have been paid; and
- (f) all succession duties (if any) have been paid in respect of the deceased's estate; and
- (g) the will (if any) of the deceased has been filed in the Supreme Court,

and the Minister may accept the surrender, and may issue a new lease or agreement, of the same kind and subject to the same terms and conditions as the surrendered lease or agreement, to the applicant or to any person named by him: Provided that no such application shall be allowed until after notice thereof has been published for two weeks in the *Government Gazette*, nor until after the expiration of two months from the time of the death of the deceased.

(1a) An application may also be made under subsection (1) of this section where rent or instalments payable under the lease or agreement are in arrear, if all the other lawful debts and funeral expenses of the deceased have been paid. When in any such case the application is granted-

- (a) the full amount of the said arrears of rent or instalments, together with interest thereon at such rate of interest not exceeding five dollars per centum per annum as is fixed by the board, subject to the approval of the Minister, shall be paid in such instalments, and at such times, as are fixed by the board, subject to the approval of the Minister; and
- (b) the lease or agreement issued in place of the surrendered lease or agreement shall contain covenants for the payment of the instalments so fixed; and
- (c) those instalments shall be recoverable in the same manner as the rent or purchase-money under lease or agreement so issued.

(2) The Registrar-General shall register every such surrender without the production of any probate, or letters of administration, or requiring any transmission to any executor or administrator.

(3) Every such new lease or agreement shall be held, but so as not to affect the indefeasibility of a Real Property Act title, subject to the dispositions of the will or rights arising on intestacy as if probate or letters of administration, as the case may be, had been granted.

Surrender of several leases or agreements for one lease or agreement of the same class

223. (1) When a lessee or purchaser holds land under one lease or agreement, and also holds land under one or more other leases or agreements, and-

- (a) the said leases or agreements are all of the same class, and all contain substantially the same covenants, conditions, and reservations; and
- (b) the terms of the said leases and agreements all end on the same date, or within one period of twelve months,

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the lessee or purchaser may apply in writing for leave to surrender the leases or agreements for one lease or agreement comprising the whole of the said lands.

(2) If the Minister approves of the application, the lessee or purchaser may tender a surrender of the leases or agreements in the prescribed form and executed in the prescribed manner; and the Minister may, if he thinks proper, accept the surrender in the name and on behalf of His Majesty.

(3) If the surrender is accepted, one lease or agreement shall be issued to the lessee or purchaser; and that lease or agreement shall-

- (a) be of the same class as; and
- (b) comprise the whole of the lands comprised in; and
- (c) contain substantially the same covenants, conditions, and reservations as are contained in,

the surrendered leases or agreements, and shall be for a term ending on the same date as the terms of those leases or agreements, or as such of those terms as ends on the latest date.

(4) For the purposes of this section the terms of all perpetual leases shall be deemed to end on the same date.

Saving of estates and interests in surrendered lands

224. (1) No lease or agreement which is subject to any estate, interest, or caveat registered or noted on such lease or agreement shall be surrendered, as regards either the whole or any part of the land therein comprised, unless the person entitled to that estate or interest or, as the case may be, the person who lodged the caveat has consented in writing to the proposed surrender.

(2) Unless the person entitled to any such estate or interest or, as the case may be, the person who lodged the caveat, otherwise directs by notice to the Minister, any new lease or agreement of the surrendered land or any part thereof shall be subject to the said estate, interest, or caveat, and that estate, interest, or caveat shall be registered or noted on the new lease or agreement and shall be of the same force and effect and be construed as if the new lease or agreement were subject to such estate, interest, or caveat.

(3) Where the surrender of a lease or agreement, whether as regards the whole or any part of the land comprised therein, is expressed to be an absolute surrender, and a person who is entitled to any estate or interest registered or noted on the lease or agreement or who has lodged a caveat so noted, consents to the surrender by writing endorsed thereon, that person shall be deemed to have directed by notice to the Minister that any new lease or agreement of the surrendered land or any part thereof shall not be subject to his estate, interest or caveat and that such estate, interest or caveat need not be noted on the new lease or agreement.

Crown Lands Act 1929 1**Part 12-Transfers****Leases and agreements may not be transferred, assigned or sublet without consent of the Minister**

225. No transfer, assignment or subletting of a lease or agreement shall have any force or effect unless the Minister has consented to the transfer, assignment or subletting.

Non-validity of agreements to transfer etc leases and agreements

226. An agreement, whether oral or in writing, for the sale, transfer, assignment or subletting of a lease or agreement shall be null and void after the expiration of one year from the making of the agreement, unless before the expiration of that period the Minister consents in writing to the proposed sale, transfer, assignment or subletting.

Prohibition against transferring or subletting without consent to extend to every form of alienation without consent

227. (1) Notwithstanding any law or usage to the contrary it is hereby declared that any prohibition, express or implied, contained in this Act, or in any lease or agreement issued under this Act or any repealed Act, against the transferring, assignment, or subletting of land comprised in any such lease or agreement without the consent of the Minister first had in each case, shall be construed to extend to and to include the prohibition of-

- (a) every form of alienation, or attempted alienation, without such consent as aforesaid, of the land comprised in the lease or agreement; and
- (b) the mere parting, before such consent is actually obtained, with the possession of the land, or any part thereof, in pursuance of any agreement for the alienation thereof, whether the said agreement is executory or otherwise and whether the same is or is not enforceable in law, and whether or not the said alienation is thereby agreed to be made subject to such consent,

and upon any breach of any such prohibition as hereby extended the Minister shall have the same powers of re-entry and forfeiture as in the case of a breach of any such prohibition as hereinbefore first mentioned.

(2) Any person who gives or takes possession of any land, or any part of any land, comprised in any such lease or agreement contrary to such prohibition as aforesaid as hereby extended shall be liable to a penalty not exceeding one hundred dollars, and in addition the lease or agreement comprising the land or part shall be liable to be absolutely forfeited without any compensation being payable to the holder thereof.

(3) In the case of any person transferring, assigning, or subletting contrary to such prohibition as hereby extended without such consent as aforesaid, any deed, written instrument, or other agreement whereby the transfer, sublease, or assignment is made, or for the occupation of any land so transferred, assigned, or sublet, shall be wholly null and void for all purposes whatsoever.

Mortgage of lease or agreement not alienation

227A. (1) For the purposes of this Part a mortgage of a lease or agreement shall not be deemed to be an alienation or attempted alienation of the land comprised in the lease or agreement.

(2) In this section-

"mortgage" includes any legal or equitable mortgage whether under the *Real Property Act 1886-1939* or not.

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Crown Lands Act 1929 1**Part 13-Sales of lands, granting of sites for buildings****Division 1-Sales of lands****Certain lands may be sold by auction**

228. The following lands may be sold by auction for cash:

- (a) special blocks: any single section of Crown lands which is surrounded by lands sold or contracted to be sold under any of the Crown Lands Acts; also any section or block of land belonging to or vested in the Crown (not exceeding 40 hectares in area) which may be required for the establishment of any industry, trade, or business, or for any other purpose approved by the Minister;
- (b) Crown lands within hundreds which have been offered for lease under Part 5 of the *Crown Lands Act 1903*, Part 5 of the *Crown Lands Act 1915*, or Part 5 of this Act, and have not been taken up within two years from the day when they were first open to be taken up;
- (c) town lands;
- (d) suburban lands which the Minister, by notice in the *Gazette*, excepts from being dealt with by the board;
- (e) any other Crown lands (including Crown lands within an irrigation area) that the Minister, upon the recommendation of the board, believes should be offered for sale by auction.

* * * * *

Sale of lands etc by auction on agreement for sale and purchase

228A. (1) Any lands that may be sold by auction in pursuance of this Part may, if the Minister so determines, be offered at auction on terms that the buyer may at his option purchase the lands for cash or on agreement for sale and purchase.

(2) A statement setting out the options offered to the purchaser and short particulars of the terms, covenants, and conditions to be included in the agreement shall be included in the statement published in the *Government Gazette* pursuant to section 230 of this Act.

(3) The terms, covenants, and conditions to be included in any such agreement shall be such as the Minister determines, and such agreement shall not be subject to the other provisions of this Act relating to agreements.

Grant of Crown lands to certain Government or local government authorities

228B. Notwithstanding any other provision of this Act, the Governor may, for no monetary consideration or for such monetary consideration as the board may determine, grant the fee simple of any Crown lands to any of the following:

- (a) a Minister of the Crown, statutory authority or Crown instrumentality or agency of the Commonwealth; or
- (b) a Minister of the Crown, statutory authority or Crown instrumentality or agency of this State; or
- (c) a municipal or district council or a body corporate vested with the powers of a council.

Fee simple may be granted to licensee in certain cases

228C. Where a person holds a licence over lands under Part 14 of this Act and permanent improvements have been made to the satisfaction of the Minister, or the

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licensee satisfies the Minister that it is his intention to proceed forthwith to carry out such improvements to the land, the Governor may on payment of such sum as is recommended by the board and approved by the Minister, grant the fee simple in that land to the licensee.

Power of Minister to fix upset and reserve prices

229. (1) The Minister may fix an upset price at which any lands referred to in section 228 of this Act may be offered at auction, and may raise or lower any such upset price.

(2) The Minister may fix a reserve price at which any such lands may be sold at auction and, where a reserve price is so fixed for any sale of any such lands by auction and such price is not reached at the auction, the Minister may sell the land by private contract at a price that is less than the reserve price so fixed.

Lands to be gazetted before auction

230. A statement setting forth the lands, the upset price, and the time and place of auction shall, prior to any sale, be published in the *Government Gazette*.

Purchase-money of lands sold for cash, how payable

231. No Crown lands shall be sold for cash at public auction unless on condition that the purchaser shall, at the sale, pay in ready cash a deposit of at least twenty per centum of the purchase-money, and shall pay the residue within one month thereafter, or within such extended time as the Minister may allow.

Unselected or unsold Crown lands within hundreds to remain open

232. (1) All Crown lands, except town or suburban lands, proposed to be offered for sale may nevertheless be taken up on lease or agreement not less than thirty days prior to the auction; and lands so offered and not sold shall remain open for leasing or sale under agreement or may be sold by private contract for cash at the upset price at which the same were last offered.

(2) Town and suburban lands offered for sale and not sold may be sold by private contract for cash at any price not less than the upset price at which the same were last offered.

(3) Town lands offered at auction on agreement for sale and purchase and not sold may be sold by private contract on agreement for sale and purchase at any price not less than the upset price at which they were last offered. Every agreement for sale and purchase under this subsection shall contain such terms, covenants, and conditions as the Minister determines, and shall not be subject to the other provisions of this Act relating to agreements.

Town lands at Whyalla

232A. (1) The Minister, by notice in the *Government Gazette*-

- (a) may declare that estates in fee simple in any specified blocks of town land in the town of Whyalla may be applied for in writing;
- (b) shall declare the price of every such block in accordance with the recommendation of the board made in that behalf;
- (c) shall set out the terms of payment of the purchase-money and any conditions to which any blocks will be subject, pursuant to section 232H, 234, or 235, of this Act, and any other conditions or stipulations binding on the purchaser;
- (d) shall fix a day, not earlier than one month after the publication of the notice in the *Government Gazette* before which applications for the blocks mentioned in the notice must be made.

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(2) The Minister shall not give any notice as aforesaid in respect of any blocks unless the board recommends that it is desirable that the blocks should be used as sites for dwelling-houses.

Application and payment

232B. (1) Every application made pursuant to the last preceding section shall be made to the Minister in writing, giving the name, address and occupation of the applicant, and specifying the land applied for.

* * * * *

(3) The successful applicant for any land offered under the last preceding section shall pay the purchase-money within one month after notice of the allotment of the land to him is published in the *Government Gazette*, or within such extended time as the Minister may allow.

* * * * *

Reference of applications to the board

232C. All applications pursuant to section 232A of this Act shall forthwith after the receipt thereof be referred by the Minister to the board unless the land is withdrawn from sale; and the board shall consider all the applications and allot the land in such manner as it deems just and expedient.

Simultaneous applications

232D. (1) All applications made pursuant to section 232A of this Act and received prior to or on the day specified in the *Government Gazette* as the last day for receiving such applications, shall be dealt with as simultaneous applications.

(2) Simultaneous applications may be decided by lot by the chairman of the board where any difficulty arises in deciding the successful applicant.

Gazettal of successful applicants

232E. The Minister, upon being informed by the board of the names of the successful applicants for town land within the town of Whyalla shall cause those names to be published in the *Government Gazette*, with the particulars of the lands allotted to them and the price payable.

Board may re-offer land not taken up

232F. If no application for a block offered by notice under section 232A of this Act is made within the time fixed by that notice, the Minister may again offer that block in accordance with the last five preceding sections at such reduced price as the board recommends.

Sales by auction of blocks not allotted

232G. Any block not allotted after being offered by notice under section 232A of this Act may be sold by auction as if it had never been so offered.

Conditions

232H. (1) Whenever any town land in the town of Whyalla is sold under any provision of this Part that land may, if the Minister so directs, be sold subject to all or any of the following conditions, namely:

* * * * *

- (b) that the purchaser or his successor in title shall, within such time as is specified in the condition, erect on the land such premises, being either a dwelling-house, business premises, or other premises, as are mentioned in the condition, and that the purchaser and his successor in title shall not, without the consent in writing of the Minister, erect on the land any other premises;

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(c) conditions regulating or restricting, in such manner as is specified in the conditions, the purposes for which the land may be used.

(2) Any such condition, if imposed, shall be expressed in the receipt for the purchase-money and in the land grant.

(3) When a certificate of title is issued in respect of any land comprised in any land grant in which any such condition is expressed the Registrar-General shall cause a statement to be inserted in or endorsed on the certificate to the effect that the land is subject to the said condition, and setting forth terms of the condition.

(4) Upon any breach of the said condition in respect of any land the Governor may, by notice published in the *Government Gazette*, cancel the sale of the said land; whereupon the said sale shall become absolutely void, and the said land shall be forfeited to the Crown.

(5) Upon the filing in the Lands Titles Registration Office by the Minister of a copy of the *Government Gazette* containing any such notice, the Registrar-General shall make and sign an endorsement on the receipt for the purchase-money of the land, if it has been filed in his office, or on any land grant or certificate of title which has been issued in respect of the land, or any part thereof, to the effect that the said receipt, land grant, or certificate is cancelled to the extent that it applies to such land or such part, the same having been forfeited to the Crown. The receipt, land grant, or certificate shall thereupon be cancelled to the said extent, and the said land shall thereafter, for the purposes of this Act and the *Real Property Act 1886-1936*, be dealt with and regarded as if it had never been alienated from the Crown. The Registrar-General shall also call in and endorse in the same manner the duplicate of the land grant or certificate, which shall thereupon be cancelled to the said extent.

(6) The Minister may, on the recommendation of the Land Board, and if he thinks that special circumstances exist, which justify him in so doing, exempt any person from the obligation to comply with any such condition as mentioned in subsection (1) of this section.

(6a) The Minister may on the recommendation of the board and if he thinks that special circumstances exist which justify him in so doing, wholly or partially remit or vary any of the conditions mentioned in subsection (1) of this section and in particular but without prejudice to the generality of the foregoing may extend the time specified in the condition in paragraph (b) of subsection (1) of this section in which the purchaser or his successor in title shall erect any premises on the land. Any extension of time allowed by the Minister under this subsection shall in no way prejudice the right of the Governor to cancel the sale of the land under subsection (4) of this section.

(7) If a condition to which any land is subject under this section has been complied with to the satisfaction of the Minister, or has been waived, or has been wholly or partially remitted or varied or time allowed to comply therewith, by the Minister, he may give a certificate to the owner of the land or any other person having any estate or interest therein, stating that the said condition has been complied with or waived, or has been wholly or partially remitted or varied or time allowed to comply therewith, as the case may be. The Registrar-General, upon production to him of the said certificate, shall endorse on the relevant receipt, land grant, or certificate of title a note of the certificate and upon such endorsement being made, the land and all persons having any estate or interest therein shall be discharged from the condition.

(8) The provisions of this section shall take effect notwithstanding anything in the *Real Property Act 1886-1936* or any other Act or law to the contrary.

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PART 13

Crown Lands Act 1929 5**Allotment of blocks to employers for employees' dwellings**

232I. (1) Notwithstanding any other provision of this Part, when the Minister has by notice in the *Gazette* declared that estates in fee simple in any blocks of town land in the town of Whyalla may be applied for, any employer may apply for any of those blocks which he requires for the purpose of providing dwelling-houses for his employees.

(2) If the board is satisfied that the employer intends in good faith to erect dwelling-houses on the blocks applied for, and to sell, lease or let those houses to his employees, or to grant to his employees the right to use and occupy them, and that if any such house is sold by the employer to any employee, the price will not exceed the cost to the employer of that house and the site thereof, the board may allot to the employer such of the blocks applied for as the board deems proper.

(3) Section 235 of this Act shall not apply in relation to any blocks allotted under this section.

Application of other sections of this Act

232J. Nothing in sections 232A to 232I inclusive, shall affect the application to land within the town of Whyalla of any other provision of this Act, except to the extent that such other provision is inconsistent with the said sections.

* * * * *

Town land may be sold subject to condition against alienation for six years

234. (1) Whenever any town land is sold under any of the provisions of this Act, that land may, if the Minister so directs, be sold subject to the condition that it is not to be transferred, mortgaged, or otherwise dealt with, within six years from the date of the sale thereof without the consent in writing of the Minister, and that upon any breach of the said condition the sale may be cancelled; and in such case the said condition, including the date when the same is to terminate, shall be expressed in the receipt for the purchase-money and in the land grant.

(2) When a certificate of title is issued in respect of any land comprised in any land grant in which the said condition is expressed, the Registrar-General shall cause a statement to be inserted in or endorsed on the certificate to the effect that the land is subject to the said condition, and setting forth the terms of the condition and the date when it will terminate.

(3) Upon any breach of the said condition in respect of any land the Governor may, by notice published in the *Government Gazette*, cancel the sale of the said land; whereupon the said sale shall become absolutely void, and the said land shall be forfeited to the Crown.

(4) Upon the filing in the Lands Titles Registration Office by the Minister of a copy of the *Government Gazette* containing any such notice, the Registrar-General shall make and sign an endorsement on the receipt for the purchase-money of the land filed in his office (if the same has been so filed) or on the land grant of the land (if the same has been issued), or on any certificate of title which may have been issued in respect of the land, or any part thereof, to the effect that the said receipt or land grant or certificate is cancelled to the extent that it applies to such land or such part, the same having been forfeited to the Crown. The receipt or land grant or certificate shall thereupon be cancelled to the said extent, and the said land shall thereafter, for the purposes of the *Real Property Act 1886*, be dealt with and regarded as if it had never been alienated from the Crown. The Registrar-General shall also call in and endorse in the same manner the duplicate of the land grant or certificate, which shall thereupon be cancelled to the said extent.

(5) The provisions of this section shall take effect notwithstanding anything in the *Real Property Act 1886* or any other Act or law to the contrary.

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Building conditions in town blocks

234A. (1) Whenever any town land is offered for sale under this Part, the Minister may, by notice in the *Government Gazette* offering the land for sale, declare that the land shall be sold subject to either or both of the following conditions:

- (a) a condition that the purchaser or his successors in title shall, within the time specified in the notice, make on the land improvements of a kind specified in the notice, and shall comply with any other requirements so specified; and
- (b) conditions regulating or restricting, in such manner as is specified in the notice, the purpose for which the land may be used.

(3) Subsections (2) to (8) inclusive of section 232H of this Act shall apply to every such condition in the same way as they apply to conditions under that section.

Refunded purchase moneys

234B. Whenever any land has been sold pursuant to the provisions of this Part, and is subsequently forfeited to the Crown by virtue of some breach of a condition subject to which it was sold, the Minister may, on the advice of the board, refund such portion of the purchase money that has been paid for the land as he considers just.

Limitation of number of town allotments that may be purchased

235. (1) Whenever town lands are sold by auction, under any provision of this Act, the Minister may by notice in the *Government Gazette* direct that all or any of the following conditions shall apply in relation to any area specified in the notice, being the whole or any part of the town where the lands are situated:

- (a) That not more than a specified number of allotments in that area shall be purchased by or on behalf of any person;
- (b) That no allotments in that area shall be purchased by or on behalf of any person who holds more than a specified number of allotments in that area;
- (c) That allotments in that area shall not be purchased by or on behalf of any person so as to increase the total number of allotments in that area held by him or on his behalf beyond a specified number.

(2) If it is shown to the satisfaction of the Minister that any allotments have been purchased in breach of any such condition the Governor may by notice published in the *Government Gazette*, cancel the sale of all or any of those allotments; whereupon the sale so cancelled shall become absolutely void, and the allotments of which the sale was cancelled shall be forfeited to the Crown.

(3) Upon the filing in the Lands Titles Registration Office by the Minister of a copy of the *Government Gazette* containing any such notice, the Registrar-General shall make and sign an endorsement on the receipts for the purchase-money of the cancelled allotments filed in his office (if the same has so been filed) or on the land grant of the cancelled allotments (if the same has been issued), or on any certificate of title which may have been issued in respect of the cancelled allotments or any of them, to the effect that that receipt or land grant or certificate is cancelled to the extent that it applies to the cancelled allotments or any of them, the same having been forfeited to the Crown. The receipt or land grant or certificate shall thereupon be cancelled to the said extent, and the cancelled allotments shall thereafter, for the purpose of the *Real Property Act 1886*, be dealt with as if they had never been alienated from the Crown. The Registrar-General shall also call in and endorse in the same manner the duplicate of the said land grant or certificate, which shall thereupon be cancelled to the said extent.

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(4) The provisions of this section shall take effect notwithstanding anything in the *Real Property Act 1886* or any other Act or law to the contrary.

Agreement preventing fair competition at auction to be void

236. Every agreement, whether in writing or otherwise, whereby any person promises or agrees, either directly or indirectly, to give or allow any sum of money, reward, benefit, or thing to any other person, in consideration of that other person not bidding at any auction under this Act, or of his not competing at any such auction, or in consideration of his bidding to a limited amount only, or of his withdrawing from competition at any such auction, or in consideration of his doing any other act or thing which in any way might tend to prevent free and open competition at any such auction, shall be wholly illegal and void.

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Division 3-Granting of sites**Power to grant sites for public and charitable purposes**

241. (1) The Governor may at any time, on the application in writing of the purchaser or lessee under any of the Crown Lands Acts, grant any of the land comprised in his agreement or lease-

- (a) to any corporation or to trustees, to be used as a site for a school, church, chapel, institute, or hospital, or for any other public or charitable purpose whatsoever: Provided that the land granted for any one of the said purposes does not exceed 1 hectare;
- (b) to the holder, or lessee, or his nominee, to be used as a site for a blacksmith's shop, carpenter's shop, mill, store, or post office, or for any other purpose approved by the Governor: Provided that-
 - (i) the land granted for any one of the said purposes does not exceed 1 hectare; and
 - (ii) the land is not situated within 10 kilometres of town lands; and
 - (iii) such security is given to the Governor as he thinks proper that the land will be used for one of the said purposes.

(2) Any lands granted pursuant to subsection (1) hereof may, with the consent of the Governor, be exchanged for other lands granted for the purpose for which the lands first mentioned were granted, or may be surrendered to the Crown freed from any trust, express or implied, or subject to such trusts as the Governor approves.

Purchase-money for site to be paid on application

242. The purchaser or lessee shall, at or before making his application, pay to the Treasurer the purchase-money for the land, fixed (if the land is subject to a contract for a lease with right of purchase or to an agreement) at the rate per hectare at which he has agreed to purchase or has the right to purchase the land; or (in other cases) by the Minister on the recommendation of the board.

Lease or agreement to be read as excepting the granted land

243. After the grant the lease or agreement shall be read as if the land comprised in the grant had been expressly excepted from the operation of the lease or agreement.

Crown Lands Act 1929 1**Part 14-Licences****Licences may be granted**

244. (1) The Minister or any person authorised by him may grant licences, as provided by this section, to persons to enter upon and occupy the lands described in the licences for the objects and purposes hereunder expressed:

- (a) with respect to any Crown lands or any other lands belonging to or vested in the Crown (not being lands let on perpetual lease within hundreds, or on lease with right of purchase, or lands under agreement to purchase), or leased for miscellaneous purposes, or comprised in leases under the *Pastoral Act 1904*, or under the *Pastoral Act 1936*, as amended, licences may be granted for the purpose of cutting, obtaining, and taking away any live or dead timber, gravel, stone, clay, earth, guano, manure, shell, or seaweed;
- (b) with respect to any Crown lands, dedicated lands, or lands leased for pastoral purposes, licences may be granted for-
 - (i) fishermen's residences and drying grounds;
 - (ii) manufactories, fellmongering establishments, slaughterhouses, brick or lime kilns, or sawmills;
 - (iii) except in the case of lands leased for pastoral purposes, depasturing the lands with cattle, sheep, or other animals;
 - (iv) any other purpose approved by the Minister, whether similar to any of the abovementioned purposes or not.

(2) If a proposed licence relates to an area within the Murray-Darling Basin, the Minister or person authorised by the Minister to grant the licence must, in considering whether to grant the licence, take into account the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act.

(3) If a proposed licence relates to a River Murray Protection Area under the *River Murray Act 2003* and is within a class of licences prescribed by the regulations for the purposes of this provision (which class may be prescribed so as to consist of all such licences), the Minister or person authorised by the Minister to grant the licence must, before deciding whether to grant the licence-

- (a) consult with the Minister to whom the administration of that Act is committed; and
- (b) comply with the Minister's directions (if any) in relation to the licence (including a direction that the licence not be granted, or that if it is granted, then the licence be subject to conditions specified by the Minister).

Conditions in licences

244A. A licence granted under the last preceding section may contain conditions requiring the licensee to erect or construct and maintain gates, grids and ramps or any of them at any place not within a municipality or district council district, on any road which passes through or abuts on the land described in the licence, and such other conditions as the Minister thinks fit.

Minister may limit licences

245. The Minister may, by notice in the *Government Gazette*, prohibit any licensed or unlicensed person from exercising, on any lands described in the notice, any one or more of the powers conferred by licence or other authority for any of the purposes mentioned in section 244(a); and any person who commits any act in contravention

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of any such notice shall forfeit his licence.

Term and conditions of licence

246. (1) A licence shall be granted for a term specified therein, not exceeding one year, and upon payment of the fee determined by the Minister, may be renewed from time to time, at the discretion of the Minister, for a further term.

(2) A licence shall be subject to such restrictions and conditions as are imposed by the Minister.

(3) If a licence relates to an area within the Murray-Darling Basin, the Minister must, in considering whether to grant the renewal, take into account the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act.

(4) If a licence relates to a River Murray Protection Area under the *River Murray Act 2003* and is within a class of licences prescribed by the regulations for the purposes of this provision (which class may be prescribed so as to consist of all such licences), the Minister must, before deciding whether to grant the renewal-

- (a) consult with the Minister to whom the administration of that Act is committed; and
- (b) comply with the Minister's directions (if any) in relation to the renewal (including a direction that the licence not be renewed, or that if it is renewed, then the licence be subject to conditions specified by the Minister).

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Crown Lands Act 1929 1**Part 16-Miscellaneous****Powers of forfeiture, acceptance of surrender, and resumption of agreements and leases to be exercised by Minister**

249. Wherever by any provision of this Act or of any lease or agreement made under this Act or any repealed Act power is given-

- (a) to cancel or forfeit an agreement or lease; or
- (b) to accept the surrender of an agreement or lease; or
- (c) to resume lands comprised in an agreement or lease,

that provision shall be read as conferring the said power upon the Minister, and not upon the Governor, unless the contrary is expressly provided.

* * * * *

Leases etc containing condition of personal residence deemed not to contain such condition

249B. Where an agreement or a lease or grant entered into or executed under this Act contains a condition or covenant requiring personal residence on the land the subject of the agreement, lease or grant, such agreement, lease or grant shall be construed as if no such condition or covenant was therein contained.

Waiver of covenant to clear vegetation

249C. (1) Notwithstanding any provision to the contrary in this Act or any other Act, or in a lease or an agreement to purchase, a lessee or purchaser is not required to clear vegetation from the lands comprised in the lease or agreement.

(2) Subsection (1) applies to a lease, or an agreement to purchase, under any of the Crown Lands Acts, or any other Act dealing with the disposal of lands of the Crown.

Consent of Minister not required to encumbering or mortgaging of leases and agreements

249D. (1) Notwithstanding any provision to the contrary in this Act or any other Act, or in a lease, agreement to purchase or land grant, the consent of the Minister is not required to the encumbering or mortgaging of a lease or agreement to purchase, or of the lands comprised in a land grant, except where the Minister holds a mortgage over the lease, agreement or land grant.

(2) Subsection (1) applies-

- (a) to a lease, or an agreement to purchase, under any of the Crown Lands Acts or any other Act dealing with the disposal of lands of the Crown and to a land grant issued under this Act in respect of a town allotment; and
- (b) in relation to an encumbrance or mortgage executed before or after the *Statutes Amendment and Repeal (Crown Lands) Act 1985*,

but not otherwise.

Incoming lessee liable for outstanding amounts upon transfer of lease

249E. (1) Upon a lease being transferred or assigned-

- (a) the incoming lessee shall be jointly and severally liable with the outgoing lessee for any outstanding amounts due under the lease (including any interest or penalty added pursuant to this Act); and
- (b) if the incoming lessee fails to pay those amounts, he shall be deemed to

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be in breach of the covenant to pay rent.

(2) Subsection (1) applies to a lease under any of the Crown Lands Acts or any other Act dealing with the disposal of lands of the Crown.

Minister to have care, control and management of dedicated lands in certain circumstances

250. The Minister shall have the care, control and management of all dedicated lands that have neither been placed under the care, control and management of some other person or authority, nor granted in fee simple to some other person.

Right of commonage

251. All Crown lands within hundreds, and not within any municipality or district council district, shall be subject to such rights of commonage as, with the consent of the Minister, are from time to time prescribed.

Power of the Minister to lend on mortgage

251A. (1) The Minister may lend to a person, for the purpose of purchasing the fee simple in lands pursuant to any provision of this Act or any other Act dealing with the disposal of lands of the Crown, such part of the purchase price as the Minister thinks fit, but not exceeding eighty per centum of that price.

(2) A loan under this section may only be made upon the security of a mortgage registered in favour of the Minister over the lands the subject of the purchase.

Disability of persons under eighteen to hold agreement, lease, or licence

252. (1) No person under the age of eighteen years shall be entitled to hold, directly or otherwise, any lands comprised in any agreement, lease, or licence under this Act, unless that person becomes entitled to the agreement, lease, or licence as the personal representative of a purchaser, lessee, or licensee.

* * * * *

Liability of executors and trustees under leases and agreements

252A. Where a lease or agreement is vested in a person as an executor, administrator or trustee, he shall not be liable under the lease or agreement except to the extent of the assets of the estate of which he is executor or administrator, or, as the case may be, to the extent of the trust property: Provided that this section shall not relieve any person from personal liability for voluntary waste or for any wrongful act causing damage to the land comprised in the lease or agreement, or affect any power to cancel the lease or agreement.

Duties of Crown lands ranger

253. (1) Every Crown lands ranger shall do all acts for preventing intrusion, encroachment, and trespass on lands belonging to or vested in the Crown, and for taking possession of any such lands in case of forfeiture, and for such other purposes as the Minister generally or specially directs or authorises.

(2) For the purposes of this Act any member of the police force shall be deemed to be a Crown lands ranger.

Powers of district council rangers

254. (1) The powers conferred upon Crown lands rangers by this Act, may be exercised within a district council district by any district council ranger appointed by the council thereof, in respect of Crown lands, roads, or dedicated lands under the control of the council.

(2) All penalties incurred within the district, and recovered under this Part, shall be paid to the council.

Crown lands ranger may make claim or entry

255. (1) Any Crown lands ranger may give any notice, make any claim, and make,

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or authorise any person to make, any entry which is requisite to be given or made by the Crown.

(2) Every such notice or claim made in writing under the hand of any Crown lands ranger, and every such entry made by any Crown lands ranger or person authorised by him, shall be valid for all purposes whatsoever as if the same were respectively given or made by the Crown.

Power to impound cattle trespassing and to destroy pigs

256. (1) Cattle or sheep unlawfully trespassing upon Crown lands, or lands dedicated to the public use, may be impounded by a Crown lands ranger or by any person authorised by the Minister or ranger.

(2) All pigs trespassing on Crown lands, or dedicated lands, may be destroyed by a Crown lands ranger, or by any person authorised by a Crown lands ranger, without compensation to the owner.

Unbranded wild cattle belong to the Crown

257. (1) All unbranded wild cattle above the age of twelve months being on Crown lands, and having no apparent owner, shall be the property of the Crown.

(2) The Minister may cause any such cattle to be sold by public auction, or by tender, provided that the object, time, and place of the auction, or the time up to which such tender is to be made, is notified in the *Government Gazette* at least one month next preceding the time of auction or tender.

(3) The purchaser, on obtaining the written authority of the Minister, may enter with proper assistance upon the Crown lands where the cattle are and take possession of the same.

(4) If no bid is obtained at public auction or no tender received for any cattle offered for sale those cattle may be destroyed by any Crown lands ranger authorised by the Minister to do so.

Exemption of leases, agreements and licences from stamp duty

258. Notwithstanding the provisions of any Act to the contrary, every agreement, lease or licence granted under this Act or any other Act dealing with the disposal of lands of the Crown shall be exempt from any charge for stamp duty.

Annual payment of rent

259. All rent payable in respect of any lands leased under this Act or any Act hereby repealed shall, except as otherwise provided herein, be paid annually in advance.

Power of acquisition

260. (1) The Minister may acquire lands in any part of the State-

- (a) as the site of a town or for purposes incidental thereto; or
- (b) for any agricultural, pastoral, residential, commercial or industrial purpose; or
- (c) for the development or closer settlement of the lands or for the exclusion of the lands from development; or
- (d) for any other purpose whatsoever.

(2) The *Land Acquisition Act 1969* applies in respect of the acquisition of land under this section.

(3) The Minister may cause the certificate of title for any land acquired under this section to be cancelled.

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Power of Minister to resume land set apart as site for town

261. (1) When any land has been set apart as a site for a town or for purposes incidental thereto, and part of that land has been laid out as roads or park lands, or roads and park lands, and the balance has been subdivided into allotments, some or all of which allotments have been alienated from the Crown, but no town has, in the opinion of the Minister, been erected on the land, and the land is, in the opinion of the Minister, no longer required as a site for a town, the Minister-

- (a) may acquire for an estate in fee simple all or any of the said allotments which have been alienated from the Crown; and
- (b) may, by notice in the *Gazette*, declare those roads, or any of them, to be closed and declare that the land, or any part of it, is no longer set apart as a site for a town,

and thereupon the whole of the said land shall be deemed for all purposes to be Crown lands, and may be dealt with accordingly under Part 10 or any other provisions of this Act.

(2) Subject to subsection (3) hereof any such allotments may be acquired either by agreement or compulsorily.

(3) Where the Minister of Lands is of opinion that it is expedient to acquire any such allotments compulsorily, he may, by notice published in the *Gazette* and in a newspaper circulating in the district in which the allotments are situated, declare that on a day mentioned in the notice, and not being earlier than the day on which the notice is last published, those allotments shall be vested in Her Majesty the Queen.

(4) On and after the day mentioned in the notice-

- (i) the allotments described therein shall by force of this section be vested in Her Majesty, and shall be deemed for all purposes to be Crown lands; and
- (ii) those allotments shall be freed and discharged from all trusts, obligations, estates, interests, contracts, licences, charges, rates, and easements to the intent that the unencumbered legal estate in fee simple therein shall vest in Her Majesty, and that the Minister and any persons authorised by him or deriving title from Her Majesty shall be entitled to immediate possession and occupation of those allotments; and
- (iii) the estate and interest of every person interested in those allotments shall be converted into a claim for compensation.

(5) Forthwith after the last publication of a notice given under subsection (3) of this section, the Minister shall give a notice of acquisition to every person having an estate or interest in the allotments and who is known or after diligent inquiry becomes known to the Minister.

(6) A notice of acquisition given under this section shall-

- (a) describe the allotments to which it relates and state that they have been acquired by Her Majesty on the day stated in the notice; and
- (b) state that every person having an estate or interest in the said allotments is entitled to compensation for the land taken and for the damage, if any, caused by the severance of that land from other land of such person; and
- (c) state that the Minister is willing to negotiate with the person to whom

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the notice is given as to the amount of compensation, if any, to which he is entitled.

(7) The notice of acquisition shall be given to a person-

- (a) by sending it to him by registered letter addressed to his last known or usual place of abode or business; or
- (b) by delivering it to him personally; or
- (c) by leaving it for him at his last known or usual place of abode or business with some person apparently an inmate thereof or employed thereat and apparently not less than sixteen years of age; or
- (d) in the case of a body corporate by delivering it at its principal office or place of business in the State.

(8) If a person to whom a notice of acquisition is to be given, is absent from the State or cannot be found after reasonable inquiries or is a body corporate not having an office or place of business in South Australia the notice of acquisition may be given to the occupier of the land to which it relates, or if there is no such occupier, it may be fixed on a conspicuous part of the land.

(9) Every person having an estate or interest in land acquired under this section shall be entitled to compensation. The amount of such compensation shall be the value of the land as at the date of acquisition, and compensation for the damage (if any) suffered by such person by reason of the severance of the land from other land in which such person has an estate or interest.

(10) Any person entitled to compensation may bring an action for that compensation in any court having jurisdiction in personal actions up to the amount claimed. In any action for compensation the court shall have jurisdiction to determine all matters incidental to the right to compensation and the amount thereof, including questions as to the title to any land.

(11) An action for compensation in respect of land acquired under this section may be commenced at any time within six years after the date of the acquisition of the land.

Duty of Registrar-General

261A. (1) The Minister shall furnish the Registrar-General with a copy of every notice duly published under section 261 of this Act.

(2) Upon receipt of any such notice, or of any transfer, conveyance, or other assurance to Her Majesty of land acquired under section 261 otherwise than by notice, the Registrar-General shall-

- (a) make such entries in any register book memorial or other book or record in the Lands Titles Registration Office or in the General Registry Office as he deems appropriate to evidence the vesting of the land in Her Majesty;
- (b) if the land is comprised in a land grant, certificate of title, Crown lease, or agreement for the sale of Crown lands, make an entry on the appropriate folium in the Register Book or Register of Crown Leases and on any duplicate of such land grant, certificate of title, Crown lease or agreement produced to him, to the following effect: "Cancelled, the within land having been acquired [or purchased] by the Crown" and shall sign such entry.

Provision of moneys for purposes of sections 260 and 261

262. The moneys required by the Minister for the purposes of sections 260 and 261 shall be supplied to him by the Treasurer out of moneys provided by Parliament

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for those purposes.

Power to dispose of surplus lands

262A. (1) Where it appears to the Minister that any land acquired for any purpose, is not suitable for, or is not required for the said purpose and is not required for any purpose of the Government of the State, he may-

- (a) sell the land, or any estate, right, or interest therein, either by public auction or private contract; or
- (b) exchange the land, or any estate, right, or interest therein, for any other land or property, or any estate, right, or interest therein; or
- (c) dispose in any other way of the land, or any estate, right, or interest therein,

for such price or other consideration as may be recommended by the board and the Minister deems sufficient, and upon such (if any) terms and conditions as the board recommends and he deems proper.

(2) For the purpose of carrying out any such transaction as mentioned in subsection (1) of this section, the Minister may execute any and every assurance, deed, instrument, and writing, and do all such other things as may be deemed necessary or expedient.

(3) The Minister's receipt shall be a sufficient discharge for any moneys to be paid in pursuance of any such transaction, and it shall not be necessary for the person paying any such moneys to inquire whether or not a proper case has arisen for the exercise of any power conferred by this section.

(4) Nothing in this section shall be deemed to derogate from any other power vested in the Minister or any other person by this Act.

Power to dispose of dedicated lands which have been resumed by Crown

262AA. (1) Any lands the area of which does not exceed 5 hectares which were dedicated for any purpose or set apart for a particular purpose (other than by dedication by proclamation) and which have been resumed pursuant to section 5AA(1)(c)(i) or (ii), or freed from the trusts pursuant to section 5AA(1)(d)(i) or (ii) may be sold by the Minister on such terms and conditions as may be recommended by the board.

(2) Notwithstanding the provisions of the *Real Property Act 1886-1963* the Minister in exercise of the power of sale conferred by subsection (1) of this section may execute a transfer of any such land and such transfer may be registered without production of the duplicate land grant and the Registrar-General may issue a certificate of title to the purchaser which shall not include any reference to the trusts recited in the land grant.

Power to dispose of material, plant, and equipment

262B. (1) Notwithstanding the *Public Supply and Tender Act 1914*, or any other Act, if the board recommends that any material, plant, or equipment which belongs to the Crown and has been used in connection with primary production on any Crown lands or reverted Crown lands or any buildings or other structural improvements on such lands, is no longer required and should be sold or otherwise disposed of, the Minister may sell or otherwise dispose of that material, plant, equipment, building or other structural improvement to the best advantage in such manner and at such times as he considers expedient, and in so doing shall not be subject to the *Public Supply and Tender Act 1914*.

(2) In this section-

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"reverted Crown lands" means lands which having been granted in fee simple or held under agreement, licence or lease have reverted to the Crown whether on a surrender, cancellation or other termination of the estate in fee simple, agreement, licence or lease.

Provision for preservation of timber

263. (1) Subject to subsection (2) of this section, it shall be a condition of every lease or agreement granted or entered into, after the eighteenth day of December, 1912, that at least 2 hectares of every 100 hectares of the land comprised therein shall be set apart and reserved for the growth of timber, and that no timber trees growing thereon shall be destroyed.

(2) The Minister may, when he deems it advisable so to do, grant an exemption in whole or in part from compliance with the said condition.

(3) This section shall not apply-

(a) to any lease or agreement granted or entered into under Part 11 of the *Crown Lands Act 1903*, Part 11 of the *Crown Lands Act 1915*, or Part 11 of this Act, unless the surrendered lease or agreement in lieu of which the lease or agreement first mentioned was granted, contained the condition mentioned in subsection (1) of this section, or unless that surrendered lease was a miscellaneous lease;

(b) to any lease or agreement which comprises a less area than 100 hectares.

Provision for soil conservation reserves

263A. (1) Subject to subsection (2) of this section, it shall be a condition of every lease (other than a lease of town lands) or agreement, granted or entered into after the passing of the *Crown Lands Act Amendment Act (No. 2) 1939*, that the lessee or purchaser will set apart and keep reserved for the purpose of preventing soil erosion such areas of the land comprised in the lease or agreement, being areas covered with natural scrub growth, as the Minister or his servants shall notify to the lessee or purchaser, and will not destroy or permit to be destroyed any natural scrub growth growing on the said areas; the said areas to be of the respective sizes and in the respective positions notified to the lessee or purchaser by the Minister or his servants;

Provided that the total area of the said areas shall not exceed one-tenth of the area of the land comprised in the lease or agreement unless the Minister, on the recommendation of the board, determines that a greater total area should be set apart and reserved in any particular case. If such a determination is made the total area shall not exceed that so determined.

(2) The Minister may wherever he deems it advisable to do so, grant an exemption in whole or in part from compliance with the said condition.

(3) The land to be set apart and kept reserved pursuant to this section shall be in addition to any land required to be set apart and reserved pursuant to section 263 of this Act.

Overstocking

263B. (1) Every agreement and every lease granted after the enactment of this section shall contain such terms, covenants and conditions (if any) as are recommended by the board and approved by the Minister for restricting the number of stock to be depastured on the land comprised in the lease or agreement.

(2) Every agreement and every lease whether granted before or after the enactment of this section shall be deemed to contain a covenant that the purchaser or lessee will comply with any notice given under subsection (3) of this section.

(3) If the board is of opinion that the purchaser or lessee of the land comprised

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in any such agreement or lease is depasturing on that land such a number of stock that the land is likely to be permanently injured thereby, the Minister may by notice in writing require the purchaser or lessee within the time specified in the notice to reduce the number of stock so depastured to the number specified in the notice and to comply with any other restrictions specified in the notice as to the stocking of such land, and if the purchaser or lessee fails to comply with the terms of the notice the Minister may forfeit the agreement or lease as if the purchaser or lessee had been guilty of a breach of a covenant contained therein.

Covenant for insurance

263C. (1) Every term covenant or condition contained in a lease or agreement granted before the passing of the *Crown Lands Act Amendment Act 1940*, and providing for the insurance of any buildings erections or improvements on the land comprised in the lease or agreement shall be deemed to require that the lessee or purchaser shall insure such buildings erections or improvements against loss or damage by fire storm and tempest; and every such term covenant or condition shall be construed as if it extended and applied to such insurance.

(2) Every lease or agreement granted after the passing of the *Crown Lands Act Amendment Act 1940* shall contain a covenant-

- (a) requiring the lessee or purchaser to insure the buildings erections and other improvements on the land against loss by fire storm and tempest; and
- (b) empowering the Minister to exercise, on default by the lessee or purchaser in compliance with such covenant, any rights and remedies therein specified.

(3) If a lessee or purchaser does not insure any buildings, erections, or improvements, as required by his lease or agreement or this Act, the Minister may insure them and recover the cost of such insurance together with interest thereon at the rate of five per cent per annum from the lessee or purchaser as a debt by action in any court of competent jurisdiction.

Completion of purchase under lease with right of purchase or agreement obtained on surrender

264. Any person holding any land from the Crown under a lease with right of purchase, or (subject to anything contained in Part 10) under an agreement obtained on a surrender, may complete his purchase at the expiration of six years from the time when the land was originally taken up by the said person or his predecessors in title, or at any time thereafter during the currency of his lease or agreement; and shall, on payment of the purchase-money or the balance thereof then unpaid, and of the prescribed fee for the grant be entitled to the land in fee simple: Provided that the Minister may, in any case, prevent the exercise of the right herein expressed until he is satisfied that the conditions of the lease or agreement have been *bona fide* fulfilled.

Right of purchase not exercisable until conditions have been complied with or equivalent improvements made

265. No person holding a lease with a right of purchase or an agreement, whenever granted, shall be entitled to complete the purchase unless the conditions of the lease or agreement have been fully complied with, or the Minister is satisfied that the lessee or purchaser has made such permanent improvements on the land that strict compliance with the conditions of the lease or agreement should be dispensed with.

Cancellation of lease or agreement where holder abandons land

265A. Notwithstanding anything contained in this or any other Act or anything contained in any lease or agreement under this Act or any other Act relating to Crown lands, if the person who is the lessee or purchaser under any such lease or agreement (whether the lease or agreement was issued before or after the passing of this Act) intimates, whether verbally or by writing, to the Minister or any officer of the

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Department of Lands that he has abandoned the land comprised in the lease or agreement, or makes any intimation to the like effect, the Minister may, by writing under his hand, without notice to the said person, and without re-entry, forthwith determine the lease or agreement and thereupon the interest of the said person in the said land shall absolutely cease and determine.

Power of Minister to manage blocks

265B. (1) If-

(a) a lessee or purchaser is continuously absent from the land comprised in his lease or agreement for one month or more without having given the Minister notice of such absence; or

(b) notice of cancellation of any lease or agreement has been given pursuant to this Act,

and if the Minister believes on reasonable grounds that the land comprised in the lease or agreement is being seriously neglected and is thereby deteriorating in value, he may, on the recommendation of the board, assume the general control and management of that land and may do all things necessary to keep it in production and prevent deterioration.

(2) Any expense incurred by the Minister in so doing shall be a charge on the land and shall be payable by the lessee or purchaser for the time being of the land and may be recovered by the Minister by action in any court of competent jurisdiction as a debt due to him by the lessee or purchaser.

Repeated notice of breach not necessary before forfeiture

266. Notwithstanding anything in any of the Crown Lands Acts or in any agreement or lease made or granted under any of the repealed Acts, if notice is given to the purchaser or lessee (as the case may be) of any breach of a covenant contained in or implied by such agreement or lease, no notice of any future breach of the same covenant, or of the continuance of the same breach thereof, shall be necessary before the exercise of the powers of forfeiture or cancellation expressed in or implied by the agreement or lease, whether so implied by such Acts as aforesaid, or any of them, or otherwise.

Land grant to be noted as subject to interest

267. Where any agreement or lease is subject to any estate, interest, or caveat noted or registered thereon, and the purchaser or lessee completes the purchase of the fee simple of the land comprised in the agreement or lease, pursuant to any right conferred on him by this Act or the agreement or lease, and a land grant is issued, that land grant shall unless the person entitled to any such estate, interest, or as the case may be, the person who lodged the caveat otherwise directs by notice to the Minister, be subject to that estate, interest, or caveat, and particulars of that estate, interest, or caveat, shall be noted on the land grant.

Cancellation of muniments of title when grant cancelled or land reverts to Crown

268. (1) The Minister may from time to time, and upon the alienation of any of the lands hereinafter mentioned shall, forward to the Registrar-General, or other proper officer, the certificate, grant, or other muniment or muniments of title to all or any lands-

(a) the grant of which has been cancelled by the Governor under the *Crown Lands Act 1903*, the *Crown Lands Act 1915* or this Act; or

(b) which, having been lawfully held by any person for any estate or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted to or revert to or have been or are acquired by, the Crown,

and request the said Registrar-General or officer, in writing to forthwith cancel

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the said certificate, grant, or other muniment or muniments of title, either wholly or partially.

(2) The said Registrar-General, or other officer, shall thereupon enter on the folium relating to the land in the register-book and on the certificate, grant, or other muniment or muniments, a memorandum cancelling the same, either wholly or partially as the said writing may require, and shall sign the said memorandum. Thereafter the land in respect of which the certificate, grant, or other muniment or muniments of title have been cancelled may, until again alienated from the Crown, be dealt with in all respects as if it had never been alienated from the Crown.

(3) Where a certificate, grant, or other muniment or muniments of title have been cancelled under this section, and the land to which they relate is subsequently again alienated from the Crown, the Registrar-General may, upon the request of the Minister of Lands, by endorsement on the certificate, grant, or other muniment or muniments of title, revive that certificate, grant, or muniment of title.

Registrar-General to make necessary entries in registers

269. The Registrar-General shall, at the request of the Minister, make all entries in all register-books necessary or proper to be made for the purpose of giving effect to this Act.

* * * * *

Proclamation valid for all purposes

271. No proclamation shall be invalid by reason of anything required as preliminary thereto not having been done, or not having been duly done.

Powers of Minister as to reverted lands

271A. (1) Where any land which has been granted in fee simple by the Crown or included in any lease or agreement granted by the Crown has reverted in or reverted to the Crown, whether on a surrender, cancellation, or other termination of the grant, lease, or agreement, and whether before or after the passing of the *Crown Lands Act Amendment Act 1940*, the Minister may, at his discretion do all or any of the following things namely:

- (a) enter into an agreement with any person for the working of the land or any part thereof on shares;
- (b) purchase any stock, plant, or materials or make any other payment required in connection with the carrying out of any such agreement;
- (c) maintain and keep in repair any improvements on the land;
- (d) erect, construct or carry out on the land any further improvements which in the Minister's opinion are necessary or desirable.

(2) Any money received under any such agreement shall be paid into the General Revenue of the State.

(3) Any money required for the purposes of this section shall be paid out of moneys provided by Parliament for such purposes.

* * * * *

Gifts of land for the benefit of soldiers

271C. (1) If-

- (a) any person (hereinafter called "the donor") offers to convey or transfer land to the Minister by way of gift for the purpose of being dealt with under this section, and informs the Minister by letter of his wishes as

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to the disposal of the land; and

- (b) the Minister is of opinion that the letter discloses an intention to benefit any soldier (whether identified or not) or any dependants of any soldier;

the Minister may accept the offer, and the land may be conveyed or transferred to him accordingly.

(2) When any land is conveyed or transferred to the Minister under this section, he shall, subject to this section, dispose of it in accordance with the wishes of the donor as set out in the said letter. If, however, owing to circumstances existing at any time the Minister is of opinion that it is impracticable or undesirable to carry out the wishes of the donor, he may on the recommendation of the board dispose of or deal with the land in any other manner which he thinks just, having regard to the wishes of the donor.

(3) Land may be disposed of by the Minister under this section upon such tenure and terms as in the Minister's opinion will best carry out the wishes of the donor, so far as the Minister considers it practicable or desirable to carry out such wishes, and the Minister shall not, in disposing of any land under this section, be bound by any of the other provisions of this Act.

(4) The wishes expressed in a letter relating to any land accepted by the Minister under this section shall not be deemed to create any trusts of that land.

(5) The Minister may be registered under the *Real Property Act 1886-1940* as the proprietor of any land which is transferred to him under this section and is subject to that Act, and may execute any transfer, conveyance, or other instrument which he deems necessary for the purpose of disposing of the land pursuant to this section.

(6) No stamp duty shall be payable on any instrument executed to convey or transfer land to the Minister under this section, or upon any instrument executed by the Minister under this section; and no fees shall be payable to the Minister or any public officer for the preparation or registration of any instrument executed under this section.

(7) In this section-

"**soldier**" means a person who, whilst domiciled in the State, enlisted in any naval, military or air force of any part of His Majesty's dominions for service in the war which began in September 1939, and served in that force during the said war.

Transfer of land to Minister

271D. (1) The owner in fee simple of land-

- (a) that is unencumbered; or
 (b) that is encumbered only by a registered lease,

may transfer or convey that land, and deliver the title therefor, to the Minister who may accept the land on behalf of the Crown.

(2) Where any land which is not subject to the *Real Property Act 1886-1963* has been conveyed as mentioned in subsection (1) of this section the Registrar-General of Deeds shall register the conveyance under the *Registration of Deeds Act 1935*. On being satisfied as to the title of the Minister and on payment of all such fees and production of all such plans and maps as would have been required to be paid or produced on an application to bring the land under the *Real Property Act 1886-1963*, the Registrar-General shall thereupon issue a certificate of title to the said land in the name of the Minister of Lands.

(3) Where land is transferred or conveyed under this section, the following

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provisions apply:

(a) if the land is transferred or conveyed subject to a lease, the Minister shall, subject to this section, succeed to the rights and obligations of the lessor; or

(b) in any other case, the Minister may sell, lease, or otherwise dispose of the land in such manner and upon such terms and conditions as the Minister, upon the recommendation of the Land Board, determines.

(4) The Minister of Lands may execute any transfer, lease, conveyance or other document necessary to carry out any transaction entered into under this section. Any such transfer, lease, conveyance or document which relates to land which is subject to the *Real Property Act 1886-1963* shall comply with that Act.

(5) The Registrar-General shall, if so requested by the Minister of Lands, cancel the certificate of title relating to any land transferred to him under this section by making an endorsement on the certificate and in the Register Book of the words "cancelled at the request of the Minister of Lands". Thereupon the land shall for all purposes be deemed to be Crown land and may be dealt with as though it has never been alienated from the Crown.

(6) The proceeds of every lease, sale or other disposition under this section shall be paid to the Treasurer in aid of the general revenue of the State.

(7) In this section-

"**certificate of title**" includes land grant;

"**unencumbered**" in relation to land means unencumbered by any registered-

- (a) mortgage; or
- (b) charge; or
- (c) lease; or
- (d) encumbrance of any other kind,

whether statutory or otherwise.

(8) Where land is transferred or conveyed to the Minister subject to a lease, the lessee shall be liable to land tax in the same manner and to the same extent as if the lease were a perpetual lease.

(9) Where at the time of transfer or conveyance of land subject to a lease there were any outstanding rates or taxes due in respect of the land, the Minister may recover those rates or taxes as a debt due to him from the lessee.

Lease granted under Irrigation Act deemed to be lease under this Act in certain circumstances

271E. (1) Where-

- (a) a lease in respect of land within an irrigation area was granted pursuant to statute; and
- (b) the land in respect of which the lease was granted ceases to form part of the irrigation area,

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the lease shall, by force of this section, be cancelled.

(2) Upon cancellation of a lease under this section, a lease shall be granted under this Act to the former lessee upon such terms and conditions as may be determined by the Minister.

(3) Any such lease shall be granted subject to registered interests to which the lease cancelled by force of this section was, immediately before that cancellation, subject.

(4) In determining the terms and conditions of a lease under subsection (2) of this section, the Minister is not bound to observe the provisions of any other Act.

(5) In this section-

"**irrigation area**" means an irrigation area within the meaning of the *Irrigation Act 1930*.

Liability of Crown in relation to Crown lands

271F. (1) Notwithstanding any other Act or law to the contrary, the liability of the Crown in respect of injury, damage or loss suffered by a person on, above or below unoccupied Crown land or from a cause emanating from unoccupied Crown land is limited to injury, damage or loss caused by, or the cause of which is a direct consequence of, an act of the Crown or an activity undertaken by the Crown.

(2) In this section-

"**the Crown**" includes an agent or instrumentality of the Crown or an officer or employee of the Crown or of an agent or instrumentality of the Crown;

"**Crown land**" means all the land in the State except-

- (a) land for the time being granted, or contracted to be granted, in fee simple by or on behalf of the Crown;
- (b) land that is the subject of an agreement to purchase from the Crown;
- (c) land that is the subject of a lease granted by or on behalf of the Crown (not being a lease under the *Mining Act 1971*, or the *Petroleum (Submerged Lands) Act 1982*),

but includes land referred to in any of those paragraphs that constitutes the whole or part of a reserve under the *National Parks and Wildlife Act 1972* or a wilderness protection area or wilderness protection zone under the *Wilderness Protection Act 1992*;

"**unoccupied Crown land**" means Crown land that is not being used by the Crown for any purpose when the injury, damage or loss occurs.

(3) The Crown will not be taken to be using Crown land by virtue only of the fact that the Crown-

- (a) has granted a lease or licence to a person to enter onto or occupy the land; or
- (b) has granted an easement over the land; or
- (c) has dedicated the land for any purpose; or
- (d) has constituted the land as-

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- (i) a forest reserve, or a native forest reserve, under the *Forestry Act 1950*; or
- (ii) a reserve under the *National Parks and Wildlife Act 1972*; or
- (iii) a wilderness protection area or wilderness protection zone under the *Wilderness Protection Act 1992*.

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PART 17

Crown Lands Act 1929 1**Part 17-Offences and penalties****Unauthorised occupation or use of Crown and other property**

272. (1) Any person who without the authority of the Minister occupies or uses for cropping, grazing or in any manner whatsoever any land belonging to or vested in the Crown, or any land leased under the provisions of the *Pastoral Act 1936* shall be liable to a penalty of not more than one hundred dollars.

(2) For the purposes of subsection (1) of this section a person who is merely traversing or who is temporarily camping on any land referred to in that subsection shall not be deemed to be occupying or using such land.

(3) Any person who without the authority of the Minister erects or causes to be erected any building, fence or other structure on any land belonging to or vested in the Crown or any land leased under the provisions of the *Pastoral Act 1936* shall be liable to a penalty of not more than one hundred dollars and shall in addition be liable to pay to the Minister the cost of removing, selling or destroying the building, fence or other structure. Payment of any such costs to the Minister may be ordered by a court imposing any such penalty as aforesaid or may be recovered by the Minister as a debt due to the Minister in any court of competent jurisdiction.

(4) Any person who without the authority of the Minister deposits or causes to be deposited any materials on any land belonging to or vested in the Crown or any land leased under the provisions of the *Pastoral Act 1936* shall be liable to a penalty of not more than one hundred dollars and shall in addition be liable to pay to the Minister the cost of removing, selling or destroying those materials. Payment of any such costs to the Minister may be ordered by a court imposing any such penalty as aforesaid or may be recovered by the Minister as a debt due to the Minister by action in any court of competent jurisdiction.

(5) Where-

- (a) a person, pursuant to any authority of the Minister has erected or caused to be erected any building, fence or other structure on any land belonging to or vested in the Crown or on any land leased under the provisions of the *Pastoral Act 1936*, as amended; and
- (b) such authority was granted or obtained subject to the condition that the building, fence or structure will be removed from the land within a specified time or upon the termination of that person's occupancy of the land; and
- (c) that person has failed within the specified time or upon the termination of that occupancy to remove or cause to be removed from the land the building, fence or structure,

that person shall be liable to a penalty not exceeding one hundred dollars and shall in addition be liable to pay to the Minister the cost of removing, selling or destroying the building, fence or structure and payment of the whole or any part of such cost to the Minister may be ordered by a court imposing any such penalty or may be recovered by the Minister as a debt due to the Minister in any court of competent jurisdiction.

(6) Where, upon the termination of a person's occupancy of land belonging to or vested in the Crown or leased under the provisions of the *Pastoral Act 1936*, as amended, that person vacates the land without removing therefrom any chattel belonging to him, the Minister may, by notice in writing served on him, require him to remove the chattel from the land within a time specified in the notice and, if the chattel is not removed from the land within the time so specified, the Minister may remove, sell or destroy the chattel and the cost of so doing may be deducted by the Minister from moneys belonging to that person in the Minister's hands or may

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be recovered by the Minister from that person as a debt due to the Minister in any court of competent jurisdiction.

Delaying with travelling stock

273. (1) The owner or person in charge of cattle or sheep which-

- (a) are found upon Crown lands, or dedicated lands; and
- (b) are not *bona fide* travelling either to the station of the owner or to market, or, if travelling *bona fide*, do not travel at least 8 kilometres a day in a direct line,

shall be liable to a penalty of one dollar per head for every head of cattle, and six dollars for every hundred sheep or part of every hundred sheep so found upon the said lands.

(2) Upon the hearing of the complaint the onus of proving that the cattle or sheep were so *bona fide* travelling, or that they *bona fide* travelled at least 8 kilometres a day, shall be upon the owner or person in charge of the cattle or sheep.

Depasturing cattle etc

274. Whoever-

- (a) depastures cattle, sheep, goats, or pigs upon Crown lands, or dedicated lands, or lands vested in the Commissioner of Educational Lands without licence or other lawful authority; or
- (b) depastures on any such lands more cattle or sheep than authorised by his licence or authority,

shall be liable to a penalty of not more than four hundred dollars; and, in addition thereto, for every offence to a further penalty of five cents per head for every head of sheep, goats, or pigs, and thirty cents for every head of cattle, so unlawfully depastured.

Injuring or removing timber, metals etc without licence

275. (1) Any person who-

- (a) injures or destroys any tree, shrub or sapling, or cuts, saws, removes, or sells any timber being on Crown lands, or lands leased or dedicated under any of the Crown Lands Acts, or the *Pastoral Act 1904*, or any Act incorporated therewith, or the *Pastoral Act 1936*, as amended, without a licence or other valid authority, except on land so leased by him and for the purpose of making improvements on the said land or exercising or performing any of the rights conferred or duties imposed upon him by his lease; or
- (b) unlawfully removes, or severs, excavates, quarries, or digs for, with intent to remove, any metal, or ore containing metal, or any stone, sand, gravel, or other material from any such lands, without a licence or other authority,

shall be liable to forfeit and pay, in addition to the value of the tree, shrub, sapling, timber, metal, or other material, a penalty of not less than ten dollars nor more than twenty dollars or to be imprisoned for any period not exceeding two months.

Penalty for contravening covenants as to cutting trees etc

(1a) Any lessee or purchaser who cuts, injures or destroys or permits to be cut, injured or destroyed any tree, shrub, or sapling in contravention of any term, covenant or condition in his lease or agreement, shall be guilty of an offence and

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liable to a fine of not less than ten dollars or more than twenty dollars.

(2) Any person found committing an offence against this section may be forthwith apprehended and taken before any justice of the peace by a Crown lands ranger, police constable, or person authorised by the ranger.

Injuring or removing land marks

276. Whoever wilfully and unlawfully defaces, injures, destroys, removes, or obliterates any survey-picket or other land mark erected or being on any lands belonging to or vested in the Crown, shall be liable to a penalty of not more than one hundred dollars.

Injuring monuments etc on Crown lands

277. Whoever wilfully defaces, injures, destroys, removes, cuts, scratches, or carves upon any monument, pedestal, carving, writing, ornamentation, or record placed, erected, or being upon any lands belonging to or vested in the Crown, or being dedicated lands, shall be liable to a penalty of not more than one hundred dollars or to imprisonment for any period not exceeding six months.

Obstructing roads and ways

278. (1) Whoever, by materials of any kind, except by gates, grids or ramps approved by the Minister, wilfully obstructs or injures any road or way vested in the Crown, not being within the limits of any district council district, so as to hinder the free passage of any carriage thereon, shall be liable to a penalty of not less than four dollars nor more than twenty dollars, in addition to the expense of removal.

(2) It shall be lawful for any Crown lands ranger or any person authorised in writing without any warrant, to forthwith summarily remove and prevent every such obstruction, at the cost of the party causing the same.

Leaving gates open

279. Any person who injures or destroys any gate or opening erected by the authority of the Minister on any road or way, or does not close the same, shall for every such offence be liable to a fine of not more than one hundred dollars, or to imprisonment for any period not exceeding six months.

Obstructing authorised persons from carrying out powers

280. Any person who wilfully obstructs or hinders any member of the board, or any Crown lands ranger, or other authorised person, in the exercise of any right under this Act shall be liable to a penalty not exceeding one hundred dollars, or to be imprisoned for any period not exceeding six months.

Any money or reward received under any illegal agreement to be forfeited, and recoverable by anyone suing for the same

281. (1) Every person who directly or indirectly takes or receives any sum of money, or any thing whatsoever, in pursuance of any agreement hereinbefore declared to be void, or in consideration of any act on his part which would be illegal if agreed to be done, shall forfeit that sum of money or other thing.

(2) The said sum shall be recoverable by any person who sues for the same within twelve months from the time when the same was received.

Making illegal agreement

282. (1) Whenever any person-

- (a) offers to any person, not being the principal for whom he is acting, intending purchaser, or lessee, to bid or not to bid at any auction except in some particular manner, or to bid for certain lands or leases only, in consideration of an intending purchaser or lessee bidding or not bidding for any land or lease to be offered for sale at the auction; or

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(b) offers to enter into any agreement which would be illegal under this Act, the first-mentioned person shall forfeit the full value of the lands or of the lease forming the subject of the agreement, or a sum of two hundred dollars, whichever is the higher in amount.

(2) The amount so forfeited may be sued for and recovered by any person who sues for the same within twelve months from the time of the offer or proposal.

Offering to enter into void agreements etc

283. (1) Whenever any person-

- (a) offers to any intending purchaser or lessee at any auction to enter into any agreement which would be void under this Act; or
- (b) offers to make any agreement or arrangement for making which any forfeiture or penalty is provided; or
- (c) makes any such offer as mentioned in section 282,

by means of threats or representations respecting the future biddings, purchases, or competition, or respecting any particular course of proceeding of such person at any such auction, he shall forfeit twice the full value of the lands or lease which formed the subject of the offer, proposal, or illegal agreement, or a sum of four hundred dollars, whichever is the higher in amount.

(2) The amount so forfeited may be sued for and recovered by any person who sues for the same within twelve months from the time of the offer or proposal.

False statement as to commonage

284. Any person who knowingly makes any false statement with regard to commonage in hundreds shall be liable to a penalty of not more than one hundred dollars.

Forgery and uttering an offence

285. Whoever-

- (a) forges, counterfeits, or alters, with intent to defraud; or
- (b) with a like intent, utters, or makes use of, knowing the same to be forged, counterfeited, or altered,

any writing or document authorised to be made, issued, or granted under this Act and relating to any Crown lands, shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding eight years.

Perjury

286. Any person who wilfully makes a false declaration, or who, upon oath or affirmation taken or made under the provisions of this Act, wilfully and corruptly gives any false evidence before the board, or any member thereof, shall be guilty of perjury, and may be imprisoned for any term not exceeding four years.

Fraud or false representation

287. Any person who-

- (a) by any manner of fraud or wilful misrepresentation, obtains or attempts to obtain any advance or loan under this Act from the Minister or the State Bank of South Australia; or
- (b) by any false representation attempts to account for the expenditure of any moneys advanced as aforesaid,

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shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding twelve months.

Crown Lands Act 1929 1**Part 18-Regulations****Regulations**

288. (1) The Governor may make regulations for fully and effectually carrying out and giving force and effect to the various objects, purposes, rights, powers, and authorities of this Act.

(1a) Without limiting the generality of subsection (1) of this section, those regulations may-

- (a) provide for the survey of-
 - (i) Crown lands; and
 - (ii) dedicated lands; and
 - (iii) land subject to any agreement, lease or licence granted or entered into by or on behalf of the Crown or the Minister; and
- (b) prescribe, and provide for the recovery of, fees and charges to defray administrative expenses or for any other purpose; and
- (c) prescribe penalties, not exceeding two hundred dollars, for breach of, or non-compliance with, any regulation.

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PART 19

Crown Lands Act 1929 1**Part 19-Arbitration, evidence, legal procedure etc****Valuation for compensation to be determined by the Land and Valuation Court**

289. (1) All valuations under any of the Crown Lands Acts (except valuations of rents and improvements to be made by the board), and valuations of improvements on resumed miscellaneous leased lands, shall be determined, in case of dispute by the Land and Valuation Court.

* * * * *

Declarations, how to be made

290. All declarations required by this Act to be made by any person may be made before a member of the board, a justice of the peace, a notary public, or a commissioner for taking affidavits in the Supreme Court.

Parties compellable to give evidence, but not to be prosecuted in certain cases

291. (1) In any proceedings under Part 17 all parties to any agreement such as mentioned in section 236 or 237, made in connection with an auction, and all persons making or receiving any offer, with or without threats, to enter into such an agreement, shall be compellable to give evidence upon all matters relating to the agreement or offer.

(2) No information shall be maintained against any person for conspiracy in consequence of any such agreement or offer, if the said person being summoned as a witness, answers all questions that may be asked of him concerning the matters in question; nor shall he be convicted of conspiracy if he at any time previous to any information being laid has fully disclosed such act on oath, under the compulsory process of any court, in any action or proceeding instituted under Part 17 of this Act, Part 17 of the *Crown Lands Act 1915* or Part 17 of the *Crown Lands Act 1903*.

Gazette evidence of facts stated therein

292. The production of the *Government Gazette* containing any publication required to be published shall be conclusive evidence of the facts stated, recited, or assumed therein.

Burden of proof

293. In any action, suit, or proceeding under any of the Crown Lands Acts-

- (a) the averment that any lands are Crown lands, dedicated lands, or lands belonging to or vested in the Crown, or lands leased under any Act, or that any person is a Crown lands ranger, or other person authorised to take any proceedings, or perform any duty, or sue for the recovery of any penalties or other moneys under any of the said Acts, shall be sufficient proof of that fact, unless the defendant proves the contrary;
- (b) where the authority of the defendant to do any act is in question, the proof thereof shall lie upon the defendant;
- (c) all licences, certificates, maps, plans, and office copies, purporting to be certified as true under the hand of the Director of Lands, the Assistant Director of Lands, or the Surveyor-General or the Deputy Surveyor-General of the State, shall be sufficient evidence without production of original records, and without the personal attendance of those officers, or proof of their signatures.

Who may lay complaint, and hearing of same

294. (1) All proceedings may be had and taken and all complaints may be laid for any offence against this Act at the instance of the Minister, or any person authorised by him, or any Crown lands ranger; and all complaints shall be heard and determined, and all moneys, costs, and expenses shall be recovered, in a summary way.

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(2) The court of summary jurisdiction may also, in case any penalty is imposed, order the defendant, in default of payment thereof, to be imprisoned for any period not exceeding six months.

Actions for trespass in local court

294A. (1) The Attorney-General, on behalf of the Crown, may bring an action in a local court for trespass or injury to any Crown Lands, dedicated lands, or any property of the Crown on any such lands, in any case where the amount of damages claimed does not exceed one thousand five hundred dollars.

(2) Subject to any rules of court, every such action shall be maintained and prosecuted in accordance with the ordinary practice and procedure of the court in an action between subjects.

Penalties

295. Except when otherwise provided, all penalties shall, when recovered, be paid to the Treasurer of the State.

Appropriation of payments

295A. Where money is paid to the Minister or to the receiver of rents in respect of any amounts of rent, purchase-money, or interest which became due at different times, the Minister or receiver may, notwithstanding any direction to the contrary, apply the money for or towards payment of those amounts in the order in which they became due, or in any other order which appears to the Minister or receiver to be convenient.

Treasurer may provide for costs of officers

296. The Treasurer may cause to be paid out of the Public Treasury the costs or charges of any action brought by or against any justice, Crown lands ranger, constable, or other person acting under the authority and in the execution of this Act.

Protection to persons acting in execution of this Act

297. (1) All actions for anything done under any of the Crown Lands Acts shall be commenced within six months after the cause of action has arisen, and not afterwards.

(2) Notice in writing of every such action, and the cause thereof, shall be given to the defendant one month at least before the commencement of the action.

(3) In every such action the defendant may plead the general issue, and give this Act, or any Act hereby repealed, and the special matter in evidence at any trial to be had thereupon.

(4) No plaintiff shall recover in any such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into court by or on behalf of the defendant after action brought, together with the costs incurred up to that time.

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Schedule 3-Form of perpetual lease

South [Royal Arms] Australia

CROWN LEASE (PERPETUAL)

The Crown doth hereby lease to A.B., of [address and occupation] all that [here describe land leased] to be held in perpetuity at the following yearly rents namely: [here set out the rents in accordance with the appropriate section of the Act], each of which yearly rents is to be paid in advance on the day of , with such penalties as are provided for by the *Crown Lands Act 1929*, added thereto in case any of such rents is in arrear, and subject to the reservations, covenants, and conditions shortly stated below, and which are more fully set out in the *Crown Lands Act 1929*.

* * * * *

Covenants

2. The lessee must-

- I. Enclose the land with a cattle-proof fence before the end of the fifth year of the lease;
- II. Keep in good repair all Crown improvements (if any) on the land;

* * * * *

- IV. Forthwith commence to destroy and to keep the land free from vermin to the satisfaction of the Minister of Lands during the lease;
- V. Insure and keep insured in the full insurable value thereof all buildings the property of the Crown upon the leased land in the joint names of the Minister and the lessee, in some insurance office to be approved of by the Minister, and forthwith lodge the policy of such insurance in the office of the Minister, and forward to the Minister the receipts for the premiums payable in respect of such policy within seven days after the same shall become due, with a power for the Minister to insure on default by the lessee, and to recover the amount paid for such insurance in like manner as the rent is recoverable.
- Va. Permit the Minister or any person authorised by him to enter upon the land for any reasonable purpose.

And the lessee must not-

- VI. Transfer, sublet, encumber, or mortgage without the written consent of the Minister first had in each case;
- VII. Erect brush fence or suffer or permit the same to be erected or to remain on the land.

Conditions

3. The lease shall be liable to forfeiture in the following cases and no others:

- I. If default be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing demanding its payment;
- II. If default be made in the performance of any covenant; or
- III. If the land shall be transferred, sublet, or mortgaged without the written consent of the Minister first had in each case.

4. The land may be resumed by the Crown for mining or for any public work or purposes, full compensation being made to the lessee for his loss.

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Schedule 4-Extended form of reservations, covenants, and conditions of perpetual lease

Reference to the Form in Schedule 3	Extended Meaning
1. * * *	* * * * * * *
2. (I) Covenant to fence	The lessee will during the first five years substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle, and during the term of the lease maintain such fence or wall in good and substantial repair.
2. (II) Covenant to keep Crown improvements in repair	The lessee will at his own cost during the said term, keep and maintain in good and tenable repair and condition all improvements (if any) the property of the Crown on the land hereby leased.
2. (III) * * *	* * * * * * *
3. Condition of forfeiture	Provided always, and this lease is upon this express condition, that if default shall be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing demanding its payment, or if default shall be made in the performance of any covenant on the part of the lessee; or if the lessee shall, without the written consent of the Minister first had and obtained, transfer, mortgage, encumber, or sublet the premises, or any part thereof, The Crown or the Minister, after three months' written notice, may re-enter and take possession of the said lands; and it shall be lawful for the Minister, before or after re-entry, to cancel and determine this lease, and the Minister may thereupon insert a notice in the <i>Government Gazette</i> declaring this lease to be forfeited, and such notice appearing in the <i>Government Gazette</i> as having been published by the authority of the Minister shall, in all courts and elsewhere, and under all circumstances, be taken to be conclusive evidence that such lease has been legally cancelled and forfeited: Provided, however, that the Minister shall not (except in the case of rent being in arrear as aforesaid, or of the transfer, mortgage, encumbrance, or subletting of the premises without such consent as aforesaid) exercise the powers expressed in this clause in the case of default in the performance of a covenant before the expiration of the period of three months after notice has been given to the lessee of such default and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the lessee of any default in the performance of a covenant, no notice of any future default in the performance of the same covenant, or of the continuance of the same default, shall be necessary before the exercise of such powers.
4. Condition of resumption	Provided also, and it is expressly agreed, that the Crown shall, and may, at any time, or from time to time hereafter resume possession of all or any part of the said land hereby demised for roads, railways, tramways, or for sites for towns or for park lands, or for mining purposes, or for any public work or purpose upon the Minister giving three calendar months' notice to the lessee by publication in the <i>Government Gazette</i> of such intended resumption; and that immediately from and after the expiration of three calendar months after such notice shall have been given as aforesaid this lease and the demise hereby made shall cease, determine, and be void as to all or such parts of the said lands as shall be mentioned and described in such notice, anything in this lease to the contrary notwithstanding: Provided that, on any resumption, the lessee shall be paid compensation for the loss the lessee shall sustain thereby; and, in case of dispute, the amount of such compensation shall be determined by the Land Board, or, at the option of the Minister or the lessee, in the manner provided by section 289

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of the *Crown Lands Act 1929*.

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Schedule 5-Terms and conditions in agreement

1. The vendor agrees to sell and the purchaser agrees to purchase for the sum of _____ being the price fixed by the Land Board all _____ section of land situated in the Hundred of County of _____ containing _____ hectares or thereabouts numbered _____ and the improvements thereon.

2. The purchaser shall pay the purchase-money together with interest thereon at the rate of _____ per centum per annum in sixty half-yearly instalments of _____ payable in advance on the _____ day of _____ and the _____ day of _____ in each year until the whole of the purchase-money and interest shall be paid: Provided that the purchaser may complete the purchase of the said land at any time after six years from the time when such land was originally taken up on payment of the balance of the purchase-money and interest to the date of completion of the purchase.

3. The purchaser will pay and discharge all rates taxes assessments impositions and outgoings which shall become payable in respect of the said land.

4. The purchaser shall and will during the first five years from the date of this agreement substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle and will until the completion of the purchase of the said land maintain and uphold such fence in good and substantial repair.

5. The purchaser will during this agreement keep and maintain in good and tenantable repair and condition all improvements on the said land.

* * * * *

7. The purchaser will not without the consent of the vendor being first had and obtained transfer sublet encumber or mortgage the said land.

8. The Minister, and any person authorised by him, may enter upon the land for any reasonable purpose.

9. It shall be lawful for the vendor and all persons authorised by him at all times unrestrictedly to enter into and upon the said land before completion of the purchase thereof.

10. The vendor reserves unto himself and all persons and bodies authorised by him full right and liberty without any payment to the purchaser by way of compensation from time to time and at all times hereafter with or without beasts of draught or burden or any vehicles whatever to enter into and upon the said land for the purpose of laying pipes or a pipe track in, along, over, or under the said land, and to view the condition of and to cleanse, relay, repair, and maintain the said pipes or pipe track, and to allow water to be in and to flow through the said pipes or pipe track, and to construct drains and pipe tracks, and to lay pipes where required in, along, over, or under the said land, and to view the condition of and cleanse, relay, repair, and maintain the said drains and pipe tracks and pipes, and to allow water to be in and to flow through the said drains, pipe tracks, and pipes.

11. The purchaser will insure and during this agreement keep insured in the full insurable value thereof in some insurance office in Adelaide to be approved by the vendor all buildings and erections the property of the vendor upon the said land or which may thereafter be thereupon against loss or damage by fire such insurance to be in the joint names of the purchaser and the vendor and will forthwith lodge the policy of every such insurance in the office of the vendor and will forward to the vendor the receipts for the premiums payable in respect of every such policy within seven days after the same shall become due and if the foregoing covenant shall not be duly observed then the vendor shall be at liberty to insure the said improvements in manner aforesaid and it is agreed that all sums of money received under any such insurance shall be laid out in reinstating the premises in respect of which the same shall have been received.

12. The purchaser will destroy all rabbits on the said land and fill up their burrows to the satisfaction of the vendor and will forthwith commence to destroy all such other vermin on the said land as are by or under the *Vermin Act 1931*, or by or under any other Act for the time being in force in the said State declared to be vermin

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and will keep the said land free of all vermin to the satisfaction of the vendor during this agreement and will destroy Bathurst burr and all other noxious weeds growing upon the said land and upon the half width of Government roads adjacent thereto.

13. The purchaser will neither allow to remain if now existing nor erect nor suffer the erection of any brush fence upon the said land.

14. And it is hereby declared that if any of the instalments hereby reserved shall be unpaid and in arrear for more than six months after the day whereon the same is hereby made payable the purchaser having had at least three months' previous notice in writing demanding its payment, or if the vendor shall be satisfied that there has been a breach in the performance of any of the covenants herein contained or that this agreement is liable to forfeiture the vendor may re-enter and take possession of the said land and it shall be lawful for the Minister of Lands before or after re-entry to cancel and determine this agreement and the said Minister may thereupon insert a notice in the *Government Gazette* declaring this agreement to be forfeited and such notice appearing in the *Government Gazette* shall in all courts and elsewhere and under all circumstances be taken to be conclusive evidence that this agreement has been legally cancelled and forfeited: Provided that the vendor or the said Minister shall not (except in the case of an instalment being unpaid and in arrear as aforesaid or of a breach of clause 7 hereof) exercise the powers expressed in this clause in case of a breach of covenant before the expiration of the period of three months after notice has been given to the purchaser of such breach and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the purchaser of any breach of a covenant no notice of any future breach of the same covenant or of the continuance of the same breach thereof shall be necessary before the exercise of such powers.

15. And it is hereby expressly agreed that the said Minister may at any time or from time to time hereafter resume possession of all or any part of the said land for roads railways or tramways or for sites for towns or park lands or for mining purposes or for any public purpose whatsoever after the expiration of three calendar months from the giving by the said Minister to the purchaser of notice in writing of the intended resumption and that immediately upon the giving of such notice the right of the purchaser to complete the purchase shall cease and determine and be void as to all or such of the said lands as shall be specified in such notice and that immediately after the expiration of the said three calendar months this agreement and the right of the purchaser to possession shall cease and determine and be void as to all or such part of the said lands as shall be specified in such notice anything in this agreement to the contrary notwithstanding: Provided that on any resumption the purchaser shall be paid compensation for the loss the purchaser shall sustain thereby and in case of dispute the amount of such compensation shall be determined by the Land Board or at the option of the said Minister or the purchaser in the manner provided by section 289 of the *Crown Lands Act 1929*.

16. And it is hereby expressly declared that any notice to be served or given to the purchaser under this agreement shall be deemed to have been duly served or given if the same be sent through the post office enclosed in an envelope addressed to the purchaser at any address stated in any recent application letter or document received from him or at his usual or last known place of abode in the said State or to the care of any solicitor attorney or agent acting in the purchaser's behalf in the particular matter in respect whereof such notice is given and such notice shall be deemed to have been served or given on and time shall run from the day of the posting thereof as aforesaid.

* * * * *

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Schedule 9-Terms and conditions to be contained in agreement

1. The vendor agrees to sell and the purchaser agrees to purchase for the sum of _____ dollars being the price fixed by the Land Board all _____ section of land situated in the Hundred of _____ County of _____ containing hectares or thereabouts numbered _____ and the improvements thereon.

2. The purchaser shall until the whole of the purchase-money and interest shall be paid pay the purchase-money together with interest thereon in seventy half-yearly instalments as follows: The first ten half-yearly instalments shall each be the sum of _____ and the subsequent sixty half-yearly instalments shall each be the sum of _____ all of which instalments shall be payable in advance on the day of _____ and the _____ day of _____ in each year: Provided that the purchaser may complete the purchase of the said land at any time after six years from the date of this agreement on payment of the balance of the purchase-money and interest to the date of completion of the purchase and complying with all the terms covenants conditions and provisions of this agreement. And provided that on any of the said days the purchaser may pay in advance any part (being the sum of one hundred dollars or a multiple thereof) of the purchase-money whereupon interest on the amount so paid shall cease and the amounts of the instalments subsequently falling due shall be decreased ratably to the amount so paid.

3. The purchaser will pay and discharge all rates taxes assessments impositions and outgoings which shall become payable in respect of the said land.

* * * * *

5. The purchaser shall spend on the said land during each of the first five years from the date of this agreement a sum of money equal to six dollars for every two hundred dollars of the value of the said land as fixed by the Land Board in substantial improvements consisting of buildings fencing or water improvements being the sum of _____ : Provided that the amount so expended by the purchaser in excess of the amount required to be expended as aforesaid in one year shall be set off against the amount required to be expended in the next or following years: Provided also that so much of any amount of the purchase-money paid by the purchaser as shall have been paid on account of improvements on the said land may be deducted from the amount to be expended by the purchaser on improvements on the said land.

6. The purchaser shall and will during the first five years from the date of this agreement substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle and will until the completion of the purchase of the said land maintain and uphold such fence in good and substantial repair.

7. The purchaser will during this agreement keep and maintain in good and tenantable repair and condition all improvements on the said land.

* * * * *

9. The purchaser will not without the consent of the vendor being first had and obtained transfer sublet encumber or mortgage the said land.

10. The Minister, and any person authorised by him, may enter upon the land for any reasonable purpose.

11. It shall be lawful for the vendor and all persons authorised by him at all times unrestrictedly to enter into and upon the said land before completion of the purchase thereof.

12. The vendor reserves unto himself and all persons and bodies authorised by him full right and liberty without any payment to the purchaser by way of compensation from time to time and at all times hereafter, with or without beasts of draught or burden or any vehicles whatever to enter into and upon the said land for the purpose of laying pipes or a pipe track in, along, over or under the said land, and to view the condition of and to cleanse, relay, repair, and maintain the said pipes or pipe track, and to allow water to be in and flow through the said pipes or pipe track, and to construct drains and pipe tracks, and to lay pipes where required in, along, over or under the said land, and to view the condition of and cleanse, relay, repair, and maintain the said drains and

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pipe tracks and pipes, and to allow water to be in and to flow through the said drains, pipe tracks, and pipes.

13. The purchaser will ensure and during this agreement keep insured in the full insurable value thereof in some insurance office in Adelaide to be approved by the vendor all buildings and erections the property of the vendor upon the said land or which may thereafter be thereupon against loss or damage by fire such insurance to be in the joint names of the purchaser and the vendor and will forthwith lodge the policy of every such insurance in the office of the vendor and will forward to the vendor the receipts for the premiums payable in respect of every such policy within seven days after the same shall become due and if the foregoing covenant shall not be duly observed then the vendor shall be at liberty to insure the said improvements in manner aforesaid and it is agreed that all sums of money received under any such insurance shall be laid out in reinstating the premises in respect of which the same shall have been received.

14. The purchaser will destroy all rabbits on the said land and fill up their burrows to the satisfaction of the vendor and will forthwith commence to destroy all such other vermin on the said land as are by or under the *Vermin Act 1931*, or by or under any other Act for the time being in force in the said State declared to be vermin and will keep the said land free from all vermin to the satisfaction of the vendor during this agreement and will destroy Bathurst burr and all other noxious weeds growing upon the said land and upon the half width of Government roads adjacent thereto.

15. The purchaser will neither allow to remain if now existing nor erect nor suffer the erection of any brush fence upon the said land.

16. And it is hereby declared that if any of the instalments hereby reserved shall be unpaid and in arrear for more than six months after the day whereon the same is hereby made payable the purchaser having had at least three months' previous notice in writing demanding its payment, this agreement may be cancelled by the Minister of Lands or if the vendor shall be satisfied that there has been a breach in the performance of any other of the covenants herein contained or that this agreement is liable to forfeiture the vendor may re-enter and take possession of the said land and it shall be lawful for the said Minister before or after re-entry to cancel and determine this agreement and the said Minister may thereupon insert a notice in the *Government Gazette* declaring this agreement to be forfeited and such notice appearing in the *Government Gazette* shall in all courts and elsewhere and under all circumstances be taken to be conclusive evidence that this agreement has been legally cancelled and forfeited: Provided that the vendor or the said Minister shall not (except in the case of an instalment being unpaid and in arrears as aforesaid or of a breach of clause 9 hereof) exercise the powers expressed in this clause in the case of a breach of covenant before the expiration of the period of three months after notice has been given to the purchaser of such breach and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the purchaser of any breach of a covenant no notice of any future breach of the same covenant or of the continuance of the same breach thereof shall be necessary before the exercise of such powers.

17. And it is hereby expressly agreed that the said Minister may at any time or from time to time hereafter resume possession of all or any part of the said land for roads railways or tramways or for sites for towns or park lands or for mining purposes or for any public purposes whatsoever after the expiration of three calendar months from the giving by the said Minister to the purchaser of notice in writing of the intended resumption and that immediately upon the giving of such notice the right of the purchaser to complete the purchase shall cease and determine and be void as to all or such of the said lands as shall be specified in such notice and that immediately after the expiration of the said three calendar months this agreement and the right of the purchaser to possession shall cease and determine and be void as to all or such part of the said lands as shall be specified in such notice anything in this agreement to the contrary notwithstanding: Provided that on any resumption the purchaser shall be paid compensation for the loss the purchaser shall sustain thereby and in case of dispute the amount of such compensation shall be determined by the Land Board or at the option of the said Minister or the purchaser in the manner provided by section 289 of the *Crown Lands Act 1929*.

18. And it is hereby expressly declared that any notice to be served or given to the purchaser under this agreement shall be deemed to have been duly served or given if the same be sent through the post office enclosed in an envelope addressed to the purchaser at any address stated in any recent application letter or document received from him or at his usual or last known place of abode in the said State or to the care of any solicitor attorney or agent acting in the purchaser's behalf in the particular matter in respect whereof such notice

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is given and such notice shall be deemed to have been served or given on and time shall run from the day of the posting thereof as aforesaid.

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Schedule 10-Land added to the Lyrup Village Association District

Comprising all that portion of the hundred of Paringa bounded as follows: Commencing at the northern corner of block 47, thence south-easterly along the north-eastern boundary of the said block and production to the eastern side of road east of said block; thence south-south-westerly and south-westerly along the eastern and south-eastern sides of road east and south-east of said block; westerly along the southern side of road south of blocks 47, 46, and portion of block 44, south-south-westerly along the south-eastern side of road south-east of block 43, west-north-westerly and north-westerly along the south-western side of road south-west of block 43, generally northerly along the western side of road west of said block 43, blocks 42 and 40, north-easterly along the north-western side of road north-west of blocks 40 and 39, south-easterly along the north-eastern side of road north-east of block 39 to the north-western boundary of channel reserve, thence north-easterly and south-easterly along the north-west and north-eastern boundaries of said channel reserve to the western side of road west of block 33, thence generally south-westerly along said side of road and production to the northern corner of block 146, thence south-south-easterly along the eastern boundaries of blocks 146 and 45, south-easterly along the north-eastern boundaries of blocks 45 and 46 to the point of commencement.

* * * * *

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Schedule 12-Form of perpetual (special development) lease

SOUTH [ROYAL ARMS] AUSTRALIA

CROWN LEASE

(PERPETUAL (SPECIAL DEVELOPMENT) No.)

The Crown doth hereby lease to A.B. of [address and occupation] all that [here describe land leased] to be held in perpetuity at the yearly rent of [here state the amount of the rent] to be paid in advance on the day of commencing on the day of with such penalties as are provided for by the *Crown Lands Act 1929*, added thereto in case any of such rents is in arrear and subject to the reservations covenants and conditions shortly stated below and some of which are more fully set out in the *Crown Lands Act 1929*.

Covenants

2. The lessee must-

- I. Enclose the land with a sheep and cattle-proof fence before the end of the fifth year of the lease.
- II. Enclose and keep enclosed with a fence or wall ordinarily capable of resisting the trespass of sheep or cattle any excluded area included in the lease.
- III. Keep in good repair all Crown Improvements (if any) on the land.
- IV. Pay and discharge all rates taxes assessments impositions and outgoings which shall become payable in respect of the said land.

- VII. Insure and keep insured all Crown improvements (if any) on the land.

- IX. Permit the Minister, or any person authorised by the Minister, to enter upon the land for any reasonable purpose.
- X. Set apart and reserve for the growth of timber at least 2 hectares of every 100 hectares of the said land and will not destroy or permit or suffer to be destroyed any timber trees growing thereon.
- XI. Set apart and keep reserved for the purpose of preventing soil erosion such areas of the land comprised in this lease being areas covered with natural scrub growth as the Minister or his servants shall notify to the lessee and will not destroy or permit to be destroyed any natural scrub growth growing on the said areas; the said areas will be of the respective sizes and in the respective positions notified to the lessee by the Minister or his servants provided that the total area of the said areas shall not exceed one-tenth of the area of the land comprised in this lease or such greater area as the Minister on the recommendation of the Land Board may determine. The land to be set apart and kept reserved pursuant to this covenant shall be in addition to the land required to be set apart and reserved pursuant to covenant X hereof.
- XII. Comply with any notice in writing from the Minister to reduce the number of stock within the time specified in such notice and comply with any other restrictions specified in the notice.
- XIII. Forthwith commence to destroy and to keep the land and the adjoining half width of all public roads adjacent thereto free from vermin to the satisfaction of the Minister during the lease and fill up all burrows on the land and the said half width of road.
- XIV. Destroy and keep the land free from all weeds which are declared by the Governor by regulation under the *Weeds Act 1956* to be dangerous or noxious weeds.
- XV. Pay for the improvements on the said land the sum of in the following manner:

The sum of to be paid on the day of and the balance thereof together with interest at the rate of per centum per annum to be paid in equal annual instalments of being instalments of principal and interest on the day of in each year:

Provided that in the event of any such instalment being in arrear the lessee must pay interest thereon at the rate of Ten Dollars per centum per annum from the date such instalment became due until the date of payment thereof: Provided also that the lessee shall have the right to pay off the whole or any portion of the money payable under this covenant together with interest then due at any time.

And the lessee must not-

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- XVI. Transfer sublet encumber or mortgage without the written consent of the Minister first had in each case.
- XVII. Effect any ground or structural improvements on the land without first obtaining the written approval of the Minister: Provided that where the lessee effects any improvements with the consent of the Minister he will within three months of their completion lodge with the Minister a statement giving full particulars of such improvements and their location and cost.
- XVIII. Clear, cultivate or use for grazing any excluded area or part thereof.
- XIX. Erect brush fence or suffer or permit the same to be erected or to remain on the land.

Conditions

3. The lease shall be liable to forfeiture in the following cases:

- I. If default be made in payment of any rent in arrear for six months after the same falls due the lessee having had at least three months previous notice in writing demanding its payment; or if
- II. Default be made in the performance or observance of any covenant; or if
- III. The land shall be transferred sublet or mortgaged without the written consent of the Minister first had in each case; or if
- IV. The lessee shall effect any ground or structural improvements on the land without first obtaining the written approval of the Minister; or if
- V. The lessee shall clear, cultivate or use for grazing any excluded area or part thereof;
- VI. The lessee shall refuse to permit the Crown by its officers or servants to enter upon the land hereby leased to construct drains and/or pipe tracks and/or to lay pipes and/or to conserve water for public use; or if

* * * * *

- VIII. The lessee shall not set apart and reserve for the growth of timber at least 2 hectares of every 100 hectares of the said land or if the lessee shall destroy or permit to be destroyed any timber trees growing thereon; or if
- IX. The lessee shall not set apart and thereafter keep reserved for the purpose of preventing soil erosion such areas of the land comprised in this lease being areas covered with natural scrub growth of the respective sizes and in the respective positions notified to the lessee by the Minister or his servants or if the lessee shall destroy or permit to be destroyed any natural scrub growth growing on the said areas; or if
- X. The lessee shall erect brush fence or suffer or permit the same to be erected or to remain on the land.

4. If at any time the Minister is satisfied on such evidence as he deems sufficient that the stability or productivity of the land comprised in this lease is deteriorating to such an extent that further occupation would be likely to be detrimental to such land or to any adjacent land the Minister may give notice in writing to the lessee of his intention to determine this lease and upon the expiration of three calendar months from the giving of such notice the Minister may determine this lease and re-enter and take possession of the said land and no compensation shall be payable to the lessee in the event of such determination.

5. The land may be resumed by the Crown for mining or for any public work or purposes full compensation being made to the lessee for his loss.

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Schedule 13-Extended form of reservations, covenants and conditions of perpetual (special development) lease

Reference to the Form in Schedule 12	Extended Meaning
1. * *	* * * * * * * * *
2. (I) Covenant to fence	The lessee will during the first five years substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of sheep or cattle and during the currency of the lease maintain such fence or wall in good and substantial repair.
2. (III) Covenant to keep Crown improvements in Repair	The lessee will at his own cost during the said term, keep and maintain in good and tenable repair and condition all improvements (if any) the property of the Crown on the land hereby leased.
2. (V) * *	* * * * * * * * *
2. (VII) Covenant to insure Crown improvements	Insure and keep insured in the full insurable value thereof against loss and damage by fire storm and tempest all buildings erections and other improvements the property of the Crown upon the leased land in the joint names of the Minister and the lessee in some insurance office in Adelaide to be approved of by the Minister and forthwith lodge the policy of every such insurance in the office of the Minister and forward to the Minister the receipts for the premiums payable in respect of such policy within seven days after the same shall become due. The Minister may insure on default by the lessee and recover all amounts paid for such insurance in like manner as the rent is recoverable.
3. Conditions of forfeiture	Provided always, and this lease is upon this express condition, that if default shall be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing demanding its payment, or if default shall be made in the performance or observance of any covenant on the part of the lessee; or if the lessee shall, without the written consent of the Minister first had and obtained, transfer, mortgage, encumber, or sublet the premises or any part thereof; or if the lessee shall effect any ground or structural improvements on the land without first obtaining the written approval of the Minister or if the lessee shall clear cultivate or use for grazing any excluded area or part thereof, the Crown or the Minister, after three months' written notice, may re-enter and take possession of the said lands; and it shall be lawful for the Minister, before or after re-entry, to cancel and determine this lease, and the Minister may thereupon insert a notice in the <i>Government Gazette</i> declaring this lease to be forfeited, and such notice appearing in the <i>Government Gazette</i> as having been published by the authority of the Minister shall, in all courts and elsewhere, and under all circumstances, be taken to be conclusive evidence that such lease has been legally cancelled and forfeited: Provided, however, that the Minister shall not (except in the case of rent being in arrear as aforesaid, or of the transfer, mortgage, encumbrance or subletting of the premises without such consent as aforesaid) exercise the powers expressed in this clause in the case of default in the performance of a covenant before the expiration of the period of three months after notice has been given to the lessee of such default and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the lessee of any default in the performance of a covenant, no notice of any future default in the performance of the same covenant, or of the continuance of the same default, shall be necessary before the exercise of such powers.

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<p>5. Condition of resumption</p>	<p>Provided also, and it is expressly agreed, that the Crown shall, and may, at any time, or from time to time hereafter resume possession of all or any part of the said land hereby demised for roads, railways, tramways, or for sites for towns or for park lands, or for mining purposes, or for any public work or purpose upon the Minister giving three calendar months' notice to the lessee by publication in the <i>Government Gazette</i> of such intended resumption; and that immediately from and after the expiration of three calendar months after such notice shall have been given as aforesaid this lease and the demise hereby made shall cease, determine, and be void as to all or such parts of the said lands as shall be mentioned and described in such notice, anything in this lease to the contrary notwithstanding: Provided that, on any resumption, the lessee shall be paid compensation for the loss the lessee shall sustain thereby; and, in case of dispute, the amount of such compensation shall be determined by the Land Board, or, at the option of the Minister or the lessee, in the manner provided by section 289 of the <i>Crown Lands Act 1929</i>.</p>
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APPENDIX

LEGISLATIVE HISTORY

Repeals

The *Crown Lands Act 1929* repealed the following:

Crown Lands Act 1915
Crown Lands Act Suspensory Act 1915
Crown Lands Act Amendment Act 1915
Crown Lands Act Amendment Act 1917
Crown Lands Act Further Amendment Act 1919
Crown Lands Act Amendment Act 1926
Crown Lands Act Amendment Act 1927
Crown Lands Act Amendment Act 1928
Crown Lands Act Amendment Act 1929

Amendments

The *Crown Lands Act 1929* amended the following:

State Bank Act 1925

Legislative History

ùLegislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 3 of The Public General Acts of South Australia 1837-1975 at page 246.

ùLegislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Long title:	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 2:	amended by 39, 1985, s. 4; omitted under <i>Legislation Revision and Publication Act 2002</i> 24.11.2003
Section 3:	repealed by 44, 2003, s. 3(1) (Sched. 1)
Section 4:	definition of "Crown lands" amended by 39, 1985, s. 5(a)-(c) definition of "dedicated lands" amended by 39, 1985, s. 5(d) definition of "lease" substituted by 39, 1985, s. 5(e) definition of "miscellaneous lease" inserted by 39, 1985, s. 5(f) definition of "Murray-Darling Basin" inserted by 35, 2003, Sched. cl. 4(a) definition of "park lands" amended by 39, 1985, s. 5(g) definition of "perpetual lease" inserted by 39, 1985, s. 5(h) definition of "reserved lands" repealed by 39, 1985, s. 5(i)
Section 4A:	amended by 39, 1985, s. 6
Sections 4B and 4C:	inserted by 39, 1985, s. 7
Part 2 heading:	amended by 39, 1985, s. 8
Sections 5AA and 5AB:	inserted by 39, 1985, s. 9
Section 5:	amended by 109, 1978, s. 38(1); 39, 1985, s. 10; 44, 2003, s. 3(1) (Sched. 1)
Section 5(e) and (e1):	repealed by 39, 1985, s. 10(g)
Section 5(f):	repealed by 39, 1985, s. 10(h)
Section 5(j):	repealed by 39, 1985, s. 10(p)
Section 5A:	inserted by 39, 1985, s. 11
Section 6:	amended by 39, 1985, s. 12
Section 6A:	substituted by 39, 1985, s. 13
Section 6B(1):	amended by 39, 1985, s. 14
Section 7:	repealed by 39, 1985, s. 15
Section 8A:	repealed by 39, 1985, s. 15
Part 3 heading:	amended by 39, 1985, s. 16
Section 9:	amended by 46, 1978, s. 3; 39, 1985, s. 17; 44, 2003, s. 3(1) (Sched. 1)
Section 9(u):	repealed by 39, 1985, s. 17(g)
Section 9A:	inserted by 39, 1985, s. 18
Section 18A:	inserted by 39, 1985, s. 19
Section 22(1):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 29:	repealed by 39, 1985, s. 20
Section 33:	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 35(1):	amended by 39, 1985, s. 21(a), (b)

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Section 35(2):	amended by 39, 1985, s. 21(c), (d)
Section 36:	repealed by 17, 1983, s. 2
Section 42(1):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 44(1):	amended by 39, 1985, s. 22
Section 44(2):	repealed by 17, 1983, s. 3
Section 45:	repealed by 17, 1983, s. 4
Section 47:	substituted by 39, 1985, s. 23
Section 48(1):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 49(2):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 50:	repealed by 39, 1985, s. 24
Section 50A(2):	amended by 39, 1985, s. 25
Section 50B:	repealed by 39, 1985, s. 26
Section 52(1):	amended by 32, 1980, s. 15
Section 53(1):	amended by 46, 1978, s. 4
Section 57:	repealed by 39, 1985, s. 27
Section 58(2):	amended by 39, 1985, s. 28(a)
Section 58(2a) and (2b):	inserted by 39, 1985, s. 28(b)
Section 58(3):	amended by 39, 1985, s. 28(c), (d)
Section 58(4):	substituted by 39, 1985, s. 28(e)
Section 58(5):	amended by 39, 1985, s. 28(f)
Section 59(1):	amended by 39, 1985, s. 29
Section 66A(1):	substituted by 39, 1985, s. 30
Section 66A(2):	repealed by 39, 1985, s. 30
Section 66A(4):	amended by 32, 1980, s. 16
Section 66B(1):	substituted by 39, 1985, s. 31(a)
Section 66B(2):	amended by 39, 1985, s. 31(b), (c); 44, 2003, s. 3(1) (Sched. 1)
Section 66B(4):	amended by 39, 1985, s. 31(d)
Section 77(1):	amended by 44, 2003, s. 3(1) (Sched. 1)
Sections 74 - 76:	repealed by 39, 1985, s. 32
Section 77(1):	amended by 39, 1985, s. 33
Section 78A:	substituted by 39, 1985, s. 34
Section 78B:	inserted by 39, 1985, s. 34
Section 82:	definition of "inspector" repealed by 6, 1977, s. 3(a) definition of "irrigation works" amended by 6, 1977, s. 3(b) definition of "rules" substituted by 6, 1977, s. 3(c) redesignated as s. 85(1) by 46, 1978, s. 5
Section 85:	inserted by 46, 1978, s. 5
Section 85(2) and (3):	substituted by 23, 2001, s. 71
Section 86:	amended by 46, 1978, s. 6(a)-(c)
Section 87(1):	substituted by 46, 1978, s. 6(d)
Section 87(2):	repealed by 46, 1978, s. 7
Section 88A(2) - (6):	repealed by 6, 1977, s. 4
Section 88A(7):	repealed by 46, 1978, s. 7
Section 88A(8) - (10):	
	Division 3 of Part 8 comprising ss. 90 - 93 and heading repealed by 46, 1978, s. 8
Section 94(1):	amended by 46, 1978, s. 9(a)
Section 94(2):	substituted by 46, 1978, s. 9(b)
Section 94(3):	repealed by 46, 1978, s. 9(c)
Section 94(6):	repealed by 6, 1977, s. 5
Section 94(8):	repealed by 46, 1978, s. 9(d)
Section 94(9):	repealed by 46, 1978, s. 9(e)
Section 95:	repealed by 46, 1978, s. 10
Section 96:	amended by 46, 1978, s. 11
Sections 97 and 98:	repealed by 46, 1978, s. 12
Section 99:	amended by 46, 1978, s. 13
Section 100:	repealed by 46, 1978, s. 14
Section 101:	amended by 6, 1977, s. 6; 46, 1978, s. 15
	Division 5 of Pt. 8 consisting of ss. 102 - 104 and heading amended by 6, 1977, ss. 7, 8; 46, 1978, s. 16; repealed by 39, 1994, Sched. 3
Section 105:	substituted by 6, 1977, s. 9
Section 106:	repealed by 6, 1977, s. 9; inserted by 46, 1978, s. 17
Section 107A(1):	repealed by 39, 1994, Sched. 3
Section 107A(2):	amended by 46, 1978, s. 18(a); substituted by 77, 1980, s. 2(a); repealed by 39, 1994, Sched. 3

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Section 107A(3):	amended by 46, 1978, s. 18(b); substituted by 77, 1980, s. 2(a)
Section 107A(4):	amended by 77, 1980, s. 2(b)
Section 107A(5):	repealed by 39, 1994, Sched. 3
Sections 108 and 109:	repealed by 6, 1977, s. 10
Section 110(1):	amended by 6, 1977, s. 11(a)
Section 110(2):	repealed by 6, 1977, s. 11(b)
Sections 111 and 112:	substituted by 6, 1977, s. 12
Sections 115 and 116:	substituted by 6, 1977, s. 13
Section 125:	amended and designated as subsections (1) and (2) by 44, 2003, s. 3(1) (Sched. 1)
Section 144:	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 145 first sentence:	designated as s. 145(1) by 44, 2003, s. 3(1) (Sched. 1)
Section 145 second sentence:	designated as s. 145(2) by 44, 2003, s. 3(1) (Sched. 1)
Section 146A:	inserted by 35, 2003, Sched. cl. 4(b)
Section 170(2):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 170(2) sentence commencing "The provisions of Divisions 5":	designated as s. 170(2a) by 44, 2003, s. 3(1) (Sched. 1)
Section 171:	amended by 39, 1985, s. 35; 44, 2003, s. 3(1) (Sched. 1)
Section 172(2):	amended by 39, 1985, s. 36
Section 174(1):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 174(1) III:	repealed by 17, 1983, s. 5(a)
Section 174(3) and (4):	repealed by 17, 1983, s. 5(b)
Section 174A(1):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 174A(2):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 175(1):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 175A:	repealed by 44, 2003, s. 3(1) (Sched. 1)
Section 187:	amended by 17, 1983, s. 6
Section 188:	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 189:	designated as subsections and paragraphs by 44, 2003, s. 3(1) (Sched. 1)
Section 192(3):	inserted by 39, 1985, s. 37
Section 194:	repealed by 39, 1985, s. 38
Section 200:	repealed by 39, 1985, s. 39
Section 201(1):	amended by 39, 1985, s. 40(a)
Section 201(2):	amended by 39, 1985, s. 40(b)
Section 202:	repealed by 39, 1985, s. 41
Section 206(1):	amended by 39, 1985, s. 42(a)
Section 206(2):	substituted by 39, 1985, s. 42(b)
Section 206(2a), (3) and (4):	repealed by 39, 1985, s. 42(b)
Section 210:	amended by 43, 1980, s. 2
Section 211(1):	amended by 39, 1985, s. 43(a); 44, 2003, s. 3(1) (Sched. 1)
Section 211(1a) second sentence:	designated as s. 211(1b) by 44, 2003, s. 3(1) (Sched. 1)
Section 211(1a) third sentence:	designated as s. 211(1c) by 44, 2003, s. 3(1) (Sched. 1)
Section 211(1a) fourth sentence:	designated as s. 211(1d) by 44, 2003, s. 3(1) (Sched. 1)
Section 211(2):	amended by 39, 1985, s. 43(b)
Section 212(1):	amended by 43, 1980, s. 3(a)
Section 212(2):	amended by 39, 1985, s. 44
Section 212(4):	repealed by 43, 1980, s. 3(b)
Section 221(2) second sentence:	designated as s. 221(2aaa) under <i>Legislation Revision and Publication Act 2002 24.11.2003</i>
Section 221(2ac):	redesignated as s. 221(2aab) under <i>Legislation Revision and Publication Act 2002 24.11.2003</i>
Section 221(2a) second sentence:	designated as s. 221(2ab) by 44, 2003, s. 3(1) (Sched. 1)
Section 221(2a) third sentence:	designated as s. 221(2ac) by 44, 2003, s. 3(1) (Sched. 1)
Section 221(2a) fourth sentence:	designated as s. 221(2ad) by 44, 2003, s. 3(1) (Sched. 1)
Section 222(1):	amended by 39, 1985, s. 45; 44, 2003, s. 3(1) (Sched. 1)
Sections 225 and 226:	substituted by 39, 1985, s. 46
Part 8 heading:	amended by 39, 1985, s. 47
Section 228:	amended by 39, 1985, s. 48; 44, 2003, s. 3(1) (Sched. 1)
Section 228AA:	inserted by 46, 1978, s. 19; repealed by 39, 1985, s. 49
Section 228B:	substituted by 39, 1985, s. 50
	Division 2 of Part 8 comprising ss. 238 - 240 and heading repealed by 39, 1985, s. 51
Section 241(1):	amended by 44, 2003, s. 3(1) (Sched. 1)
Section 244(1):	amended by 39, 1985, s. 52; redesignated as s. 244(1) by 35, 2003, Sched. cl. 4(c); amended by 44, 2003, s. 3(1)
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Section 244(2) and (3):
Section 245:
Section 246(3) and (4):**inserted by 35, 2003, Sched. cl. 4(c)**
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Section 249C:	inserted by 17, 1983, s. 7
Sections 249D and 249E:	inserted by 39, 1985, s. 54
Section 250:	substituted by 39, 1985, s. 55
Section 251A:	inserted by 39, 1985, s. 56
Section 254(1):	amended by 39, 1985, s. 57
Section 256(1):	amended by 39, 1985, s. 58(a)
Section 256(2):	amended by 39, 1985, s. 58(b)
Section 258:	amended by 39, 1985, s. 59
Section 260:	substituted by 46, 1978, s. 20
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Section 260(3):	substituted by 39, 1985, s. 60(b)
Section 261(1):	amended by 39, 1985, s. 61(a) - (c)
Section 261(3):	amended by 39, 1985, s. 61(d), (e)
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Section 261A(1):	amended by 39, 1985, s. 62(a)
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Section 262A(4):	amended by 39, 1985, s. 63(d)
Section 262AA(1):	amended by 39, 1985, s. 64
Section 271B:	repealed by 84, 1986, s. 2
Section 271D(1):	substituted by 46, 1978, s. 21(a)
Section 271D(3):	substituted by 46, 1978, s. 21(b)
Section 271D(7):	substituted by 46, 1978, s. 21(c)
Section 271D(8) and (9):	inserted by 46, 1978, d. 21(d)
Section 271E:	inserted by 46, 1978, s. 22
Section 271F:	inserted by 26, 1994, s. 2
Section 273(1):	amended by 39, 1985, s. 65
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Section 275(1):	amended by 39, 1985, s. 67
Section 277:	amended by 39, 1985, s. 68
Section 285:	amended by 59, 1994, Sched. 2
Section 287:	amended by 59, 1994, Sched. 2
Section 288(1):	amended by 46, 1978, s. 23(a)
Section 288(1a):	substituted by 46, 1978, s. 23(b); amended by 39, 1985, s. 69(a)
Section 288(2) - (4):	repealed by 39, 1985, s. 69(b)
Section 293:	amended by 39, 1985, s. 70
Section 294A(1):	amended by 39, 1985, s. 71
Schedule 1:	repealed by 44, 2003, s. 3(1) (Sched. 1)
Schedule 3	
Heading:	substituted by 44, 2003, s. 3(1) (Sched. 1)
Clause 2 III:	repealed by 17, 1983, s. 8
Schedule 4	
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Schedule 5	
Clause 6:	repealed by 17, 1983, s. 10
Schedule 6:	repealed by 39, 1985, s. 72
Schedule 9	
Clause 8:	repealed by 17, 1983, s. 11
Schedule 12	
Heading:	substituted by 44, 2003, s. 3(1) (Sched. 1)
Clause 2 V and VI:	repealed by 17, 1983, s. 12
Schedule 13	
Heading:	substituted by 44, 2003, s. 3(1) (Sched. 1)
Item 2 (V):	repealed by 17, 1983, s. 13