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Crown Lands Act 1976

Version current from 5 November 2021 to date (accessed 28 April 2023 at 14:47)



Crown Lands Act 1976

An Act to make fresh provisions with respect to the management, sale, and disposal of the lands of the Crown

[Royal Assent 19 July 1976]

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

PART I - Preliminary

1. Short title and commencement

- (1) This Act may be cited as the Crown Lands Act 1976 .
- (2) This Act shall commence on a date to be fixed by proclamation.

2. Interpretation

In this Act, unless the contrary intention appears –

assigned land means –

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

biological diversity means the variety of –

- (a) plants, animals and micro-organisms; and
- (b) the genes contained in plants, animals and micro-organisms; and
- (c) the ecosystems of which plants, animals and micro-organisms form part;

Conservation Management Trust means a Conservation Management Trust established under section 12I ;

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

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

Director-General means the Director-General of Lands appointed pursuant to section 7 ;

geological diversity means the natural range of geological, geomorphological and soil features, assemblages, systems and processes;

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

land includes land covered by the sea or other waters, and the part of the sea or those waters covering that land;

management plan has the meaning assigned to that expression by section 12C(5) ;

managing authority, in relation to any Crown land reserved as a public reserve, means the managing authority for that land pursuant to section 12G ;

mining operations means mining operations within the meaning of the Mineral Resources Development Act 1995 ;

mining right means any right accruing –

- (a) under the Mineral Resources Development Act 1995 to the holder of a mineral tenement within the meaning of that Act; and
- (b) to any person who has made an application under section 70 or 96 of the Mineral Resources Development Act 1995 ;

Portfolio Department means the State instrumentality that has the primary responsibility for controlling or managing portfolio land;

portfolio land means Crown land, the control and management of which is the primary responsibility of a State instrumentality other than the Department;

Portfolio Minister, in relation to any portfolio land, means the Minister responsible for the State instrumentality that has the primary responsibility for controlling or managing that land;

prescribed body means –

- (a) a public authority having jurisdiction over the locality in which the Crown land reserved as a public reserve is located; or
- (b) a body corporate –
 - (i) whose objectives or purposes in the opinion of the Minister are primarily conservation purposes; and
 - (ii) that in the opinion of the Minister has a structure and capacity to effectively exercise the functions of a managing authority; or
- (c) a Conservation Management Trust;

public authority has the same meaning as in the National Parks and Reserves Management Act 2002 ;

public reserve means Crown land that has been reserved to the Crown as a public reserve under section 8 ;

purposes of reservation, in relation to any Crown land reserved as a public reserve, means the purposes for which that land was reserved;

resource management and planning system objectives means the objectives of the resource management and planning system of Tasmania as set out in Schedule 3 ;

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

State instrumentality means –

- (a) a Government department within the meaning of the State Service Act 2000 ; and
- (b) a State authority within the meaning of the State Service Act 2000 ;

statutory power has the same meaning as in the National Parks and Reserves Management Act 2002 ;

works includes the following:

- (a) any change to the natural or existing condition or topography of land;
- (b) any building work within the meaning of the Building Act 2016 ;
- (c) any other works the Governor, by proclamation, declares to be works for the purposes of this Act.

2A. Act not to apply to certain land

This Act does not apply to any Crown land that is –

- (a) reserved land within the meaning of the Nature Conservation Act 2002 ; or
- (b) permanent timber production zone land within the meaning of the Forest Management Act 2013 .

PART II - Administration

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

Subject to this Act, the Minister has power to reserve, set aside, manage, lease, license and transfer or otherwise dispose of Crown land.

3A. Compliance with resource management and planning system objectives

(1) In exercising any powers or performing any functions under this Act in relation to any Crown land that is reserved as a public reserve, a person must have regard to the resource management and planning system objectives.

(2) In the case of a public reserve for which there is a management plan, if there is any inconsistency between the resource management and planning system objectives and the provisions of the management plan, the provisions of the management plan prevail.

(3) In the case of a public reserve for which there is not a management plan, if there is any inconsistency between the resource management and planning system objectives and the management objectives specified in Schedule 4 or the purposes for which that land was reserved, the latter objectives and the purposes prevail.

4. Land districts and parishes

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

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

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

5. Sites for towns

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

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

(b) which are –

(i) adjacent to a city or town; or

(ii) intended by the Governor to be sites for towns, villages, or hamlets.

(2) Areas constituted in accordance with subsection (1)(b)(ii) may, on the recommendation of the Place Names Advisory Panel established by the Place Names Act 2020, be assigned names in the proclamations constituting them.

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

(1) Crown land shall be disposed of in accordance with this Act and not otherwise.

(2) Nothing in subsection (1) is to be taken as limiting the operation of any provision of the Crown Lands (Shack Sites) Act 1997 in relation to the sale of a shack site under that Act.

7. Appointment of Director-General of Lands and employees

(1) The Governor may appoint a State Service officer or State Service employee to be Director-General of Lands and that officer or employee is to hold that office in conjunction with State Service employment.

(2) Subject to and in accordance with the State Service Act 2000, persons may be appointed or employed for the purposes of this Act.

8. Public purposes for which land may be reserved

(1) The Minister may, by order, reserve any Crown land to the Crown as a public reserve –

- (a) if the land possesses any of the values specified in Column 2 of Schedule 5 ; and
- (b) for any of the purposes specified in Column 3 of Schedule 5 .
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)

(2)

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

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

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

(5A) After the commencement of the Land Use Planning and Approvals Act 1993 , any littoral or riparian reserve, within the meaning of the *Local Government Act 1962*, is deemed to be reserved under this section free of any limitation as to its use but any grant or sale of that reserve must be carried out in accordance with section 64(1)(c) and (d) and (2) .

(6) Orders-in-council made under section 22 of the *Lands Resumption Act 1957*, including proclamations referred to in subsection (7) , and in force immediately before the commencement of this Act are to be taken to have continued in force and to have had effect after that commencement as if they were orders made under subsection (1) and may be revoked or amended accordingly.

(7) Proclamations made under section 68 of the *Lands Resumption Act 1910* and in force immediately before the commencement of the *Lands Resumption Act 1957* are to be taken to have continued in force and to have had effect after that commencement as if they were orders-in-council made under section 22 of the *Lands Resumption Act 1957*.

9.

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10. Power to revoke certain reservations

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

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

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

(b) if the revocation is consented to by those owners after the publication of the order in the *Gazette*, on the date on which the consent to the revocation is published in the *Gazette*; or

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

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

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

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

11. Bailiffs of Crown lands

(1) A police officer or a ranger, within the meaning of the National Parks and Reserves Management Act 2002 , is a bailiff of Crown lands and the Minister may appoint such other persons as bailiffs of Crown lands as he thinks fit.

(2) Every bailiff shall –

(a) prevent intrusion, encroachment, and trespass on any Crown land or assigned land; and

(b) levy or recover rent or licence fees payable in respect of any Crown land; and

(c) take and recover possession of any Crown land in case of forfeiture; and

(d) seize and cause to be towed away to any garage or other place any vehicle parked or left without lawful authority on any Crown land or assigned land and not release the same until the owner or other person acting on his behalf reimburses the Crown with the cost of the towage of the vehicle, the cost of its garaging or keeping, and the cost of its release; and

(e) dispose of any chattels which are left or abandoned by any person on any Crown land or assigned land; and

(f) perform such duties as may be prescribed or as the Minister may direct.

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

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

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

(2)

(3) For the purposes of giving effect to any order under this section, the Minister has power, upon receipt of the purchase price (if any) in respect of the land comprised in the order and upon fulfilment by the transferee of all conditions precedent, to convey and alienate in the name and on behalf of Her Majesty the land in fee simple in accordance with section 10 of the Lands Titles Act 1980 .

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

PART IIB - Management of public reserves

12C. Management plans

- (1) The Governor, on the recommendation of the Minister, may approve plans for the protection, use, development and management of any Crown land reserved as a public reserve.
- (2) A plan approved under this section may be a plan that in whole or in part rescinds, replaces or alters any plan previously approved under this section.
- (3) A plan approved under this section may relate to –
 - (a) all Crown land reserved as a public reserve; or
 - (b) a specified public reserve; or
 - (c) a specified part of any public reserve; or
 - (d) a specified group of public reserves.
- (4) If a management plan (the "specific plan") is approved for any public reserve or part of a public reserve that is within a specified group of public reserves for which there is a management plan (the "general plan") or if a management plan has been approved in relation to all Crown land reserved as a public reserve (the "general plan"), the provisions of the specific plan prevail over the provisions of the general plan to the extent of any inconsistency.
- (5) The plans approved under this section and for the time being in force in respect of any Crown land reserved as a public reserve are in this Act referred to as the management plan for that land.

12D. Formulation of management plans

- (1) The Director-General is to cause to be prepared, with a view to their submission to the Governor by the Minister, the plans referred to in section 12C .
- (2) In preparing a management plan for any Crown land reserved as a public reserve, the Director-General is to have regard to the purposes specified in Column 3 of Schedule 5 and the management objectives specified in Schedule 4 .
- (3) The Governor is not to approve a plan under section 12C unless it is submitted in accordance with this section.
- (4) If the Director-General considers that an Act administered in or by an agency or State authority will or may be affected by a restriction on the exercise of a statutory power that it is proposed to include in a management plan, being a statutory power the right to exercise which is conferred on –
 - (a) the responsible officer of the agency or State authority; or
 - (b) a person employed in the agency or employed by or in the State authority(not being the responsible officer of the agency or State authority); or
 - (c) the State authority, in the case of an Act administered in or by the State authority; or
 - (d) the Minister responsible for the administration of the agency or State authority –

the Director-General must, by written notice given to the responsible officer of the agency or State authority, request that officer to provide the Director-General with written representations stating whether or not the officer considers the inclusion of the restriction in the plan to be necessary or desirable and giving reasons for making the representations.

- (5) For the purposes of subsection (4) ,

responsible officer means –

- (a) in relation to an agency, the Head of that agency; and

(b) in relation to a State authority, the president, chairperson or other principal or presiding member of the State authority or, if the State authority comprises a single person, that person.

(6) If the Director-General considers that –

- (a) a private right to take water; or
- (b) any land within a municipal area –

will, or may, be affected by a management plan, it must consult with the holder of that private right or with the council of that municipal area.

(7) The Director-General, in a notice given for the purposes of subsection (4) , may specify a time, being not less than 30 days after the date of the receipt of the notice by the person to whom it is given, within which the Director-General is to be provided with representations for the purposes of that subsection.

(8) A notice given for the purposes of subsection (4) may be sent by post or delivered personally to the person to whom it is directed.

(9) Before a plan is submitted to the Governor for approval under section 12C , the Minister is to cause to be published in a daily newspaper circulating within the State a notice –

- (a) stating that it is proposed to submit a plan in respect of Crown land that is reserved as a public reserve to the Governor for approval; and
- (b) specifying the place at which the plan may be inspected and copies obtained; and
- (c) stating that representations with respect to the plan may be made to the Minister before a date specified in the notice, not being earlier than 30 days after the publication of the notice.

(10) If a notice has been published in respect of a plan under subsection (9) , the Director-General, on the payment of any charge the Minister may fix, is to provide a copy of that plan to any person requesting the plan.

(11) Subject to subsections (13) and (14) , the Minister is to submit a plan to the Governor for approval after the Minister has considered any representations with respect to the plan made to him or her by any person in response to a notice under subsection (9) .

(12) In considering any representations made to the Minister in respect of a management plan for any Crown land reserved as a public reserve, or in altering any management plan, the Minister is to have regard to the purposes specified in Column 3 of Schedule 5 and the management objectives specified in Schedule 4 .

(13) A plan submitted for the Governor's approval under section 12C may be an unaltered plan or a plan containing such alterations as, subject to subsection (14) , the Minister thinks desirable, having regard to the representations referred to in subsection (11) .

(14) The Minister must not make alterations to a plan, being alterations that will affect a restriction on the exercise of a statutory power included in that plan, unless the Minister has consulted the Minister administering the Act under which that statutory power is exercised.

12E. Contents of management plans

(1) A management plan for any Crown land reserved as a public reserve –

- (a) may indicate the manner in which the powers of the Director-General or other managing authority for that land are to be exercised in relation to that land; and
- (b) may prohibit or restrict, in relation to that land or any part of that land, the exercise of those powers; and
- (c) may contain any other provisions that are authorised by this Act to be contained in the plan; and
- (d) is to specify any or all of the purposes specified in Column 3 of Schedule 5 as the purposes for which that land was reserved as a public reserve; and
- (e) is to specify any or all of the management objectives specified in Schedule 4 as the objectives for which that land is to be managed; and

(f) may specify any condition that applies to the application of any objective referred to in paragraph (e) specified in the management plan; and

(g) is to specify the manner in which the objectives referred to in paragraph (e) specified in the management plan are to be achieved.

(2) A management plan for any Crown land reserved as a public reserve may prohibit or restrict the exercise in relation to that land of any statutory powers.

(3) Any restriction imposed under this section on the exercise of a statutory power may be a restriction specifying the conditions subject to which it may be exercised, or the circumstances in which it may or may not be exercised.

(4) Any condition imposed under this section on the exercise of a statutory power may be a condition requiring the carrying out, or designed to facilitate or promote the carrying out, of works and other operations during or after the exercise of that power, or requiring the entering into of contracts or the making of any other arrangements designed to secure the carrying out of those works or operations.

12F. Notification and taking effect of management plans

(1) The Minister, as soon as possible after the Governor has approved a management plan, is to cause notice of the approval of the plan to be published in the *Gazette*.

(2) A management plan takes effect on the seventh day after the date of notice of its approval has been published as required by subsection (1) .

(3) If notice of the approval of a management plan has been published under subsection (1) , the Director-General –

(a) on the request of any person and without payment of a fee, is to permit that person to inspect the plan; and

(b) if it is practicable, on the request of any person and on payment by that person of any charge that the Minister fixes, is to provide that person with a copy of the plan.

12G. Managing authorities for public reserves

(1) Subject to the orders made under this section, the Director-General is the managing authority for all Crown land reserved as a public reserve.

(2) The Governor may, by order made with the consent of a prescribed body, declare that body to be the managing authority for any Crown land reserved as a public reserve.

(3) A prescribed body may only be appointed as a managing authority in respect of Crown land reserved as a public reserve for which there is a management plan.

(4) An order under this section in respect of any Crown land reserved as a public reserve may make provision with respect to –

(a) the defraying of the expenses incurred under this Act in relation to that land; and

(b) the application of any moneys received under this Act by way of rents, charges, or otherwise, in respect of the land –

and the provisions of this Act and of any enactment relating to any public authority that is the owner of, or the managing authority for, that land or in whom that land is vested have effect subject to the provisions of the order.

(5) An order under this section may be revoked or varied by a further order of the Governor.

(6) Notwithstanding anything in this section, the Governor may, by order, declare that, on such date as may be specified in the order, any order under this section by which the Director-General or a prescribed body is the managing authority for any Crown land reserved as a public reserve ceases to have effect and, on that date, the Director-General or the prescribed body, as the case may be, ceases to be the managing authority for that land.

12H. Functions of managing authority in relation to public reserves

- (1) Subject to this Act, the managing authority for any Crown land reserved as a public reserve –
- (a) for which there is a management plan is to manage that land in accordance with that management plan; or
 - (b) for which there is not a management plan is to manage that land –
 - (i) in a manner that is consistent with the purposes for which the land was reserved as a public reserve; and
 - (ii) having regard to the management objectives specified in Schedule 4 .
- (2) For the purpose of discharging its functions in relation to any Crown land reserved as a public reserve, a managing authority may do, or arrange for the doing of, such things as it considers necessary, including the erection or construction of any works and the purchase or other acquisition of any articles or other things.
- (3) Without prejudice to the generality of subsections (1) and (2) , the powers conferred by those subsections are taken to include power to –
- (a) provide and maintain facilities and conveniences for the use or benefit of persons resorting to Crown land reserved as a public reserve, and charge for the use of those facilities or conveniences; and
 - (b) sell or let on hire to, or otherwise provide for the use of, those persons, goods and other articles and things; and
 - (c) obtain and use for the purpose of the exercise of its powers under this section any produce of, or materials in, Crown land reserved as a public reserve; and
 - (d) make arrangements with any other person for the doing of anything referred to in paragraph (a) , (b) or (c) .
- (4) The arrangements referred to in subsection (3)(d) may be arrangements pursuant to which any person has the right or obligation to do any of the things referred to in that subsection, and those arrangements may provide for the furnishing of consideration in respect of the giving of that right or the imposition of that obligation.

12I. Establishment of Conservation Management Trust

- (1) The Minister, by written instrument, may establish a Conservation Management Trust to be the managing authority for any public reserve for which there is a management plan.
- (2) The instrument establishing a Conservation Management Trust is to specify the public reserve in respect of which the Trust is the managing authority.

12J. Functions of Conservation Management Trust

- (1) The function of a Conservation Management Trust is to manage the land in respect of which it is the managing authority in accordance with the provisions of the management plan for that land.
- (2) The instrument establishing a Conservation Management Trust –
- (a) is to specify the functions of the Conservation Management Trust; and
 - (b) may specify any other matter that the Minister considers necessary.

12K. Membership of Conservation Management Trust

- (1) A Conservation Management Trust is to consist of any of the following persons appointed by the Minister:
- (a) a person nominated by a council or the councils with jurisdiction in the locality where the public reserve is situated;
 - (b) a person nominated by a Landcare, Bushcare or similar group constituted under the authority of a council or the councils with jurisdiction in the locality where the public reserve is situated;
 - (c) a person nominated by a body that provides facilities or services to tourists;

- (d) a person nominated by a group whose objectives or purposes in the opinion of the Minister are conservation objectives or purposes;
 - (e) a person nominated by a group whose objectives or purposes in the opinion of the Minister are recreational objectives or purposes;
 - (f) a person nominated by the Aboriginal Land Council of Tasmania;
 - (g) the Director-General or a person nominated by the Director-General;
 - (h) a person nominated by any other group or body that, in the opinion of the Minister, is likely to contribute beneficially to the management of the public reserve.
- (2) The Minister is to appoint one of the persons referred to in subsection (1) as chairperson of the Trust.
- (3) Schedule 6 has effect with respect to the membership and meetings of the Trust.

12L. Revocation of establishment of Conservation Management Trust

- (1) The Minister may revoke the establishment of a Conservation Management Trust for any reason that the Minister considers necessary by serving a notice to that effect on each of the members of the Trust.
- (2) On or after the revocation of the establishment of a Conservation Management Trust, the Minister may give directions as to –
- (a) the disposition of any accounts of the Trust; and
 - (b) the transfer of any liabilities of the Trust.

PART III - Sale of Crown Land

13. Sale of Crown land

- (1) Subject to this Act, the Minister may with the approval of the Governor, sell Crown land including any estate or interest therein in such manner, to such persons, and on such terms and conditions as he thinks fit.
- (2) Notwithstanding anything in subsection (1), the approval of the Governor is not required –
 - (a) for the sale of Crown land by auction or otherwise in accordance with section 18 ; or
 - (b) for the sale of any Crown land by public tender; or
 - (c) for the sale of a piece of Crown land the area of which is less than 500 hectares.
- (3) Before the Minister sells any Crown land, the Director-General shall fix the reserve price of the land and, in so fixing that price, he shall have regard to –
 - (a) the valuation of the land; and
 - (b) the cost of any improvements effected or to be effected on, to, or in respect of the land; and
 - (c) the value of trees growing thereon which have or may have commercial or industrial uses; and
 - (d) any expenses incurred in the sale of, and the cost of providing title to, the land.
- (4) Subject to section 18(3)(a), the Minister shall not sell any Crown land at a price that is less than the price fixed by the Director-General in respect of that land.
- (5) Every sale of Crown land shall be effected by means of a contract in writing.
- (6) Terms and conditions of a contract may provide for the payment of purchase-moneys by instalments.
- (7) Where Crown land is sold under this Act, the Minister has power, in the name and on behalf of Her Majesty, to convey and alienate the land in fee simple.
- (8) Before any rural land is sold under this Act the Minister shall obtain from the Forestry corporation continued by section 6 of the Forest Management Act 2013 a report in respect of that land and if the Forestry corporation recommends against the sale of that land by reason of timber growing thereon the Minister shall obtain the approval of the Governor-in-Council before he sells the land.
- (9) The provisions of this section also apply to the sale of an estate or interest in Crown land.

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

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

15. Payments of interest on moneys owing upon sale of Crown land

- (1) There shall be payable on any money owing to the Minister upon a sale of Crown land interest at such rate as the Minister may, in any case, determine, the interest to be calculated at half-yearly rests or as may be specified in the agreement or security document.
- (2) In determining interest under subsection (1) the Minister shall have regard to –
 - (a) the long term bond rate on Commonwealth securities; and
 - (b) interest rates payable to lending institutions on mortgage in respect of land; and
 - (c) any circumstances of the case which the Minister deems relevant.
- (3) Notwithstanding any other provision of this section the rate of interest payable under this section shall not be less than –
 - (a) 4 per cent per annum in the case of rural land; and

(b) 5 per cent per annum in the case of any other land.

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

- (1) Where land is sold as provided by this Act, the Minister shall in the name and on behalf of Her Majesty convey and alienate the land in fee simple in accordance with section 10 or 58 of the Land Titles Act 1980 , as may be appropriate.
- (2) Every grant deed or transfer of any Crown land shall contain a reservation to the Crown of the right at all times of making and constructing in or on the land such drains, sewers, and waterways for sanitary or other purposes as may be deemed expedient, and also the right of altering, amending, cleansing, or repairing those drains, sewers, and waterways.
- (3) No grant deed or transfer of any Crown land shall include or convey gold, silver, copper, tin, or other metals, ore, mineral, or other substances containing metals, or gems or precious stones, or coal or mineral oil, in or upon that land, and the same shall be deemed to have been excepted and reserved to the Crown.
- (4) A reservation or exception under this section has effect notwithstanding the Land Titles Act 1980 .

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

- (1) Without prejudice to the generality of the provisions of section 13 (1) , the Minister has power, in respect of Crown land, to do the following acts and things or any of them, that is to say:
 - (a) Classify the land in such manner as he may determine; and
 - (b) Determine the eligibility of persons or classes of persons who may purchase the land or the land so classified; and
 - (c) Determine the conditions and restrictions which may apply to the land or the land so classified; the conditions which a purchaser shall fulfil in respect of, and the improvements which he shall effect to, the land.
- (2) Where the Minister classifies any Crown land or makes any determination in respect thereof under subsection (1) , he shall not sell the land other than in accordance with the classification or determination.

18. Special provisions relating to sale by auction

- (1) Where the Minister proposes to sell any Crown land by auction he shall cause to be published in the *Gazette* and a newspaper circulating within the district in which the land is situated, at least a fortnight before the date on which the auction is to be held, a notice setting out the time and place of the auction and the particulars of the land intended to be sold.
- (2) The Minister may, in respect of the sale by auction of any Crown land –
 - (a) withdraw the land from sale at any time before it is sold and sell it by private treaty at a price which is not less than the reserve price fixed in respect thereof by the Director-General; and
 - (b) reserve his right to bid at the auction up to and including the reserve price fixed by the Director-General; and
 - (c) bid or cause bids to be made on his behalf at the auction.
- (3) Where bids made at an auction do not reach the reserve price, the Minister may –
 - (a) sell the land to the person making the highest bid at the auction; or
 - (b) request the Director-General to review the reserve price thereof with a view to fixing a fresh reserve price and offer the land again for auction at the reviewed reserve price.
- (4) Nothing in this section shall be construed as obliging the Minister or the auctioneer to disclose the amount fixed by the Director-General as the reserve price of any Crown land before or after its sale by auction.
- (5) Where any person conducting an auction of any Crown land makes a representation in respect of that land which he knows or ought to know to be false and, as a result of that representation, loss is suffered by the purchaser of that land, the Minister shall make good that loss.

19. Successful bidder to pay deposit on day of auction

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

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

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

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

(1) The Minister shall not transfer or convey any Crown land until –

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

(b) where the Minister agrees to take a mortgage for the moneys owing upon sale thereof, the documents relating thereto have been completed and handed over to the Minister; and

(c) all conditions to which the purchaser is subject under this Act and under the contract have been fulfilled.

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

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

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

(a) particulars of the improvements effected on or to the land purchased by him; and

(b) particulars of the value and the cost of such improvements; and

(c) such other particulars as the Director-General may require or determine.

(2) If the purchaser –

(a) fails to furnish a declaration in accordance with subsection (1) ; or

(b) furnishes a declaration that does not comply with the requirements of that subsection –

he shall be guilty of an offence and liable to a fine not exceeding 2 penalty units.

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

22. Forfeiture for non-payment of instalments

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

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

(a) cause to be published in the *Gazette* a notice of his intention to declare the land to be forfeited at the expiration of 30 days from the date of the publication of the notice; and

(b) cause a copy of the notice to be served on the purchaser.

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

23. Forfeiture for breach of conditions

- (1) Where the purchaser of any Crown land under contract has, in the opinion of the Minister, failed to comply with, or otherwise breached, any condition of the contract other than non-payment of instalments payable thereunder, the Minister shall give notice in writing to the purchaser that he intends to declare the land to be forfeited to the Crown.
- (2) The notice shall specify the alleged cause of forfeiture and the purchaser's right to object against the forfeiture to the Minister in accordance with subsection (3) .
- (3) If the purchaser desires to object against the forfeiture, he shall, within the period of 30 days of the notice of forfeiture being served on him, serve on the Minister, his objection in writing setting forth the grounds of his objection and the Minister shall consider the objection and advise the purchaser in writing of his decision.
- (4) If the decision of the Minister is to proceed with forfeiture, the purchaser may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision.
- (5)
- (6)
- (7) Subject to subsection (8) , if the purchaser fails to object against forfeiture in accordance with subsection (2) or he has complied with that subsection but failed to comply with subsection (3) or he has complied with both of those subsections but the Magistrates Court (Administrative Appeals Division) has affirmed the decision under review, the Minister shall, by notice published in the *Gazette*, declare the land to be forfeited to the Crown.
- (8) The Minister may, before the publication in the *Gazette* of the notice referred to in subsection (7) and in his absolute discretion, extend any of the times referred to in this section.
- (9) A notice under subsection (7) is not a statutory rule within the meaning of the Rules Publication Act 1953 .

24. Effect of forfeiture

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

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

25. Dealing with land held under contract

- (1) Any assignment, transfer, or other dealing by any holder of Crown land of his interest shall be of no effect unless the consent in writing of the Minister is first obtained, the consent not to be unreasonably withheld.
Penalty: Fine not exceeding 10 penalty units.
- (2) No assignment, transfer, or other dealing with, or transmission of, any interest of the holder of Crown land under contract shall be effectual unless the assignment, transfer, other dealing, or transmission –
 - (a) is prepared in a form approved by the Director-General; and
 - (b) is forwarded to the Director-General with the prescribed fee; and
 - (c) is registered by the Director-General.
- (3) Without prejudice to the power of the Minister to withhold his consent under this section on any other ground, the Minister shall not consent to any assignment, transfer, or other dealing of any Crown land held under contract unless he is satisfied that the proposed assignee or transferee –
 - (a) is a person to whom the land would have been sold if it were not under contract; and
 - (b) is able to fulfil the conditions of the contract.

26. Transmission without probate or administration in certain cases

(1) Where a purchaser of Crown land under contract has died and the Director-General is of the opinion that the value of the estate left by the purchaser is not sufficient to justify the proving of the will or the taking out of letters of administration, the Director-General may cause transmission of the interest of the purchaser in the land to be entered in the records of the Department in favour of the person entitled to benefit from the death of the purchaser if he died intestate or in favour of the person entitled to a grant of probate or letters of administration with the will annexed if he leaves a will.

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

27. Surrender of interest under contract

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

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

28. Purchase of Crown land by false representation

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

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 12 months.

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

(a) lodge with the Recorder of Titles a copy of the notice, if the land is under the Land Titles Act 1980 ;
or

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

(3) Where –

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

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

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

(a) all contracts, agreements, securities, or other documents made, entered into, or given in respect of the purchase of the land shall become illegal and void; and

(b) the right, title, and interest of that person, or his assignee having notice of the representation, and all moneys paid in respect of that land shall become forfeited to the Crown; and

(c) the land, with all improvements thereon, shall revert to the Crown.

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

PART IV - Leases

Division 1 - Lease of Crown land

29. Lease of Crown land

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

(1A) Subsection (1) does not apply in respect of portfolio land.

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

(2A) The Minister must not grant a lease under this section in respect of an area within State waters as defined by the Living Marine Resources Management Act 1995 for a purpose for which a lease may be issued under the Marine Farming Planning Act 1995 .

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

(a) for rural purposes other than for forestry shall not exceed 21 years; and

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

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

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

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

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

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

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

(c) pays the prescribed fee.

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

(9) The holder of a lease of portfolio land may, with the approval of the Portfolio Minister, assign the lease to any person.

(10) The Portfolio Minister may, in his or her absolute discretion –

(a) refuse to approve the assignment of the lease; or

(b) approve the assignment on such terms and conditions as he or she thinks fit.

29A. Additional provisions for lease of public reserve

(1) The Minister must not lease any Crown land reserved as a public reserve for which there is a management plan unless the Minister is satisfied that the management, protection, use and development of that land under the lease –

(a) will be in accordance with the management plan; and

(b) will be consistent with the resource management and planning system objectives.

(2) The Minister must not lease any Crown land reserved as a public reserve for which there is not a management plan unless the Minister is satisfied that the protection, use and development of that land under the lease will be consistent with –

- (a) the purposes for which that land was reserved as a public reserve; and
- (b) the management objectives specified in Schedule 4 ; and
- (c) the resource management and planning system objectives.

Division 2 - Lease of land for industrial, business, residential, or other purposes

30. Lease of land for industrial or residential purposes

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

- (a) grant an option to the lessee thereof to purchase the land; and
- (b) specify conditions upon the fulfilment of which the lessee may exercise the option.

(2) Where an option to purchase any Crown land is granted to any lessee the price at which the land shall be sold shall be fixed at the time the option is exercised by the lessee in the same manner as is fixed, under section 13(3) , the reserve price of Crown land for sale.

Division 3 - Lease of land for rural purposes

31. Lease of land for rural purposes

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

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

- (a) cause to be advertised in the *Gazette* and a newspaper circulating within the district in which the land is situated at least a fortnight before the date on which the auction is to be held a notice setting out –
 - (i) the time and place of the auction; and
 - (ii) the particulars of the land intended to be leased; and
 - (iii) the place or places and the times at which the plans of the land and the conditions under which the lease will be granted may be inspected; and
 - (iv) any other particulars that he deems relevant; and
- (b) ensure that the plans of the land and the conditions of the lease are available for inspection at the places and at the times referred to in the notice.

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

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

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

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

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

(2) If the Minister re-assesses the rent, the Minister is to cause notice of his or her decision to be served on the lessee or forwarded by certified mail to the lessee.

(3) A lessee of land the rent of which has been re-assessed in accordance with subsection (1) may apply to the Magistrates Court (Administrative Appeals Division) for a review of the re-assessment.

33. Termination or surrender of lease

(1) A lease for rural purposes may –

(a) with the approval of the other party, be terminated by either the Minister or the lessee; or

(b) with the approval of the Minister, be surrendered by the lessee on such notice, not exceeding 12 months, as the Minister may determine –

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

(2) Where any lease of Crown land –

(a) is surrendered to the Minister; or

(b) expires; or

(c) is terminated –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Where, upon the expiration by effluxion of time of a lease of land for rural purposes the Minister is satisfied that the improvements effected thereon are of such a nature that it is desirable to sell the estate in fee simple in

the land to the lessee he may, in his absolute discretion, grant the lessee, subject to section 13(3) and on such terms and conditions as he thinks fit, an option to purchase the land.

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

(3) Where the Minister fixes under subsection (2) an amount in respect of improvements, he shall, by a notice in writing served on the lessee, notify the lessee that he has so fixed the amount, and if the lessee is aggrieved thereby he may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision.

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

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

35A. Compensation payable on non-renewal of certain leases

(1) If on the expiration by effluxion of time of a lease of land for rural purposes the Minister decides not –

(a) to renew the lease; or

(b) to grant the lessee an option to purchase the land comprised in the lease as provided in section 35 –

the Minister shall, subject to subsection (2), pay to the lessee compensation for improvements carried out by the lessee for the purposes for which the lease was granted, including any improvements paid for by the lessee and taken over from the previous lessee.

(2) Compensation is not payable under subsection (1) in respect of an improvement unless the improvement was approved by the Minister before being carried out.

(3) The compensation payable under subsection (1) shall be such amount approved by the Minister as is determined by the Director-General on the recommendation of the Valuer-General to be the fair and reasonable value of the improvements.

(4) Notwithstanding subsection (2), the Minister may, upon written application by a lessee, approve an improvement carried out before the date of commencement of the *Crown Lands (Miscellaneous Amendments) Act 1989* within 1 year after that date.

35B. Compensation payable on vesting of certain land to Aboriginal Land Council of Tasmania

(1) The Minister, on the written application of a lessee of prescribed land which is vested in the Aboriginal Land Council of Tasmania under section 27(1) of the Aboriginal Lands Act 1995, may approve an improvement which was carried out by the lessee on that land before the date on which the land became so vested.

(2) An application referred to in subsection (1) is to be made within 6 months after the date of the vesting of the land to which the application relates.

(3) The Minister is to pay to the lessee of the land referred to in subsection (1) compensation for an improvement approved by the Minister which was carried out on that land by the lessee for the purposes for which the lease was granted.

(4) The compensation payable under subsection (3) is to be such amount as is determined by the Director-General on the recommendation of the Valuer-General to be the fair and reasonable value of the improvements.

(5) A lessee who is aggrieved by the amount of compensation payable under this section may apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination of the amount of compensation.

(6) For the purposes of this section –

LIST means the Land Information System Tasmania administered by the Department;

prescribed land means land on Cape Barren Island that is leased for rural purposes and identified by property identification numbers 7664256 and 6432613 contained in the LIST.

Division 4 - General provisions as to leases granted by the Minister

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

The Minister may cancel any lease granted by the Minister where–

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

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

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

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

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

(1) Where, in the opinion of the Minister, any land subject to a lease granted by the Minister under this Act–

(a) is required for any public purpose; or

(b) is required for the purposes of any other Act; or

(c) should be made available for any purpose which he considers desirable in the public interest–

the Minister may, upon giving the lessee 3 months' notice in writing specifying the land or portion of the land which is required or should be made available and the purpose or purposes for which the land is so required or should be made so available, by notice in the *Gazette*, cancel the lease in respect of the land so required or that should be made so available.

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

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

(a) by reason of the reduction in the area of land to be held under the lease; or

(b) for such other reason as the Director-General thinks fit.

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

38. Termination of lease in consequence of mining operations

(1) Where the Minister is satisfied that, by reason of any mining operations being carried out under the Mineral Resources Development Act 1995 in, on, or under any land which is subject to a lease granted by the Minister under this Act, that land cannot reasonably be used for the purposes for which it is authorised to be used under the lease, he shall, on the application in writing of the lessee, cancel the lease as to the land affected by those operations.

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

39. Compensation for improvements

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

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

(3) The Minister is to cause notice of the amount of compensation payable to a lessee under subsection (1) to be served on the lessee.

(4) A lessee who is aggrieved by the amount of compensation payable may apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination of the amount of compensation.

(5)

Division 5 - Leases of portfolio land

39A. Lease of portfolio land

(1) A Portfolio Minister may lease portfolio land in accordance with this Division.

(2)

(3) A Portfolio Minister may lease portfolio land to any person at such rent and on such terms and conditions as the Portfolio Minister considers appropriate.

39B.

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39C. Application of Residential Tenancy Act 1997

Except as otherwise provided by this Division, the Residential Tenancy Act 1997 applies in respect of a lease under section 39A .

39D. Use of rent money

Money paid as rent in respect of a lease granted under section 39A is to be used by the Portfolio Department for the following purposes:

- (a) the maintenance of portfolio land;
- (b) the costs of the administration of leases and maintenance of portfolio land;
- (c) the taxes, rates and other outgoings associated with portfolio land and its maintenance.

39E.

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PART V - Licences

Division 1 - Licences to take material from Crown land

40. Licences to remove gravel and stone, &c.

(1) The Minister may grant to any person a licence to remove natural materials from any Crown land that is not portfolio land, or for any other purpose that the Minister thinks fit, on such terms and conditions as the Minister may specify.

(1A) A Portfolio Minister may grant to any person a licence to remove natural materials from portfolio land, or for any other purpose that the Portfolio Minister thinks fit, on such terms and conditions as the Portfolio Minister may specify.

(2) The Minister or Portfolio Minister, as the case may be, must not grant a licence in respect of any Crown land reserved as a public reserve for which there is a management plan unless the Minister or Portfolio Minister is satisfied that the protection, use and development of that land under the licence –

(a) will be in accordance with the management plan; and

(b) will be consistent with the resource management and planning system objectives.

(3) The Minister or Portfolio Minister, as the case may be, must not grant a licence in respect of any Crown land reserved as a public reserve for which there is not a management plan unless the Minister or Portfolio Minister is satisfied that the protection, use and development of that land under the licence will be consistent with –

(a) the purposes for which that land was reserved as a public reserve; and

(b) the management objectives specified in Schedule 4 ; and

(c) the resource management and planning system objectives.

41. Marine plant licences

(1) The Minister may, upon payment of such fee as he may determine, grant a licence (in this section referred to as a "marine plant licence") for the taking of marine plants cast by the sea on Crown land or on land which is under the control of the Minister.

(2) A marine plant licence shall specify –

(a) the area from which marine plants may be taken by the holder of that licence, either exclusively or in conjunction with the holders of other marine plant licences; and

(b) the rent or royalty, or both, payable to the Minister in respect of that licence; and

(c) such other conditions and restrictions to which the licence is subject, including any condition as to its forfeiture, as the Minister may determine.

(3) A marine plant licence is in force for such period as may be specified in the licence.

(4) A marine plant licence may, upon payment of the prescribed fee and with the consent of the Minister, be transferred or assigned for the remainder of the period of the licence to a person approved by the Minister.

(5) A marine plant licence transferred or assigned under subsection (4) shall continue to be subject to the conditions and restrictions to which it was subject immediately before the transfer or assignment.

(6) A transfer or assignment of a marine plant licence that is made without the consent of the Minister is of no effect.

(7) In this section, *marine plant* includes any kind of plant that normally lives throughout its life in the sea.

41A.

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Division 2 - Temporary licences

42. Temporary licences

- (1) The Minister may grant to any person a licence called a "temporary licence" to take possession of and hold, for any time not exceeding 12 months from the date the licence is issued, any Crown lands therein specified for such purposes and on such terms and conditions as may be specified in the licence.
- (2) The terms and conditions in respect of temporary licences, the areas in respect of which they may be issued, and the fees payable therefor, respectively, may vary according to the purposes for which those licences are issued.
- (3) The holder of a temporary licence may, upon payment of the prescribed fee and subject to the prescribed conditions, transfer the licence to any other person to whom a temporary licence may be granted under this Act.
- (4) An instrument of transfer under this section shall be in such form as is approved by the Director-General and shall be executed and attested in the prescribed manner.
- (5) The Minister may grant to any person a licence authorising that person to possess land that is not portfolio land, subject to the condition that the licence may be determined by the Minister by giving the person 3 months' notice at any time.
- (5A) A Portfolio Minister may grant to any person a licence authorising that person to possess portfolio land, subject to the condition that the licence may be determined by the Portfolio Minister by giving the person 3 months' notice at any time.
- (6) The Minister or Portfolio Minister, as the case may be, must not grant a temporary licence in respect of any Crown land reserved as a public reserve for which there is a management plan unless the Minister or Portfolio Minister is satisfied that the management and use of that land under the licence –
- (a) will be in accordance with the management plan; and
 - (b) will be consistent with the resource management and planning system objectives.
- (7) The Minister or Portfolio Minister, as the case may be, must not grant a temporary licence in respect of any Crown land reserved as a public reserve for which there is not a management plan unless the Minister or Portfolio Minister is satisfied that the management and use of that land under the licence will be consistent with –
- (a) the purposes for which that land was reserved as a public reserve; and
 - (b) the management objectives specified in Schedule 4 ; and
 - (c) the resource management and planning system objectives.

Division 3 - General provisions as to licences

43. When lawfully required holder to produce licence

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

Penalty: Fine not exceeding 1 penalty unit.

44. Cancellation of licence when land used for other purposes

Any licence issued under this Part may be cancelled by the Minister or the Portfolio Minister, as the case may be, if he or she is satisfied that the holder thereof is using the land to which the licence relates for any purpose other than that for which the licence was issued.

45. Improvements on land held under temporary or occupation licence

(1) Compensation is not payable in respect of improvements carried out on land held or occupied under a temporary licence unless the Minister directs that the land or an improvement on the land is required for a public purpose, in which case the Minister shall pay compensation for the improvement in accordance with this section.

(2) Any compensation payable under subsection (1) in respect of an improvement shall be such amount approved by the Minister as is assessed by the Director-General on the recommendation of the Valuer-General to be the fair and reasonable value of the improvement.

(3) If the Minister –

(a) offers a person an amount of compensation assessed in accordance with subsection (2) ; and

(b) the person offered that amount –

(i) does not accept the offer within 30 days of receiving it; or

(ii) informs the Minister that the amount offered does not represent the fair and reasonable value of the improvement –

the matter shall be taken to be a disputed claim for compensation under section 41 of the Land Acquisition Act 1993 and compensation shall be determined in accordance with that Act as if the improvement were an estate or interest compulsorily acquired under that Act, except that Division 2 of Part 3 of that Act shall not apply and regard shall only be had to the fair and reasonable value of the improvement.

(4) If the Minister does not make a direction under subsection (1) any improvement on the land may be removed.

(5) Notwithstanding subsection (1) , where a person has been in occupation of land under a lease for rural purposes and his occupation is continued by a temporary licence, the Minister may –

(a) permit him, during the currency of the temporary licence, to remove any improvements which he would have been authorized to remove under that lease; and

(b) pay him such compensation as he may have received under section 35 or 35A had the lease continued until the expiration of the licence.

PART VA - Business Licences

45A. Trading without business licence prohibited

(1) A person, who is not the holder of a business licence in force under this Part, must not, in Crown land or assigned land –

(a) sell or hire out, offer or expose for sale or hiring out, or have in his or her possession for selling or hiring out, any article, material or other thing; or

(b) provide, offer to provide or hold himself or herself out as willing to provide, any service or facility for any monetary or other consideration.

Penalty: Fine not exceeding 10 penalty units.

(2) This section does not apply to a person who holds a lease or licence in force under Part IV or Part V .

45B. Application for business licence

(1) A person may apply to the Minister for a business licence.

(2) An application is to be –

(a) in writing; and

(b) accompanied by the prescribed fee; and

(c) accompanied by any information and documents the Minister requires; and

(d) lodged with the Minister.

(3) The Minister may remit any or all of the fee for an application.

45C. Granting of business licence

(1) The Minister may –

(a) grant an application for a business licence, with or without conditions; or

(b) refuse to grant the application.

(2) The Minister, by notice in writing, must notify the applicant of –

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

45D. Issue of business licence

(1) On granting an application for a business licence, the Minister is to issue a business licence to the applicant.

(2) A business licence may be in a contractual form or in any other form the Minister determines.

45E. Variation of conditions

The Minister, by notice in writing to the holder of a business licence, may vary the conditions of the licence.

45F. Term of business licence

A business licence is in force for the period specified in the licence.

45G. Renewal of business licence

(1) The holder of a business licence, before the licence ceases to be in force, may apply to the Minister for a renewal of the licence.

(2) An application for renewal is to be –

(a) in writing; and

- (b) accompanied by the prescribed fee; and
- (c) accompanied by any information and documents the Minister requires; and
- (d) lodged with the Minister.

(3) The Minister may –

- (a) grant the application, with or without conditions; or
- (b) refuse to grant the application.

(4) A licence is renewed –

- (a) for a period determined by the Minister; and
- (b) subject to any conditions specified in the licence as renewed.

45H. Transfer of business licence

(1) The holder of a business licence may apply to the Minister for approval to transfer the licence.

(2) An application for approval to transfer a business licence is to be –

- (a) in writing; and
- (b) accompanied by the prescribed fee; and
- (c) lodged with the Minister within 7 days before the transfer is to take effect.

(3) The Minister may –

- (a) approve an application, with or without conditions; or
- (b) refuse to approve the application.

(4) A transfer –

- (a) is of no effect unless approved by the Minister; and
- (b) takes effect, if approved, on the date of the approval.

45I. Cancellation of business licence

The Minister may cancel a business licence if –

- (a) requested to do so by the holder of the licence; or
- (b) the holder of the licence contravenes or fails to comply with any condition of the licence.

45J. General authority

The Minister by notice published in a newspaper circulating generally in the State may authorise any person or group of persons to carry out an activity referred to in section 45A (1) in any Crown land or assigned land specified in the notice for any period specified in that notice.

PART VI - Unlawful Acts relating to Crown Land, &c.

46. Unlawful user

- (1) No person shall, without lawful authority –
- (a) use, occupy, or be found in possession of any Crown land or assigned land; or
 - (b) keep or depasture any sheep, cattle, or other stock thereon; or
 - (c) cut, dig, or take therefrom any timber, wood, gravel, stone, limestone, salt, guano, shells, sand, loam, brick-earth, or any other natural substance whatever; or
 - (d) strip or remove bark from any tree growing or being thereon; or
 - (e) cut, remove, take, or damage any trees or vegetation thereon; or
 - (f) subject to subsection (7) , light thereon any fire.
 - (g)
- (2) No person shall, without lawful authority or the consent in writing of the Minister, erect on any Crown land or assigned land any structure including a sign.
- (3) No person shall, without lawful authority –
- (a) drive or park any motor vehicle or trailer including a caravan on any Crown land or assigned land where the driving or parking of a motor vehicle, trailer or caravan is prohibited by means of a sign or otherwise; or
 - (b) drive any vehicle on a part of any beach or foreshore that is being used by people for bathing, playing or other recreational purposes.
- (4) Where any litter is deposited on any Crown land or assigned land in contravention of subsection (1)(g) or any structure is erected in contravention of subsection (2) , a bailiff may remove the litter or structure therefrom and all costs incurred in the removal thereof shall, upon demand for the payment thereof by the Director-General from the person depositing the litter or erecting the structure, be paid by that person to the Director-General.
- (5) No person shall resist or obstruct –
- (a) the Minister or any person authorized by him in that behalf in resuming any Crown land or assigned land or entering thereupon; or
 - (b) any bailiff of Crown lands, or any person assisting him, in the execution of any warrant directed to the bailiff under this Act.
- (6) The owner of any land may, with the approval of the Director-General, assign to the Crown the land or any part of the land (in this section referred to as "assigned land") and upon the assignment of the land such of the provisions of this Act as are applicable in respect thereof shall apply.
- (7) Notwithstanding the provisions of subsection (1) (f) a person may light a fire for the purpose of cooking food if the lighting of the fire is authorized under the Fire Service Act 1979 but where such a fire is lit the person lighting the fire shall commit an offence if he –
- (a) leaves the fire unattended at any time; or
 - (b) does not take proper precautions before lighting the fire to ensure that the fire does not spread; or
 - (c) does not extinguish the fire before leaving the place of the fire.

47. Obstructing roads

- (1) No person shall wilfully obstruct any track or reserved road on any Crown land, such track or road not being under the care, control, and management of any municipal council, so as to prevent the free passage of

any person, carriage or other vehicle, or stock.

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

48. Dispossession of persons in unlawful occupations

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

(1A) The powers conferred on the Minister by subsection (1) are in addition to any powers the Crown may exercise under the Residential Tenancy Act 1997 .

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

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

PART VIA - Financial Provisions

48A. Interpretation of Part VIA

In this Part –

the Administration Fund means the Crown Lands Administration Fund established under section 48B ;

Property Sales Group means the Property Sales Group established in the Department to identify and recommend the disposal of Crown land no longer required.

48B. Crown Lands Administration Fund

(1) There shall be established in the Public Account an account to be known as the Crown Lands Administration Fund.

(2) There is to be paid into the Administration Fund any money received under this Act, other than money received as rent or bond in respect of –

(a) leases of portfolio land granted under –

(i) section 39A ; or

(ii) the Crown Lands (Shack Sites) Act 1997 ; or

(b) licences granted under section 40(1A) or section 42(5A) .

(3) There shall be paid from the Administration Fund all money required in the administration of and for the payment or discharge of the expenses, costs, fees, charges and obligations in respect of –

(a) the activities of the Property Sales Group; and

(b) the provision of services and preparation of Crown land relating to the requirements of subdivision under the Local Government (Building and Miscellaneous Provisions) Act 1993 ; and

(c) sales, leases and licences relating to shack sites on Crown land; and

(ca) the assessment of public reserves; and

(d) such other expenditure as the Treasurer may determine.

(4) The expenditure incurred in the administration of this Act, other than that referred in subsection (3) , shall be paid out of money appropriated by Parliament for that purpose.

48C. Transfer of money to Public Account

At 30 June in each year, there shall be transferred from the Administration Fund to the Public Account such amount, not being greater than the balance in the Administration Fund at that date, as the Treasurer may determine.

PART VII - Miscellaneous

49. Neglect or refusal to sign lease, &c.

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

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

50. General penalty

A person who is guilty of an offence against this Act for which no other penalty is expressly prescribed elsewhere in this Act is liable to a fine not exceeding 5 penalty units.

51. Acquisition of land

(1) The Minister may purchase, acquire and take, under the provisions of the Land Acquisition Act 1993 or any other Act providing generally for the acquisition of land for public purposes, land –

(a) that possesses any of the values specified in Column 2 of Schedule 5 for any of the purposes specified in Column 3 of Schedule 5 ; or

(b) for any other purpose that the Minister considers necessary.

(2) Any land purchased, acquired or taken under subsection (1)(a) is taken to have been reserved to the Crown as a public reserve under section 8 .

52. Power to close and dispose of old road

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

53. Reclamations from the sea, &c.

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

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

(a) by the Crown or any of its instrumentalities including marine boards; or

(ab) by the Tasmanian Ports Corporation Pty. Ltd. (ACN 114 161 938); or

(b) by councils for municipal purposes; or

(c) for industrial, commercial, recreational, or such other purposes whether similar to the foregoing or not as the Minister thinks fit –

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

(3) Where the Minister –

(a) leases or sells any land in pursuance of subsection (2) or grants a licence in respect thereof; or

(b) otherwise authorizes the reclamation thereof –

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

(c) navigation in and near the waters thereby affected; and

(d) fishing therein –

shall cease and determine absolutely.

(4) Where the value of any land adjoining the land being reclaimed under this section is diminished by the loss of riparian or littoral rights, the owner of the land so affected is entitled to compensation for that loss under the Land Acquisition Act 1993 .

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

(a) reimburse the Minister with the amount of any compensation paid by the Minister to that person; or

(b) where no compensation is paid by the Minister, pay compensation to that person.

54. Crown lands to be alienated as regards surface only

(1) All Crown land which is sold or in respect of which a lease or licence (other than a lease or licence under the Mineral Resources Development Act 1995) is issued, shall be deemed to have been sold or a lease or licence in respect thereof issued only as regards the surface, and to a depth of 15 metres below the surface unless the Minister, in any case, otherwise determines.

(2) Subject to the Water Management Act 1999 , nothing in subsection (1) or in any direction given by the Minister shall be construed to restrict the right of the owner, lessee, or licensee of the surface to sink wells for water and to use and enjoy any wells and springs which may at that time be found upon the land and which supply water for domestic, farming, agricultural, manufacturing, or irrigation purposes; and with respect to those wells and springs the owner, lessee, or licensee shall have rights as though he held or occupied the land without any limitation as to depth.

(3)

(4) This section has effect notwithstanding the Land Titles Act 1980 .

55. Closure of highway; land how dealt with

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

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

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

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

56. Leases and licences of land subject to mining rights

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

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

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

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

(5) Except as is otherwise expressly provided in this Act or the Mineral Resources Development Act 1995 , nothing in a lease or licence under this Act or any previous Act derogates from any mining right, or entitles the lessee or licensee thereof to interfere with or obstruct the exercise of any mining right, or to interfere with any work constructed or thing done in the exercise of any mining right.

57. Reservation of land abutting on streams

Where, in the opinion of the Minister, it is desirable to reserve Crown land –

(a) abutting on any permanent river, stream, or lake; or

(b) that is contiguous to the sea or an estuary –

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

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

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

59. Surrender of land to the Crown

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

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

(3) Subject to the Land Titles Act 1980 and the Registration of Deeds Act 1935 , where the surrender of any land is effected under this section that land reverts to and vests in the Crown freed and discharged from all estates and interests, except those to which the estates or interests of the person surrendering the land were subject and as may be otherwise provided in the instrument of surrender.

(4) For the purposes of the Land Titles Act 1980 an instrument of surrender shall be treated as an instrument that is in a form of transfer prescribed by that Act.

(5)

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

(7)

(8) No fees are payable –

(a) under the Land Titles Act 1980 in respect of the registration of an instrument of surrender; or

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

(9)

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

(11) Where the Minister accepts the surrender of any land under this section he may, in his absolute discretion, pay to the person surrendering the land such costs as he thinks fit and he may take the land under the Land Acquisition Act 1993 .

60. Effect of error in written description

(1) No error, misdescription, or inaccuracy in the written description in any instrument or document of title in respect of any land dealt with under this Act shall nullify or prejudice the dealing in respect of which the same occurs if the Minister or, in the case of a lease of portfolio land granted under section 39A , the Portfolio Minister is satisfied that the land occupied by the holder of the instrument or document is substantially the land for which he entered into an agreement for sale or lease.

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

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

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

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

(3) Nothing in subsection (2) shall apply to any such land as is referred to in that subsection where it can be shown to the satisfaction of the Minister or, in the case of a lease of portfolio land granted under section 39A , the Portfolio Minister that a patent mistake or error was made in the description of the land or boundaries, and the Minister or Portfolio Minister may correct the mistake or error by endorsement upon the grant or lease.

(4) Upon the discovery of any error, misdescription, or inaccuracy as is referred to in subsections (1) , (2) , and (3) , and in any other case where any discrepancy or mistake is discovered, the Minister or, in the case of a lease of portfolio land granted under section 39A , the Portfolio Minister may cause the same to be corrected, adjusted, and rectified.

(5) Where the Director-General or, in the case of a lease of portfolio land granted under section 39A , the Portfolio Minister is satisfied that any instrument under this Act or any grant deed, not being an instrument to which the provisions of section 163 of the Land Titles Act 1980 are applicable, has been issued in error or contains any misdescription of land or boundaries, or that the grant has been fraudulently obtained, he may require the person by whom such grant deed is held to deliver the same to him for the purpose of its being cancelled or corrected, as the case may require.

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

61.

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62. Pounds on Crown lands

(1) The Minister may –

(a) by notice in the *Gazette* establish pounds on Crown land; and

(b) appoint keepers thereof.

(2) Except as otherwise provided in this section, Division 5 of Part 12 of the Local Government Act 1993 applies to and in respect of pounds under this section as if –

(a) the Director-General were mentioned instead of the clerk and the corporation; and

(b) no mention were made of a member of the council.

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

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

(5) Any act done by a pound keeper under this section or in respect of a pound or animal impounded under this section if done by a municipal pound keeper in respect of a pound or animal impounded under Division 5 of Part 12 of the Local Government Act 1993 would be an offence against that Act is an offence against this section and subject to the like penalty.

63. Powers with respect to land acquired under the Land Acquisition Act 1993

(1) Any land purchased, acquired, or taken in accordance with the provisions of the Land Acquisition Act 1993 may be leased to any person, or a licence may be granted to any person in respect thereof, by the Minister, as if that land were land reserved as a public reserve under section 8, or were Crown land.

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

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

(1) Where the Minister proposes –

(a) to dispose of any Crown land whether by way of sale, lease, exchange for proper consideration, or otherwise; or

(b) to grant any land listed in the Grants of Lands for Ecclesiastical Purposes contained in House of Assembly paper No. 46 of 1866 –

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

(c) publish in the *Gazette* a notice setting out the terms and conditions of the proposal; and

(d) cause the notice to be laid before each House of Parliament –

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

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

65. Offence to prevent free and open competition at auctions

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

(a) affects or is likely to affect adversely the outcome of; or

(b) prevents or is likely to prevent free and open competition at –

the auction.

Penalty: Fine not exceeding 2 penalty units.

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

66. Serving of notices

A notice required to be served on any person under this Act may be so served –

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

67. Reviews in certain cases

(1) Any person who is aggrieved by –

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

may apply to the Magistrates Court (Administrative Appeals Division) for a review of the notice or cancellation.

(2) For the purpose of applying for a review, the notice referred to in subsection (1)(a) is taken to have been made on the day on which it was published in the *Gazette*.

68. Regulations

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

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

Regulations under this Act may –

- (a) prescribe matters that relate to the protection, management, use and development of –
 - (i) Crown land that is not a public reserve and the care and control of which is not by law vested in some local body; and
 - (ii) public reserves for which the Director-General is the managing authority; and
- (ab) prescribe matters relating to the management of public reserves by a managing authority; and
- (ac) make provision for or with respect to any purposes specified in Column 3 of Schedule 5 or any management objective specified in Schedule 4 ; and
- (ad) prescribe matters relating to the preservation of good order and decency in or on Crown land or public reserves; and
- (b) prescribe conditions under and subject to which Crown land or any specified class or description of such land or any public reserve, or any track or means of communication on Crown land, may be used; and may prohibit or regulate the doing of specified acts upon or in relation to any Crown land or specified class of such land; and
- (c) prescribe the conditions under which any Crown lands or any classes of Crown lands may be used for, or in connection with, the agistment of stock; and may prohibit the agistment of stock on Crown lands generally or on any specified classes of Crown lands except under the authority of licences issued for the purpose; and may provide for, and regulate generally, the making of applications for, and the issue of, such licences; and
- (d) prescribe fines not exceeding 5 penalty units for the breach of any regulation so made, and the cases in which and conditions under which any person may be arrested if found committing a breach of any specified regulation; and
- (e) prescribe conditions under which motor vehicles may be driven or used on any Crown land including any assigned land.

70. Fees

Regulations under this Act may provide for –

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

71. Delegation of powers by Minister, &c.

- (1) The Minister may by instrument in writing delegate to the Director-General such of his powers and duties under this Act as may be prescribed and any power or duty so delegated may be exercised by the Director-General as fully and effectually as by the Minister.
- (2) Where pursuant to subsection (1) any powers and duties are delegated to the Director-General, he may by instrument in writing delegate such of those powers and duties as are prescribed to such officer as is prescribed and any power or duty so delegated may be exercised by that officer as fully and effectually as by the Director-General.
- (3) A delegation by a person under this section is revocable at the will of that person and no such delegation shall prevent the exercise by him of any power or duty so delegated.

71A. Delegation

- (1) A Portfolio Minister may delegate any of his or her functions or powers under this Act, other than this power of delegation.
- (2) The Secretary of a Portfolio Department may delegate any function or power delegated to him or her by the Portfolio Minister under subsection (1) , other than this power of delegation.

72. Saving for other Acts

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

73. Repeals and transitional provisions

- (1) The Acts that are specified in Schedule 1 are repealed.
- (2) Notwithstanding the provisions of subsection (1) the provisions of Schedule 2 have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

73A. Consequential amendments to other Acts

- (1) A reference in a provision of an Act to the Director of Lands is to be construed on and after the commencement of the Crown Lands Act 1978 as a reference to the Director-General of Lands, and every Act the construction of which is affected by the foregoing provisions of this subsection is, by force of this subsection, amended to such extent as may be necessary to give effect to this subsection.
- (2) The Minister has and is to be deemed always to have had power to exercise any of the functions conferred on the Commissioner of Crown Lands by any Act and references in any Act to the Commissioner of Crown Lands are to be construed accordingly.

73B. Transitional provisions

- (1) The person who immediately before the commencement of the Crown Lands Act 1978 held office as Director of Lands shall, on that commencement, be deemed to have been appointed Director-General of Lands.
- (2) The powers, functions, duties, rights and liabilities of the Director of Lands subsisting immediately before the commencement of the Crown Lands Act 1978 are, on that commencement, transferred to and vested in the

Director-General of Lands, and anything done by the Director of Lands immediately before that commencement continues to have effect on that commencement as if it were done by the Director-General of Lands.

74. Consequential amendments

The Acts that are specified in Schedule 3 are amended to the extent specified therein.

SCHEDULE 1 - Acts Repealed

Section 73 (1)

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

SCHEDULE 2 - Transitional Provisions

Section 73 (2)

1. In this Schedule *repealed Act* means the *Crown Lands Act 1935*.
2. Any proclamation made under section 7 of the repealed Act and in force immediately before the commencement of this Act continues to have effect as an order under section 8 of this Act.
3. Any lease granted under section 7 of the repealed Act continues to have effect as if granted under this Act.
4. Any lease or licence granted under any provision other than section 7 of the repealed Act has effect as if this Act had not been passed.
5. Any contract for the sale of any Crown land under the repealed Act shall have effect as if this Act had not been passed but a purchaser of any Crown land who is paying instalments under the terms of purchase under the repealed Act may, on or after the commencement of this Act, obtain the issue of a grant in respect of that land upon payment, with the approval of the Minister, of the balance purchase price together with interest and any other sum owing in respect thereof.
6. Where a notice of an auction for the sale of any Crown land has been given under section 29 of the repealed Act or for an auction lease of any Crown land under section 80 of that Act the auction shall be held and the land sold or leased (as the case may be) as if this Act had not been passed.
7. Any bailiff of Crown lands appointed under section 13 of the repealed Act shall be deemed to have been appointed under section 11 of this Act.
8. Upon the repeal of sections 12 and 13 of the State Sinking Fund Act 1929 by this Act the moneys remaining in the special fund constituted under those sections shall be paid by the Commissioners into the Public Account at the request of the Treasurer at such times and in such amounts as the Treasurer may consider desirable or expedient.

SCHEDULE 3 - Objectives of the Resource Management and Planning System of Tasmania

Section 2

1. The objectives of the resource management and planning system of Tasmania are –
 - (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
 - (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
 - (c) to encourage public involvement in resource management and planning; and
 - (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a) , (b) and (c) ; and
 - (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.
2. In item 1(a) ,

sustainable development means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

 - (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
 - (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
 - (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

SCHEDULE 4 - Objectives for management of public reserves

Sections 3A , 12D , 12E , 12H , 29A , 40 and 42

	Column 1 Reserve	Column 2 Management objectives
1.	Public reserve	<p>The following objectives:</p> <ul style="list-style-type: none"> (a) to conserve natural biological diversity; (b) to conserve geological diversity; (c) to preserve the quality of water and protect catchments; (d) to conserve sites or areas of cultural significance; (e) to encourage education based on the purposes of reservation and the significance of the public reserve; (f) to encourage research, particularly that which furthers the purposes of reservation; (g) to protect the public reserve against, and rehabilitate the public reserve following, adverse impacts such as those of fire, introduced species, diseases and soil erosion on the public reserve's natural and cultural values and on assets within and adjacent to the public reserve; (h) to encourage tourism, recreational use and enjoyment consistent with the conservation of the area's natural and cultural values; (i) to encourage cooperative management programs with Aboriginal people in areas of significance to them in a manner consistent with the purposes of reservation and the other management objectives; (j) to provide for the taking, on an ecologically sustainable basis, of designated game species for commercial or private purposes, or both; (k) to provide for the controlled use of natural resources; (l) to provide for exploration activities and utilisation of mineral resources; (m) to allow for private, commercial or industrial uses.

SCHEDULE 5 - Purposes of reservation

Sections 8 , 12D , 12E, 51 and 69

	Column 1 Reserve	Column 2 Values of land	Column 3 Purposes of reservation
1.	Public reserve	An area of Crown land that contains biophysical, natural, cultural or economic values.	<p>The protection and maintenance of any natural, cultural or economic values of the area of land.</p> <p>The conservation of the natural biological diversity or geological diversity of the area of land, or both.</p> <p>Public recreation, education, scientific research and tourism consistent with conserving the values of the area of land.</p> <p>The sustainable development and use of the natural resources of that area of land while protecting and maintaining the values of that area of land.</p> <p>The creation and use of public roads or streets, or other internal communications, whether by land or water.</p>

SCHEDULE 6 - Provisions with respect to membership and meetings of a Conservation Management Trust

Section 12K

1. Interpretation

In this Schedule,

Trust means a Conservation Management Trust established under section 12I .

2. Terms and conditions of office of members of Trust

(1) A member of a Trust –

- (a) is to be appointed for such period as the Minister thinks fit and is to hold and vacate office in accordance with the terms of his or her appointment or reappointment; and
- (b) may be removed from office by the Minister by notice in writing addressed and delivered to that member; and
- (c) may at any time resign his or her office by notice in writing addressed and delivered to the Minister.

(2) The terms and conditions of office of a member of a Trust, with respect to matters not provided for in this Schedule, are as determined by the Minister.

3. Change of name of body which member of Trust represents

If the body referred to in section 12K(1)(f) changes its name to another name or ceases to exist under the name referred to in that paragraph, the Minister may, by order, amend that paragraph –

- (a) by substituting for the name of the body that other name; or
- (b) by substituting for the name of that body the name of some other body which he or she is satisfied represents substantially the same interests as those represented by the first-mentioned body.

4. Appointment of substitute to act during absence of member of Trust

If a member of a Trust is unable for any reason to carry out his or her duties as such a member for any period, the Minister may appoint a person who, in his or her opinion, is suitably qualified to act in place of that member during that period, and that person is, for that period, taken to be a member of the Trust to act in the place of that member during that period.

5. Convening of meetings

Meetings of a Trust may be convened by the chairperson of the Trust or by any 2 or more members of the Trust.

6. Quorum

Five members of a Trust constitute a quorum of the Trust.

7. Presiding at meetings

- (1) The chairperson of a Trust is to preside at all meetings of the Trust at which he or she is present.
- (2) If the chairperson of a Trust is not present at a meeting of the Trust, a member of the Trust elected by the members present is to preside at that meeting.

8. Decision of meeting

A decision carried by a majority of the votes of the members present at a meeting of a Trust is to be a decision of the Trust.

9. Power of Trust to regulate its own procedure

Subject to this Schedule, the procedure for the calling of meetings of a Trust and for the conduct of business at those meetings is to be as determined by the Trust.