

No. XVIII.

An Act to regulate the Alienation Occupation and Management of Crown Lands and for other purposes. [17th October, 1884.]

CROWN LANDS.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

PART I.

Preliminary and General Provisions.

1. This Act shall come into force on the first day of January one thousand eight hundred and eighty-five and may be cited as the "Crown Lands Act of 1884" It is divided into Seven Parts embracing the following subjects viz :—

Commencement
short title and
division of Act.

PART I.—*Preliminary and General Provisions—ss. 1-7.*

PART II.—*Establishment of Divisions—Land Districts—Local Land Boards—Hearing of Appeals—ss. 8-20.*

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PART III.—ALIENATION—*Conditional Purchases—Conditions and Obligations of Conditional Purchasers—Additional Conditional Purchases—Conditional and Improvement Purchases in Gold-fields—Conditional Purchases without Residence—Conditional Leaseholds—Measurement of Conditional Purchases—Auction Sales—Special Sales without Competition—ss. 21-68.*

PART IV.—OCCUPATION—*Division of Runs—Pastoral Leases—Occupation Licenses—Homestead Leases—Annual Leases for Pastoral Purposes—Special Leases—Ringbarking by Lessees—General Provisions affecting Leases Lessees and Licensees—ss. 70-100.*

PART V.—*Dedications—Reserves—Roads—ss. 101-111.*

PART VI.—*State Forests—Timber Reserves—Licenses—Permits—ss. 112-116.*

PART VII.—*Transfers—Legal Provisions—Miscellaneous Provisions—ss. 117-145.*

Repeal of Acts.

2. The unrepealed portions of the Acts mentioned in the subjoined list are hereby repealed together with all regulations made thereunder viz. :—

Year and number of Act.	Title of Act.
22 Vic. No. 17 ...	An Act to impose an Assessment on Runs in the Unsettled and Intermediate Districts and to increase the Rent of Lands leased for Pastoral Purposes within the settled Districts of New South Wales.
23 Vic. No. 4 ...	An Act to include the Intermediate with the Settled Districts.
25 Vic. No. 1 ...	An Act for regulating the Alienation of Crown Lands.
25 Vic. No. 2 ...	An Act for regulating the Occupation of Crown Lands.
39 Vic. No. 13 ..	An Act to declare and amend the Laws relating to Crown Lands.
42 Vic. No. 26 ...	An Act to declare the Law as to the effect of Transfers before grant of Lands conditionally purchased under the Acts regulating the Alienation of Crown Lands.
43 Vic. No. 29 ...	An Act further to amend the Lands Acts of 1861 and the Act of 1875.
43 Vic. No. 33 ...	An Act to declare the Law in respect to lands forfeited or reverting to Her Majesty by reason of non-compliance with the conditions of purchase by the conditional purchaser.
45 Vic. No. 8 ...	An Act to regulate ringbarking on Crown Lands and to limit claims for compensation under the fifteenth section of the "Lands Acts Further Amendment Act of 1880."
45 Vic. No. 9 ...	An Act to extend the power of correcting designs or plans of towns and villages and the limits of Suburban Lands.

But the repeal hereby enacted shall not of itself—

- (I.) Abate prejudice or affect any proceeding civil or criminal at law or in equity depending in any Court or before Arbitrators or any other authority at the commencement of this Act—or
- (II.) Affect any grant lease license reservation dedication proclamation appointment or notification lawfully made before the commencement of this Act—or
- (III.) Prejudice or affect any proceeding matter or thing lawfully done or commenced or contracted to be done under the authority of any enactment or regulation hereby repealed.

And provided always that notwithstanding such repeal—

- (a) All offences penalties and forfeitures committed or incurred before the commencement of this Act may be respectively tried punished enforced and dealt with as if this Act had not been passed.
- (b) All rights accrued and obligations incurred or imposed under or by virtue of any of the said repealed enactments shall subject to any express provisions of this Act in relation thereto remain unaffected by such repeal.

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3. Notwithstanding anything contained in the last preceding section—

- (I.) No application to make any additional conditional purchase of Crown Lands whatever by virtue of any holding under any of the said repealed Acts shall be entertained or dealt with otherwise than in accordance with the provisions of this Act.
- (II.) No application to make any purchase of Crown Lands in virtue of improvements under the said Acts effected or acquired after the seventeenth day of July one thousand eight hundred and eighty-four shall unless made for land held under a miner's right or business license be complied with. Provided that all such first-mentioned applications to purchase under the said repealed Acts shall be lodged with the proper officer before this Act comes into operation.
- (III.) All lands held under pre-emptive lease on the thirty-first day of December one thousand eight hundred and eighty-four shall thereafter be deemed to be Crown Lands freed and discharged from such lease. And such lands shall revert to the Pastoral Holding if any of which they originally formed part and rent shall thereafter be payable therefor at the same rate as is charged for such holding but if there be no such holding then such lands if situated in the Eastern Division may be converted into annual leases for pastoral purposes under part IV of this Act but without competition. Provided always that the holders of lands conditionally purchased under the said Acts shall be entitled to the rights conferred by this Act.

Provisions regarding mineral conditional purchases and pre-emptive leases abolished.

4. In this Act unless the context necessarily requires a different meaning the expression—

Interpretation of terms.

- “Alienee” means any person whose estate or interest is derived by sale mortgage or any disposition not testamentary or operating by devolution of law.
- “Crown Lands” means lands vested in Her Majesty and not permanently dedicated to any public purpose or granted or lawfully contracted to be granted in fee simple under this Act or any of the Acts hereby repealed.
- “City town or village”—A city town or village shall be such as shall have been declared to be so by proclamation of the Governor in the *Gazette*.
- “Frontage” means abuttal on or frontage to the sea-coast or to any lake inlet river creek stream watercourse road or intended or designed road prescribed as a boundary.
- “Governor” means the Governor with the advice of the Executive Council.
- “Land Agent” means any person duly appointed to the office of Crown Land Agent or Acting Crown Land Agent.
- “Land Office day” means any day notified as such in the *Gazette* upon which Land Agents are required to attend at their Land Offices for the purpose of receiving applications for sale or lease of Crown Lands.
- “Lease” includes any unexpired engagement contract or promise of a lease.
- “Local Newspaper” means a newspaper published or circulating in the particular district or place in reference to which the expression is used.
- “Leasehold Area” means that portion of a Pastoral Holding for which a Pastoral Lease may be granted under this Act.

“Minerals”

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“Minerals” means and includes coal kerosene shale and any of the following metals or any ore containing the same viz.— Gold silver copper tin iron antimony cinnabar galena nickel cobalt platinum bismuth and manganese and any other substance which may from time to time be declared a mineral within the meaning of this Act by proclamation of the Governor published in the *Gazette*.

“Minister” means the Minister for Lands or other Minister charged with the administration of this Act or any part thereof.

“Prescribed” means prescribed by this Act or by any Regulation made thereunder.

“Pastoral Holding” means the area included within the continuous boundaries or reputed boundaries of any station worked or used for grazing purposes whether such station includes more than one run or includes lands held by or in the interests of the runholder otherwise than under pastoral or pre-emptive lease or not.

“Population Boundaries” includes lands within areas bounded by lines bearing north east south and west as defined by proclamation in the *Gazette* and distant not more than ten miles from the nearest boundary of any city town or village.

“Public purpose” means and includes in addition to any purpose specified in any section of this Act any purpose declared by the Governor by notification in the *Gazette* to be a public purpose within the meaning of such section.

“Regulations” means the Regulations made under the authority of this Act.

“Representatives” means the executors or administrators of the person with reference to whom the word is used and includes all persons in whom the estate or interest of such person is vested.

“Run” means Crown Land held under pastoral lease at the commencement of this Act and also any land which by the operation of this Act may have reverted or may revert to such lease.

“Runholder” means the registered lessee or the holder of any such run.

“Resumed Area” means that portion of a Pastoral Holding for which a Pastoral Lease may not be granted under this Act.

“Vacant Land” means land not alienated by or held under any lease or promise of lease or license from the Crown.

No dealing with Crown Lands except under this Act.

5. Crown Lands shall not be sold leased dedicated reserved or dealt with except under and subject to the provisions of this Act and nothing in this Act shall affect the provisions of any Act regulating Mining on Crown Lands or shall affect the prerogative of the Crown in respect to any lands reverting by escheat or forfeiture to Her Majesty otherwise than under the provisions of this Act or any Act hereby repealed.

Provisions as to grants leases &c.

6. The Governor on behalf of Her Majesty may grant dedicate reserve lease or make any other disposition of Crown Lands but only for some estate interest or purpose authorized by this Act and subject in every case to its provisions No Crown grant issued after the commencement of this Act shall be expressed or purport to be in trust for private persons or purposes.

Minerals reserved in all grants.

7. All grants of land issued under the authority of this Act shall contain a reservation of all minerals in such land and shall contain such other reservations and exceptions as may by the Governor be deemed expedient in the public interest Provided that whenever it shall be found that land alienated under this or any of the said repealed

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repealed Acts contains any mineral and such land has been alienated subject to the minerals being reserved to the Crown the Governor may permit the owner of such land to remove such mineral upon payment of such royalty and upon such conditions as may be prescribed Provided also that the right of any holder of a conditional purchase made under sections thirteen twenty-one or twenty-two of the "Crown Lands Alienation Act of 1861" hereby repealed to convert such purchase into a conditional purchase for mining purposes in accordance with any regulations in force for the time being made under the said Act may be exercised subject to the terms and conditions contained in such regulations as if this Act had not been passed.

PART II.

Establishment of Divisions—Land Districts—Local Land Boards—Hearing of Appeals.

8. For the purposes of this Act New South Wales shall consist of Three Divisions namely:—The Eastern Division—the Central Division—and the Western Division—and the boundaries of each Division shall be as set forth in the Schedule hereto Provided always that it shall be lawful for the Governor from time to time by proclamation in the *Gazette* to alter the boundary of any Division so as to avoid the severance of any existing conditional purchase or lease or other lawful holding whatsoever And upon the publication of such proclamation the boundary as altered thereby shall be deemed to be the true boundary of the Division referred to in such proclamation.

Land Districts.

9. The Governor may within each Division by proclamation in the *Gazette* establish and define the boundaries of Land Districts and may in like manner alter the same.

10. The Governor may appoint a Land Agent either for each Land District or for several adjoining Land Districts who shall perform the duties imposed on him by this Act or the Regulations and the Minister may at any time in the absence of any such Agent appoint a person to act for him And all things done by an Acting Land Agent within the scope of his authority shall be of the same efficacy as if done by the Land Agent It shall be the duty of every Land Agent to forward to the Colonial Treasurer all moneys received by him by virtue of this Act or the Regulations in the prescribed manner and in all other respects to conform to the Regulations and to carry out the instructions given by or by direction of the Minister.

Local Land Boards.

11. There shall be a Local Land Board for every Land District or for several Land Districts and the members of such Board shall not exceed three in number and shall be appointed by the Governor One of such members shall be the chairman who shall be appointed in like manner and shall be paid such salary as Parliament may sanction Every other member of the Board shall be paid such fee for each sitting as may be prescribed Any member of a Local Land Board who shall sit or act in any way as a member of such Board in any case in which he is or has been directly or indirectly interested shall be liable to a penalty not exceeding five hundred pounds.

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Quorum. Chairman's votes.

12. A majority of the members of any Local Land Board shall constitute a quorum and the chairman shall if present preside at all meetings of the Board and have an original vote on any question brought before or referred to such Board. Provided always that the chairman shall have a casting vote on any question on which the votes are equal.

Duties and powers of Local Land Boards under repealed Acts.

13. In addition to the matters hereinafter required or permitted to be made the subject of adjudication appraisement valuation inquiry or report by Local Land Boards it shall be the duty of every such Board and it shall have full power and authority to hear examine and report to the Minister upon—

- (I.) Any matter referred for report to such Board by the Minister which under the provisions of any Act hereby repealed might have been the subject of any claim for compensation or of arbitration appraisement inquiry or complaint.
- (II.) Any complaint or question as to the non-fulfilment of any condition of residence or improvement by a conditional purchaser under any of the said repealed Acts.
- (III.) Any allegation or complaint that land conditionally purchased under any of the Acts hereby repealed has been so purchased by the applicant in violation of any of the provisions thereof. Provided that nothing herein contained shall refer to any land for which a certificate of completion of the conditions of residence and improvements or grant has already issued.

General powers and procedure of Local Land Boards.

14. For the purpose of regulating the procedure of Local Land Boards under this Act and of empowering such Boards to give full effect to the meaning and intent thereof the following provisions shall be applicable to and be carried out by such Boards—

Local Land Board to sit as in open Court.

(I.) Every such Board shall have power to hear and determine all complaints and other matters brought before it and shall conduct all inquiries sitting as in open Court and shall take evidence on oath and its procedure while so sitting shall be the same as the procedure before a Court of Petty Sessions.

Power to compel attendance of witnesses.

(II.) The Chairman of every such Board shall be a Justice of the Peace by virtue of his office and shall have and may exercise the like powers and authorities as are possessed by a Court of Petty Sessions to summon and compel the attendance of witnesses to give evidence on any matter before the Board and to produce all deeds and documents in their possession or under their control relating to such matter. And all witnesses so summoned to attend shall be entitled to the like allowances for attendance and travelling expenses as witnesses attending a District Court are by law entitled to.

Expenses of witnesses

Parties may be heard by counsel attorney or agent.

(III.) Every party to a proceeding before such Board shall have the same right to be heard by counsel attorney or agent and to enforce the attendance of witnesses before such Board and to examine such witnesses as upon summary proceedings before Justices.

Decision of Board how given.

(IV.) The chairman shall give the decision of the Board (when unanimous) in open Court but if not unanimous the Board shall decide by vote (retiring for that purpose if it shall think fit). The decision shall then be given by the chairman as aforesaid and no member shall comment upon or question such decision. Upon an appeal to the Minister as hereinafter provided any member of the Board may assign in writing such reasons for his opinion as he may deem necessary which shall be transmitted through the chairman to the Minister.

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- (v.) Any person not authorized in that behalf by the Minister desirous of prosecuting any complaint before such Board shall do so by lodging with the Land Agent a notice in the prescribed form verified by a statutory declaration setting forth the grounds of such complaint and shall at the same time deposit with such Land Agent the sum of ten pounds as security for any costs which may be awarded against him by such Board. Provided that should the Board be of opinion that the sum of ten pounds will be insufficient to meet the probable expenses in any case it may demand such further sum as may be deemed necessary and should such sum not be deposited with the Land Agent within such time as the Board may specify such complaint shall not be proceeded with. When the Board shall give a decision in favour of the complainant he shall be entitled to a refund of the sum so deposited and it may award such expenses for witnesses and such costs to the successful party as to it may seem reasonable and such expenses and costs shall be recoverable in the manner prescribed by the Acts regulating the procedure in Courts of Petty Sessions. Complaint by other than authorized persons.
- (vi.) The Minister may return to the Local Land Board for revision rehearing or further consideration any case or matter which to such Minister shall appear to have been improperly or insufficiently considered or determined by such Board. Rehearing.
- (vii.) The Local Land Board instead of giving any decision or adjudication in any case within the jurisdiction of such Board may after taking evidence refer such case with the evidence for decision by the Minister who shall have power to deal with the case so referred in all respects as if it had been brought before him in the first instance. Reference to Land Court.
- (viii.) In the absence of the chairman the members present at any meeting of the Board shall appoint one of their number to act as chairman at such meeting or any adjournment thereof who shall while so acting have all the powers and authority of the chairman. The resignation removal from office insolvency or absence from three consecutive meetings of the Board of any member of the Board without leave of the Minister shall cause a vacancy therein and the Governor may appoint a person to supply such vacancy. Acting chairman in absence of chairman.
- (ix.) Any member of the Board may sign summonses and the chairman shall sign certificates and other documents given or issued by the Board and immediately after adjudication or decision upon any case shall forward all papers connected with the case together with any report required thereon to the Minister. Vacancies.
- (ix.) Any member of the Board may sign summonses and the chairman shall sign certificates and other documents given or issued by the Board and immediately after adjudication or decision upon any case shall forward all papers connected with the case together with any report required thereon to the Minister. Signature of summonses documents &c.

15. In any case where a Local Land Board pursuant to the provisions of this Act and subject to the provisions for appeal hereinafter provided for shall make any adjudication or award and to give effect to such adjudication or award shall make any order for the payment of money whether as compensation costs appraised value or otherwise howsoever such order shall be under the hand of the chairman and may be enforced by distress and sale of the goods and chattels of the person ordered to pay such money in manner prescribed by the regulations or the same may be recovered in a summary way before any two Justices of the Peace by the person to whom such money is ordered to be paid. Orders of Local Land Board how enforced.

16. For every Land District the Governor may appoint a District Surveyor and such other officers as he may think necessary for the purposes of this Act. Provided always that wherever required by Appointment &c. of District Staff of Officers
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the Minister such officers shall perform the duties connected with their respective offices in and for any Land District in addition to that for which they have been appointed.

Procedure on appeal to Land Court.

17. Either party to any proceedings dispute or claim before a Local Land Board and any caveator as hereinafter provided may appeal from the adjudication or decision of such Board to the Minister at any time within twenty-eight days after the same has been given by giving written notice of such appeal to the chairman of the Board and to the other party to the proceeding (if any) and depositing with such chairman the sum of ten pounds as security for the costs of the appeal. And every such notice shall state the grounds of appeal.

Hearing of Appeals.

Minister to adjudicate as in open Court.

18. The Minister shall have power to hear and determine all appeals and to make such orders for the payment of costs incurred in such appeals as he may think just. And such appeals shall be heard and determined as in open Court and the parties to such appeals may be heard by counsel attorney or agent but no fresh evidence shall be adduced except in cases of voidance or forfeiture and the decision of the Minister shall be given as in open Court and shall when recorded be filed with the proceedings in the case. The decision of the Minister upon any appeal in respect of any matter arising out of a conditional purchase or conditional leasehold shall for all the purposes of this Act be final and conclusive.

Case may be remitted to Board for further evidence.

19. If in any case it shall appear to the Minister that further evidence ought to be taken the case may be remitted to the Local Land Board for that purpose and the Board may after hearing such evidence reverse alter or amend its previous decision in any way it may consider necessary.

As to lapse voidance and forfeiture.

20. Any question of lapse voidance or forfeiture whether arising under this Act or any of the said repealed Acts may be by the Minister referred to the Local Land Board and the decision thereon of the said Board after due investigation in open Court shall unless appealed from in the prescribed manner be final.

PART III.

ALIENATION—Conditional Purchases—Conditions and Obligations of Conditional Purchasers—Additional Conditional Purchases—Conditional and Improvement Purchases in Gold-fields—Conditional Purchases without Residence—Conditional Leaseholds—Measurement of Conditional Purchases—Auction Sales—Special Sales without Competition.

What lands exempt from conditional purchase.

21. Crown Lands belonging to any of the classes hereinafter specified shall be exempt from conditional sale under this Part—

- (I.) Lands held under conditional lease except by the conditional leaseholder having a preferent right of purchase as specially provided by this Act or to which a right of conditional lease is attached if such right of lease conferred by a conditional on any additional conditional purchase made under the repealed Acts be exercised within ninety days after the commencement of this Act or at the date of application for any conditional or any additional conditional purchase under this Act.

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- (II.) Lands within the Western Division unless within Special Areas proclaimed as hereinafter provided
- (III.) Lands comprised within Leasehold Areas notified under the provisions of Part IV
- (IV.) Lands reserved or set apart for Town or Suburban lands or for village sites
- (V.) Lands reserved from sale or dedicated reserved or set apart for any public purpose other than as aforesaid.
- (VI.) Lands in proclaimed gold-fields within areas reserved from conditional sale
- (VII.) Lands within Population Areas as defined in section four
- (VIII.) Lands under lease or lawful occupation for mining purposes and lands of which a lease under any Act in force for the time being relating to mining has been applied for
- (IX.) Lands containing improvements in the nature of buildings structures or works not being fencing only and being of a permanent fixed or substantial character and such as in the opinion of the Local Land Board are necessary for the profitable occupation of the land on or adjoining or in connection with which such buildings structures or works are or were intended to be used Provided that the land so exempt from sale shall be equivalent to one acre for each pound worth of improvements by virtue of which the same is exempted and in no case shall such exemption be less than forty acres nor exceed six hundred and forty acres and the conformation of the boundaries of the land so exempt shall be as prescribed Provided further that no such improvements shall be made after this Act comes into operation without the permission of the Local Land Board approved by the Minister Provided further that such last-mentioned improvements shall not prohibit conditional purchase or conditional lease within resumed areas subject to payment by the conditional purchaser or conditional leaseholder to the owner for such improvements in the manner provided (as regards fixing of value and mode of payment) by the forty-first section of this Act.

And for the purposes of this section it shall be immaterial whether the proclamation dedication reservation setting apart notification lease or application herein mentioned in connection with any such lands was made under any repealed Act or under this Act or whether any such improvement was made before or after the commencement of this Act.

22. All Crown Lands if not within any of the aforesaid classes of exemption shall be open to conditional sale under and subject to the provisions and conditions of this Act and where in any Act relating to the Volunteer Force reference is made to the thirteenth section of the "Crown Lands Alienation Act of 1861" such reference shall in respect to all claims to free grants of lands unsatisfied at the commencement of this Act be deemed and taken to refer to Crown Lands open to conditional sale under this Act Provided that no person shall make more than one conditional purchase under this Act except by way of additional conditional purchase in virtue of an original purchase as hereinafter provided unless he shall have first received a certificate from the Local Land Board of fulfilment of all the required conditions (except payment of balance of purchase money) or that having made such conditional purchase *bonâ fide* and solely in his own interest he had been compelled through adverse circumstances to vacate or abandon the same.

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Who competent to conditionally purchase.

23. No person under the age of sixteen years shall be a conditional purchaser of Crown Lands but any person of or above that age (if under no legal disability except that of age) may subject to the limitation as to age hereinafter contained relating to conditional purchase without residence be a conditional purchaser of such lands.

What areas may be purchased conditionally.

24. In the Eastern Division no application for a conditional purchase shall be received for less than forty or more than six hundred and forty acres and in the Central Division no such application shall be received for less than forty or more than two thousand five hundred and sixty acres. Provided always that it shall be lawful for the Governor by proclamation in the *Gazette* to reserve and set apart from time to time in the Eastern and Central and Western Divisions not being within pastoral or homestead leases any areas of Crown Land (to be called Special Areas) within which it shall not be lawful to conditionally purchase more than one hundred and sixty acres and in such areas and at such prices (not being less than thirty shillings per acre) deposits and instalments as shall be notified in such proclamation.

Land to be marked before application.

25. When the land to be applied for as a conditional purchase is unmeasured land the intending applicant shall before lodging his application mark some corner of such land in the prescribed manner and shall in his application describe such land in such manner as to permit of its identification by the description. And if the land applied for has not a frontage it must be situated at a distance of at least sixty chains from a frontage. When such land is measured land the applicant shall so describe it. And whenever the land so applied for contains improvements the applicant shall state that fact in his application and shall describe the nature and position of such improvements.

Description of unmeasured and measured lands and improved lands.

Deposit to be lodged with application.

26. Every application for an original conditional purchase shall be tendered by the applicant in person and every application for an additional conditional purchase may be tendered by the applicant in person or by any duly authorized agent to the Land Agent on some Land Office day and with the application there shall be lodged with the Land Agent a deposit at the rate of two shillings per acre of the area applied for together with a declaration made by the applicant in the prescribed form. And if any person shall make a false statement in such declaration as to any of the matters contained therein he shall forfeit all moneys paid by him in respect of the land applied for and all right and title to such land. And any conveyance transfer mortgage or disposition of such land made by such person shall be null and void if taken with notice or knowledge of such false statement.

Declaration by applicant.

Receipt for deposit.

27. The applicant who shall have duly complied with all prescribed requirements shall be entitled to a receipt from the Land Agent for the deposit paid by him but if more than one application and deposit for the same land or any part thereof be tendered to the Land Agent at the same time he shall unless all the applications but one be forthwith withdrawn proceed to determine by lot in the prescribed manner which application shall be received.

Applications to be transmitted to Local Land Board.

28. The Land Agent shall enter the particulars of all such applications deposits and declarations in a Register to be kept by him in the prescribed manner and shall thereupon transmit such applications to the Local Land Board together with all documents relating thereto to be dealt with as hereinafter provided. A list of all such applications so transmitted to the Local Land Board shall be kept by such Land Agent in the prescribed manner and be exhibited by him for public inspection in some conspicuous part of his office. And all applications so transmitted shall be dealt with by the said Board sitting as in open Court on a day of which at least fourteen days notice shall be given in the prescribed manner.

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29. Upon receipt of every such application the Local Land Board if the land applied for appears to such Board to be open to conditional purchase and has not been surveyed shall direct the district surveyor to cause a survey of such land to be made. And if upon the report of such surveyor it shall appear that the land is available then the Board shall confirm the application unless a caveat be lodged as hereinafter provided but if it shall disallow the application the applicant may appeal from such disallowance to the Minister in the prescribed manner. If upon report or otherwise before survey the Board shall be of opinion that the land applied for is not open to conditional purchase it may disallow the application in like manner subject to appeal as aforesaid. When an application subject to appeal as aforesaid is made for a measured portion open to conditional purchase the Board shall either with or without a report confirm or disallow such application and the Board on every such confirmation shall issue a certificate thereof in the prescribed form to the applicant.

Survey by direction
of Local Land Board.

30. Any person claiming a right to land so applied for may in the prescribed manner lodge a caveat with the Local Land Board setting forth objections against the confirmation of any such application and shall at the time of lodging the same deposit with the Board the sum of ten pounds to be dealt with by the Board as hereinafter provided. And all applications in respect of which caveats have been so lodged shall be dealt with at a meeting of the Board holden after the prescribed notice thereof shall have been given to the applicant and the caveator at which meeting the Board sitting as in open Court shall hear and determine the grounds of objection set forth in the caveat and if the caveator be not present or if the Board shall consider that the objections are not sustained it may order the deposit of the caveator or any part thereof to be paid to the applicant by way of compensation or may make such other order in the premises as it may deem just. The Board may upon such terms as it may deem fit postpone the hearing of any application under caveat to some day of which the prescribed notice shall be given to the applicant and the caveator.

Caveats against
application.

31. Unless the caveator shall give the prescribed notice of appeal to the Minister and with such notice deposit the prescribed sum with the Local Land Board the adjudication of such Board shall be final and conclusive but if such notice shall have been duly given and such deposit made the appeal shall be heard and determined by the Minister.

Adjudication of
Board to be final
unless caveator
appeals to Minister.

Conditions and obligations of Conditional Purchasers.

32. Every original conditional purchaser under this Act shall within three months from the date of confirmation of his application by the Local Land Board commence and thereafter continue to reside on his conditionally purchased land for the term of five years from such date. And residence for the purpose of this part shall be taken to mean continuous and *bonâ fide* living on such land as the conditional purchaser's usual home without any other habitual residence.

Condition of
residence.

33. Every conditional purchaser shall within two years after the date of such confirmation fence the boundaries of his conditionally purchased land with a substantial fence of any of the prescribed classes of fencing and shall maintain such fence in good repair and condition during the entire period of the term of residence hereinbefore required. Provided that upon sufficient cause the Local Land Board may on application extend the period within which the condition of fencing shall be fulfilled. And provided that the Board on the application of such purchaser may grant him an exemption from fencing any part of his land which has frontage to a permanent river creek or other natural boundary held by the Board to be sufficient.

Condition of fencing.

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Declarations as to residence and final declaration as to residence and fencing.

34. Every conditional purchaser shall at the end of the third year after the date of confirmation of his application or within three months thereafter make the prescribed declaration before the Land Agent of the due fulfilment up to such date of the condition of residence and of the condition of fencing required by this Act and at the end of the fifth year after the date aforesaid or within three months thereafter such conditional purchaser shall make a like declaration of the due fulfilment by him of the complete term of residence. Such declarations shall be transmitted by the Land Agent to the Local Land Board. For the purposes of this Act and the regulations made thereunder every Land Agent shall during his tenure of office be deemed a Commissioner of the Supreme Court for taking affidavits.

Conditions for payment of residue of purchase money.

35. Every conditional purchaser at the end of the third year after the date of confirmation of his application or within three months thereafter shall pay to the Land Agent an instalment on his purchase at the rate of one shilling per acre and thereafter shall pay in like manner a like instalment annually during a period until the balance of seventeen shillings per acre together with interest at the rate of four per centum per annum thereon shall have been paid. After the last payment of such instalments and interest the conditions of payment required by this Act shall be deemed to have been duly fulfilled. Provided however that it shall be lawful for the conditional purchaser to pay off the whole or any portion of such instalments at any time after the expiration of five years from the date of confirmation as aforesaid if the certificate mentioned in the next following section shall have been granted to him. Provided always that any holder of a conditional purchase made before the commencement of this Act may by writing addressed to the Local Land Board apply to convert his holding so far as regards the balance unpaid of his purchase money into a holding under the conditions of payment prescribed by this section.

Certificate of Board of fulfilment of certain conditions by conditional purchaser

36. If at the expiration of the prescribed term of residence the Local Land Board shall be satisfied after due inquiry that all conditions applicable to a conditional purchase except that of payment of the balance of instalments have been duly complied with such Board shall issue a certificate to that effect. And a like certificate may be granted by such Board upon application of the holder of any additional conditional purchase when such Board shall be satisfied after like inquiry that all conditions applicable thereto except that of payment of balance of instalments have been duly complied with such certificate shall be transferable subject to the prescribed conditions and shall be *prima facie* evidence of the title of the holder thereof to the land therein described subject to the fulfilment of the prescribed conditions of payment. No such certificate shall be issued by the Board before the expiration of thirty days from the date of publication in the *Gazette* of notice of its intention to issue the same within which period any person may lodge in the prescribed form and manner a caveat against such issue and every such caveat shall be disposed of by the Board before issuing such certificate in manner hereinbefore provided for dealing with caveats. Provided that the Board may after the prescribed notice in the *Gazette* and in the prescribed manner issue to the person entitled thereto a fresh certificate upon satisfactory proof being adduced that the original certificate issued has been lost or destroyed.

Grant to issue on fulfilment of conditions.

37. Subject to the issue of such certificate and upon payment of the balance of instalments stamp duty and deed fee a grant in fee simple of the land shall be issued upon application.

Forfeiture on default of payment by conditional purchaser.

38. In default of payment of any instalment for three months after the day when such payment shall have fallen due the conditional purchase may be declared by the Minister to be forfeited and upon such

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such declaration being published in the *Gazette* the conditionally purchased land in respect of which such payment is due shall revert to Her Majesty and become Crown Lands for the purposes of this Act And any payment made in respect of such purchase shall in such case be forfeited to Her Majesty.

39. If the Local Land Board shall report to the Minister that after due inquiry held by such Board the prescribed conditions of residence or fencing have not in the opinion of such Board been duly fulfilled by any conditional purchaser or his representatives it shall be lawful for such Minister to declare the conditional purchase to be forfeited and any payment made in respect of such purchase shall in such case be forfeited to Her Majesty.

Provision as to forfeiture on non-fulfilment of conditions of fencing and residence.

40. The conditions and obligations imposed by and all other the provisions relating to conditional purchasers contained in the last eight preceding sections shall be equally applicable and attach to persons deriving title through or under such conditional purchasers and to all persons upon whom title shall devolve or be cast by operation of law But this section shall be read subject to the provisions hereinafter contained relative to cases of death lunacy insolvency or judgment debt of a conditional purchaser.

Applicability of conditions &c. to the representatives of conditional purchasers.

41. In every case where land conditionally purchased under this Act contains improvements other than those described in sub-section (IX) of section twenty-one the conditional purchaser shall pay the value of such improvements as appraised by the Local Land Board Where such improvements belong to the Crown payment by annual instalments of one quarter of the appraised value may be made by such purchaser in the prescribed manner and at the prescribed time and where such improvements do not belong to the Crown payment shall be made in such manner and at such times as the owner thereof and the conditional purchaser shall agree upon or failing such agreement as the Local Land Board shall determine Provided always that nothing herein contained shall prevent such owner from removing any such improvements which in the opinion of the said Board are capable of removal without permanently deteriorating the value of the land on which they are if such removal is carried out within three months from the date of confirmation of application to purchase.

Payment for improvements.

Additional Conditional Purchases.

42. Any holder of a conditional purchase not exceeding in the Eastern Division six hundred acres or in the Central Division two thousand five hundred and twenty acres may make additional conditional purchases of Crown Lands adjoining the original or any prior additional conditional purchase or each other provided that the original and such additional conditional purchases do not exceed in the whole six hundred and forty acres in the Eastern Division and in the Central Division two thousand five hundred and sixty acres and that all the conditions and obligations applicable to original conditional purchases be fulfilled by such holder in relation to every such additional conditional purchase except as hereinafter provided And for the purposes of this section it shall be immaterial whether the original or prior additional conditional purchases were made under any of the Acts hereby repealed or under this Act or partly under one and partly under the other Provided that additional conditional purchases may in special areas within the Eastern Central and Western Divisions be made by holders of conditional purchases such purchases original and additional not exceeding one hundred and sixty acres.

Additional conditional purchases in Eastern and Central Divisions.

The like in special areas.

Crown Lands.

Original and
additional conditional
purchase one holding.

43. The area embraced by any original conditional purchase made under this Act and any additional conditional purchase made in virtue thereof may for all purposes of residence and fencing be held to be one holding and conditional purchase. But whenever the holder of lands conditionally purchased under the said repealed Acts shall exercise his right of making an additional conditional purchase under this Act in the Central Division the area of which whether taken by one or more applications together with that previously purchased under the said Acts shall exceed six hundred and forty acres then such area shall be subject to the condition of a further term of five years' residence in like manner as an original conditional purchase made under this Act. But such residence may be fulfilled on the land by virtue of which any such additional purchase may be made. Provided that no further residence than is required under the repealed Acts shall be necessary in connection with additional conditional purchases in the Eastern Division made in virtue of original conditional purchases under the said Acts.

Declaration as to
additional conditional
purchases may in
certain cases be made
at any time.

44. Whenever the condition of residence incident to an additional conditional purchase has been fulfilled on an original conditional purchase made under this Act then upon the fulfilment by the holder thereof of the prescribed conditions of fencing and payment he may at any time make the prescribed declarations in relation thereto. In any such case the conditions as to payment of instalments as hereinbefore provided shall apply as if the prescribed declarations had been lodged at the end of three and five years respectively from the date of confirmation of application.

Purchases in Gold-fields.

Crown land within
proclaimed gold-field.

45. Any Crown Land within a proclaimed gold-field which after the twenty-fifth day of May one thousand eight hundred and eighty has been sold conditionally or by auction or in virtue of improvements or otherwise as well as any such land alienated under this Act shall be subject to the following condition namely:—Any person specially authorized in the prescribed manner by the Minister shall be at liberty to dig and search for gold within such land and should it be found to be auriferous the Governor may cancel wholly or in part the sale of such land and upon the notification thereof in the *Gazette* the proprietor shall be entitled to compensation for the value of the land as if it were not auriferous and of the improvements thereon as appraised by the Local Board and such land shall thereupon become Crown Land within the meaning of the "Mining Act 1874" or any Act amending the same and shall be reserved from sale until such reservation be revoked by the Governor. Provided that the person so specially authorized by the Minister to dig and search for gold shall on the appearance of such notification in the *Gazette* be deemed to be the first applicant for a claim or lease of such land or a portion thereof and the date of such application shall be reckoned from the day of publication of such notification in the *Gazette* but in all other respects as to area labour conditions and other matters such application shall be dealt with subject to the regulations in force for the time being authorizing the occupation of Crown Lands for gold-mining purposes.

Improvement pur-
chases on gold-fields.

46. Upon application by the owner of improvements in authorized occupation by residence under any Act in force for the regulation of mining on Crown Lands of land within a proclaimed gold-field the Governor may sell and grant such land to such owner without competition at a price to be fixed by the Local Land Board not being less than

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than at the rate of eight pounds per acre for town lands and two pounds ten shillings per acre for suburban and other lands or two pounds ten shillings for any area less than one acre. Provided that such sales be made in accordance with the general subdivision of the land and embrace only allotments or portions on which the improvements may be and that the areas to be sold shall not exceed one quarter of an acre for town lands and one acre for suburban or other lands. Provided also that such price shall be exclusive of the value of the improvements. And for the purposes of this section improvements of value equal to the respective minimum rates hereinbefore provided for shall be sufficient. But no person shall be permitted to make a subsequent purchase within three miles of a prior purchase by him.

Conditional Purchases without Residence.

47. Crown Lands open to conditional purchase may be conditionally purchased as hereinbefore provided without conditions of residence but subject to the conditions of forfeiture as hereinbefore provided by any person of the age of twenty-one years or upwards subject however to the qualifications and conditions following:—

Conditional purchase without residence,

- (I.) No area purchased under this section shall be less than forty acres or shall exceed three hundred and twenty acres. And no person shall be permitted to make a second or subsequent purchase under this section except by way of additional conditional purchase which together with the original purchase shall not exceed three hundred and twenty acres.
- (II.) No person who has purchased under this section shall be permitted to make any other conditional purchase whatsoever under this Act. And no person who has made a conditional purchase under this or any of the repealed Acts shall be permitted to make or to hold a conditional purchase under this section.
- (III.) The deposit and all subsequent instalments shall be double those respectively prescribed on ordinary conditional purchases and shall be paid to the like persons and at the like periods.
- (IV.) Within twelve months after the survey of the land so purchased the boundaries thereof shall be fenced by the purchaser with a substantial fence of any of the prescribed classes of fencing. But the provisions for extension of time and exemption from fencing frontages in certain cases contained hereinbefore shall apply to conditional purchases made under this section.
- (V.) Five years after the survey of the land so purchased the purchaser shall produce to the Local Land Board evidence satisfactory to such Board that he has expended a sum not less than one pound per acre upon permanent improvements otherwise than for the boundary fencing. And upon the production of such evidence he shall be entitled to a certificate to the like effect as is hereinbefore provided.
- (VI.) The estate or interest of a purchaser under this section shall be incapable of being transferred alienated mortgaged encumbered or pledged until after the issue of such certificate by the Local Land Board but subject to the payment of instalments due on the land purchased may devolve or be transferred by operation of law.

*Crown Lands.**Conditional Leaseholds.*

Application for
conditional leases.

48. Any applicant for a conditional purchase or additional conditional purchase of land under this Act other than for such purchase without residence within the Eastern Division (not being within any Special Area in that Division) and any applicant for a like purchase in the Central Division who desires to obtain in connection with such purchase a conditional lease of adjoining land may lodge with the Land Agent an application for such conditional lease in the prescribed form. The area to be allotted under such lease shall not exceed three times the area of the conditional purchase by virtue of which it is applied for. Provided that the conditional purchase with any additional conditional purchases shall not together with such conditional lease exceed in the Eastern Division twelve hundred and eighty acres and in the Central Division two thousand five hundred and sixty acres but such conditional lease shall in no case exceed more than three times the area of such conditionally purchased land but the Local Land Board if the area applied for under such lease be not available may allot the applicant a lesser area not being less than forty acres in any case and such conditional leasehold shall be surveyed and reported on in the prescribed manner. And the application may be confirmed or disallowed as in the case of conditional purchases.

Rent of conditional
lease.

49. The annual rent to be paid for land conditionally leased shall be such sum not less than two-pence per acre as the Local Land Board subject to the approval of the Minister shall determine as the fair rental thereof.

Preferent right to
purchase out of
conditional lease.

50. On the expiration of five years from the date of the confirmation of application or within six months thereafter and upon the fulfilment by the conditional purchaser of all conditions prescribed by this Act in respect to his conditionally purchased land the conditional purchaser shall have the right of conditionally purchasing free from the condition of residence the whole of the land held by him under such conditional lease or any portion thereof not being less than forty acres but every such area so purchased shall adjoin the original or any additional conditional purchase. If the conditional purchaser does not exercise his preferent right under this section or only exercise it in part he may extend his conditional lease or so much thereof as he may not have conditionally purchased for a further period of five years without the preferent right to purchase but subject however to the same conditions as to residence as hereinbefore provided or the land covered by such preferent right or any land which shall not be conditionally purchased as aforesaid shall at the expiration of the extended term of lease become Crown Lands for the purposes of this Act.

Residence and fence
ing by conditional
lessee.

51. The conditional lessee shall within the like period and subject to the same conditions and provisions as are applicable to conditional purchasers fence the outside boundaries of such conditionally leased land with a fence of the like nature as may be prescribed. Provided that it shall be sufficient for the fence to be erected on the exterior boundaries of the conditional purchase and conditional lease so as to enclose the whole area. Provided always that the conditional purchaser may fulfil his condition of residence or any part thereof upon his conditionally leased land instead of upon his conditionally purchased land if he has lodged with the Local Land Board a notice in the prescribed form of his intention so to reside.

Pre-emptive leases
made conditional
leases.

52. All holders of lands under pre-emptive lease on the thirty-first day of December one thousand eight hundred and eighty-four granted in virtue of conditional purchases and adjoining thereto may within ninety days after the commencement of this Act apply in the prescribed

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prescribed manner to convert such pre-emptive into conditional leases under this Act and subject to all the conditions and provisions therein contained relating to conditional leases except the condition of residence and preferent right of purchase and subject to the recommendation of the Local Land Board and to the approval of the Minister. Provided that the aggregate area of conditional purchases by virtue of which conditional leases may be granted under this clause shall not exceed one thousand two hundred and eighty acres held by one person being the applicant for such conditional lease and the aggregate area of such conditional leases which shall not be granted in more than two areas may be but shall not exceed three times the area of the conditional purchases by virtue of which they are granted (and in allotting such conditional lease if there be not sufficient land available to satisfy the claims of adjoining applicants the Local Land Board may subject to the approval of the Minister allot all the available land between them proportionate to the areas of the pre-emptive leases held as far as the provisions for survey as by this Act provided will permit) Provided further that the conditional purchases by virtue of the aggregate area of which a conditional lease is applied for need not be adjoining each other but they shall all be in the same Land District. Provided that the provisions of this clause shall not apply to the holder of any conditional purchase the transfer of which was notified to the Land Agent subsequent to the fifteenth day of July one thousand eight hundred and eighty-four. Provided further that the pre-emptive lessee shall have a right to occupy the land embraced within his pre-emptive lease which is convertible under this section subject to the payment of the rent fixed for the conditional lease pending the disposal of his application by the Minister. Provided further that where any land by virtue of which the rights conferred by this section may be exercised is under mortgage the conditional lease may be applied for by the mortgagee or mortgagor subject to the limitation as to area herein expressed.

53. If at the expiration of the prescribed term of residence the Local Land Board is satisfied after due inquiry that all conditions applicable to a conditional leasehold have been duly fulfilled by the holder of such leasehold the Board shall issue to such holder on application a certificate to that effect which shall be *prima facie* evidence of the right of the holder to make a conditional purchase out of his conditional leasehold as hereinbefore provided subject however to the like conditions of payment of deposit and instalments as are hereinbefore prescribed.

Certificate of fulfilment by conditional leaseholder.

54. Any holder of a conditional purchase of land made under any of the Acts hereby repealed within the Eastern or Central Division (not being within any Special Area in that Division) who desires to obtain a similar conditional lease of land adjoining his conditional purchase shall within ninety days after the commencement of this Act lodge with the Land Agent an application for such conditional lease in the prescribed form which shall be dealt with in the same manner and be subject to the same conditions as in the case of a lease applied for by virtue of a conditional purchase made under this Act except that he shall reside for five years from the confirmation thereof upon such conditionally-leased land. Provided always that residence by such conditional purchaser on his conditional purchase for five years from the confirmation of application for such conditional lease shall be held to be fulfilment of the condition of residence in respect of such conditional lease notwithstanding its being at the same time the fulfilment in part of the condition of residence on his conditional purchase.

Application for conditional leases.

Measurement of Conditional Purchases.

Land to be taken as measured.

55. Measured Crown Lands shall upon being conditionally purchased be taken in portions as measured but if the area applied for be less than a measured portion such portion may on approval by the Local Land Board be subdivided but in that case the applicant shall pay the cost of survey for such subdivision.

Form of measurement where land unmeasured.

56. All land conditionally purchased if unmeasured and having a frontage shall subject to the provisions hereinafter contained have a depth of not less than sixty chains for any area not exceeding one hundred and eighty acres and for any larger area shall have a depth of not less than twice the frontage and shall have the boundaries other than the frontage directed to the cardinal points but if having no frontage shall be measured either as a square or a rectangular block of which the sides including each right angle shall not exceed the proportion of two to one And no land shall be considered to be measured until the plan of the measurement shall have been approved of by the district surveyor or an officer duly authorized in that behalf of which approval his signature on such plan shall be *prima facie* evidence.

Error in description not to invalidate purchase.

57. No error or uncertainty in the description of land conditionally purchased either before or after the passing of this Act shall invalidate the purchase in any case where the Local Land Board is satisfied that the land occupied by the conditional purchaser is the land intended to be described in his application And if the Board shall notify to a conditional purchaser the description of the land purchased by him as finally approved by the Board such notification shall be conclusive evidence that the land therein described is the land conditionally purchased.

Power of adjustment where encroachments made on exempt lands.

58. In any case where any portion of land purchased is found to encroach upon or be included within an area reserved or exempt from sale or to encroach upon or be included within other land purchased the title of the holder of or the claim of the applicant for any such purchase shall not be prejudiced or affected further than to the extent of the encroachment on or inclusion within such area if the residue be not less than forty acres.

Additional conditional purchases to be subject to conditions.

59. All additional conditional purchases shall in respect of measurement and frontage be subject to the conditions and provisions following viz.—

- (I.) Every such purchase when the area applied for does not with the original purchase exceed one hundred and eighty acres shall have a depth of not less than sixty chains but where the area applied for as an additional purchase together with the original purchase or with any prior additional conditional purchase amounts to or exceeds one hundred and eighty acres then such additional conditional purchase shall be measured in combination with the original and any prior additional conditional purchase in such a manner as to give a figure having a depth of not less than twice the frontage thereof or as nearly as may be practicable of such dimensions.
- (II.) Where additionally-purchased lands have no frontage each portion so purchased shall be measured so as to form in combination with any prior purchase or purchases either a square or rectangular block as hereinbefore described And all succeeding purchases shall be measured in a like manner.
- (III.) The intervention of any road not being a frontage or intended frontage road between an original conditional purchase and any additional conditional purchase or conditional lease applied for under this Part shall not be an objection to the measurement of the land so applied for and in every such case

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case the additional purchase or purchases or conditional lease shall be measured as herein provided. But if such road be a frontage or intended frontage road no additional conditional purchase or conditional lease shall be allowed for land not on the same side as the purchase or purchases by virtue of which such additional conditional purchase or conditional lease is applied for unless all the available land on that side has been exhausted then such additional conditional purchase or purchases or conditional lease may be measured on the opposite side of such road or intended road and with frontage thereto.

60. Notwithstanding any of the provisions of this Act whenever it shall appear desirable to the Local Land Board or the Minister Crown Lands may be measured across any frontage road or intended or designed frontage road and the boundaries of portions having frontages may be made approximately at right angles with the frontage and may be so applied for and may be otherwise modified although such modification may have the effect of altering the frontage or depth of any portion or the direction of any other boundaries thereof as hereinbefore prescribed and the boundaries of portions having no frontages may be modified in like manner and necessary roadways trigonometrical stations and sites for and sources of water supply may be excluded from any measurement.

Modification of boundaries &c.

Auction Sales.

61. Crown Lands not exceeding in the aggregate for the whole Colony two hundred thousand acres in any one year may be sold by public auction at such places in the Land District in which the lands are situated and at such times as the Minister shall direct and notify in the *Gazette* not less than two months nor more than three months before the day of sale. And the upset prices per acre shall not be lower than for Town lands eight pounds—Suburban lands two pounds ten shillings—other lands one pound five shillings. But such upset prices may be respectively fixed at any higher amounts and the value of improvements if any may be added thereto and if it should appear that such improvements were made under misapprehension or for other sufficient reason the Governor may remit or refund the value thereof to the improver or his representatives. Town lands shall not be sold under this section in areas exceeding one half acre. Suburban lands shall not be sold in areas exceeding twenty acres and Country lands shall not be sold in areas exceeding six hundred and forty acres.

Sale by auction of lands.

Upset prices.

62. A deposit of not less than one quarter of the purchase money for all lands sold by auction shall subject to the provisions of the last preceding section be paid by the purchaser at the time of sale. In case the purchaser fails to pay the deposit the land may be again offered by the Land Agent who shall not accept any bid by the person so failing to pay. And unless the remainder of such purchase money be paid within three months thereafter the sale and contract may be declared void and the deposit forfeited. Provided that the Minister may authorize the payment after the expiration of such period of the balance of the purchase money together with a fine of ten per cent. thereon.

Payment of purchase moneys.

Special Sales without competition.

63. The Governor may authorize the rescission of any reservation of water frontage on the sea-coast or to any bay inlet harbour or navigable river or of land adjoining such frontage contained in any Crown grant either wholly or to such extent and subject to such conditions and restrictions as he shall think fit. The land the subject of

Rescission of reservation of water frontage.

of

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of such rescission on payment in the prescribed manner of the fair value thereof to be determined by the Minister within the Metropolitan Land District and elsewhere by the Local Land Board being not less than the minimum upset price per acre of the class of land as hereinbefore set forth in regard to auction sales may be granted to the owner of the land contained in such Crown grant Provided that nothing in this section shall empower the Governor to grant any land used as a public thoroughfare or any land set apart and dedicated for any public purpose Provided also that notice for four consecutive weeks shall be given in the *Gazette* and some local newspaper if any before the issuing of such grant and that the applicant shall pay all costs of survey reports notification and deed fee incurred in dealing with any application under this section.

Reclamation of lands by proprietor of adjoining lands.

64. The Governor may on his application authorize any proprietor in fee simple of land having frontage to the sea or to any tidal water or to any lake to reclaim any land adjoining thereto and lying beyond or below high-water-mark and on completion of such reclamation to the satisfaction of the Minister within the Metropolitan Land District and elsewhere of the Local Land Board and payment in the prescribed manner of the fair value of the land so reclaimed to be appraised by the said Board on the basis of one-half of the net market value thereof ascertained after deduction of the cost of reclamation the land so reclaimed shall be granted to such proprietor Provided always that no such reclamation shall be authorized which may interrupt or interfere with navigation and provided also that the application to reclaim such land shall be published in the *Gazette* and some local newspaper if any for four consecutive weeks before such authority for reclamation shall be given and that the applicant shall pay all costs of survey reports notification and deed fee incurred in dealing with his application.

Not to interfere with navigation.

Caveat against reclamation and rescission.

65. At any time before the expiration of the four weeks in the last two sections mentioned any person feeling aggrieved may in the prescribed manner lodge a caveat with the Minister or Local Land Board (as the case may be) setting forth objections against the authorization of any such rescission or reclamation as aforesaid and shall at the time of lodging the same deposit therewith the prescribed sum and all such applications shall be dealt with as hereinbefore provided in reference to other caveats.

Sales in special cases.

66. Crown Lands to which no way of access is attainable or which are insufficient in area for conditional sale or are situated between granted land and a street or road which forms or should form the way of approach to such granted land or are encroached on by buildings erected on granted land may be sold after recommendation by the Minister or the Local Land Board as the case may be to the proprietor or proprietors in fee simple of adjacent lands at a price to be determined by the Minister after report by the Local Land Board being not less than the minimum upset price per acre of the class of land as hereinbefore set forth Purchasers under this section shall in addition to the price of the land applied for pay the cost of survey report and deed fee incurred in dealing with such applications.

Closing and alienation of unnecessary roads.

67. Whenever the proprietor in fee simple of land adjoining a road reserved exclusively for access to such land which is not required for public use or convenience applies to the Minister to close such road or whenever any road proclaimed through any land renders unnecessary a reserved or other road bounding or traversing that or any neighbouring land the Governor may declare by notification in the *Gazette* under the hand of the Minister and in a local newspaper that such reserved or boundary road will be closed unless valid objections are offered and at any period not less than three months after the publication

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publication of such notice the road may be closed and the land granted to the owner or owners of adjoining lands in fair proportions or in accordance with any agreement made by such owners. And the value of such land to be determined by the Local Land Board shall be paid for the same as well as all costs of survey report and deed fee incurred in dealing with such application. If any road which is found to be unnecessary pass through any conditional purchase it may be closed in like manner and the area of such closed road may be added to the conditional purchase subject however to the like conditions of payment of deposit and instalments as are applicable to conditionally purchased land and also to the payment by the conditional purchaser of all costs and charges in connection with the resumption and annexure of such land.

68. On the approval of any application to purchase made under any of the last five preceding sections such approval shall be notified in the *Gazette*. And if within three months after such notification the applicant shall fail to pay the full amount of purchase money together with the deed fee and all costs demanded for survey and reports incurred in connection with the land applied for the right to purchase such land may be treated by the Minister as having lapsed and the land itself may be sold by auction or reserved or otherwise disposed of pursuant to the provisions of this Act.

Provisions applicable to five preceding sections.

69. In any case where the opening of a new road or the diversion of an existing road through alienated land renders unnecessary any existing road through such land such road or any part thereof may be granted in full or part satisfaction to the owner of the land traversed by it or if the road so rendered unnecessary be a boundary road it may be granted in like manner or an equivalent area of adjoining Crown Land if available may be granted to such owner in lieu of the new or diverted road.

Where new road opened old to be taken as compensation.

PART IV.

OCCUPATION—*Division of Runs—Pastoral Leases—Occupation Licenses—Homestead Leases—Annual Leases for Pastoral Purposes—Special Leases—Ringbarking by Lessees—General Provision affecting Lessees and Licensees.*

70. All Pastoral Holdings shall subject to the provisions of this Act and until brought thereunder by notification in *Gazette* of their division or being otherwise dealt with as hereinafter provided continue to be subject to the same rights of occupation by runholders and to the same terms and conditions of occupation as before the commencement of this Act.

Continuance of rights and obligations in respect of Pastoral Holdings.

71. Every runholder shall within one hundred and twenty days after the commencement of this Act lodge with the Minister a written application for a Pastoral Lease in the prescribed form of whichever portion of his run may be converted into a Leasehold Area under this Part and with such application shall furnish a plan of his Pastoral Holding on the prescribed scale showing to the best of his knowledge and ability the boundaries and area of such holding together with all ranges watercourses lakes or other natural features within such boundaries and shall also mark on such plan the position of all lands held or occupied by him under any tenure other than Pastoral Lease and of all improvements upon such holding made by him or of which he claims to be the owner and shall furnish in the prescribed form a statement of

Application for Pastoral Lease by runholder.

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of the average grazing capabilities of the holding the nature and value of the improvements thereon together with any other information required by the Minister and the runholder shall divide by a line or lines the entire area of all Crown Lands situated within such pastoral holding into two parts as nearly equal in area as practicable and after receipt of the plan mentioned the Governor may by notice in the *Gazette* reserve temporarily from conditional sale any land within such pastoral holding divided as aforesaid pending a determination of which part shall be converted into a Resumed Area.

Procedure by
Minister on
applications.

72. When the same portion of land appears to be included within different Pastoral Holdings the Minister shall decide upon a line or lines which shall be the boundary as between such holdings so as to determine the position of such land for the purposes of this Act. The Minister may accept any application for a Pastoral Lease as sufficient or he may call upon any runholder to amend or supplement any application plan or document and every runholder who shall refuse or neglect to supply such further information as may be required within such time as the Minister shall prescribe may be deemed not to have made the application required by this Part.

Consequences of
neglect or default by
runholder.

73. If any runholder shall fail or neglect to make such application or shall in any way fail to comply with any of the requirements of the preceding sections of this Part he shall not be entitled to a Pastoral Lease of the leasehold area of his Run unless he shall satisfy the Minister that such failure was not due to any wilful negligence on his part.

Procedure after
acceptance of plans.

74. After receipt by the Minister of any application he shall cause to be marked upon the plan of the Pastoral Holding all portions of alienated land not already shown thereon within such holding and shall thereafter notify to the runholder which part is to be the Resumed Area and which the Pastoral Lease but the Minister if not satisfied with any proposed division may require the same to be amended by the runholder until it becomes satisfactory to him and upon failure of the runholder to make any such division the Minister may determine the dividing line or lines and deal with such holding under the provisions in this Act.

Provisions facili-
tating division of
runs.

75. In order to facilitate the division of runs for the purposes of this Part the following provisions shall take effect viz.—

(I.) The division may be a line or lines or a natural feature or a frontage or any combination of the same.

(II.) It shall be lawful for the Governor to accept a surrender from the runholder of any portion of land of which he at the passing of this Act holds a grant or is entitled to demand a grant which is situated within the resumed area and to assure to him by way of exchange for the land so surrendered an equal area within the leasehold area and for this purpose the Governor may make grants of all lands so exchanged. Provided however that the runholder shall apply for such exchange of land within one year from the settlement of the division of the run.

(III.) It shall be lawful for the Governor to accept a surrender from the runholder of any portion of land within the resumed area acquired by purchase from the Crown up to the passing of this Act whether with or without conditions and held by such runholder and in consideration thereof to refund to him out of moneys available for that purpose a sum not exceeding the whole amount paid to the Consolidated Revenue in respect of the land so surrendered. It shall also be lawful for the Governor to accept the surrender from the holder of any conditional purchase in the Western Division

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Division upon the like terms of refund and compensation for improvements as hereinafter provided. Provided however that the offer of the surrender of such land shall be made within one year from the settlement of the division of the run.

- (iv.) If it shall appear to the Minister that by reason of insufficient area of any run held as one holding on the twenty-fifth day of June one thousand eight hundred and eighty-four a division is not expedient the Governor may proclaim the whole area thereof a leasehold area.
- (v.) Every runholder and holder of a conditional purchase whose surrender has been accepted under this section shall be entitled to compensation for improvements on land surrendered to be determined by the Minister after appraisalment by the Local Board.
- (vi.) All lands surrendered to Her Majesty under this section shall become Crown Lands subject to the provisions of this Act.

76. When the division of the run shall have been determined by the Minister as hereinbefore provided a notification thereof shall be published in the *Gazette* and the runholder shall thereupon become entitled to a Pastoral Lease of the leasehold area. Provided that until the rent thereof be determined he shall continue to pay the same rent as before the division of such runs and when the rent shall be determined as hereinafter provided he shall for the time elapsed pay the difference between the rent paid and the rent determined.

77. Whether the notification of the resumed area shall have been published or not the runholder shall have the right to occupy such area for grazing purposes subject to the provisions hereinafter contained relative to occupation licenses.

Pastoral Leases.

78. The Governor may grant Pastoral Leases of leasehold areas subject to the provisions following—

- (i.) In the Western Division every such lease shall be for the term of fifteen years—in the Central Division for the term of ten years—and in the Eastern Division for the term of five years and every such lease in the Western Division shall commence at the date of determination of the existing lease or if more than one lease be held by the same runholder then at a date calculated with due regard to the mean date of determination of such leases.
- (ii.) The rent shall in all cases commence from the date of the notification of the division of the Pastoral Holding and be determined by the Minister after appraisalment by the Local Land Board which shall conduct all appraisements in the prescribed manner. The yearly rent in the Western Division shall not be less than one penny per acre in the Central Division not less than three half-pence per acre and in the Eastern Division not less than one penny per acre.
- (iii.) In the Western Division the rent so determined shall apply to the first period of five years of the lease and such rent shall be increased by one-fourth for the next period of five years and for the residue of the term by one-half. In the Central Division the rent so determined shall apply to the first period of five years of the lease and such rent for the residue of the term shall be increased by one-fourth. In the Eastern Division the rent so determined shall apply to the whole term of the lease

Crown Lands.

- (IV.) Pastoral Lessees shall have a right at the expiration of their leases to an extension thereof for the term of five years subject to the payment of such annual rent as the Minister after appraisement by the Local Land Board shall determine not being less than the rent paid for the last past five years of the currency of such lease. Provided always that no extension shall be given to any such lessee if the Minister shall have notified in the *Gazette* two years prior to the expiration of the original lease that no such extension shall be given.
- (V.) Whenever the rent of a Pastoral Lease shall be determined notice thereof shall be published in the *Gazette* and shall be notified to the runholder in the prescribed manner and if within the time and according to the manner prescribed the runholder shall fail to pay into the Treasury the amount notified to be due under such lease his right thereto shall be liable to forfeiture.
- (VI.) The holder of a Pastoral Lease may surrender his lease at the end of any term of five years if he shall have given the Minister not less than three months' notice of his intention to surrender the same.
- (VII.) The Governor may withdraw from lease any land required for any public purpose including for the purposes of settlement for towns and villages and upon publication in the *Gazette* of such withdrawal the lessee shall be entitled to such compensation in respect of the land so withdrawn for the unexpired term of such lease and for improvements lawfully made by such lessee upon the land so withdrawn from lease as may be determined by the Minister after appraisement by the Local Land Board.
- (VIII.) The Governor may cancel wholly or in part any reserve within a leasehold area and upon the notification in the *Gazette* of such cancellation the land described therein shall be added to the leasehold area and payment of rent from the date of such cancellation shall be made for such area at the same rate per acre as for the rest of the Pastoral Lease provided it has not already been included in the rent of such Pastoral Lease together with such additional rent for any improvements thereon as may be determined by the Minister after appraisement by the Local Land Board.
- (IX.) If it be determined to grant the extension hereinbefore provided of any Pastoral Lease the lessee shall be informed by notice in the *Gazette* not less than nine months before the expiration of his lease of the terms and conditions under which the new lease will be granted and if on or before the thirtieth day of September next ensuing he shall pay to the Treasury the rent so notified he shall be entitled to such lease.

Disposal of lands on
expiration &c. of
pastoral leases.

79. Upon the expiration forfeiture or surrender of any Pastoral Lease the lands comprised therein or any portion thereof may be relet or may be subdivided and let by auction or tender as a Pastoral Lease or may be declared in the *Gazette* by the Governor to be a resumed area. Provided that all improvements on the land at the date of the expiration forfeiture or surrender shall become the property of Her Majesty without payment of compensation therefor.

Subdivision of
Pastoral Lease.

80. A Pastoral Lease may be subdivided upon application by the lessee to the Minister who may approve of the line of subdivision or may himself determine such line.

Occupation.

*Crown Lands.**Occupation Licenses.*

81. Subject to the provisions hereinafter contained the Governor may issue Occupation Licenses. And such licenses shall entitle the licensees to occupy for grazing purposes a resumed area or vacant lands or any portion thereof—

- (I.) The runholder shall be entitled to an Occupation License of the resumed area if he shall have applied for such license at the time of making his application for a Pastoral Lease and shall have deposited with the Colonial Treasurer a sum equal to two pounds per section of six hundred and forty acres of the estimated area on account of the first year's license fee and upon approval by the Minister he shall pay the difference between the sum paid into the Treasury and the license fee appraised as hereinafter provided and during the currency of such license shall pay such annual license fee per section as aforesaid as shall be determined by the Minister after appraisalment by the Local Land Board. Provided that the Minister may at any time direct a fresh appraisalment to be made and may require the licensee to pay his annual license fee on the basis of such fresh appraisalment after the expiration of any current year during the continuance of the license.
- (II.) Licenses shall be in force from the first day of January to to the thirty-first day of December in each year and the rates of license fees shall be published in the *Gazette* and if within sixty days thereafter such fees be not paid into the Treasury by the licensee the Minister may refuse to renew such license.
- (III.) The right to Occupation Licenses for any portions of resumed areas or vacant lands which have not been applied for by the runholder or which have been forfeited or surrendered may be disposed of by auction or tender in the prescribed manner.
- (IV.) Upon the granting of any lease or the sale of any land under Occupation License the licensee's right of occupation to the extent of such portion shall thereupon cease but he shall be entitled to a refund of so much of the license fee paid in advance and to reduction in future rent as shall be proportionate to the area so withdrawn and from the date of withdrawal and shall be entitled to be paid such compensation for improvements on any portion so withdrawn as the Minister may determine after appraisalment by the Local Land Board.

Homestead Leases.

82. In the Western Division the Governor may grant Homestead Leases within resumed areas or vacant lands subject to the provisions following:—

- (I.) The area of a Homestead Lease shall not exceed ten thousand two hundred and forty acres nor be less than five thousand seven hundred and sixty acres and shall be granted for a term of fifteen years with the same right of extension as hereinafter provided for Pastoral Leases.
- (II.) Applications for Homestead Leases may be made in the prescribed manner upon any Land Office day and with such application there shall be lodged a sum equal to one penny per acre for the area so proposed to be leased. Provided that applications for such leases may after report by the Local Land Board be by the Minister refused or the position and boundaries thereof may be altered varied or modified and where more than one applicant shall apply for the same land

Crown Lands.

land or for any portion thereof on the same day the right of lease shall be determined in the prescribed manner and all provisions as to rent and otherwise under which Pastoral Leases in the Western Division may be issued forfeited surrendered extended or otherwise dealt with shall apply to such Homestead Leases.

(III.) Every applicant for a Homestead Lease shall after the survey of the land subject to the provisions of the preceding subsection and to the payment in the prescribed manner of the value of the improvements upon the land to be determined by the Local Land Board enter into occupation thereof within ninety days after the notification in the *Gazette* of the approval of the issue of a lease. Provided that within two years after such entry he shall fence the outside boundaries of such land by a fence of the prescribed character. But for sufficient cause shown the time for completing such fencing may be extended by the Local Land Board. Should the Minister recommend the issue of a lease in a form other than as applied for the applicant may within the period before mentioned notify in writing to the Local Land Board his intention of not accepting it and he shall thereupon be entitled to a refund of the deposit paid but in default of any notice of such intention or of occupation within the time specified for either purpose the deposit shall be forfeited. In the event of the non-acceptance of the lease the land shall revert to the holding from which it was taken until leased under this Part.

(IV.) The holder of a Homestead Lease shall reside upon the leased land for at least six months during each of the first five years of his lease.

83. On the expiration forfeiture or surrender of a Homestead Lease the land comprised therein may again be leased as a Homestead Lease by auction or tender but the outgoing tenant shall not be entitled to compensation for improvements.

84. No holder of a Pastoral Lease shall during the currency thereof hold or cause to be held on his behalf or in his interest a Homestead Lease nor shall the holder of a Homestead Lease during the currency thereof hold or cause to be held on his behalf or in his interest a Pastoral Lease nor shall any person hold or cause to be held on his behalf or in his interest more than one Homestead Lease under penalty in every such case of forfeiture of every lease held by him or on his behalf or in his interest and any rent paid thereon. And for the purpose of this section every owner or part owner of any lease shall be deemed to be a holder thereof. Provided that any *bona-fide* mortgagee for value may on application to the Minister be registered as the holder of more than one Homestead Lease subject to such Regulations as may be made in that behalf although such mortgagee is the registered holder of one or more Pastoral Leases.

Annual Leases for Pastoral Purposes.

85. The Governor may lease Crown Lands whether reserved from sale or otherwise by auction or tender in areas not exceeding one thousand nine hundred and twenty acres whenever such lands are not by this Act specially exempted from being so leased or are not under Pastoral Homestead or Conditional Lease. Such leases shall be subject to the provisions following:—

(I.) Every such lease shall be for the then current year and shall expire on the thirty-first day of December.

(II.)

Disposal of Homestead Lands after expiration &c. of leases.

What leases not to be held in combination.

Annual Lease for pastoral purposes.

Crown Lands.

- (II.) The minimum upset annual rental shall not be less than two pounds for every six hundred and forty acres or lesser area. The amount bid at auction shall be the annual rental of the lease and shall be paid at the time of sale but should the sale be effected between the first day of July and the thirty-first day of December only half the year's rent will be required to be paid at the time of sale.
- (III.) Such leases may be renewed subject to the payment of the rent as aforesaid. The Minister may at any time upon giving three months notice prior to the expiration of any year for which rent has been paid in advance increase such rent by any sum not exceeding twenty-five per cent.
- (IV.) The rent of all renewed leases shall be paid on or before the thirtieth day of September in each year for the ensuing year and in the prescribed manner and time to the Colonial Treasurer or Land Agent. And if such rent be not paid the lease will be liable to forfeiture and sale at auction or by tender.
- (V.) Any lease bid for but the price of which shall not be forthwith paid may be again offered for sale at auction.
- (VI.) A lease of any land which may have been offered for sale at auction and not bid for may be obtained on application to the Land Agent of the district and payment of the upset price or may be again submitted to auction unless the land shall have been previously otherwise dealt with.
- (VII.) Crown Lands may be put up to lease at Auction at the Lands Office of the district or let by tender either on application or otherwise but no such sale of leases or letting by tender shall take place without one month's notice thereof having been given in the *Gazette*.
- (VIII.) A lease under this section shall not exempt the land leased from sale or Special or Conditional Lease.
- (IX.) Annual Auction Leases held under the Acts hereby repealed and situated within the Eastern or Central Division may be converted in the manner prescribed into leases under and subject to the provisions of this section but if the rent already paid for such Auction Lease is above the minimum prescribed by subsection (II) hereof it shall not be reduced.

Conversion of Auction Leases into Annual Leases.

Special Leases.

86. The Minister on the recommendation of the Local Land Board may declare any Crown Lands wholly or partly covered by scrub or other noxious undergrowth to be Scrub Lands.

Resumption of Scrub Lands from Leasehold.

87. Scrub Lands may be leased in areas not exceeding ten thousand two hundred and forty acres nor less than six hundred and forty acres and for a term not exceeding fifteen years to any person subject to such conditions as to clearing and destruction of scrub as may be defined by Regulations at an annual rental of not less than two shillings and sixpence per section of six hundred and forty acres for the first five years five shillings for the next five years and one pound for the last five years. Provided that it shall be lawful for the Minister on the recommendation of the Local Land Board to forego the rent for any period not exceeding five years. Every lessee of any portion of Scrub Lands shall within the time and according to the manner prescribed pay the rent as determined by the Minister after appraisalment by the Local Land Board into the Treasury. And shall at the time and in the manner prescribed satisfy the Local Land Board that he has commenced and is continuing to fulfil the conditions of his

Leasing of Scrub Lands.

Crown Lands.

his lease as to the clearing and destruction of scrub on the leased land—and if any lessee shall fail to pay his rent or to satisfy the said Board as aforesaid the Minister on the recommendation of the said Board may declare his lease to be forfeited.

Conversion of portions of Pastoral or Homestead Leases into Scrub Leases.

88. It shall be lawful for any Pastoral or Homestead Lessee whose leased land contains scrub or other noxious undergrowth to apply in the prescribed manner to the Minister for the conversion of the portion of land under lease containing such scrub or undergrowth into a lease of Scrub Lands under the last preceding section for any term not exceeding fifteen years. And if the Local Land Board shall recommend such conversion the Governor may resume from the lease such portion of land as the said Board shall consider desirable and may grant a lease thereof to the applicant under the said section. Provided that the lessee shall be entitled to a proportionate abatement or refund of any rent paid by him under his Pastoral or Homestead Lease for the unexpired portion of any year for which he has paid rent in advance. Provided further that any applicant for a Scrub Lease under this or the next preceding section shall pay for the survey thereof. Provided however that no Pastoral or Homestead Lessee shall be granted a lease of such Scrub Land other than within the land held under lease by himself.

Leases for wharfs jetties &c.

89. Lands situated under the sea or under the waters of any harbour bay lake river creek estuary or navigable stream shall be deemed to be Crown Lands for the purposes of this section and may be leased by the Governor on such conditions and for such term not exceeding fifteen years as he may think fit for the erection of wharfs jetties piers or floating docks. No such lease shall be made of such Crown Land fronting any land held in fee simple except to or with the consent of the proprietor thereof and no such lease shall be made for the erection of any wharf jetty pier or floating dock which would interfere with navigation or with the rights of adjoining proprietors and the intention to make a lease of such land shall be notified in the *Gazette* for four consecutive weeks and not less than four times in some local newspaper if any before the lease is issued.

Leases may be granted for special purposes.

90. The Governor may lease by auction or otherwise for a term not exceeding fifteen years and in areas not exceeding in any case three hundred and twenty acres Crown Lands for any of the purposes hereinafter specified that is to say for dams—tanks—irrigation works—wharfs—bridges—punt-houses—ferries—bathing-places—landing-places—saw-mills—brick-kilns—lime-kilns—slaughter-houses—tanneries—wool-washing establishments—quarries—fisheries—building or repairing ships or boats—tramway purposes—obtaining guano—shells—limestone—loam—brickearth—gravel—or ballast—or for an inn—store—smithy—bakery—or mail station in sparsely populated districts—or for any purpose declared by the Governor by proclamation in the *Gazette* to be a purpose within this section and may determine the upset rent thereof if let at auction or the annual rent if let otherwise not being in either case less than ten pounds per annum and may annex to any such lease such conditions reservations and provisions as he may deem fit. Provided that leases may be granted at a less rental to contractors of public works for purposes connected with the construction of such works during the term of contract. If it should appear to the satisfaction of the Governor that the land comprised in any such lease is not used and occupied *bona-fide* for the purpose for which the same has been made or that default has been made in any condition he may declare such lease forfeited together with any improvements erected on the land and any rent paid in respect thereof.

Crown Lands.

91. The Governor shall notwithstanding the provisions of the "Mining Act of 1874" impose a royalty of not less than sixpence per ton on coal raised from land which may be hereafter leased. And such royalty shall be in addition to or in substitution of any rent payable by such lessee under the said Act but shall not affect or prejudice any other condition of the lease. And for the purpose of giving effect to the provisions of this section the Governor may make regulations prescribing the time and manner of payment of such royalty and the manner of enforcing such payment.

Provision for obtaining royalty on coal from mineral lessees.

92. Subject to such conditions as may be prescribed the Governor may make leases of Crown Lands not exceeding three chains in width but without limit of length for irrigation works or for forming and maintaining tramways and crossings and other necessary approaches and works in connection therewith. And notice of every application for a lease under this section and of the purpose for which it is proposed to be made shall be published in the *Gazette* for at least four consecutive weeks before the issue of such lease.

Leases for tramway and irrigation purposes.

Ringbarking by Lessees.

93. Every lessee of Crown Lands desiring to ringbark trees upon his leasehold land shall obtain a permission to do so from the Local Land Board and in his application in the prescribed form addressed to the Land Agent shall describe the boundaries and area of the land upon which he proposes to ringbark and in regard to any land not comprised within a timber or forest reserve the Board may in their discretion refuse or grant permission for the same after such inquiry and upon such conditions as to them may seem necessary. And any lessee who shall without such permission ringbark trees on a leasehold or shall cause or knowingly permit or suffer the same to be done shall on conviction before any two Justices of the Peace at the Court of Petty Sessions nearest to such leasehold be liable for the first offence to a penalty of not less than one shilling nor more than ten shillings for each tree so ringbarked and for a second or subsequent offence be liable to a like penalty and to the forfeiture of his lease.

Permission to ringbark.

Penalty for unauthorised ringbarking by lessee.

94. Whosoever shall ringbark trees or strip bark from trees on Crown Lands without holding such permission or in violation of any condition thereof or without a written authority under the hand of the lessee of such Crown Lands shall on conviction as aforesaid be liable to a penalty for each tree ringbarked or stripped of not less than one shilling nor more than ten shillings.

Unauthorised ringbarking by persons other than lessee.

95. Every information for an offence under any of the two preceding sections shall be laid by some officer of police or person specially authorised by the Minister. And if at the hearing of such information any question shall arise whether any person holds a valid permission to ringbark the burden of proof thereof shall be on the person who claims to hold such permission.

Unauthorised ringbarking--proceedings before Justices.

General Provisions affecting Leases Lessees and Licensees.

96. Every lease shall be liable to forfeiture if any rent be not paid with the prescribed period or upon breach of any condition annexed to such lease but forfeiture for non-payment of rent may be prevented by payment thereof with an additional sum equal to five per cent. of the amount of rent due within three months of the due date thereof or of ten per cent. of such amount within six months of such date but no forfeiture shall operate to extinguish any debt to the Crown in respect of such rent.

Liability of lessees on non-payment of rent.

Crown Lands.

Adjustment of
payments in certain
cases.

97. Any sums paid as rent for runs under the provisions of the Acts hereby repealed upon unexpired portions of existing leases shall be credited towards payment of rent or license fee under the provisions of this Act and such sums shall be available for the purposes of refunds under the provisions hereinbefore contained.

General provisions
affecting lessees and
licensees.

98. The following provisions shall govern all leases and licenses granted under this Act and the holders of such leases or licenses namely:—

- (I.) No lease or license other than special leases shall confer any right to remove material from the leased land or to sublet such land for other than grazing purposes or to prevent the entry and removal of material by authorised persons.
- (II.) Lessees and licensees may take from land under lease or license to them not comprised within a timber or forest reserve such timber and other material for building and other purposes upon the land under lease or license as may be required by them as tenants or licensees respectively.
- (III.) No lessee or licensee shall prevent other persons duly authorised in that behalf either from cutting or removing timber or material for building or other purposes or from searching for any mineral within the land under lease or license Provided that nothing in this subsection shall apply to a Conditional Lease as regards the taking or removal of timber or other material for building purposes.

Exemption from
Pastoral or Home-
stead Lease.

99. The following classes of lands shall be exempt from Pastoral Lease and Homestead Lease:—

- (a) Town and suburban lands and lands reserved or set apart by notice in the *Gazette* for towns or villages or suburban settlements.
- (b) Lands under lease or lawful occupation for mining purposes.
- (c) Lands dedicated to any public purpose.
- (d) Lands temporarily reserved from sale for commonage.
- (e) Lands reserved from lease under any of the hereby repealed Acts until the reservation thereof shall have been revoked under the provisions of this Act.

Appeal by lessees
from minimum rent
fixed in certain cases.

100. If any holder of a Pastoral or Homestead Lease whose rent in accordance with the provisions hereinbefore contained has been fixed at the prescribed minimum rate shall consider that by reason of the inferior grazing capabilities of the land embraced in the lease such rent is an excessive rental for such land such lessee may in the prescribed manner apply to the Local Land Board for a reduction of such minimum rate And if upon due inquiry such Board shall be of opinion that the said rate is excessive it may recommend the Minister to reduce the same or if not of such opinion may recommend that the said rate be retained On receipt of any such recommendation together with any further report from the said Board which the Minister may require he shall determine the matter of the application and fix the fair annual rental of the land for all purposes of this Act which shall upon notification in the *Gazette* be the rental payable under this Act in respect of such land But no such reduction shall operate for a longer period than the unexpired portion of the five-year term then current as hereinbefore provided Provided also that no such lessee shall be entitled to make any such application for reduction of such minimum rate unless he shall have duly paid the rent fixed for the current year pursuant to the provisions hereinbefore contained but such lessee shall be entitled to a refund of the amount paid by him in excess of any reduced amount so notified as aforesaid Provided lastly that notwithstanding any such reduction so made the Minister may on the expiration of the said five-year term for which such

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such reduction shall have been made direct that the rental shall for the residue of the term of the lease or for the next period of five years of such lease be restored to the prescribed minimum rate or be subject to appraisalment by the Local Land Board and in either case such direction shall be notified to the lessee in the prescribed manner. A return of all rents if any reduced under this section shall be laid before Parliament within fourteen days after the commencement of each session. The several provisions of this section shall equally apply to all occupation licenses and their holders and to the license fees paid or made payable in respect thereof.

PART V.

Dedications—Reserves—Roads.

101. The Governor may by notice in the *Gazette* declare what portions of Crown Lands shall be reserved and set apart as sites for cities towns or villages and may define the limits of the suburban lands to be attached thereto and to any existing city town or village and may in like manner declare what portions of Crown Lands shall be temporarily reserved from sale pending survey or determination by him of the portion to be set apart for any public purpose or for commonage or for population areas and all lands so declared shall be reserved accordingly until revoked or altered in like manner. Within one month after such declaration should Parliament be then in session and otherwise within one month after the commencement of the next ensuing session of Parliament there shall be laid before both Houses of Parliament an abstract of all such reservations. And the Governor may reserve from conditional sale any Crown Lands within a gold-field under the meaning and operation of any Act in force for the regulation of mining on Crown Lands and the expression public purpose shall be taken to include any purpose for mining for or removal of minerals.

Temporary reserves from sale for sites of cities and other purposes.

102. Crown Lands temporarily reserved from sale under this Act shall not be sold before the expiration of sixty days after the reservation thereof shall have been revoked. Provided that improvements effected subsequently to the first day of July one thousand eight hundred and seventy-six on any land reserved from sale shall on the revocation of such reservation or withdrawal of the land from lease become the property of the Crown and may be dealt with in accordance with the provisions of this Act. Provided further that the Governor may by notice in the *Gazette* declare that any land exempt from conditional purchase under the repealed Acts on account of the population of any city town or village shall not be so exempt or he may in like manner increase reduce or modify the boundaries of the area so exempt.

Revocation of temporary reserves.

103. The Governor by proclamation in the *Gazette* may reserve temporarily from sale any Crown Lands within one mile on either side of any railway now or hereafter to be made or projected and in the proclamation revoking the same or the reservation of any land within similar limits made under the hereby repealed Act may prescribe the price terms and conditions on which such land may thereafter be sold and the areas of the portions and if deemed necessary by proclamation may vary such price terms conditions and areas the price not being less in any case than the minimum nor the area more than the maximum as fixed by this Act for town suburban or country land as the case may be.

Railway reserves and dedication and reservation of Crown Lands to public purposes.

Crown Lands.

Dedication of Crown
Lands to public
purposes.

104. The Governor may by notice in the *Gazette* reserve or dedicate Crown Lands in such manner as may seem best for the public interest for any railway or railway station—public road canal or other means of internal communication—public quay or landing-place—public reservoir aqueduct or watercourse—the preservation of water supply—any purpose of defence—hospital asylum or infirmary public market or slaughter-house—college school mechanics' institute public library museum or other institution for public instruction or amusement—town-hall court-house or gaol—permanent common—public health or recreation convenience or enjoyment—cricket ground—or racecourse—interment of the dead—use and general purposes of pastoral and agricultural associations—public baths or for any other public purpose. And upon any such notice being published in the *Gazette* such lands shall become and be reserved or dedicated accordingly and may at any time thereafter be granted for such purposes in fee-simple. An abstract of any intended reservation or dedication under this section shall be laid before both Houses of Parliament one calendar month before such reservation or dedication is made. And subject to the provisions in the next following section all lands heretofore or hereafter permanently reserved for any of the purposes aforesaid shall be deemed to be set apart and dedicated accordingly and every conveyance alienation or disposition thereof except for the purpose for which such reservation shall have been made shall be absolutely void as well against Her Majesty as all persons whomsoever.

When dedication &c.
may be revoked and
new dedication made.

105. In any case in which the Governor shall be of opinion that the purposes for which any dedication or reservation of Crown Lands heretofore or hereafter to be made have failed wholly or in part or that there is any doubt or uncertainty as to such purposes or that the trusts annexed to any land dedicated or reserved under this Act or any of the Acts hereby repealed have failed or cannot reasonably be carried out or that it is expedient in the public interest to resume the whole of the land so dedicated or reserved or to make an exchange of any portion of any such land for other land of equivalent value or nearly so to be dedicated or reserved on similar trusts or for like purposes then and in every such case the Governor may direct a notice under the hand of the Minister to be published in the *Gazette* which notice shall set forth the mode in which it is proposed to deal with the dedication reservation or land in question (hereinafter termed "Proposals") a copy of which notice shall be laid before both Houses of Parliament within ten days of the publication thereof in the *Gazette* if Parliament be sitting and if not then within ten days after the beginning of the next ensuing session. If Parliament shall within one month declare by resolution that it does not assent to the proposals set forth in such notice no further action shall be taken in the matter. If no such resolution be passed then after the termination of thirty clear days from the date when the notice was laid before Parliament it shall be lawful for the Governor to direct the proposals so notified to be carried out and the same shall be carried out accordingly and for that purpose the Governor may revoke by proclamation in the *Gazette* any such dedication or reservation wholly or in part and make any new dedication or reservation sanctioned by such proposals and issue such grants and execute such exchanges deeds assurances and instruments as the circumstances of each case may require.

Appointment of
trustees.

106. The Governor may appoint trustees not being less in any case than three in number to be charged with the care and management of lands already or hereafter dedicated reserved or resumed under the provisions of the "Lands for Public Purposes Acquisition Act" for the recreation convenience health or enjoyment of the inhabitants

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inhabitants of any city town or district or for any other public purpose whatsoever or of lands which have been heretofore or hereafter purchased or acquired by the Government for any such purposes and may confer such estate in such lands and accompanied by such powers and with such conditions as he may think fit and as may be included in any grant issued to such trustees And the Governor may from time to time remove any trustee or trustees whether appointed under this Act or otherwise and fill any vacancies which may occur by reason of such removal or by death or resignation but every such appointment shall only take effect upon notification in the *Gazette* and may make rules and regulations enforceable by penalties not to exceed in any case twenty pounds for the management and control of any land reserved or dedicated for any of the public purposes hereinbefore mentioned without placing such land in trust which rules and regulations upon notification in the *Gazette* shall have the full force of law.

107. It shall be lawful for the Governor to correct or alter the name design or plan of any city town or village and the limits of any suburban lands attached thereto or to wholly cancel any such design or plan and whether such city town village or lands were dedicated or set apart under this or any repealed Act or Orders in Council And notice of the intention so to correct alter or cancel such design plan or limits shall be published in the *Gazette* and in the local newspapers and no such correction alteration or cancellation shall be carried into effect until the expiration of three months from such notification And every such correction or alteration or cancellation shall be notified in the *Gazette* and an abstract thereof laid before Parliament within thirty days after such notification if Parliament be then in session and if not then within thirty days after the commencement of the then next session.

Alteration of plan of town or village.

108. Crown Lands within any leasehold now or hereafter temporarily reserved from sale under the provisions of any Act hereby repealed or this Act shall not be deemed to have been or to be withdrawn thereby from such leasehold in respect of the ordinary use of such lands for the purposes of the lease or to be exempted from reletting on the termination of the existing lease and the Governor may withdraw from lease or license any land required as sites for towns and villages or for any public purpose.

Reserves from sale not to take the land out of lease.

109. The Governor may by notification in the *Gazette* define and set apart routes not exceeding one mile in width through any leasehold or any land held under occupation license for the passage of stock travelling pursuant to the provisions contained in the fifteenth section of the Act forty-first Victoria number nineteen or any Act amending the same and may also define and set apart camping places for travelling stock not in any case exceeding one square mile Such routes and camping places shall be determined in the first instance by the Local Land Board and the lessee or licensee of any lands within which such routes or camping places are situate shall not be entitled to impound any stock travelling as aforesaid or to maintain any action for trespass in respect thereof while such stock shall keep within the boundaries of the said routes or camping places And a reduction of the rent or license fee by reason of setting apart such routes or camping places may be made by the Minister upon the recommendation of the Local Land Board.

Travelling stock routes and camping places.

110. If at any time it shall be deemed expedient to open a road through any land conditionally purchased it shall be lawful for the Governor by notice in the *Gazette* to resume so much of the land as may be required for the purpose of such road And the several provisions of the Act Fourth William the Fourth number eleven shall apply to any land so resumed as in the case of ordinary freehold land.

Resumption for road.

Crown Lands.

Road of access
through leased land.

111. Every purchaser of Crown Lands and every holder of a lease or license shall be entitled to a road of access and also to free ingress and egress thereby to and from the lands held by him to the nearest reserved or proclaimed road through and over any Crown Lands whether under lease or not if no access to the lands held by him by means of a reserved or proclaimed road or track shall be provided. And such road shall not interfere with any buildings garden stock or drafting yards belonging to such lessee or licensee and shall in every case follow such a direction and be so marked as to occasion as little damage or inconvenience to the lessee as may be possible. And the Minister shall have power to close any such road upon giving three months notice to that effect in the *Gazette*.

PART VI.

State Forests—Timber Reserves—Licenses—Permits.

State forests and
timber reserves.

112. It shall be lawful for the Governor by notification in the *Gazette* to proclaim any areas of Crown Lands therein described to be State forests and in like manner to reserve from sale any such areas as Timber reserves for the purpose in each case of preserving under regulations in that behalf to be made by the Governor the growth and succession of timber trees and of preventing as far as practicable the destruction and exhaustion of such State forests.

Subdivision of State
forests.

113. State forests may be subdivided into such blocks as the Minister may think fit. For the purpose of carrying out such subdivision all existing Forest and Timber reserves may be reserved from sale lease or otherwise as the Minister may think proper until so subdivided.

Reserves for timber
conservation.

114. Any State forest or any portion thereof may by notification in the *Gazette* be dedicated or reserved for a specified period by the Governor for the conservation of timber and upon publication of such notification such forest or portion thereof shall not during the term of reservation be open to timber or other licenses or permits under the provisions of this Act.

Regulations for
State forests and
timber reserves.

115. It shall be lawful for the Governor to frame regulations for the issue of licenses or rights to cut and remove timber on State forests and also for the issue of permits to cut and remove timber from Timber reserves and also for the issue of wood-cutters' licenses and of licenses and permits to dig for and remove from State forests Timber reserves or Crown Lands whether under lease or not any gravel stone clay shells or other materials subject to the following provisions—

- (I.) The rights or licenses to cut timber on a State forest shall be for one or more specified blocks in such forests and may be sold by auction at such place as may be determined by the Minister or by tender as the Minister may think fit.
- (II.) Such rights or licenses in State forests shall be for a term not exceeding one year unless in special cases the Minister may think fit to extend such term but no such extended term shall exceed three years.
- (III.) The upset rent shall not be less than ten pounds per annum for each block of six hundred and forty acres and a proportionate amount for each one hundred and sixty acres in excess of that area. And every holder of a right to cut timber shall in addition to his rent pay such royalty according to the class of timber cut at such times and places and subject to such conditions as may be fixed by the Regulations.

(IV.)

Crown Lands.

- (iv.) Permits to cut and remove timber on Timber reserves may be issued for a year or any less term not being less than one month at an annual fee of not less than six pounds and a proportionate fee for shorter terms. Such permits may also be issued for any specified number of trees at a rate to be fixed by Regulations for each tree. General permits may also be issued for the supply of saw-mills for any term not exceeding one year at an annual rate of six pounds and subject to a royalty according to the scale fixed by the Regulations.
- (v.) Licenses may be issued to cut piles or props to be used for mining purposes for the erection of jetties wharfs and for other purposes on such terms and conditions as may be fixed by the Regulations.
- (vi.) All fees or sums of money except royalty payable in respect of any rights to cut timber or in respect of licenses or permits shall be payable in advance.

And such Regulations may prescribe the forms and conditions to be contained in any such right license or permit and may fix the rents or fees to be payable by the holder of any license or permit where-soever the same shall not have been fixed by this Act and may provide for the forfeiture of any rights licenses or permits for the enforcement of rents royalties or fees for the removal of felled timber for the licensing of sites for saw-mills and the agistment of stock for the limitation of girth of trees to be felled for the issue of wattle bark permits for the marking of logs of felled trees for the seizure and sale of timber cut without authority or upon which the royalty has not been paid and for defining the power and privileges conferred by rights licenses and permits. And such Regulations may also provide for the imposition of penalties and fines for the infringement or violation of any such Regulation made under the authority of this Act but no such penalty shall exceed the sum of twenty pounds exclusive of the value of the material taken or destroyed.

116. The breach of any condition or obligation or the failure to perform any act or matter specified in any such right license or permit issued under the authority of this Act shall have the effect of forfeiting such right license or permit upon a declaration of forfeiture by the Minister. Forfeitures may be declared.

PART VII.

Transfers—Legal Provisions—Miscellaneous Provisions.

117. Conditional purchases together with any additional conditional purchases made in virtue thereof may be transferred in the prescribed manner after completion of residence if any required. Provided that original conditional purchases and additional conditional purchases made in virtue thereof shall not be transferred separately until all the conditions applicable to the whole area except that of payment of balance of purchase money or of instalments thereof shall have been duly fulfilled. And all transfers shall be notified to the Land Agent in such form as may be prescribed. Transfers to be in prescribed form.

118. The holder of a Pastoral Homestead or Conditional Lease may transfer his right of lease in the prescribed manner but the holder of a Homestead Lease shall have no power to transfer the same until he shall have fulfilled the condition of residence and a Conditional lease shall not be transferred except with the land in virtue of which it was granted. Transfer of Lease.

Crown Lands.

Effect in law of transfer.

119. Every transfer of land conditionally purchased if made by a person not under legal disability shall subject to the provisions and conditions of this Act be deemed to pass to the transferee the whole estate and interest whether at law or in equity of the transferor of such land as effectually to all intents and purposes as if a conveyance or assignment under seal of such estate and interest to such transferee had been duly executed by such transferor but this enactment shall be subject to the conditions following namely :—

- (I.) The equities of all persons claiming any estate or interest in any such land by matter prior to the date of execution of any such transfer shall not be affected by this section but shall be capable of assertion and enforcement as if this Act had not been passed.
- (II.) No transfer shall have the effect hereinbefore expressed unless such transfer has been made executed and lodged in accordance with the Regulations.
- (III.) No such transfer shall prejudice or affect any conveyance or assignment or any other assurance under seal relating to land conditionally purchased if such conveyance assignment or assurance shall have been previously registered as by law required in the office of the General Registry of Deeds in Sydney.

As to priority.

120. The effect given to duly registered deeds and instruments affecting lands hereditaments and other property by the eleventh section of the Registration Act seventh Victoria number sixteen shall be deemed to be annexed and to be incident to all transfers within the meaning of this Act if duly registered under the said Registration Act after the prescribed registration or record thereof in the Books of the Department of Lands shall have been duly effected.

Legal Provisions.

Devise contract lease security void in certain cases.

121. Every devise contract lease agreement or security made entered into or given before at or after the date of any application to make a conditional purchase conditional lease or homestead lease with the intent of having the effect of enabling any person other than the applicant to acquire by purchase or otherwise the land applied for shall be illegal and absolutely void both at law and in equity.

Illegal contract a misdemeanour.

122. If any person knowingly and with intent to defeat or evade or commit any fraud upon the provisions or purposes of this Act shall induce or make use of any other person to make any conditional purchase or to execute any will or to enter into any contract lease or agreement declared by this Act to be illegal or to become the purchaser lessee or licensee of any land otherwise than for the use benefit and advantage of such purchaser lessee or licensee the person so offending shall be guilty of a misdemeanour and shall be liable to be imprisoned and kept to hard labour for any term not exceeding two years and not less than three months.

Minor holding conditional purchase or conditional lease liable on agreement.

123. Any person between the ages of sixteen and twenty-one years who after the passing of this Act shall become the owner of a conditional purchase or conditional lease and shall during his ownership either personally or by an agent enter into any agreement for or in relation to the performance of any work or rendering of any services on such conditional purchase or lease or in relation thereto or to the loan of money or the sale or purchase of goods and chattels of any description whatsoever or shall in like manner enter into any agreement connected with the occupation management or general purposes of such conditional purchase or lease not being in violation of the provisions

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provisions of this Act shall be subject to the same liabilities and have the same rights in respect of such agreement as if he were of the full age of twenty-one years.

124. No minor shall be capable of accepting or holding any lease or license under this Act except in so far as a minor not less than sixteen years of age is permitted to hold a conditional lease by virtue of a conditional purchase or by way of inheritance nor shall any married woman be capable of holding any such lease or license except as separate estate by virtue of any law in force protecting the property of married women.

Minors and married women may hold leases in certain cases.

125. If any conditional purchaser under this Act shall die or be declared a lunatic before the fulfilment of the prescribed conditions of residence and fencing his conditional purchase may with the approval of the Local Land Board together with any conditional lease or right of conditional lease attached thereto (if any) be held by his representatives or their assigns subject to the fulfilment by them of all unfulfilled conditions except the condition of residence but in trust for and for the benefit of the persons rightfully entitled. And any sale transfer or other disposition whatsoever of the estate right title or interest of any conditional purchaser by an official assignee or other lawful authority upon the insolvency of such purchaser or by a Sheriff or Registrar of a District Court or any other person by virtue of or under the authority of any writ of execution or other process of any Court or by the trustees of any deed of assignment for the benefit of creditors or by any person under any decree or order of any Court shall pass to a purchaser or to any other person only such estate right title or interest as the conditional purchaser himself was entitled to at the date of sequestration writ process decree order or assignment respectively and subject to all conditions remaining unfulfilled at such date. The provisions of this section shall apply to conditional purchasers under any of the said repealed Acts who shall hold or be entitled to make application for a conditional lease.

Cases of death lunacy insolvency or judgment debt of conditional purchaser.

126. The acceptance by or on behalf of the Crown of any purchase money or part thereof in respect of any conditional purchase or of interest or rent or other payment under any lease shall not be held to operate hereafter as a waiver by the Crown of any forfeiture accruing by reason of the breach of any condition annexed by law to the estate or interest of a conditional purchaser or of a lessee or licensee.

Acceptance of interest or other payment no waiver.

127. A copy of any application letter document or instrument of any kind whatsoever relating to any purchase reservation dedication lease plan or right to or disposition of land under any Act hereby repealed or this Act and whether of the original or of any press copy thereof and of any endorsement or memorandum upon the same certified by the officer having the custody thereof to be correct shall be admissible in evidence in every case in which the original would be admissible and without proof that the person so certifying is the officer having the custody thereof if he shall state in his certificate that he has such custody.

Copies of documents to be evidence.

128. In any action or suit brought to recover possession or to recover damages for trespass upon or otherwise in relation to any Crown Lands of which no lease from the Crown shall have issued it shall be lawful for any party thereto to plead and put in evidence any promise engagement or contract from or with the Crown or its agents lawfully authorized in that behalf and such promise engagement or contract shall as between the parties and subject to the provisions of this Act have the same effect as if a lease from the Crown of such lands had been duly issued in pursuance of such promise engagement or contract to the party entitled thereunder and any receipt by or on behalf of the Colonial Treasurer for rent of such lands for the year then

Right of lease may be given in evidence in actions.

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then current shall according to the tenor thereof be *prima facie* evidence that the party therein named is the holder of the lease or promise of lease thereof for the time being.

Limitation of actions.

129. All actions or other proceedings against any officer acting under the provisions of this Act for anything wrongfully done under or against the provisions of this Act or any of the said repealed Acts shall be commenced within twelve months after the matter complained of was committed and not otherwise. And notice in writing of any such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the proceeding. And in every such proceeding the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon. And no plaintiff shall recover in any such proceeding if tender of sufficient amends shall have been made before the same was commenced or if a sufficient sum of money shall have been paid into Court after such commencement by or on behalf of the defendant together with costs incurred up to that time. And if a verdict shall pass for the defendant or the plaintiff shall become nonsuit or discontinue such proceeding or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his costs and have the like remedy for the same as any defendant has by law in other cases.

As to trespasses on unfenced land.

130. No person occupying land under a conditional purchase or conditional or homestead lease shall be entitled to bring any action for trespass (other than a wilful trespass) on such land until he shall have fenced such land pursuant to the provisions of this Act.

Removal of trespassers.

131. On information in writing preferred in that behalf by any person duly authorized to any Justice of the Peace setting forth that any person is in the unlawful occupation of any Crown Land or in the occupation of any Crown Land in virtue or under colour of any purchase lease or license although such purchase lease or license shall have been forfeited or otherwise made void or although the conditions thereof shall have been broken or unfulfilled or although such lease or license shall have expired such Justice shall issue his summons for the appearance of the person so informed against before two or more Justices of the Peace at the nearest Court of Petty Sessions to such Crown Land at a time to be specified in such summons. And at such time and place such Court on the appearance of such person or on due proof of the service of such summons on him or at his usual or last known place of abode or business shall hear and inquire into the subject matter of such information. And on being satisfied of the truth thereof either by the admission of the person informed against or on other sufficient evidence such Justices shall issue their warrant addressed to any officer duly authorized in that behalf requiring him forthwith to dispossess and remove such person or any buildings from such land and to take possession of the same on behalf of Her Majesty and the person to whom such warrant is addressed shall forthwith carry the same into execution.

Penalties for destroying improvements.

132. If any person wilfully destroys or damages any dam tank well excavation boring or other work lawfully constructed sunk or made or in course of lawful construction sinking or making for the purpose of impounding or supplying water on any land whether alienated by or under lease or license from the Crown under this Act or any Act hereby repealed such person shall be guilty of felony and be liable to penal servitude for any term not exceeding ten years or to imprisonment with or without hard labour for any term not exceeding three years. And if any person wilfully destroys or damages any fencing or improvement other than those before mentioned lawfully constructed or made by any holder of a conditional purchase lease or license whether

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whether under this Act or any Act hereby repealed (which lawfulness the Court shall have power to determine) such person shall be liable to a penalty not exceeding fifty pounds or to be imprisoned with or without hard labour for any term not exceeding six months and to pay in addition such fine by way of compensation to the person injured as the Court may order.

133. Any person unless lawfully claiming under any subsisting lease or license or otherwise under any Act hereby repealed or under this Act or under any Act in force for the regulation of mining who shall be found occupying any Crown Land or land granted reserved or dedicated for public purposes either by residing or erecting any hut or building thereon or by clearing digging up or enclosing or cultivating any part thereof or by cutting timber other than firewood not for sale thereon or by obtaining stone therefrom or otherwise or who shall strip or cause to be stripped the bark of any tree thereon shall be liable on conviction to a penalty not exceeding five pounds for the first offence and not exceeding ten pounds for the second offence and not exceeding twenty pounds for the third or any subsequent offence Provided that it shall not be lawful for the holder of any leasehold under this Act to obstruct any Government Surveyor or other authorized person from entering upon such leasehold whenever such Surveyor or other authorized person may require to do so.

Penalties for trespass or for unauthorized cutting or stripping bark on Crown Lands.

134. If any person shall unlawfully and wilfully obliterate remove or deface any boundary or survey mark or any land-mark or beacon made or erected by the authority of the Surveyor-General or by or under the direction of any authorized Government officer such person shall be guilty of a misdemeanour.

Removal of boundary-mark to be a misdemeanour.

135. If it be proved by inquiry before the Local Land Board that any statement in writing or any statutory declaration or evidence on oath has been made or given for the purpose of misleading any officer authority or person in the exercise of his duty or office under this Act or that any such statement declaration or evidence wilfully misrepresents facts or that any fraudulent attempt has been made to prove that the conditions of this Act have been complied with then and in any such case the Minister may declare any conditional purchase or leasehold in connection with which such statement declaration or evidence was made or given to be forfeited together with all moneys paid on account of or in connection with such conditional purchase or lease. Provided that no forfeiture shall be held to affect any transferee unless declared within twelve months after the issue of the certificate hereinbefore provided by the Local Board Provided also that the Governor may by notice in the *Gazette* reserve such forfeited land from sale or lease or may annex it to the holding (if any) within the boundaries of which it may be situated at the time of forfeiture and in such case rent therefor shall be payable thereafter at the same rate as is charged for the holding to which it is annexed.

Liability of conditional purchase or lease to forfeiture for misleading statement &c.

136. Every forfeiture of land conditionally purchased whether under this Act or any of the said repealed Acts shall be deemed to operate as a forfeiture of all additional conditional purchases held in virtue of such first-mentioned lands as well as of all conditional leases or rights attached to the lands so forfeited and whenever any land shall be forfeited under this Act such land shall become Crown Land and may be dealt with as such but no forfeiture of any purchase or lease under this Act or any Act hereby repealed shall take effect until the expiration of thirty clear days after notification of such forfeiture in the *Gazette*.

Forfeited lands.

137. Every grant and registration copy of such grant issued under this Act or under any Act hereby repealed shall for the purpose of enabling the Crown to proceed by way *scire* of *facias* for the

Forfeiture when to take effect.

Proceeding by way of *scire facias*.

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repeal of any grant issued improvidently or inadvertently or in violation of the provisions of any such Act as aforesaid be deemed to be a record of the Supreme Court notwithstanding anything in the Real Property Act or any Act amending the same to the contrary.

Validation of certain conditional purchases under repealed Acts.

138. No conditional or additional conditional purchase made under any of the Acts hereby repealed shall be held to be void by reason only of the application therefor having been tendered by an agent or of more than one such application having been made by the same applicant on the same day or of the land having been applied for by a conditional purchaser not residing at the time of the application on the land by virtue of which an additional conditional purchase was made but nothing herein shall be construed to relieve such conditional purchaser from fulfilment of the complete term of residence required by law. And no conditional purchase shall be held to be void by reason only of any applicant having through erroneous or insufficient marking or definition or description been allowed to conditionally purchase land extending into or within a different Crown Lands District from that in which the same was applied for or by reason of the same having been measured with a greater frontage than eighty chains or a less depth than twenty chains or sixty chains as in the said Acts respectively prescribed provided that such measurement shall have been duly accepted thereunder. And in any case in which the land applied for was not open to conditional purchase but the applicant shall have resided upon and made improvements on such land without question by any authorized person for not less than one year after his conditional purchase then and in all such cases the Governor upon the recommendation of the Minister may notify in the *Gazette* once a fortnight for three months the particulars of such conditional purchase and it shall thereafter be lawful for the Governor on the like recommendation to declare by proclamation in the *Gazette* such conditional purchase to be valid and such conditional purchase shall thereupon become and be a valid conditional purchase but subject to the fulfilment by the holder thereof of all conditions required by law. And no pre-emptive lease which may have been granted under the repealed Acts and which may be converted into a conditional lease under this Act shall be void or invalid by reason only that it was situated wholly or in part within the area of any previously forfeited pre-emptive lease. Provided that no validation as herein mentioned shall take effect in any case where the illegality was wilfully committed or if a conflicting interest has arisen or if the case has been finally disposed of in a lawful manner.

Procedure for recovery of penalties &c.

139. Whenever by any section of this Act or by any Regulation made thereunder any person is made liable to a penalty or to pay any sum of money whether as compensation or in any other way and the mode of recovering such penalty or sum is not therein described such penalty or sum may be recovered before any two or more Justices of the Peace in Petty Sessions in accordance with the Acts in force for the time being regulating summary proceedings before Justices. And all sums of money ordered by any such Court to be paid and all costs and expenses awarded by such Court may be recovered and enforced by distress and sale of the goods and chattels of the person ordered to pay the same and in default of sufficient distress such person shall be liable to be imprisoned with or without hard labour for any term not exceeding three months unless such money costs or expenses be sooner paid.

Minister may refer questions of law to Supreme Court.

140. Whenever any question of law shall have arisen before a Land Board in a case transmitted on appeal to the Minister or shall be before the Minister on any such appeal it shall be lawful for him to state and submit a Case for decision by the Supreme Court thereon which decision shall be conclusive. Every such case shall purport to be

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be stated under this section and shall state the names of the persons who are parties to the appeal and be transmitted by the Minister under his hand to the Prothonotary of the Court to be dealt with as to the setting down of the Case for argument and the hearing of the same and its return with the decision of the Court thereon as the Judges or any two of them shall direct. The Court for the purposes of this section may consist of two Judges only.

Miscellaneous Provisions.

141. Fencing within the meaning of this Act shall be deemed an improvement common to the land on either side of the line of such fencing and whenever land adjoining that which forms a conditional purchase or lease or a homestead lease has been or shall be alienated or leased by the Crown conditionally or otherwise the person who shall fence his land may demand and enforce from the purchaser or lessee of such adjoining land or his alienee a contribution towards the cost of such fencing to the extent of one-half of the appraised value thereof but so far only as such fencing marks a common boundary-line. And while such fencing is maintained in good repair and condition by such person every owner lessee or occupant of adjoining lands shall be and remain liable as a contributory towards the cost of so maintaining such fence to the extent of one-half of the estimated cost thereof. The Local Land Board shall have power to hear and determine all disputes and claims as to fencing between conditional purchasers and contributories and to appraise all values and estimate all costs and determine the kinds of fencing to be erected within the meaning and for the purposes of this section. And the adjudication of the Board shall in all cases be final and conclusive unless an appeal therefrom to the Minister shall be lodged by either party in the manner prescribed. No holder of an annual lease under this Act and no holder of any lease having less than five years to run shall be liable as a contributory under this section towards the original cost of fencing but shall be liable as a contributory towards the cost of maintaining such fencing.

Contributories to cost of fencing and maintenance.

Local Land Board to settle claims and disputes as to fencing

142. For the purposes of any lease or license granted under this Act except a conditional lease it shall be sufficient if the land and the boundaries thereof be defined by a general description and no such lease or license shall be void by reason of the imperfection of any such description if the land therein described is defined with reasonable certainty.

Sufficiency of general description.

143. The Minister may direct a survey of the boundaries of any pastoral or homestead lease and upon such survey being made may demand from the lessee towards defraying the cost of such survey payment of any sum not exceeding twenty shillings for each linear mile of the boundary so surveyed and in default of payment of such sum within sixty days after notification of the demand in the *Gazette* the lease shall be liable to forfeiture.

Survey of boundaries of leased areas.

144. It shall be lawful for any authorized person who may have marked on the ground any boundary of a leasehold that has been accepted by the Minister to certify by signature to any plan representing such boundary that such representation is accurate and such plan shall thereupon be *prima facie* evidence of such boundary.

Certification of boundaries.

145. Whenever in any section of this Act the expression "prescribed" is used in connection with any matter referred to in the context and whenever in any section of this Act "Regulations" are mentioned in connection with any such matter as aforesaid the Governor may in every such case frame Regulations for the purpose of giving effect to the provisions of such section. And for the purpose of carrying this Act into full effect generally the Governor may make

Governor in Council to make and proclaim Regulations.

Regulations

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Regulations which may be provided for their enforcement by penalties not exceeding in any case fifty pounds and shall upon being published in the *Gazette* be valid in law. Provided that a copy of every such Regulation shall be laid before both Houses of Parliament within fourteen days from the publication thereof if Parliament be then in Session or otherwise within fourteen days after the commencement of the next ensuing Session.

SCHEDULE.

EASTERN DIVISION.

That portion of the Colony of New South Wales within the following boundaries Commencing at Point Danger and bounded on the east by the waters of the South Pacific Ocean southerly to Cape Howe thence on the south by the boundary dividing the Colonies of New South Wales and Victoria westerly to a point on the Murray or Hume River at the eastern boundary of the Land District of Corowa as notified in the Supplement of the New South Wales *Government Gazette* of twenty-eighth February one thousand eight hundred and eighty-three No. 82 thence on the west by the boundary dividing the Land Districts of Corowa aforesaid Urana Wagga Wagga Grenfell Forbes Parkes Dubbo Coonabarabran Gunnedah Narrabri Bingara and Warialda from the Land Districts of Albury Tumut Gundagai Cootamundra Young Cowra Molong Wellington Cassilis Murrurundi Tamworth and Inverell as notified in the Supplement to the New South Wales *Government Gazette* of twenty-eighth February one thousand eight hundred and eighty-three No. 82 northerly to the Dumaresq River thence on the north by the boundary dividing the Colonies of New South Wales and Queensland easterly to Point Danger aforesaid at the point of commencement.

CENTRAL DIVISION.

That portion of the Colony of New South Wales within the following boundaries Commencing on the boundary between the Colonies of New South Wales and Queensland at a point on the Dumaresq River where the eastern boundary of the Land District of Warialda as notified in the Supplement of the New South Wales *Government Gazette* of the twenty-eighth February one thousand eight hundred and eighty-three No. 82 meets that river and bounded thence on the east by the boundary dividing the Land Districts of Warialda aforesaid Bingara Narrabri Gunnedah Coonabarabran Dubbo Parkes Forbes Grenfell Wagga Wagga Urana and Corowa from the Land Districts of Inverell Tamworth Murrurundi Cassilis Wellington Molong Cowra Young Cootamundra Gundagai Tumut and Albury as notified in the Supplement of the New South Wales *Government Gazette* of the twenty-eighth February one thousand eight hundred and eighty-three No. 82 southerly to the Murray or Hume River thence on the south by the boundary dividing the Colonies of New South Wales and Victoria westerly to the confluence of the Murray or Hume and Murrumbidgee Rivers thence on the north-west by the Murrumbidgee River upwards to the Lachlan River and thence by that river upwards to its eastern and western branches at the north-east corner of J. Tyson's portion No. 15 of two hundred and thirty-six acres parish of Tyson county of Caira thence by the boundary dividing the Juanbung and Moon-moon-curra Runs bearing north thirty-three degrees east to the Lachlan River and thence again by that river upwards to the confluence of the Kalingalungaguy Creek thence on the west by a marked line bearing north twenty degrees west being the western boundaries of the Kyargathur North Kyargathur Flanagan's Swamp East Palisthan No. 2 Mombill Wicklow Block K Wicklow Block H New Babinda Hermitage Plains Block A 2 and Hermitage Plains Block M Runs to the western corner of the last-named run thence again on the north-west by a marked line bearing north twenty-eight degrees east being the north-western boundaries of Hermitage Plains Block M Hermitage Plains Block K Hermitage Plains Block I and Glenariff Block C Runs to the north-west corner of West Bogan No. IX Run thence by the Common boundary between that run and West Bogan No. X Run being a marked line bearing north seventy degrees east fifteen miles to a stake bearing north eighty-six degrees east twenty-four links from a gum-tree marked broad-arrow over ix and broad-arrow over x on the west bank of the Bogan River and thence crossing that river to a stake on the east bank bearing north fifty-four degrees east fifty-six links from a gum-tree marked broad-arrow over ix and broad-arrow over x thence by the northern boundaries of East Bogan No. IX and Mondado Runs to the confluence of Crooked Creek with Marra Creek thence again on the west by Marra Creek downwards to its confluence with the Darling or Barwon River and again on the north-west by that river and the Macintyre River upwards to the point of commencement.

WESTERN

Gunpowder and Explosive Rates.

WESTERN DIVISION.

That portion of the Colony of New South Wales within the following boundaries Commencing on the boundary between the Colonies of New South Wales and Queensland at the intersection of the twenty-ninth parallel of south latitude with the Macintyre River and bounded thence on the south-east by that river and the Darling or Barwon River downwards to the confluence of the Marra Creek thence on the west by that creek upwards to the confluence of Crooked Creek thence by the northern boundaries of Mondado and East Bogan No. IX Runs to a stake bearing north fifty-four degrees east fifty-six links from a gum-tree marked broad-arrow over ix and broad-arrow over x on the east bank of the Bogan River thence crossing that river to a stake bearing north eighty-six degrees east twenty-four links from a gum-tree marked broad-arrow over ix and broad-arrow over x thence by the Common boundary between West Bogan No. IX and No. X Runs being a marked line bearing south seventy degrees west fifteen miles to the north-west corner of West Bogan No. IX Run thence again on the south-east by a marked line bearing south twenty-eight degrees west being the north-western boundaries of the Glenariff Block C Hermitage Plains Block I Hermitage Plains Block K and Hermitage Plains Block M Runs to the western corner of the last-mentioned run thence again on the west by a marked line bearing south twenty degrees east being the western boundaries of Hermitage Plains Block M Hermitage Plains Block A 2 New Babinda Wicklow Block II Wicklow Block K Mombill Palisthan No. 2 Flanagan's Swamp East North Kyargathur and Kyargathur Runs to the confluence of Kalingalungaguy Creek with the Lachlan River thence by that river downwards to the boundary dividing Juanbung and Moon-moon-curra Runs thence by that boundary bearing south thirty-three degrees west to the junction of the eastern and western branches of the Lachlan River at the north-east corner of J. Tyson's portion No. 15 of two hundred and thirty-six acres Parish of Tyson County of Caira thence again by the Lachlan River to the Murrumbidgee River and again on the south-east by that river downwards to its confluence with the Murray or Hume River thence on the south by the boundary dividing the Colonies of New South Wales and Victoria to its intersection with the one hundred and forty-first meridian of east longitude being the boundary between the Colonies of New South Wales and South Australia thence on the west by that boundary northerly to its intersection with the twenty-ninth parallel of south latitude being part of the boundary between the Colonies of New South Wales and Queensland thence on the north by that boundary easterly to the Macintyre River at the point of commencement.
