

1995—No. 465

**CROWN LANDS (CONTINUED TENURES) ACT 1989—
REGULATION**

(Crown Lands (Continued Tenures) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Crown Lands (Continued Tenures) Act 1989, has been pleased to make the Regulation set forth hereunder.

KIM YEADON,
Minister for Land and Water Conservation.

Citation

1. This Regulation may be cited as the Crown Lands (Continued Tenures) Regulation 1995.

Commencement

2 This Regulation commences on 1 September 1995.

Definitions

3. (1) In this Regulation:

“**approved form**” means a form approved by the Minister under subclause (2) for the purposes of the provision of this Regulation in relation to which the expression is used;

“**Department**” means the Department of Land and Water Conservation;

“**office of the State Lands Services**” means a district office of the State Lands Services of the Department or the Sydney office of the Department;

“**the Act**” means the Crown Lands (Continued Tenures) Act 1989;

“**the Principal Regulation**” means the Crown Lands Regulation 1995.

(2) The Minister may approve forms for the purposes of this Regulation.

Fees and deposits

4. The fees and deposits specified in Schedule 1 are payable in respect of the matters referred to in that Schedule.

Application of provisions relating to local land boards

5. Clauses 12–19 of the Principal Regulation apply to matters arising under this Regulation in the same way as they apply to matters arising under the Principal Regulation.

Supplementary provisions applicable to payments on land in irrigation area or special land districts

(6) For the purposes of clause 4 (4) and (5) of Part 1 of Schedule 2 and clause 3 (4) and (5) of Schedule 5 to the Act, the Minister is prescribed instead of the State Bank.

Interest on arrears

7. For the purposes of clause 5 (4) of Part 1 of Schedule 2 to the Act, the prescribed rate of interest is 15 per cent per annum.

Addition of land to perpetual leases

(8) (1) For the purposes of clause 5 of Part 2 of Schedule 2 to the Act, an application by the holder of a perpetual lease for the addition of vacant Crown land to the lease:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services together with the deposit specified in Schedule 1 towards the cost of dealing with the application.

(2) If the deposit:

- (a) is insufficient to cover the cost of dealing with the application, the balance must be paid by the applicant on demand; or
- (b) is in excess of that cost, the balance must be refunded.

Termination of yearly lease—unpaid rent

9. For the purposes of clause 1 (4) of Part 4 of Schedule 2 to the Act, the prescribed period is 3 months.

Minister's consent to transfer

10. (1) For the purposes of clause 3 of Part 4 of Schedule 2, clause 4 of Part 1 of Schedule 3, clause 4 of Part 2 of Schedule 3 and clause 2 of Part 3 of Schedule 3 to the Act, application for the Minister's consent to transfer:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services together with the fee specified in Schedule 1.

(2) If it is necessary to make an inspection of the lands to be taken into account, the inspection fee specified in Schedule P must also be paid on demand.

Transfers of yearly leases

11. For the purposes of clause 3 (2) of Part 4 of Schedule 2 to the Act, a transfer of a yearly lease is effected by lodging a transfer in the approved form with an office of the State Lands Services together with the fee specified in Schedule 1.

Conditions—yearly leases

12. For the purposes of clause 4 (3) of Part 4 of Schedule 2 to the Act, a yearly lease is subject to the conditions specified in Schedule 2.

Appeals against Minister's determination under condition of special lease or permissive occupancy

13. (1) This clause is made for the purposes of clause 3 (5) of Part 5 of Schedule 2 (special lease) and clause 4 (3) of Part 6 of Schedule 2 (permissive occupancy) to the Act.

(2) An appeal against the Minister's determination of a matter under a condition of a special lease or permissive occupancy may be made by lodging a notice of appeal in the approved form with the Registrar of Local Land Boards for the land district in which the lease or occupancy is situated.

(3) The notice of appeal must be lodged within 28 days of service on the holder of the Minister's determination.

(4) The notice of appeal must be accompanied by the fee specified in Schedule 1.

(5) The Registrar of Local Land Boards must, as soon as practicable after receipt of the notice of appeal, send it and the relevant papers to the person or body authorised to determine the appeal.

Restrictions on exercise of mortgagee's powers

14. For the purposes of clause 6 (2) of Part 1 of Schedule 3 to the Act, an application by a mortgagee to enter into possession of mortgaged land more than once or to obtain an order for foreclosure:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services together with the fee specified in Schedule 1.

Devolution under a will or an intestacy

15. (1) For the purposes of clause 7 (2) of Part 1 of Schedule 3 to the Act, an application by a person on whom land has devolved under a will or an intestacy for consent to hold the land:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services together with the fee specified in Schedule 1.

(2) If it is necessary to make an inspection of the land to be taken into account, the inspection fee specified in Schedule 1 must also be paid on demand.

Removal of transfer restrictions

16. For the purposes of clauses 8 and 10 of Part 1 and clause 6 of Part 2 of Schedule 3 to the Act, an application to the Minister for the issue of a certificate that the land may be transferred or otherwise dealt with without the consent of the Minister:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services together with the fee (if any) specified in Schedule 1.

Fee for valuation of land

17. For the purposes of clause 9 of Part 1 of Schedule 3 to the Act, an application to the Valuer-General for a determination of land value under that clause:

- (a) is to be in the approved form; and
- (b) is to be lodged with the Valuer-General together with the fee specified in Schedule 1.

Subdivision of holdings

18. (1) For the purposes of clause 2 (2) of Schedule 4 to the Act, an application for the Minister's approval to the subdivision of a holding:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services together with the deposit specified in Schedule 1 towards the costs of dealing with the application.

(2) If the deposit:

- (a) is insufficient to cover the costs of dealing with the application, the balance must be paid by the applicant on demand; or
- (b) is in excess of those costs, the balance must be refunded.

Redetermination of rent of certain leases

19. For the purposes of clause 10 of Schedule 5 to the Act, an application by the holder of a lease to which that clause applies for redetermination of the rent of the lease:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services together with the fee specified in Schedule 1.

Objections to, and appeals against, determinations or redeterminations

20. (1) For the purposes of clause 11 (1) of Schedule 5 and clause 10 (2) of Part 1 and clause 10 (2) of Part 2 of Schedule 7 to the Act, an objection to the Minister's redetermination of the rent of a lease or determination of the purchase price for land comprised in a lease:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services within 28 days of service on the holder of the redetermination or determination.

(2) For the purposes of clause 11 (3) of Schedule 5 (redetermination of the rent of a lease), clause 3 (3) of Part 1 of Schedule 7 (exclusion for roadways, etc. on purchase of land under lease), clause 10 (4) of Part 1 of Schedule 7 (determination of purchase price of land under lease not in an irrigation area or special land district) and clause 10 (4) of Part 2 of

Schedule 7 (determination of purchase price of land under lease in an irrigation area or special land district) to the Act, notice of an appeal to the local land board:

- (a) is to be in the approved form; and
- (b) is to be lodged with the Registrar of Local Land Boards for the land district in which the land is situated within 28 days of service on the objector of the Minister's decision together with the fee specified in Schedule 1 .

(3) The Registrar of Local Land Boards must, as soon as practicable after receipt of the notice of appeal, give notice of the appeal to all persons directly affected by the Minister's decision on the objection.

(4) An appeal under a provision referred to in subclause (2) that may be made to the Land and Environment Court is to be made:

- (a) by filing an application in accordance with the Land and Environment Court Rules 1980; and
- (b) by paying the appropriate fees in accordance with the Land and Environment Court (Fees) Regulation 1994.

Purchase of land held under lease

21. For the purposes of clause 1 (1) of Part 1 and clause 1 (1) of Part 2 of Schedule 7 to the Act, an application by the holder of a lease to purchase the whole or part of the land comprised in the lease:

- (a) is to be in the approved form; and
- (b) is to be lodged with an office of the State Lands Services together with the fee specified in Schedule 1.

Survey fee

22. For the purposes of clause 14 (1) (a) of Part 1 of Schedule 7 to the Act, the prescribed survey fee in respect of the purchase of a conditional lease is the fee (if any) specified in Schedule 1.

Repeal

23. (1) The Crown Lands (Continued Tenures) Regulation 1990 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Crown Lands (Continued Tenures) Regulation 1990, had effect under that Regulation is taken to have effect under this Regulation.

SCHEDULE 8—FEES AND DEPOSITS

(Cl. 4)

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SCHEDULE 2—CONDITIONS APPLICABLE TO YEARLY LEASES

(Cl. 12)

1. The holder of the lease must:
 - (a) comply with the requirements of any law relating to the use or management of the land leased; and
 - (b) comply with any condition attaching to a Minister's consent given in respect of the land; and
 - (c) indemnify (and keep indemnified) the Crown against all actions, suits, claims and demands, and all costs, charges and expenses, in respect of any accident or injury to any person or property which may arise out of the construction or maintenance of works authorised under the lease notwithstanding that:
 - (i) the conditions of the lease have in all respects been observed by the lessee; or
 - (ii) any such accident or injury arises from any act or thing which the holder may be licensed or compelled to do.
2. The holder of a lease must not:
 - (a) degrade the land leased; or
 - (b) without the Minister's consent, extract any material or on the land (not being material required by the holder for building or other purposes on the land or on contiguous land leased from the Crown by the holder); or
 - (c) without the Minister's consent, take any timber on the land, other than timber taken under the authority of a clearing licence issued under the Forestry Act 1916; or

- (d) interfere with or obstruct any person authorised by law to cut timber on or remove timber or materials from the land or prevent such a person from using any gate or means of access provided by the person.

3. The lessee must hold and use the land leased genuinely in his or her own interest.

4. The lessee must not transfer (except by way of charge or release of charge), assign or otherwise deal with the lease or sublet or part with the possession of or take stock on agistment on the land leased unless the consent in writing of the Minister is first obtained.

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SCHEDULE 1—FEES AND DEPOSITS

SCHEDULE 2—CONDITIONS APPLICABLE TO YEARLY LEASES

EXPLANATORY NOTE

The object of this Regulation is to repeal the Crown Lands (Continued Tenures) Regulation 1990 and to remake, without any major changes in substance, the provisions of that Regulation. The new Regulation deals with the following matters:

- (a) prescribing the fees and deposits payable in respect of applications and other matters under the Crown Lands (Continued Tenures) Act 1989 (clauses 4 and 22 and Schedule 1);
- (b) prescribing the forms of application and the manner of lodgment of applications for the purposes of the Act (clauses 8, 10, 14–19 and 21);
- (c) prescribing conditions applicable to yearly leases (clause 12 and Schedule 2);
- (d) other minor, consequential or ancillary matters (clauses 1–3, 5–7, 9, 11, 13, 20 and 23).

This Regulation is made under the Crown Lands (Continued Tenures) Act 1989, including section 18 (the general regulation making power) and various other provisions referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
