

**Part I.**

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Act No. 7, 1913.

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*Crown Lands Consolidation Act, 1913.*

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Act No. 7, 1913.

CROWN LANDS  
CONSOLIDATION.

An Act to consolidate the Crown Lands Acts and certain other Acts or parts thereof dealing with the alienation occupation and management of Crown Lands. [8th October, 1913.]

**B**E it enacted by the King'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.

*Short title and division into Parts.*

**1.** This Act—

Short title.

(a) may be cited as the “Crown Lands Consolidation Act, 1913”  
—and

(b) is arranged according to the following scheme :—

Division into Parts

**PART I.**—PRELIMINARY—*sections 1-6.*

**PART II.**—DIVISIONS OF NEW SOUTH WALES—LAND DISTRICTS—LOCAL LAND BOARDS—COMPLAINTS—APPEALS AND REFERENCES—LAND APPEAL COURT—*sections 7-22.*

**PART III.**—GENERAL PROVISIONS AS TO DEDICATIONS RESERVATIONS AND OTHER MATTERS OF AN ADMINISTRATIVE NATURE, AND AS TO THE MAKING OF REGULATIONS BY THE GOVERNOR—*sections 23-37.*

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**PART IV.**—PURCHASES LEASES AND LICENSES OF CROWN LANDS NOT WITHIN CLASSIFIED AREAS OR IRRIGATION AREAS—ORDINARY CONDITIONAL PURCHASES AND CONDITIONAL LEASES—CONDITIONAL PURCHASES WITHOUT RESIDENCE—CONDITIONAL PURCHASES WITHIN SPECIAL AREAS—ADDITIONAL CONDITIONAL PURCHASES OR CONDITIONAL LEASES IN VIRTUE OF FREEHOLDS—ADDITIONAL CONDITIONAL PURCHASE LEASES, &c.—IMPROVEMENT PURCHASES—AUCTION SALES—AFTER-AUCTION PURCHASES—SPECIAL PURCHASES—OCCUPATION LICENSES—ANNUAL LEASES, &c.—SPECIAL LEASES—SCRUB LEASES—SNOW LEASES—INFERIOR LANDS LEASES—RESIDENTIAL LEASES—IMPROVEMENT LEASES—*sections 38–83.*

**PART V.**—CLASSIFICATION OF CROWN LANDS—HOLDINGS WITHIN CLASSIFIED AREAS—CONDITIONAL PURCHASES AND CONDITIONAL LEASES—HOMESTEAD SELECTIONS—SETTLEMENT LEASES—CONDITIONAL PURCHASE LEASES AND CONDITIONAL PURCHASES BY CONVERSION THEREOF—ADDITIONAL HOLDINGS—SPECIAL CONDITIONAL PURCHASE LEASES—HOMESTEAD FARMS—SUBURBAN HOLDINGS—CROWN-LEASES—*sections 84–136.*

**PART VI.**—IRRIGATION AREAS—*sections 137–147.*

**PART VII.**—PROVISIONS COMPLEMENTARY TO PARTS IV, V, AND VI SO FAR AS RELATING TO THE ACQUISITION OF HOLDINGS, &c.—*sections 148–162.*

**Division 1.**—APPLICATIONS FOR HOLDINGS—*sections 148–154.*

**Division 2.**—COMPETENCY OF APPLICANTS—*sections 155–160.*

**Division 3.**—PAYMENT OF SURVEY FEE AND FOR IMPROVEMENTS BY APPLICANTS—*sections 161–2.*

**PART VIII.**—PROVISIONS COMPLEMENTARY TO PARTS IV, V, AND VI SO FAR AS RELATING TO HOLDINGS AFTER ACQUISITION, AND ALSO TO PART IX, &c.—*sections 163–280.*

**Division 1.**—ADDITIONS TO HOLDINGS—*sections 163–5.*

**Division**

**Division 2.**—APPRAISEMENTS—*sections 166–173.*

**Division 3.**—CONDITIONS ATTACHING TO HOLDINGS—PROVISIONS ANCILLARY TO PERFORMANCE—*sections 174–182.*

**Division 4.**—CONVERSION OF HOLDINGS (OTHER THAN CONDITIONAL LEASES, ANNUAL LEASES, RESIDENTIAL LEASES, CONDITIONAL PURCHASE LEASES, AND SPECIAL CONDITIONAL PURCHASE LEASES) INTO OTHER HOLDINGS—*sections 183–194.*

**Division 5.**—EXCHANGES AND PURCHASES BY THE CROWN—*sections 195–8.*

**Division 6.**—FENCING—*sections 199–203.*

**Division 7.**—FORFEITURES—*sections 204–212.*

**Division 8.**—IMPROVEMENTS—PAYMENT, OWNERSHIP, TENANT-RIGHT, &c.—*sections 213–225.*

**Division 9.**—LEASES AND LICENSES—GENERAL AND MISCELLANEOUS PROVISIONS—*sections 226–233.*

**Division 10.**—LEGAL PROVISIONS—EVIDENCE—PROCEDURE—*sections 234–255.*

**Division 11.**—RESUMPTIONS—*section 256.*

**Division 12.**—SUBDIVISION OF HOLDINGS—*sections 257–8.*

**Division 13.**—TRANSFER—TRANSMISSION AND DEVOLUTION OF TITLE—RESTRICTIONS AS TO PERSONS WHO MAY TAKE—*sections 259–274.*

**Division 14.**—VARIOUS PROVISIONS—*sections 275–280.*

**PART IX.**—PURCHASES, HOMESTEAD SELECTIONS, LEASES AND LICENSES EXISTING AT THE PASSING OF THIS ACT—*sections 281–342.*

Save where the contrary intention appears---

Scope of Parts.

Parts IV, V, VI, and VII of this Act respectively relate to holdings applied for or originating after the passing of this Act, and also, for certain purposes, to holdings the applications for which are pending at the passing of this Act—

Part VIII of this Act refers to holdings applied for or originating as well before, as after, the passing of this Act—and

Part IX of this Act contains provisions applicable only to holdings existing at the passing of this Act.

*Repeals*

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*Crown Lands Consolidation Act, 1913.**Repeals and Savings.*

**2.** The Acts respectively specified in the First Schedule to this Act, to the extent expressed in the said Schedule, are hereby repealed.

Repeal of Acts.  
Schedule One.

The repeal of the several enactments hereby repealed shall not of itself operate to annul prejudice or affect any grant sale purchase exchange lease contract agreement or other transaction which before the passing of this Act was made effected declared to be valid or validated under or by virtue of or by any repealed enactment.

Savings as to titles  
and contracts.  
48 Vic. No. 18, s. 2.  
No. 20, 1897, s. 2.

But all such grants sales purchases exchanges leases contracts agreements or other transactions (subject however to the express provisions, if any, of this Act in relation thereto respectively) shall remain as valid as if the repeal hereby effected had not been effected.

And all the provisions in any repealed enactment respectively contained for the benefit or security either of the predecessors of His present Majesty, Their Heirs and Successors, or of His present Majesty, His Heirs and Successors, or of any of the parties, to or with whom or in whose favour any such grant sale purchase exchange lease contract agreement or other transaction was made effected declared to be valid or validated, shall so far as regards His Majesty, His Heirs and Successors, and such parties respectively and all persons claiming under Him or them respectively (but only to the extent to which such provisions are not replaced by analogous provisions in Part VIII or IX hereof) remain and be of as full force as if the enactments hereby repealed had not been repealed:

Provided always that the foregoing provisions shall not be taken to have the effect of reinstating or reviving any purchase homestead selection lease or license which, having been cancelled forfeited made void or otherwise determined by or under or by virtue of any repealed enactment, was not lawfully subsisting immediately before the passing of this Act, or of reviving any other matter or thing not in force or existing immediately before such passing.

Matters not in force  
not to be revived.

And it is hereby declared (but not so as in any way to limit the generality of the foregoing provisions) that the repeal of the enactments hereby repealed shall not of itself—

- (1) deprive any act done or matter or thing performed of any effect which by any repealed enactment it had been declared or explained or otherwise caused to have, or render invalid any act matter or thing which having been validated continued to be valid up to the passing of this Act—or
- (2) prejudice any tenant-right in improvements, ownership of improvements, right to receive or liability to make payment for improvements, claim to contribution in respect of fencing or right to receive or liability to pay the same, or any other obligation as between private persons or as between the Crown and any private person, or any protection obtained for any holding—or

Validating and  
declaratory  
provisions not to be  
affected.

Claims, &c., not to  
be affected.

(3)



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Forfeitures, &c., not  
to be affected.

- (3) defeat any forfeiture for any non-observance or violation of any repealed enactment, or for any breach of any conditions contained in any such enactment or in any instrument issued in pursuance thereof, or take away the power to notify or declare the same, or the right of any person to be saved harmless from such forfeiture—or

Savings generally.

- (4) otherwise affect—  
the previous operation of any enactment hereby repealed, or anything duly suffered done or commenced to be done under such enactment—or  
any right privilege obligation liability penalty or punishment acquired accrued or incurred under any enactment hereby repealed—or  
any inquiry legal proceeding or remedy in respect of any such right privilege obligation liability penalty punishment or forfeiture as aforesaid.

And (subject to the express provisions of this Act in relation thereto) any such inquiry legal proceeding or remedy may be instituted continued or enforced and any such penalty punishment or forfeiture may be imposed and enforced, as if the enactments hereby repealed had not been repealed.

And in the construction of this section the expression “any repealed enactment” shall be taken to include not only any enactment hereby repealed, but also any enactment which, being in *pari materia* therewith, had been repealed before the passing of this Act.

Church and school  
lands to remain  
Crown lands.

No. 20, 1897, ss. 1  
and 14.

And in reference to the repeal of the Church and School Lands Act, 1897, it is hereby further declared that notwithstanding the repeal of the said Act such of the church and school lands as immediately before the passing of this Act were vested in His Majesty free from all trusts and provisions which affected the same before the passing of the first-mentioned Act shall remain so vested, and that the whole of the moneys to be derived from the lands so vested as aforesaid shall be paid to the Colonial Treasurer to be by him carried to the credit of the Consolidated Revenue Fund, and that the lands so vested as aforesaid shall remain and be Crown lands for the purposes of this Act and the Mining Act, 1906.

And it is hereby further declared in reference to matters of procedure only that—

Procedure as to  
matters pending.

- (a) all proceedings which are pending before a local land board at the passing of this Act shall respectively be carried on and completed as if they had been instituted under the analogous provisions of this Act—  
(b) all caveats which have not been dealt with before the passing of this Act shall be dealt with as if they were complaints lodged under the provisions of this Act—

(c)

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- (c) where the period for lodging an appeal or making a reference to the Land Appeal Court has not expired before the passing of this Act, such appeal or reference, if lodged or made before the passing of this Act, shall be deemed to have been lodged or made under the analogous provision of this Act—and
- (d) pending appeals and references shall be heard and determined, and pending cases for the Supreme Court shall be stated, by the Land Appeal Court under the provisions of this Act :

Provided always that nothing in this section contained shall be taken to prevent the next following section having full effect.

*Continuity of administration for certain purposes.*

**3.** All persons appointed under or by virtue of an enactment hereby repealed and holding office at the passing of this Act shall be deemed to have been appointed under the analogous provisions of this Act, and may be suspended or removed as if actually so appointed. Persons appointed under previous Acts.

All rules regulations and forms made or prescribed under an enactment hereby repealed, which are in force at the passing of this Act, shall be deemed to have been made under the analogous provisions of this Act, and may be amended cancelled or repealed as if actually so made : Provided that references in such rules regulations or forms to any enactments hereby repealed shall be read as references to the analogous provisions of this Act. Regulations made under previous Acts.

All proclamations and notifications heretofore made, whether made under the Code of 1861-80 or the Code of 1881-1912 or the Church and School Lands Dedication Act, 1880, as to any of the following matters, that is to say :— Proclamations, notifications, &c., made under previous Acts.

- (a) the establishment of land districts and land board districts and the defining of the boundaries thereof— 48 Vic. No. 18, ss. 2 and 21.
- (b) declarations made as to what things or matters come within the expressions “minerals” “scrub” “public purpose” or “vermin” respectively, as to what lands are scrub-lands, and as to what days are to be land-office days— No. 20, 1897, s. 2.
- (c) the dedication of lands and the reservation of lands from sale lease and license, or any specified forms of sale lease or license—
- (d) the setting apart of Crown lands for travelling stock routes or camping places or as sites for cities towns or villages, or as suburban lands, or the defining of the boundaries of population areas—
- (e) the classification of Crown lands, or the declaring that Crown lands shall not be available for the purposes of any application

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application until a further notification, or the setting apart of special areas, or the publication of particulars of the farms or blocks in classified areas or irrigation areas—

(f) or any other proclamations or notifications of the like public nature and purport made under statutory powers which were in existence immediately before the passing of this Act—  
and

(g) all notifications or advertisements of intended sales at auction, or calling for tenders, or for complaints or objections against any proposed dealing with Crown lands—

shall, so far as such proclamations notifications and advertisements are of full force and effect, and the operation thereof has not been exhausted, at the passing of this Act, be deemed to have been made under the analogous provisions of this Act, and may be corrected amended modified altered or revoked as if actually so made: Provided that references therein to the enactments under which they were in fact made shall be read as references to the analogous provisions of this Act.

The provisions of this Act shall be taken to be analogous to provisions in the Code of 1861–80 or the Code of 1884–1912 or the Church and School Lands Dedication Act, 1880, notwithstanding that the statutory power in question in any particular case shall now be vested in the Minister instead of in the Governor, as previously, and shall now be exercisable by notification instead of by proclamation as previously.

*Relation of this Act to certain other Acts and to the Crown's prerogative in certain cases of escheat or forfeiture.*

Saving of other Acts.

**4.** This Act shall not be construed so as to affect (except where the contrary is expressly provided) the operation of any provision contained in the—

Metropolitan Water and Sewerage Act of 1880—

Sydney Harbour Trust Act, 1900—

No. 53, 1912, s. 1.

Western Lands Act of 1901—

Prickly-pear Destruction Act, 1901—

Public Roads Act, 1902—

Fisheries Act, 1902—

Closer Settlement Act, 1904—

Government Savings Bank Act, 1906—

48 Vic. No. 18, s. 5.

Mining Act, 1906—

Local Government Act, 1906—

Forestry Act, 1909—

Seat of Government Surrender Act, 1909—

Water Act, 1912—

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State Coal Mines Act, 1912—

Irrigation Act, 1912—or

any Act passed for the amendment of any Act which is hereinbefore mentioned—or

any Act not hereinbefore mentioned or referred to, whereby special provision is made in respect of any particular kinds of Crown lands or authorizing Crown lands to be disposed of or dealt with in any manner inconsistent with the Crown Lands Acts :

Provided always that nothing in this section shall be construed so as to prevent the substitution—for the purposes of proceedings before a local land board or the Land Appeal Court under and subject to any Act which is hereinbefore mentioned—of the provisions of Part II of this Act for the analogous provisions of the Code of 1884–1912.

Exception as to proceedings before local land boards, &c.

Nothing in this Act shall affect the prerogative of the Crown in respect to any lands reverting by escheat or forfeiture to His Majesty otherwise than under the provisions of the Crown Lands Acts.

Saving of escheats and certain forfeitures.

48 Vic. No. 18, s. 5.

*Interpretation of terms.*

**5.** In this Act, unless the context necessarily requires a different meaning, the expression—

Interpretation of terms.

“City town or village” means a city town or village declared to be so by proclamation or notification of the Governor or Minister in the Gazette.

*Ibid.* s. 4, and No. 53, 1912, s. 24.

“Classified area” means an area (not being a special area or irrigation area) of Crown lands set apart for holdings of the kinds specified in the notification in the Gazette whereby such area is set apart, and includes any lands within such area which become Crown lands after the date of such notification.

“Code of 1861–80” means the enactments repealed by the second section of the Crown Lands Act of 1884 excepting the Acts firstly and secondly mentioned in the list subjoined to the said section.

“Code of 1884–1912” means the enactments repealed by this Act.

“Commissioner,” when used in connection with an irrigation area, means the commissioner for water conservation and irrigation appointed under the Irrigation Act, 1912.

No. 73, 1912, s. 3.

“Crown Lands” means lands vested in His Majesty and not permanently dedicated to any public purpose or granted or lawfully contracted to be granted in fee-simple under the Crown Lands Acts.

48 Vic. No. 18, s. 4

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- 48 Vic. No. 18, s. 4.  
53 Vic. No. 21, s. 4,  
and No. 53, 1912, s.  
24.
- 48 Vic. No. 18, s. 4.
- No. 30, 1908, s. 2.
- No. 73, 1912, s. 3.
- 48 Vic. No. 18, s. 4.
- Ibid.*
- 53 Vic. No. 21, s. 4,  
and 58 Vic. No. 18,  
s. 2.
- 48 Vic. No. 18, s. 4.
- 48 Vic. No. 18, s. 4.
- “Crown Lands Acts” means and includes the Code of 1861–80, and the Code of 1884–1912, and this Act.
- “Crown Land Agent” means any person duly appointed to the office of Crown land agent assistant Crown land agent or acting Crown land agent.
- “Crown-lease” means a holding of that designation within an area set apart for that kind of holding under the “Crown Lands (Amendment) Act, 1912,” or this Act.
- “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.
- “Holding within a classified area” means any of the following kinds of holdings being within a classified area:—conditional purchase—conditional lease—homestead selection—settlement lease—conditional purchase lease—special conditional purchase lease—homestead farm—suburban holding—Crown-lease.
- “Home maintenance area” means an area which, when used for the purpose for which it is reasonably fitted, would be sufficient for the maintenance in average seasons and circumstances of an average family.
- “Irrigation area” means an irrigation area constituted or to be constituted as such under the Murrumbidgee Irrigation Act, 1910, or the Irrigation Act, 1912.
- “Land-office day” means any day notified as such in the Gazette upon which Crown land agents are required to attend at their land offices for the purpose of receiving applications for the sale or leasing of Crown lands.
- “Lease” includes an agreement for a lease.
- “License” means an occupation license or an agreement for the same, or a preferential occupation license or an agreement for the same.
- “Local land board” means the local land board of the land district in question and includes the Land Appeal Court in any case where an appeal or reference to that court shall have been made.
- “Local newspaper” means a newspaper published or circulating in the particular district or place in reference to which the expression is used.
- “Minerals” means and includes coal kerosene shale and any of the following metals, or any ore containing the same, that is to say:—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.
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- "Population areas" means lands included within population boundaries,—that is to say, within lines defined by proclamation by the Governor or notification by the Minister in the Gazette, and distant not more than ten miles from the nearest boundary of any city town or village. 48 Vic. No. 18, s. 4. 53 Vic. No. 21, s. 40, and No. 53, 1912, s. 24.
- "Prescribed" means prescribed by this Act, or by any regulation made thereunder. 48 Vic. No. 18, s. 4. 53 Vic. No. 21, s. 4.
- "Public purpose" means and includes, in addition to any purpose specified as a public purpose in any section of this Act, any purpose declared by the Minister, by notification in the Gazette, to be a public purpose within the meaning of such section. 48 Vic. No. 18, s. 4, and No. 53, 1912, s. 24.
- "Recurring date" means the anniversary of the date upon which the event referred to happened, except in the case of an event which happened on a twenty-ninth day of February, in which case the recurring date thereof in any year which is not a leap-year shall be taken to be the first day of March.
- "Regulations" means regulations made under the authority of this Act. 48 Vic. No. 18, s. 4.
- "Reside and residence" mean a residing by the person referred to in the context continuously and bona fide on the land or in the place indicated by the context as his usual home, without any other habitual residence. No. 53, 1912, s. 14.
- "Scrub" means any tree undergrowth or plant which may from time to time be declared by the Minister to be scrub within the meaning of this Act by notification in the Gazette. 53 Vic. No. 21, s. 4. No. 30, 1908, s. 42.
- "Series," when used in connection with conditional purchases and conditional leases, includes a conditional purchase under section twenty-two of the Crown Lands Alienation Act of 1861, and any additional conditional purchases and conditional leases in virtue of any such conditional purchase or conditional purchases. No. 51, 1899, s. 18.
- "Suburban holding" means a holding of that designation within an area set apart for that kind of holding under the Crown Lands (Amendment) Act, 1912, or this Act.
- "Unsound mind" means that the person (referred to as becoming of unsound mind) becomes by finding or declaration an insane person within the meaning of the Lunacy Act, 1898, or becomes an insane patient or incapable person within the meaning of the said Act. 42 Vic. No. 7, s. 92. 53 Vic. No. 18, s. 60. No. 30, 1908, s. 42.
- "Vacant land" means land not alienated by or held under any lease or license from the Crown. 48 Vic. No. 18, s. 4.

Wherever

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No. 6, 1912, s. 36.

Wherever in this Act it is in terms directed—that subject to the provisions of Part VI of this Act the provisions of any section or subsection as there specified shall mutatis mutandis apply to leases within irrigation areas—the direction shall be construed as requiring that in so applying such last-mentioned provisions references therein to any tenures, or to the applicants for or holders of any tenures therein mentioned, shall be read as references to leases within irrigation areas; and the like effect shall be given to an analogous direction in respect of homestead farms suburban holdings and Crown-leases.

*Crown lands to be dealt with subject to this Act.*

Crown lands not to be dealt with except under this Act.

48 Vic. No. 18, s. 5.

*Ibid.* s. 6.

**6.** Crown lands shall not be sold leased dedicated reserved or dealt with except under and subject to the provisions of this Act.

The Governor on behalf of His Majesty may grant lease or make any other disposition of Crown lands in any case where he is hereby authorized so to do, but only for some estate interest or purpose authorized by this Act and subject in every case to its provisions.

No. 30, 1908, s. 42.

No. 53, 1912, s. 23.

The Minister on behalf of His Majesty may lease dedicate reserve or make any other disposition of Crown lands in any case where he is hereby authorized so to do, but only for some estate interest or purpose authorized by this Act and subject in every case to its provisions:

Provided always that this section shall be read subject to the provisions of sections two and four hereof.

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**PART II.**

**DIVISIONS OF NEW SOUTH WALES—LAND DISTRICTS—LOCAL LAND BOARDS—COMPLAINTS—APPEALS AND REFERENCES—LAND APPEAL COURT.**

*Divisions of New South Wales.*

Boundaries of divisions.

48 Vic. No. 18, s. 3.  
Schedule Two.

No. 53, 1912, s. 22.

Alteration of boundaries of divisions.

53 Vic. No. 21, s. 40.

No. 53, 1912, s. 26.

**7.** For the purposes of this Act New South Wales shall consist of three Divisions, that is to say, the Eastern Division, the Central Division, and the Western Division, and the boundaries of each Division shall be as set forth in the Second Schedule to this Act.

A boundary between Divisions may be altered in the cases and in the manner hereunder specified—

- (1) lands held under lease or license, cities towns villages and suburban lands attached thereto, or measured portions, which may be situated wholly within one Division or partly within  
two

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two Divisions may be declared by the Governor by proclamation in the Gazette to be wholly or partly within another Division or wholly within one Division, as the case may be, and upon such proclamation the boundaries of such Divisions shall be deemed to be sufficiently altered and defined for the purposes of this section—and

- (2) where the boundary of any Division severs any existing conditional purchase or lease or other lawful holding whatsoever, the Governor may by proclamation in the Gazette alter the boundary so as to avoid such severance, and upon such proclamation the boundary as so altered shall be deemed to be the true boundary of the Division. 48 Vic. No. 18, s. 8.

*Land districts.*

**8.** 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. Land districts, *Ibid.* s. 9.

Lands held under lease or license, cities towns villages and suburban lands attached thereto, or measured portions, which may be situated wholly within any land district or partly within two or more land districts may be declared by the Governor by proclamation in the Gazette to be wholly or partly within another land district, or wholly within one or partly within two or more land districts, and upon such proclamation the boundaries of such land districts shall be deemed to be sufficiently altered and defined for the purposes of this section. Alteration of boundaries, 53 Vic. No. 21, s. 40, and No. 53, 1912, s. 26.

*Crown land agents.*

**9.** The Governor may appoint a Crown land agent either for each land district or for several adjoining land districts who shall perform the duties imposed on him by the Crown Lands Acts or by the regulations. Crown land agents, &c. 48 Vic. No. 18, s. 10.

It shall be the duty of every Crown land agent to forward to the Colonial Treasurer, in the prescribed manner, all moneys received by him by virtue of the Crown Lands Acts or the regulations, and in all other respects to conform to the regulations, and to carry out the instructions given by or by direction of the Minister. Their duties.

The Governor may appoint an assistant Crown land agent in any case where he thinks it necessary for the purposes of this Act. *Ibid.* s. 16.

The Minister may at any time in the absence of the Crown land agent appoint a person to act for him, and all things done by an acting Crown land agent within the scope of his authority shall be of the same efficacy as if done by the Crown land agent. *Ibid.* s. 10.



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*District Surveyors, &c.*

Appointment  
of district staff of  
officers.  
48 Vic. No. 18, s.  
16.

**10.** 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 whenever required by 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.

*Local land boards, how constituted.*

Local land boards.  
*Ibid.* s. 11 and  
No. 53, 1912, s. 24.

**11.** (1) Subject to the provisions hereinafter contained relating to irrigation areas, there shall be a local land board for every land district or for several land districts.

Appointment of  
members.

The members of a local land board shall not exceed three in number, and shall be appointed by the Governor, and shall hold their respective offices during the pleasure of the Crown.

One of such members shall be the chairman, who shall be paid such salary as Parliament may sanction.

Every other member of the local land 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 local land 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.

Vacancies.  
48 Vic. No. 18, s. 14.

The resignation or bankruptcy of any member of a local land board or his absence from three consecutive meetings of the local land board without leave of the Minister shall cause a vacancy in his office, and the Governor may appoint a person to supply such vacancy, or any vacancy caused by the removal of a member of a local land board from his office.

Acting chairman.  
51 Vic. No. 11, s. 4.

(2) In the event of the chairman being suspended or being unable to act from any cause whatever, the Governor may appoint some other person as acting chairman, who while so acting shall have and exercise all the powers and authorities, and be subject to all the obligations, applicable to the office of chairman.

48 Vic. No. 18, s. 11,  
and No. 30, 1908,  
s. 42.

(3) Any person appointed by the Governor as chairman of a local land board may by the Minister be directed to act as chairman of any local land board for any land district or for several land districts, and the local land board so constituted shall have as full power and jurisdiction to deal with any matter as if the chairman appointed for the said land district by the Governor were presiding.

48 Vic. No. 18, s. 14.

(4) In the absence of the chairman, who under the provisions of this section has been appointed or directed to act, the members present at any meeting of the local land 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 authorities of the chairman.

*Local*

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**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 local land board. Decisions of board. 48 Vic. No. 18, s. 12.

The chairman shall have an original vote on any question before the local land board, and shall have a casting vote on any question on which the votes are equal.

The chairman shall give the decision of the local land board, when unanimous, in open court, but if not unanimous, the local land board shall decide by vote, retiring for that purpose if it thinks fit. The decision shall then be given by the chairman in open court, and no member shall comment upon or question such decision. Upon an appeal to the Land Appeal Court as hereinafter provided any member of the local land board may assign in writing such reasons for his opinion as he may deem necessary, which shall be transmitted through the chairman to the Land Appeal Court : Ibid. s. 14.

Provided, however, that the local land board instead of giving any decision or adjudication in any case within its jurisdiction may after taking evidence refer such case with the evidence for decision by the Land Appeal Court which shall have power to deal with the case so referred in all respects as if it had been brought before it in the first instance. References by board to Land Appeal Court. Ibid. s. 14. 53 Vic. No. 21, s. 3.

*Authority to local land board to act outside its district.*

**13.** It shall be lawful for the Minister from time to time to direct any local land board to deal with any matter question or inquiry that has arisen, or shall arise, without regard to the land board district or land district in which the land forming the subject of such matter question or inquiry may be situated. And the said local land board shall have as full power and jurisdiction to deal with the matter as if the land aforesaid were situated within such board's proper land board district or land district. Board, when authorized, may deal with matters outside its district. Ibid. s. 5.

*General powers and procedure of local land board.*

**14.** The following provisions shall be applicable to local land boards and their proceedings :— General powers and procedure of boards.

- (1) Every such board shall have power to hear and determine all references complaints and other matters coming before it (whether made lodged or instituted before or after the passing of this Act), and shall, whilst so doing, sit 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. Jurisdiction of boards : procedure. 48 Vic. No. 18, s. 14.
- (2)

*Crown Lands Consolidation Act, 1913.*

Power to summon  
witnesses.  
48 Vic. No. 18, s. 14.  
No. 53, 1912, s. 24.

Expenses of  
witnesses.

Bench warrants.  
53 Vic. No. 21, s. 9.

Schedule Three.

Examination of  
witnesses.  
*Ibid.* s. 9.

Power over  
witnesses.  
*Ibid.*

No. 20, 1900, s. 13.

(2) The chairman of every such board shall be a justice of the peace by virtue of his office. Every member of the local land board shall have power by summons signed by him 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.

(3) Where any person who has been summoned to attend as a witness before a local land board, and who has had payment or tender of his reasonable expenses made to him, shall fail to appear in obedience to his summons, the chairman, upon proof of such person having been duly served with such summons, and upon proof also that such person's non-appearance was without just cause or reasonable excuse, may issue a warrant in the form or to the effect of the Third Schedule to this Act to bring such person before the local land board to give evidence.

(4) Where any person has been summoned to attend as a witness before a local land board, it shall be lawful for the chairman to examine him, or allow him to be examined, upon oath, and to cause his examination to be reduced to writing and signed by him, and to require him to produce any document relating to the matter in question in his possession or control.

If any person who has been summoned as a witness in any proceeding before a local land board, and who has had payment or tender of his reasonable expenses made to him, shall neglect to appear; or if any person summoned or examined as a witness in any such proceeding refuses to be sworn or to make a declaration in lieu of an oath, or prevaricates in his evidence, or refuses to answer any lawful question, or to produce any document in his possession or control relating to the matter in question, which he has been summoned to produce, or which is then in his possession or control, or to sign his examination when reduced to writing, it shall be lawful for the chairman to commit such offender to gaol for any time not exceeding three months, or to impose on any such offender a fine not exceeding one hundred pounds; and in default of immediate payment thereof, to commit the offender to gaol for any time not exceeding three months, unless the fine be sooner paid.

And

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And in any of the cases aforesaid, a warrant in the form contained in the Fourth Schedule to this Act shall and may be issued by such chairman, and shall be good and valid in law without any other warrant order or process whatsoever; and the sheriff, his deputy, and all officers of the police force, and gaolers, to whom the same shall be addressed, shall obey the same.

- (5) Every party to a proceeding before a local land board shall have the same right to be heard by counsel attorney or agent, and to enforce the attendance of witnesses before the local land board, and to examine such witnesses, as upon summary proceedings before justices. Rights of parties. 48 Vic. No. 18, s. 14.
- (6) A local land board may permit any defect or error in any notice application complaint particulars or other proceeding before it to be amended, or any omission therefrom to be supplied, and such amendments or insertions shall be made as permitted, and shall be verified by the initials of the chairman: Provided that if any party concerned would, in the opinion of the local land board, be prejudiced by such amendment, the proceedings may, at his request, be adjourned. General power to amend. No. 53, 1912, s. 7.
- (7) The chairman shall sign certificates and other documents given or issued by the local land 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 or the Land Appeal Court. Signature of documents. 48 Vic. No. 18, s. 14. 53 Vic. No. 21, s. 3.
- (8) Where a local land board pursuant to the provisions of this Act shall make any order for the payment of money whether as compensation expenses 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 such money may be recovered by the person to whom the same is ordered to be paid before justices of the peace in petty sessions in accordance with the Acts in force for the time being regulating summary proceedings before justices: Provided, however, that nothing in this section shall be taken to prevent such order of the local land board being made the subject of an appeal or reference to the Land Appeal Court. Enforcement of orders to pay money. 48 Vic. No. 18, ss. 14, 15, and 139.

*Chairman*

*Crown Lands Consolidation Act, 1913.*

*Chairman on behalf of local land board may deal with formal matters.*

Formal matters  
which chairman  
may deal with.

58 Vic. No. 18, s. 37.  
No. 51, 1899, s. 8.  
No. 15, 1903, s. 32.  
No. 42, 1905, ss. 15,  
25, 29, and 30.  
No. 6, 1912, ss. 6  
and 15.  
No. 53, 1912, s. 29.

**15.** The chairman shall have power, on behalf of a local land board, to deal with matters of the following kinds :—

- withdrawal of applications—
- confirmation of applications—
- permission to enclose a road or watercourse wholly or in part—
- suspension of the condition of fencing attaching to a conditional purchase or conditional lease, or extension of the period within which the condition shall be performed—
- exemption from fencing any portion of the boundary of a conditional purchase or conditional lease—
- sanctioning the erection of a ring fence by the members of one family in pursuance of section forty-eight or section one hundred and two hereof; and prescribing the character of such fence and fixing or extending the period within which the fence shall be erected—
- inquiries as to performance of conditions—
- certificates of conformity—
- applications for annual leases—
- approval of a deputy to perform the conditions attaching to an original conditional purchase lease in the event of the lessee dying or becoming of unsound mind—and
- such other formal orders as may from time to time be prescribed.

Procedure as to  
formal matters.

58 Vic. No. 18, s. 37.  
No. 42, 1905, s. 29.  
No. 53, 1912, s. 27.

The chairman may deal with any such matters as aforesaid not sitting in open court and may deal with the same at any convenient place within any land district under his jurisdiction; and where he does not grant the application or decide in favour of the party concerned, as the case may be, the matter shall afterwards be dealt with in due course by the local land board; and the chairman may in any case, instead of dealing with any matter under this section, bring the same before the local land board.

*Complaints to local land board.*

Cases in which  
complaints lie.

No. 53, 1912, s. 5.

**16.** (1) Complaints may be prosecuted before a local land board in the following cases :—

- (a) where land is the subject of any application for any purchase homestead selection or lease which application has not been finally dealt with by the local land board, any person claiming a prior right to the land applied for may proceed by way of complaint for the purpose of establishing such right—
- (b) where any holder of land under purchase homestead selection or lease is alleged to have applied for the same in fraud or violation of the Crown Lands Acts, any person (whether

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(whether having or not having any interest in the land) may proceed by way of complaint for the purpose of establishing such fraud or violation—

- (c) where any forfeiture of any land is alleged to have been incurred for a cause other than the non-payment of money, any person (whether having or not having any interest in the land) may proceed by way of complaint for the purpose of establishing the liability to such forfeiture—and
- (d) where in any section (other than this section) of the Crown Lands Acts express provision is made for the lodging or making of a complaint, such complaint shall be lodged and prosecuted in the manner prescribed by this section.

Complaints under paragraphs (b) and (c) hereof shall not be lodged after the expiration of six years from the date of the application for or other commencement of the title to the land in question, and shall not be prosecuted in any case where the Minister is barred by the provisions of the Crown Lands Acts from referring the matter to the local land board, or as to any matter in respect of which the person desiring to prosecute the complaint is barred by any provision of the said Acts from appealing to the Land Appeal Court.

(2) Any person desirous of prosecuting a complaint shall do so by lodging with the chairman 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 the chairman the sum of ten pounds as security for any costs which may be awarded against him by the local land board: Provided that—

Lodging of  
complaints.  
48 Vic. No. 18, s. 14.  
No. 53, 1912, s. 24.

- (a) if the local land 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 if such further sum be not deposited with the chairman within such time as the board may specify, the complaint shall not be proceeded with—and
- (b) if the local land board gives a decision in favour of the complainant, he shall be entitled to a refund of any sum deposited by him.

Subject to the provisions of this and the last preceding subsection, the local land board shall hear and determine the matters set out in the complaint, and may make any orders necessary to give effect to its decision, and may award such expenses for witnesses and such costs to the successful party as to it may seem reasonable.

Hearing of  
complaints.  
No. 53, 1912, s. 5.  
48 Vic. No. 18, s. 14.

In any case of complaint where the local land board finds that any land is liable to forfeiture the Minister shall have as full power to forfeit the same as if the said finding had been given on a reference by the Minister.

*References*

## Part II.

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## Act No. 7, 1913.

### *Crown Lands Consolidation Act, 1913.*

#### *References to local land board for administrative purposes.*

Minister may refer  
to boards for reports.  
No. 53, 1912, s. 4.

**17.** (1) Where it appears necessary or advisable for the due administration of the Crown Lands Acts that any inquiry or recommendation as to any case or matter should be made by a local land board, it shall be lawful for the Minister to refer such case or matter to the local land board for the purpose, and the local land board shall proceed accordingly and make a report to the Minister. Such report may be the subject of an appeal or reference to the Land Appeal Court.

53 Vic. No. 21, s. 52.

(2) Where the Minister shall have so referred to the local land board any question or dispute which may have arisen in respect of the boundary of any land held under lease or license, the local land board shall hear and determine such question or dispute, and may order any survey to be made which it may deem necessary, and the costs of the inquiry and of the survey shall be borne by such persons and in such proportions as the local land board may direct.

#### *Inquiries as to lapse voidance or forfeiture.*

Questions of lapse  
voidance or  
forfeiture.

48 Vic. No. 18, s. 20.  
No. 6, 1912, s. 31.  
No. 53, 1912, s. 24.

**18.** Any question of lapse voidance or forfeiture arising under the Crown Lands Acts may be by the Minister referred to the local land board, and the decision thereon of the local land board after due investigation in open court shall, unless appealed from or referred to the Land Appeal Court by the Minister in the prescribed manner, be final. Any such reference to the Land Appeal Court shall be made within one month from the receipt of any decision against which an appeal is not made; or if an appeal is made against the decision, then within one month from the receipt of the notice of appeal by the Under-Secretary for Lands.

This section shall extend to any question of lapse voidance or forfeiture which has arisen before the passing of this Act and has not already been the subject of a like reference to a local land board.

#### *Appeals and references in lieu of appeals by Minister.*

Appeals and  
references to Land  
Appeal Court.

48 Vic. No. 18, s. 17.  
53 Vic. No. 21, s. 7.  
58 Vic. No. 18, s. 39.  
No. 42, 1905, s. 29.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 24.

**19.** Either party to any proceeding before a local land board may appeal from the adjudication decision determination award direction to survey report or recommendation of the local land board to the Land Appeal Court at any time within twenty-eight days after the same has been given or made by giving written notice of such appeal in the prescribed manner to the chairman and to the other party if any to the proceeding and depositing with such chairman the sum of five pounds as security for the costs of the appeal. And every such notice shall state the grounds of appeal.

In

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In all cases (not being cases governed by the next succeeding section, or by any other special provision of the Crown Lands Acts regulating references by the Minister in particular cases) in which, but for this provision, it would have been necessary for the Crown to lodge an appeal, the Minister may within twenty-eight days as aforesaid refer the adjudication decision determination award direction to survey report or recommendation, as the case may be, of a local land board to the Land Appeal Court, and it shall be sufficient if in other respects such reference is made in the manner prescribed by the next succeeding section. No. 53, 1912, s. 24.

*References by Minister to Land Appeal Court generally.*

**20.** The Minister may refer to the Land Appeal Court any decision or recommendation of a local land board, whereby the rights interests or revenues of the Crown may have been or may hereafter be injuriously affected, and may likewise refer any case where it may appear that a local land board has or shall have failed or neglected duly to discharge its duty according to law, or that a local land board has or shall have exceeded such duty, or that a rehearing or further consideration is warranted. References by Minister to Land Appeal Court generally. 58 Vic. No. 18, s. 59. No. 30, 1908, s. 42.

Any such reference shall be duly made if, and when, a notice in writing that the Minister has referred the case to the Land Appeal Court is given to the registrar of the said court, and no provision of this Act in respect of the lodging of appeals shall apply to the giving of such notice; but the Land Appeal Court shall deal with the matter of such reference in the same way, and the rights and liabilities of the Crown in respect of such reference shall be the same, as if such reference were an appeal by the Crown.

Nothing in this section contained shall be construed so as to prejudice or affect any special provision made in any other section whereby the time within which the Minister may make a reference to the Land Appeal Court is limited in any particular case, or so as to affect any remedy by writ of prohibition, or mandamus, or in the nature of a mandamus, which the law now allows to the Crown or any person against a local land board.

*Land Appeal Court.*

**21.** There shall be a Land Appeal Court, which shall be a court of record, and have an official seal. Land Appeal Court. 53 Vic. No. 21, s. 8.

The said court shall consist of three members, who shall be appointed by the Governor; and in the absence through illness or otherwise of any member, the Governor may appoint any person to act temporarily as member. Appointment of members.

It



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*Crown Lands Consolidation Act, 1913.*

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Removal of members.  
53 Vic. No. 21, s. 8.

It shall be lawful for the Governor to remove any member of the Land Appeal Court for inability or misbehaviour, provided that twenty-one days at least before the removal of such member he shall have notice of the intention to remove him, and he shall thereafter and before removal have the opportunity of being heard before the Governor and the Executive Council in his defence.

Appointment of  
President.  
*Ibid.* s. 8.

The Governor shall appoint one of the members of the Land Appeal Court to be President, and in his absence through illness or other sufficient reason any member may be authorized by the Governor to act temporarily as President, who, while so acting, shall have and exercise all the powers and authorities, and be subject to all the obligations, applicable to the office of President.

Appropriation of  
salaries.  
55 Vic. No. 26, s. 2.

There shall be paid to the President of the Land Appeal Court the annual salary of two thousand pounds; and to each of the other members of the court (who shall be designated "Commissioners of the Land Appeal Court") the annual salary of one thousand pounds. And such salaries are hereby charged on the Consolidated Revenue Fund, which, to the extent required for the payment thereof, is hereby permanently appropriated.

### *General powers and procedure of Land Appeal Court.*

General powers and  
procedure of court.  
53 Vic. No. 21, s. 8.  
Constitution of  
court.

**22.** The following provisions shall be applicable to the Land Appeal Court and its proceedings:—

(1) The President shall preside at all meetings of the court.

A majority of the members of the Land Appeal Court shall constitute a quorum.

Any member who shall sit or act 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.

Jurisdiction of court.  
*Ibid.* s. 8.

(2) The Land Appeal Court shall have power to hear and determine all appeals, and all matters referred to such court by the Minister or by a local land board (whether lodged or referred before or after the passing of this Act); and such appeals and matters shall, after the prescribed notice has been given to the parties, and at such times and places as the Land Appeal Court may appoint, be heard and determined in open court.

Rights of parties.  
*Ibid.* s. 8.

(3) All parties may be heard by counsel attorney or agent.

The Crown may, without having appeared before the local land board given notice of reference or taken any preliminary step other than may be prescribed by the rules of the Land Appeal Court, appear as a party in all proceedings in which its rights interests or revenues may be concerned.

(4)

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- (4) The Land Appeal Court may at all times amend any defect or error in any notice of appeal reference notice to state a case or other proceeding before it, and may permit any omission therefrom to be supplied, and may also make all such amendments as might have been permitted by the local land board.

Power to amend.  
No. 53, 1912, s. 7.

All such amendments may be made with or without costs, and upon such terms, as the Land Appeal Court deems fit.

- (5) Whenever any question of law shall arise in a case before the Land Appeal Court, the Land Appeal Court shall, if required in writing by any of the parties within the prescribed time and upon the prescribed conditions, or may of its own motion, state and submit a case for decision by the Supreme Court thereon, which decision shall be conclusive. Every such case shall purport to be stated under this section, and shall state the names of the persons who are parties to the appeal reference or other proceeding, and shall be transmitted to the Prothonotary of the Supreme 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 Supreme Court thereon, as the Judges, or any two of them, shall direct. The Supreme Court for the purposes of this subsection may consist of two Judges only, and shall have power to deal with the costs of and incidental to any case stated under this subsection as it may think fit.
- (6) The decision of the Land Appeal Court upon any appeal or reference shall, subject to the provisions of the last preceding subsection and of section one hundred and sixty-six hereof, be final and conclusive.

Case may be stated  
for Supreme Court.  
53 Vic. No. 21, s. 8.

The Land Appeal Court may make such orders for the payment of costs incurred in appeals or references as it may think fit.

Finality of decisions.  
*Ibid.*  
No. 53, 1912, s. 26.

- (7) Where the Land Appeal Court shall make any order or award for the payment of money, whether as costs or otherwise, the said order or award shall, save as provided in section one hundred and sixty-six hereof, be conclusive upon the parties, and have the force of a judgment of the Supreme Court at common law; and the party in whose favour any such order or award may have been finally or ultimately made may obtain a certificate of the amount due thereunder, which certificate shall be conclusive evidence of the facts therein stated, and he shall, upon production thereof to the Prothonotary, be entitled to have judgment entered up thereon without any Judge's order to that effect, and to have execution

Enforcement of  
orders to pay money.  
53 Vic. No. 21, s. 8.

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execution for such amount and costs issued and enforced in the same way as may be done upon judgments at common law :

Provided that in any case in which a deposit has been made by an appellant the same shall be available in payment or part payment of any sum which he may be ordered to pay, and the surplus, if any, shall be returned.

Power to summon witnesses.  
53 Vic. No. 21, s. 9.  
No. 53, 1912, s. 26.

- (8) It shall be lawful for the President, or in his absence any member of the Land Appeal Court, to summon and compel the attendance of any person, and to examine him, or allow him to be examined, upon oath, and to cause his examination to be reduced to writing and signed by him, and to require him to produce any document relating to the matter in question in his possession or control.

Power over witnesses.  
53 Vic. No. 21, s. 8.

- (9) Any summons or other process issuing out of the Land Appeal Court shall have the same force and effect as if issued out of the Supreme Court in any matter pending therein.

The Land Appeal Court shall have the same powers of dealing with witnesses who fail to appear when called, or refuse to answer questions, or otherwise misconduct themselves, and for repressing disorders or punishing contempts committed in the face of the said court, as are possessed by the Supreme Court or any Judge thereof upon the hearing of any cause or matter within the jurisdiction of the said Court.

Schedule Five.

Any warrant to apprehend and to detain and bring before the Land Appeal Court, or to keep in any gaol prison lock-up or other place of detention, any person liable upon the order of the Land Appeal Court to be so dealt with shall be valid and sufficient if it be in the form appropriate thereto contained in the Fifth Schedule to this Act or to the effect thereof ; and the sheriff his deputy and assistants, and all officers of the police force, and gaolers, to whom the same shall be addressed shall obey the same :

Provided that no such warrant shall be issued against a person who fails to appear as a witness when called, unless it be proved to the satisfaction of the Land Appeal Court that he has been duly served with a summons, and that payment or tender of his reasonable expenses has been made to him.

Power to remit to board.  
*Ibid.* s. 8.

- (10) No fresh evidence shall be adduced before the Land Appeal Court except with the sanction of such court.

If in any case it shall appear to the Land Appeal Court—

- (a) that any evidence tendered before such court ought to be taken before the local land board—or (b)

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- (b) that further evidence ought to be taken before the local land board—or
- (c) that the case is incomplete—or
- (d) that any case or matter has been improperly or insufficiently considered or determined by the local land board—
- the Land Appeal Court may remit the case to the local land board for such action as may be directed, and the local land board, after taking such action, may uphold reverse alter or amend its previous decision in any way that may be considered necessary.
- (11) The Land Appeal Court may remit to the local land board any case in which an order has been made by the Land Appeal Court, with a direction to the local land board to enforce or carry out such order, and thereupon the local land board shall be empowered and bound to act accordingly.
- (12) It shall be lawful for the Governor to appoint a registrar of the Land Appeal Court and other necessary officers, who shall be paid such salaries as may from time to time be approved.
- The registrar shall have the custody of the official seal of the court and of its records, and shall sit in the court, and keep and sign minutes of the court's proceedings, and make a report of the court's decision in each case to the Minister.
- The registrar shall have power to seal with the official seal, and to sign and issue in the name of the court, summonses certificates orders notices and other documents; and the registrar shall perform the various matters and things in respect of which powers are hereinbefore conferred upon him, or which by any rule in that behalf made as hereinafter provided he may be ordered to do.
- Any duties imposed or powers conferred upon the registrar as aforesaid may, in his absence or inability to act, be discharged or exercised by any person provisionally appointed as deputy registrar by the President or acting president of the Land Appeal Court.
- (13) All courts of law and equity shall take judicial notice of the seal of the Land Appeal Court, and of the signature of the President acting president registrar or deputy registrar, when attached to any document issuing out of the said court.
- (14) For the purpose of regulating proceedings before the Land Appeal Court, it shall be lawful for the Governor to make rules for the time and mode of procedure, and for the general practice of such court, which shall, upon being published in the Gazette, be binding upon such court and upon the parties to any proceedings therein, as the rules of the Court of Equity are

48 Vic. No. 18, s. 14.  
53 Vic. No. 21, s. 3.

Enforcement of  
orders through  
board.  
53 Vic. No. 21, s. 8.

Registrar.  
*Ibid.*

Acting Registrar.

Judicial notice of  
seal, &c.  
*Ibid.*

Making of rules.  
*Ibid.* s. 53.

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are binding upon that Court and the parties suing therein :  
Provided that a copy of all such rules shall be laid before  
both Houses of Parliament within fourteen days after the  
publication thereof if Parliament be then in session, or other-  
wise within fourteen days after the commencement of the  
next ensuing session.

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**PART III.**

**GENERAL PROVISIONS AS TO DEDICATIONS RESERVATIONS AND OTHER  
MATTERS OF AN ADMINISTRATIVE NATURE, AND AS TO THE  
MAKING OF REGULATIONS BY THE GOVERNOR.**

*Cities towns and villages and suburban lands.*

Setting apart of sites  
of cities towns  
villages and of  
suburban lands.  
48 Vic. No. 18,  
s. 101.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 24.

- 23.** (1) The Minister may by notification in the Gazette—  
(a) declare what portions of Crown lands shall be set apart as  
sites for cities towns or villages—and  
(b) define the limits of the suburban lands to be attached to  
cities towns or villages so set apart by him or existing at the  
passing of this Act.

And the lands which are the subject of any such notification  
shall thereupon be set apart accordingly. Within one month after any  
such notification if Parliament be then in session, or otherwise within  
one month after the commencement of the next ensuing session, there  
shall be laid before both Houses of Parliament an abstract of all lands  
so set apart.

Withdrawal of sites,  
&c.  
53 Vic. No. 21, s. 30.  
No. 53, 1912, s. 26.

- (2) Upon any notification setting apart the site for  
a city town or village or defining the limits of the suburban lands to  
be attached thereto the lands which are the subject of such notifi-  
cation shall be withdrawn—as from the date thereof—from any lease  
or license within the boundaries of which they may be situated.

Correction of design,  
&c.  
48 Vic. No. 18,  
s. 107.  
No. 30, 1908, s. 42.

- (3) The Minister may correct or alter the name design  
or plan of any city town or village or the limits of any suburban  
lands attached thereto, or may wholly cancel any such design or plan.

No correction alteration or cancellation of any such design  
plan or limits as aforesaid shall be carried into effect until the  
expiration of three months after the publication in the Gazette and  
in the local newspapers of notice of the intention to correct alter or  
cancel the same :

Assessment of  
compensation.  
58 Vic No. 18, s. 57.

Provided always that where it is intended to alter or cancel the  
design or plan or limits of any city town or village or suburban  
lands

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lands in which allotments or portions have been sold, notice of such intention and of the nature of the proposed alteration or cancellation shall be published in the Gazette and in some local newspaper; and the local land board shall thereafter assess the loss, if any, of value which may be suffered by the holder of any allotment or portion if the proposed alteration or cancellation is carried into effect; and if the intention to alter or cancel the design or plan is afterwards carried into effect the sum assessed by the local land board shall be the total sum payable by way of compensation to the said holder and all persons claiming under or through him, and such holder and all persons claiming under or through him shall be barred of any action or suit in respect of the alteration or cancellation of the design or plan or limits or the carrying out thereof other than an action for the sum so assessed as aforesaid :

And further provided that compensation for loss of value shall be assessed only in cases where the alteration or cancellation of design or plan if carried into effect will deprive the said holder of access from his allotment or portion to the nearest street or road.

(4) Every correction alteration or cancellation of the name design or plan of any city town or village or of the limits of any suburban lands attached thereto shall be notified in the Gazette, and an abstract thereof laid before both Houses of Parliament within thirty days after such notification if Parliament be then in session, or otherwise within thirty days after the commencement of the next ensuing session.

Correction of design, etc., to be notified.  
48 Vic. No. 18, s. 107.

(5) For the purposes of this section it shall be immaterial whether the city town or village or the suburban lands as to which the correction alteration or cancellation is to be made was or were dedicated or set apart under any Orders in Council, or under any of the Crown Lands Acts.

Design under Orders in Council to be subject to this section.  
*Ibid.*

*Dedication of Crown lands.*

**24.** The Minister may by notification in the Gazette 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—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

Dedication of Crown lands for public purposes.  
*Ibid.* s. 104.  
No. 53, 1912, s. 23.

for

*Crown Lands Consolidation Act, 1913.*

for any other public purpose. And upon any such notification being published in the Gazette, such lands shall become and be dedicated accordingly, and may at any time thereafter be granted for such purposes in fee-simple. An abstract of any intended dedication under this section shall be laid before both Houses of Parliament one month before such dedication is made.

*Dedication of Crown lands, how revoked.*

Revocation of  
dedications.

48 Vic. No. 18, s. 105.

No. 53, 1912, s. 23.

*Ibid.* s. 24.

**25.** In any case in which the Minister shall be of opinion that the purposes for which any reservation or dedication of Crown lands made before or after the passing of this Act have failed wholly or in part—or that there is any doubt or uncertainty as to such purposes—or that it is expedient in the public interest to resume the land which is the subject of such reservation or dedication—or to make an exchange of any portion of any such land for other land of equivalent value or nearly so to be dedicated on similar trusts or for like purposes—or that the trusts annexed to any land reserved or dedicated under the Crown Lands Acts have failed or cannot reasonably be carried out—then and in every such case a notice under the hand of the Minister shall be published in the Gazette, which notice shall set forth the mode in which it is proposed to deal with the reservation dedication or land in question (hereinafter termed “proposals”), a copy of which notice shall be laid before both Houses of Parliament within one month after the publication thereof in the Gazette if Parliament be then in session, or otherwise within one month after the commencement 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 expiration of thirty clear days after the date when the notice was laid before Parliament, it shall be lawful for the Minister to direct the proposals so notified to be carried out, and the same shall be carried out accordingly, and for that purpose the Minister may revoke by notification in the Gazette any such reservation or dedication, and make any new dedication sanctioned by such proposals; and such grants may be issued and instruments executed, as the circumstances of each case may require.

Grant not to prevent  
revocation.

53 Vic. No. 21, s. 41.

Revocation in part.

No. 8, 1897, s. 7.

The provisions of this section shall be held to extend to land which after dedication has been or shall be granted by the Crown, and to any land which, after grant by the Crown, has been or shall be resumed purchased or otherwise acquired by the Crown, and dedicated or granted for any purpose. And the powers conferred by this section may in all cases be exercised in respect of any part of the land reserved dedicated or granted, as well as in respect of the whole thereof.

Upon

## Act No. 7, 1913.

49

*Crown Lands Consolidation Act, 1913.*

Upon the revocation under the provisions of this section of 53 Vic. No. 21, s. 41. any dedication, or grant and dedication, the lands shall forthwith be vested in His Majesty, His Heirs and Successors, and shall become Crown lands within the meaning of this Act.

*Management of lands dedicated &c., for certain public purposes.*

**26.** The Minister may by notification in the Gazette appoint trustees, not being in any case less than three in number, to be charged with the care and management—of lands reserved or dedicated under the Crown Lands Acts, or resumed under the Lands for Public Purposes Acquisition Act or Public Works Act, 1900, or Public Works Act, 1912, whether before or after the passing of this Act, for the recreation convenience health or enjoyment of the inhabitants of any city town or district, or for any other public purpose whatsoever—or of lands purchased or acquired by the Crown, whether before or after the passing of this Act, for any such purposes—and any grant issued to such trustees may confer such estate in such lands accompanied by such powers and with such conditions as he may think fit, and as may be therein specified. And the Minister may from time to time remove any trustee or trustees whether appointed under this Act or otherwise and may by notification as aforesaid fill any vacancies which may occur by reason of such removal or by death or resignation and may also 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.

Appointment of trustees.  
48 Vic. No. 18, s. 106.  
No. 53, 1912, s. 23.  
Removal of trustees.  
Rules and regulations for management of land.

*Population areas.*

**27.** The Minister may by notification in the Gazette define the boundaries of population areas, and the lines constituting such boundaries may be directed to other than the cardinal points.

Population areas, how defined or revoked.  
48 Vic. No. 18, ss. 4 and 102.  
53 Vic. No. 21, s. 40.  
No. 53, 1912, s. 24.

The Minister may by notification in the Gazette revoke any population areas and, save as otherwise in this Act provided, lands comprised in population areas which have been revoked shall not be sold before the expiration of sixty days after such revocation.

*Reserves from sale for public purposes.*

**28.** The Minister may by notification in the Gazette 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

Temporary reserves from sale for public purposes.

D for



*Crown Lands Consolidation Act, 1913.*

48 Vic. No. 18,  
s. 101.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 24.  
No. 49, 1906, s. 106.

for any public purpose or for commonage or for population areas and the lands which are the subject of any such notification shall thereupon be reserved from sale accordingly.

Within one month after any notification under this section, if Parliament be then in session, or otherwise within one month after the commencement of the next ensuing session, there shall be laid before both Houses of Parliament an abstract of all such reservations.

*Reserves from sale lease or license.*

Temporary reserves  
from sale lease or  
license.  
53 Vic. No. 21, s. 39.  
No. 30, 1908, s. 42.

**29.** The Minister may by notification in the Gazette reserve any Crown lands therein described from being sold or let upon lease or license in such particular manner as may be specified in such notification; and the lands shall thereupon be temporarily reserved from sale or lease or license accordingly, and, unless the contrary is expressly declared, shall not be reserved from sale or lease generally.

*Reserves from sale or from sale lease or license—Revocation or modification.*

Revocation or  
modification of  
reserves.  
50 Vic. No. 21, s. 8.  
  
48 Vic. No. 18,  
s. 101.  
No. 30, 1908, s. 42.  
  
53 Vic. No. 21, s. 39.  
No. 30, 1908, s. 42.  
  
53 Vic. No. 21, s. 39.  
No. 30, 1908, s. 42.

**30.** The Minister may by notification in the Gazette revoke or modify—

- (a) any temporary reservation of Crown lands from sale made under the Code of 1861–80—or
- (b) any temporary reservation of Crown lands from sale pending survey or determination of the portion to be set apart for any public purpose or for commonage or for population areas whether made before or after the passing of this Act—or
- (c) any temporary reservation of Crown lands from being sold or let upon lease or license in any particular manner specified in any notification made under section thirty-nine of the Crown Lands Act of 1889 or under the last preceding section—or
- (d) any other temporary reservation from sale or lease or license made under the Crown Lands Acts whether before or after the passing of this Act:

Provided always that save as otherwise in this Act provided—

48 Vic. No. 18,  
s. 102.

- (1) Crown lands temporarily reserved from sale shall not be sold before the expiration of sixty days after the reservation thereof shall have been revoked—and

(2)

## Act No. 7, 1913.

51

*Crown Lands Consolidation Act, 1913.*

- (2) the revocation of any reservation from lease or from license or from lease and license shall not take effect until after the expiration of sixty days after the day of the publication in the Gazette of the notice of revocation. 58 Vic. No. 16, s. 5.

Timber or forest reserves or reserves revocable under section No. 6, 1909, s. 13. one hundred and six of the Mining Act, 1903, shall not be subject to No. 49, 1906, s. 106. revocation or modification under this section.

*Reserved lands may be dedicated or further reserved.*

**31.** No dedication or reservation shall be held to be invalid by reason of the land being already reserved at the date of such dedication or reservation, or by reason of the revocation of any other reservation including wholly or in part the same land. Reserves may be dedicated or further reserved. 50 Vic. No. 21, s. 8. 53 Vic. No. 21, s. 39.

*Reserves and dedications of church and school lands, how revoked.*

**32.** The Governor may by notification in the Gazette revoke, wholly or in part, any reservation or dedication of any church and school lands made before the commencement of the Church and School Lands Act, 1897. Revocation of certain reservations and dedications of church and school lands. No. 20, 1897, s. 3.

*Reserves, &c.—Reverter thereto.*

**33.** Upon the forfeiture of any conditional or other purchase or homestead selection (until the grant thereof) or upon the forfeiture surrender or expiration of any conditional or other lease situated wholly or in part within the external boundaries of any reserve from sale or lease or license or reserve from conditional sale or of any population area or special area or homestead selection area or settlement lease area or suburban lands or goldfield the lands comprised therein shall (subject in the case of any such forfeiture as aforesaid to the power of the Minister to reverse the same) be added to and form part of the reserve or other area, and no specific notification of such reservation or addition as aforesaid shall be held to be necessary under this Act: Provided always that— Reverter to reserves, &c. 53 Vic. No. 21, s. 32. 58 Vic. No. 18, ss. 22 and 45. No. 42, 1905, s. 29.

- (a) only so much of the said lands shall be added to the reserve or other area as is situated within the external boundaries thereof—and

- (b) nothing in this section shall affect the operation of section two hundred and twenty-eight hereof.

For the purposes of this section the external boundaries of any reserve from sale or lease or license or reserve from conditional sale or of any population area or special area or homestead selection area or settlement lease area or suburban lands or goldfield respectively are hereby declared to be the boundaries thereof as described in the Gazette. 58 Vic. No. 18, s. 45.

Subject

### Part III.

52

## Act No. 7, 1913.

### *Crown Lands Consolidation Act, 1913.*

No 6, 1912, s. 36.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas which are forfeited or surrendered or which expire, but not to leases within such areas of which the Commissioner takes possession in pursuance of section sixteen of the Irrigation Act, 1912.

### *Travelling stock routes and camping-places.*

Setting apart of  
travelling stock  
routes and  
camping-places.  
48 Vic. No. 18,  
s. 109.  
No. 30, 1908, s. 42.

53 Vic. No. 21, s. 2.

**34.** The Minister may by notification in the Gazette define and set apart routes not exceeding one mile in width through any land held under lease or license for the passage of stock travelling pursuant to the provisions contained in section one hundred and six of the Pastures Protection Act, 1912, 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 a reduction of the rent or license fee by reason of the setting apart of such routes or camping places may be made in the prescribed manner.

The right of the lessee or licensee of any lands within which such routes or camping places are situate to impound any travelling stock or to bring any action for trespass in respect thereof shall be subject to the provisions of section two hundred and fifty hereof.

### *Surveyor-General—Who may discharge his functions.*

Discharge of  
functions of  
Surveyor-General.  
53 Vic. No. 21, s. 50.

**35.** Whenever by any Act it is provided that certain acts or things shall or may be done, or directions shall or may be given, by the Surveyor-General, such acts or things may be done and such directions may be given by any officer duly authorized by the Minister in that behalf.

### *Regulations as to certain permits.*

Permits to remove  
gravel, &c.  
48 Vic. No. 18,  
ss. 115-6.  
No. 6, 1909, s. 2.

**36.** (1) It shall be lawful for the Governor to frame regulations for the issue of permits to dig for and remove from State forests timber reserves or Crown lands, whether under lease or license or not, any gravel stone clay shells or other materials and such regulations may prescribe the form of any such permit, and the conditions to be contained therein, and may fix the rents or fees to be payable by the holder thereof, and may provide for the forfeiture thereof and for the enforcement of rents or fees and the agistment of stock, and may define the power and privileges conferred by permits. And such regulations may also provide for the imposition of penalties and fines for the infringement or violation of any such regulation, but no such penalty shall exceed the sum of twenty pounds exclusive of the value of the material taken or destroyed.

(2)

## Act No. 7, 1913.

53

*Crown Lands Consolidation Act, 1913.*

(2) All fees or sums of money in respect of permits shall be payable in advance; and upon the breach of any condition or obligation or the failure to perform any act or matter specified in any such permit, the Minister may declare the same to be forfeited.

*Regulations as to applications for holdings and generally.*

- 37.** (1) The Governor may make regulations prescribing—
- (a) the manner form and conditions in and under which applications for any holdings under this Act may be made lodged or tendered and thereupon applications shall be made in accordance with such regulations—and
  - (b) the period during which applications for the same land or any part thereof may be received by a Crown land agent in order that they may be deemed to be and to have been made lodged or tendered simultaneously.

Power to make regulations.  
No. 51, 1899, s. 5.

*Ibid.*

(2) 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 regulations which may provide for their enforcement by penalties not exceeding in any case fifty pounds.

48 Vic. No. 18, s. 145.  
53 Vic. No. 21, s. 53.  
58 Vic. No. 18, s. 61  
No. 20, 1897, s. 15.  
No. 42, 1905, s. 33.  
No. 30, 1908, ss. 43-4.  
No. 6, 1912, s. 40.

And for the purpose of carrying into effect such provisions of the Code of 1854-1912 as continue to be operative with regard to purchases homestead selections leases and licenses existing at the passing of this Act, the Governor may make any such regulations as he was empowered to make under the provisions of the said Code.

All regulations made by the Governor under any of the powers hereby conferred 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 after the publication thereof if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

**PART IV.**

PURCHASES LEASES AND LICENSES OF CROWN LANDS NOT WITHIN CLASSIFIED AREAS OR IRRIGATION AREAS—ORDINARY CONDITIONAL PURCHASES AND CONDITIONAL LEASES—CONDITIONAL PURCHASES WITHOUT RESIDENCE—CONDITIONAL PURCHASES WITHIN SPECIAL AREAS—ADDITIONAL CONDITIONAL PURCHASES ~~OR~~ OR CONDITIONAL LEASES IN VIRTUE OF FREEHOLDS—ADDITIONAL CONDITIONAL PURCHASE LEASES, &c.—IMPROVEMENT PURCHASES—AUCTION SALES—AFTER-AUCTION PURCHASES—SPECIAL PURCHASES—OCCUPATION LICENSES—ANNUAL LEASES, &c.—SPECIAL LEASES—SCRUB LEASES—SNOW LEASES—INFERIOR LANDS LEASES—RESIDENTIAL LEASES—IMPROVEMENT LEASES.

*Crown lands open for ordinary conditional purchase and for conditional lease.*

Crown lands open to conditional purchase and conditional lease.

48 Vic. No. 18, ss. 21 and 22.

53 Vic. No. 21, ss. 10, 12, 18, 19, and 39.

58 Vic. No. 18, s. 10.

No. 42, 1905, s. 4.

No. 6, 1912, s. 23.

No. 53, 1912, s. 24.

**38.** All Crown lands which are not—

- (a) within a population area—special area—classified area—irrigation area—or within an area which, by or by virtue of a notification in the Gazette, is not available for the purposes of any application until a further notification has been published in the Gazette—
- (b) within the Western Division—
- (c) set apart as a site for a city town or village or as suburban lands, or reserved for village purposes—
- (d) reserved from sale or dedicated reserved or set apart for any public purpose other than as aforesaid—
- (e) reserved from sale generally or reserved from conditional sale specifically, including lands so reserved within proclaimed goldfields—
- (f) the subject of an application for a conditional purchase or conditional lease except as otherwise provided in section one hundred and fifty-one hereof—
- (g) under lease or lawful occupation for mining purposes or the subject of an application for a lease under any Act in force for the time being relating to mining—or
- (h) under any lease not being an annual lease or occupation license—

48 Vic. No. 18, s. 35. shall be open for conditional purchase at the price of twenty shillings per acre, and also for conditional lease; and such lands are hereinafter referred to as Crown lands open to ordinary conditional purchase: Provided always that nothing in this section shall be taken to prevent an additional conditional purchase of land comprised in any conditional lease being made by the holder thereof subject to the provisions of sections fifty-seven or three hundred and seven hereof.

*Areas*

## Act No. 7, 1913.

55

*Crown Lands Consolidation Act, 1913.**Areas of conditional purchases and conditional leases.*

**39.** Save as otherwise in this Act provided, the maximum area which may be conditionally purchased with or without conditional leases and whether taken up by means of—

- (a) an original conditional purchase—
- (b) a series of conditional purchases—
- (c) a series of conditional purchases and conditional leases—

shall be one thousand two hundred and eighty acres in the Eastern Division and two thousand five hundred and sixty acres in the Central Division.

Maximum and minimum areas for conditional purchases and conditional leases.  
 48 Vic. No. 18, ss. 24, 42, and 48.  
 53 Vic. No. 21, ss. 25 and 26.  
 No. 30, 1908, s. 42.  
 No. 53, 1912, s. 24.

In estimating the total area which may be conditionally purchased and conditionally leased, all conditional purchases of the same series and all conditional leases in virtue thereof shall be taken into account.

Save as otherwise in this Act provided the area of a conditional purchase or conditional lease shall not be less than forty acres.

*Competency to apply for conditional purchases and conditional leases.*

**40.** Any person shall be competent to apply for an original conditional purchase additional conditional purchase or conditional lease respectively, who is not subject to any disqualification in that behalf specified in Part VII of this Act or specified hereunder.

Competency of applicant for conditional purchase or conditional lease.  
 48 Vic. No. 18, s. 23.

A person who has made a conditional purchase under section forty-seven of the Crown Lands Act of 1884 or section fifty-eight hereof shall not be competent to apply for an original conditional purchase, or an additional conditional purchase, unless with the approval of the Minister in writing previously obtained.

*Ibid.* s. 47.  
 No. 53, 1912, s. 24.

A person shall not be competent to apply for an original conditional purchase if between the first day of January, one thousand eight hundred and eighty-five, and the first day of June, one thousand eight hundred and ninety-five, he made an original conditional purchase unless he has first received from the local land board a certificate that all conditions attaching to such original conditional purchase (except payment of balance of purchase money) have been duly complied with, or else a certificate that, having made such conditional purchase bona fide and solely in his own interest, he has been compelled by adverse circumstances to vacate or abandon the same, and the mere fact that such conditional purchase was forfeited shall not be a bar to the issue of such last-mentioned certificate: Provided nevertheless that, notwithstanding the non-obtaining of such last-mentioned certificate, any person may, with the approval of the Minister in writing previously had, exercise any right conferred by this Act.

48 Vic. No. 18, s. 22.  
 53 Vic. No. 21, s. 21.  
 58 Vic. No. 18, s. 40.  
 No. 30, 1908, s. 42.

Neither

*Crown Lands Consolidation Act, 1913.*

Neither of the disqualifications specifically set out in this section shall be taken to extend to the making of an original conditional purchase which is a conversion of a conditional purchase lease special conditional purchase lease homestead selection settlement lease or non-residential conditional purchase.

*Right to apply for conditional purchases and conditional leases.*

Right to apply for conditional purchase or conditional lease.

48 Vic. No. 18, s. 23.

*Ibid.* s. 42.

53 Vic. No. 21, s. 19.

48 Vic. No. 18, s. 48.

53 Vic. No. 21, s. 26.

No. 30, 1908, s. 42.

**41.** The right to apply for and acquire an original conditional purchase additional conditional purchase or conditional lease respectively shall, subject to the last three preceding sections, be governed by the following provisions :—

- (1) Any person may apply for an original conditional purchase.
- (2) Any applicant for or holder of an original conditional purchase may apply for an additional conditional purchase or purchases of Crown lands adjoining the original conditional purchase or any prior additional conditional purchase of the series, and for the purposes of this provision it shall be immaterial under which of the Crown Lands Acts the original conditional purchase or any prior additional conditional purchase or purchases was or were made.
- (3) Any applicant for a conditional purchase (not being a conditional purchase under section forty-seven of the Crown Lands Act of 1884 or section fifty-eight hereof) or holder of a conditional purchase (not being as aforesaid) made after the first day of January, one thousand eight hundred and eighty-five, or after the passing of this Act, as the case may be, may apply for a conditional lease or conditional leases of Crown lands adjoining some conditional purchase or conditional lease of the series, but so that the area of the conditional lease shall not exceed three times the area of the conditional purchase or purchases in virtue of which it is applied for :

Issue of Crown grant, &c., not to prevent conditionals.

58 Vic. No. 18, s. 31.

Provided always that the payment to the Crown of the balance of purchase money due upon any conditional purchase or the issue of a grant in respect thereof shall not prevent additional conditional purchases and conditional leases being applied for and acquired, in the same way as if the said balance had not been paid, or the said grant had not been issued ; and it shall be immaterial whether the payment of the said balance or the issue of the said grant took place before or after the passing of this Act.

*Additional conditional purchase or conditional lease in virtue of holding within special or classified area.*

Conditionals outside special or classified area.

**42.** Save as otherwise in this Act provided—

- (1) the fact that an original conditional purchase is within a special area or classified area shall not prevent an additional conditional

## Act No. 7, 1913.

57

*Crown Lands Consolidation Act, 1913.*

- conditional purchase of Crown lands not within the special area or classified area being applied for in virtue thereof and acquired in the same manner as if such original conditional purchase were not within a special area or classified area—and
- (2) the fact that an original or additional conditional purchase is within a special area or classified area shall not prevent a conditional lease of Crown lands not within the special area or classified area being applied for in virtue thereof and acquired in the same manner as if the original or additional conditional purchase were not within a special area or classified area.

48 Vic. No. 18, s. 48.  
No. 42, 1905, s. 8.  
No. 53, 1912, s. 24.

*Location and description of conditional purchases.*

**43.** Where 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 :

Marking and  
description of  
conditional  
purchase.  
48 Vic. No. 18, s. 25.  
53 Vic. No. 21, s. 3.  
No. 30, 1908, s. 42.

Provided that the failure to mark a corner shall not render an application invalid, if in the opinion of the local land board the description therein of the land applied for is otherwise sufficiently definite to admit of such land being readily identified with certainty.

If the land applied for as a conditional purchase has not a frontage, it shall be situated at a reasonable distance from a frontage.

Where the land applied for is measured land the applicant shall so describe it, and where the land applied for contains improvements the applicant shall state that fact in his application, and shall describe the nature and position of such improvements.

*Applications for conditional purchases and conditional leases.*

**44.** (1) Every application for an original conditional purchase shall be tendered as prescribed to the Crown land agent on some land-office day, and shall be accompanied by—

Making of  
application for  
original conditional  
purchase.

- (a) a deposit at the rate of five per centum of the price of the land—and
- (b) a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section—and
- (c) a declaration made by the applicant in the prescribed form.

48 Vic. No. 18, s. 26.  
No. 30, 1908, s. 37.  
No. 53, 1912, ss. 19,  
24, and 31.

If any person shall make a false statement in such declaration as to any of the matters contained therein, all moneys paid by him in respect of the land applied for and all right and title to such land shall be liable to be forfeited.

(2)



*Crown Lands Consolidation Act, 1913.*

Making of application for additional conditional purchase. 48 Vic. No. 18, s. 26. 53 Vic. No. 21, s. 20. No. 30, 1908, s. 37. No. 53, 1912, ss. 19, 24, and 31.

(2) The provisions of the last preceding subsection shall *mutatis mutandis* extend to applications for additional conditional purchases, except that the declaration may be made by a duly authorized agent of the applicant. Where the declaration is so made, and the agent wilfully makes a false statement in the declaration, he shall be liable to the penalties in that behalf made and provided, and the forfeitures referred to in such provisions shall be held to have been incurred by the person for whom such agent shall have acted.

Making of application for conditional lease. 53 Vic. No. 21, ss. 26 and 28. No. 30, 1908, s. 37. No. 53, 1912, s. 31.

(3) Applications for conditional leases shall be tendered to the Crown land agent in the prescribed manner and shall be accompanied by—

- (a) a deposit at the rate of twopence per acre of the area applied for as a provisional rent for the first year—and
- (b) a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section :

Application for additional where holding is under mortgage. 53 Vic. No. 21, s. 20.

(4) Provided always (in reference to applications for additional conditional purchases and conditional leases) that—where the transferee of any conditional purchase made before or after the passing of this Act, or (in the case where such transferee is a corporation company or partnership) any officer of such corporation or company, or any officer or member of such company or partnership, has made, or shall make, a statutory declaration showing that the transferee holds such land by way of mortgage or security only—the owner (subject to such mortgage or security) of the said land, or such transferee,

may make an application in the prescribed manner for an additional conditional purchase or conditional lease to be registered in the name of the transferee, subject to the conditions of the additional conditional purchase or conditional lease being performed by the aforesaid owner.

With any such application by the owner as aforesaid the written consent of the transferee shall be tendered to the Crown land agent.

Any additional conditional purchase or conditional lease applied for under the foregoing provisions shall be subject to the same equity of redemption as the land in virtue of which the same was applied for.

Application for additional by company, etc. *Ibid.*

(5) Where a conditional purchase is held absolutely by a corporation company or partnership, any application which may lawfully be made for an additional conditional purchase, or conditional lease, or any prescribed declaration in respect thereof, may be made by any officer of such corporation or company, or officer or member of such company or partnership duly authorized for the purpose.

*Confirmation*

## Act No. 7, 1913.

59

*Crown Lands Consolidation Act, 1913.**Confirmation, modification, or disallowance of applications for conditional purchases and conditional leases.*

**45.** Upon receipt from the Crown land agent of any application for a conditional purchase or conditional lease, the chairman of the local land board may refer the same to the district surveyor.

Application for conditional purchase or conditional lease, how dealt with.

43 Vic. No. 18, s. 48.

If the land described in the application is unmeasured, and appears to be available, and to be capable as applied for of being measured in a proper form, the district surveyor shall cause the same to be measured. If the land is not, or is only partly, available, or if any other objection appears to exist, the district surveyor may, with the written consent of the applicant, cause the land to be measured in a modified form, and (except as provided in section one hundred and fifty-one hereof) any lands which are the subject of such modification shall not be available for the purposes of any other application made after such consent has been received by the district surveyor.

53 Vic. No. 21, ss. 13, 26, and 27.

58 Vic. No. 18, s. 42.

No. 30, 1908, s. 42.

No. 53, 1912, s. 26.

If the applicant declines to accept the proposed modification, the district surveyor shall so report; and the board shall thereafter deal with the application, either by refusing it, or permitting its withdrawal, or directing the survey of such land as may be proposed to be allotted, and for this purpose may alter or modify the boundaries of the land applied for, or subject to the provisions of this Act allot land in a modified or different position from that applied for.

When the land has been measured, if no sufficient objection exists, and the local land board is satisfied that the application has been made in good faith, it shall, in open court, confirm such application as made or modified, subject to payment as prescribed of any balance of deposit which may be required. The chairman shall within the prescribed time thereafter issue a certificate of such confirmation.

The local land board in open court may for sufficient reason, with or without a report from the district surveyor, and either before or after measurement of the land, disallow any application, wholly or in part.

*Measurement of conditional purchases and leases.*

**46.** Any land applied for as an original conditional purchase, if unmeasured and having no frontage, shall be measured in the form of a rectangle, the length of which shall not exceed twice the width; and if having frontage shall be measured with a breadth of frontage not exceeding one-half of the depth, and all such measurements shall have the boundaries, other than the frontage, directed to the cardinal points.

Form of survey of conditional purchase or conditional lease.

53 Vic. No. 21, s. 27.

No. 53, 1912, s. 26.

And any additional conditional purchase or conditional lease shall not, together or in combination with the original or any prior additional

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additional conditional purchase or lease, have a greater breadth of frontage or length than as hereinbefore provided for an original conditional purchase of an area equal to the aggregate area of the series. Wherever it shall appear necessary or desirable, the local land board may direct a measurement of the land as applied for or allotted, notwithstanding that such measurement may exceed the limitations or provisions of this section.

Necessary roadways trigonometrical stations and sites for and sources of water supply may be excluded from any measurement.

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 shall not be an objection to the measurement of the land applied for, and in every such case the additional conditional purchase or purchases or conditional lease shall be measured as herein provided.

But no additional conditional purchase or conditional lease shall be allowed of land not on the same side of any frontage road or watercourse or other prescribed frontage as the purchase or purchases, in virtue of which such additional conditional purchase or conditional lease is applied for, unless all the available land on that side has been exhausted.

In the latter case such additional conditional purchase or purchases or conditional lease may be measured on the opposite side of such frontage as hereinbefore provided.

Where measured  
land applied for.  
53 Vic. No. 21, s. 27.  
No. 30, 1908, s. 42.

If the area applied for as a conditional purchase or conditional lease or any part thereof is part of a measured portion, such portion may at the discretion of the district surveyor or on approval by the local land board be subdivided, and the applicant shall pay the cost of survey for such subdivision. Except as aforesaid measured Crown land shall be taken in portions as measured :

Provided that in either case the limitations and provisions as to the form of measurement of unmeasured land hereinbefore contained shall, as far as practicable, be held to apply to applications for measured land.

For the purposes of this section land measured originally for conditional lease under section fifty-two of the Crown Lands Act of 1884 may be held by the local land board to be measured or unmeasured.

*Condition of residence attaching to conditional purchases and conditional leases.*

Condition of residence  
on conditional purchases  
and conditional leases  
generally.  
48 Vic. No. 18,  
ss. 32 and 51.  
53 Vic. No. 21, s. 21.  
58 Vic. No. 18, s. 20.  
No. 53 1912, s. 14.

**47.** (1) The holder of a conditional purchase or conditional lease shall hold the same subject to a condition of residence for a term which (subject to the operation of subsection one of section one hundred

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hundred and seventy-eight hereof) shall expire ten years after the date of the application therefor, and residence shall commence within three months after the confirmation of the application :

Provided always that—

- (a) where the conditional purchase or conditional lease has been transferred bona fide by way of mortgage, the condition of residence may be performed by the owner subject to such mortgage—and Performance of condition by owner subject to mortgage.
- (b) where the beneficial owner of a conditional purchase or conditional lease dies or becomes of unsound mind, the performance of the condition of residence shall be waived until the conditional purchase or lease has been transferred or conveyed and no longer. Waiver of condition on death, &c., of owner.

(2) The aforesaid condition of residence shall attach to every additional conditional purchase or conditional lease whether the original conditional purchase of the series was made under the Code of 1861-80 or the Code of 1884-1912 or this Act, and shall not be taken to have been performed by the performance of the condition of residence attaching to the original conditional purchase, or any prior additional conditional purchase of the same series : Condition of residence for additional. 58 Vic. No. 18, s. 30. No. 30, 1908, s. 42. No. 53, 1912, s. 27.

Provided always that—

- (a) conditions of residence attaching to any number of purchases or leases of the same series may be performed concurrently—and
- (b) a person residing upon any purchase or lease of a series shall, for the purposes of any conditions of residence, be taken to be residing upon every purchase or lease of the series—and
- (c) if the person performing the condition of residence has up to and immediately before the commencement of the term of such residence continuously resided upon some purchase or lease of the same series, the term of residence shall be reduced by the period of such continuous residence.

(3) The performance of the aforesaid condition of residence in respect of an additional conditional purchase or a conditional lease shall be waived so long as the person, upon whom the performance of the said condition would for the time being devolve, is the person who applied for the original conditional purchase of the series and for the said additional conditional purchase or conditional lease. But this provision as to waiver shall not operate where the applicant for the additional conditional purchase or conditional lease— Waiver of condition in certain events. 58 Vic. No. 18, s. 30. No. 51, 1899, s. 17. No. 15, 1903, s. 28.

- (a) has taken up a full area— or
- (b) is the owner of a full area—or
- (c) has owned a full area at any time previous to the date of application, and has divested himself of the ownership thereof by transfer conveyance assignment or otherwise, or purported so to do, in order to obtain the benefit of the said provision.

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In the construction of the foregoing provisions a full area shall be taken to mean an aggregate area of conditional purchases and conditional leases, whether of the same or different series, amounting to two thousand five hundred and sixty or more acres in the Central Division, or one thousand two hundred and eighty or more acres in the Eastern Division, or one thousand nine hundred and twenty or more acres if the said conditional purchases and conditional leases are some in one Division and some in another Division.

Residence by transferee.

58 Vic. No. 18, s. 30.

No. 30, 1908, s. 42.

No. 53, 1912, s. 27.

(4) Notwithstanding anything to the contrary hereinbefore contained, if an additional conditional purchase or conditional lease be transferred at any time before the expiration of the term of ten years after the date of the application therefor, the transferee shall perform the condition of residence until such term expires.

*Condition of fencing attaching to conditional purchases and conditional leases.*

Condition of fencing, how performed.

48 Vic. No. 18, ss. 33, 42, and 51.

53 Vic. No. 21, ss. 17, 22, 23 and 26.

58 Vic. No. 18, s. 33.

**48.** A conditional purchase and a conditional lease shall be subject to a condition of fencing or (at the option of the holder thereof and without any application in that behalf to the local land board) in the alternative to a condition of improvement.

The condition of fencing may be performed in any one of the following manners—

- (a) the boundaries of the conditional purchase or conditional lease shall be fenced—or
- (b) the outside boundaries of all conditional purchases and conditional leases of the same series shall be fenced—

with a substantial fence, such fence being erected within three years after the confirmation of the application for the conditional purchase or conditional lease, and maintained in good repair and condition for so much of a period of five years computed from such confirmation as may remain to run after the erection of such fence—or

- (c) where conditional purchases or conditional leases held by members of one family standing in the relation of parents and children adjoin so as to form one block or are separated only by roads or creeks, the local land board may, upon a joint application made within the prescribed time and in the prescribed manner by the holders of such conditional purchases or conditional leases, sanction the erection of a ring fence on the external boundaries of the lands—so as to enclose them as one holding—within a period to be fixed by the local land board, such period being determined as far as practicable with due regard to the respective dates of commencement of such conditional purchases or conditional leases—

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and the erection of a ring fence as so sanctioned within the period so fixed shall be a performance of the condition of fencing in respect of each and every of such conditional purchases and conditional leases.

The fence or ring fence shall in every case be a fence of the classes of fencing prescribed by the local land board. 52 Vic. No. 7, s. 9.  
53 Vic. No. 21, s. 17.

The period within which the condition of fencing shall be performed may upon application be extended by the local land board. 48 Vic. No. 18, s. 33.

The local land board may upon the application of the holder of any conditional purchase or conditional lease grant him an exemption from fencing— Exemption from  
fencing.  
*Ibid.*

(d) any part of his conditional purchase or conditional lease which has frontage to a permanent river creek or other natural boundary held to be sufficient—or 52 Vic. No. 7, s. 11.  
53 Vic. No. 21, s. 23.

(e) any boundary line fenced by the holder or occupant of adjoining land with a fence which is of a sufficiently useful and substantial kind—or

(f) any boundary line in any case where a fence erected by the holder or occupant of adjoining land although not erected on the actual boundary line is a sufficient boundary fence.

And any such exemption, when granted, shall not involve the making of other improvements in lieu of fencing: 52 Vic. No. 7, s. 7.

Provided that the provisions of this section as to the performance of the condition of fencing shall be read subject to the enactments as to the enclosing of roads and water-courses and the sanctioning of give-and-take fences in Division 6 of Part VIII of this Act:

And further provided in reference to ring fences that— 53 Vic. No. 21, s. 17.

(g) the local land board may allow or disallow an application to sanction a ring fence wholly or in part—and

(h) if the ring fence be not erected within the period as fixed or extended by the local land board in that behalf, each and every of the conditional purchases and conditional leases as to which such application was made shall be liable to be forfeited.

*Condition of improvement attaching to conditional purchases and conditional leases.*

**49.** The condition of improvement hereinbefore referred to as an alternative to the condition of fencing shall (subject to the proviso hereinafter contained) be as follows:— Condition of  
improvement, how  
performed.

(1) within three years after the date of the confirmation of the application for a conditional purchase or conditional lease improvements shall be made to the value of not less than six shillings per acre—and 52 Vic. No. 7,  
ss. 4 and 5.  
58 Vic. No. 18,  
ss. 32 and 33.

(2) within five years after such date improvements shall be made to the value of not less than ten shillings per acre.

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52 Vic. No. 7, s. 15.

53 Vic. No. 21, s. 16.

For the purpose of the foregoing provisions improvements may include fencing and shall be of a permanent fixed and substantial character and necessary for the beneficial occupation of the land :

Provided however that, notwithstanding anything to the contrary hereinbefore contained,—

No. 6, 1910, s. 4.

- (a) improvements shall not in any case be required to be of a greater value than three hundred and eighty-four pounds within three years after the date of the confirmation of the application or of a greater value than six hundred and forty pounds within five years after such date—and
- (b) it shall not in any case be necessary to effect improvements on any conditional purchase or conditional lease within three years after the date of the confirmation of the application to a greater value than thirty per centum of the price of the land, or to effect improvements within five years after such date to a greater value than fifty per centum of such price, and in the case of a conditional lease the price of the land shall for the purposes of this provision be deemed to be the price at which it is convertible into an additional conditional purchase.

*Payment of value of improvements and of balance of survey-fee.*

Improvements and  
survey fee: payment

**50.** The holder of a conditional purchase or conditional lease shall pay—

- (a) the capital value of the improvements on the land in accordance with the provisions in that behalf of Division 8 of Part VIII of this Act—and
- (b) the balance, if any, of survey-fee in accordance with section one hundred and sixty-one hereof.

*Payment of balance of purchase money.*

Balance of purchase  
money, how paid.

48 Vic. No. 18, s. 35.

53 Vic. No. 21, s. 22.

58 Vic. No. 18, s. 29.

No. 15, 1903, s. 14.

No. 42, 1905, s. 31.

No. 30, 1908,  
ss. 37 and 42.

No. 53, 1912,  
ss. 27 and 31.

**51.** The holder of a conditional purchase shall at the end of the third year after the date of the application therefor or within three months thereafter pay to the Crown land agent an instalment at the rate of five per centum of the price of the land, and in each succeeding year at the recurring date of the application or within three months thereafter shall pay in like manner a like instalment until the balance of purchase money together with interest thereon at the rate of two and one-half per centum per annum shall have been paid :

Provided that any annual payment may be made at the rate of ninepence for each pound of the full purchase money of the land.

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The holder of a conditional purchase may pay off the whole or any number of the instalments of purchase money at any time after the issue of the final certificate as hereinafter provided.

The requirements of this section shall be read subject to the provisions of Division 3 of Part VIII of this Act as to the suspension and deferring of the payment of instalments.

*Term and rent of conditional leases.*

**52.** A conditional lease shall have a term of forty years.

Such term shall be divided into a first period of fifteen years computed from the commencement of the lease, a second period of fifteen years commencing from the expiration of such first period, and a third and final period of ten years.

A conditional lease shall be subject to a provisional rent of twopence per acre per annum pending determination of the rent in accordance with this Act.

The annual rent for the first period shall be determined by the local land board. The annual rent for the second and third periods respectively shall be determined by the local land board if an application in that behalf is made by the lessee accompanied by a fee as prescribed, or if a reference for that purpose is made by the Minister, such application or reference being respectively made not later than twelve months after the commencement of the period in question: Provided that in the absence of any such application or reference, rent shall be payable for the period then current at the same rate as was paid for the period last expired.

The rent (whether provisional or otherwise) for the second and every succeeding year of the term shall be paid annually in advance before the recurring date of the application.

*Inquiries and certificates of conformity in respect of conditional purchases.*

**53.** The local land board shall hold inquiries after the expiration of five and ten years respectively from the date of the application for a conditional purchase as to whether all conditions attaching thereto, except payment of the balance of purchase money, have so far been duly complied with.

If upon any such inquiry the local land board be satisfied of such compliance it shall issue a certificate to that effect.

The local land board may in the prescribed manner issue to the person entitled thereto a fresh certificate upon satisfactory proof being adduced of the loss or destruction of any certificate.



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*Forfeiture of conditional purchases or conditional leases after inquiry.*

Forfeiture for non-performance of residence fencing or improvement.

43 Vic. No. 18, s. 39.

53 Vic. No. 21, s. 3.

58 Vic. No. 18, ss. 29 and 33.

**54.** If after due inquiry the local land board shall find that the condition of residence, or the condition of fencing or improvement, has not been or is not being duly performed in respect of any conditional purchase or conditional lease, the conditional purchase or conditional lease, together with any moneys paid in respect thereof, shall be liable to be forfeited.

*Forfeiture of conditional purchases upon default in payment of purchase money.*

Forfeiture of conditional purchase for non-payment of instalment.

48 Vic. No. 18, s. 38.

**55.** Upon default in the payment of any instalment of purchase money for three months after the day when the same falls due, the conditional purchase, together with any moneys paid in respect thereof, shall be liable to be forfeited.

*Crown grants of conditional purchases.*

Issue of Crown grant for conditional purchase.

48 Vic. No. 18, s. 37.

58 Vic. No. 18, s. 29.

**56.** Subject to—

- (a) the issue of a certificate that all conditions except payment of the balance of purchase money have been duly complied with—and
- (b) payment of the balance of purchase money—and
- (c) payment of stamp duty and deed fee—

in respect of a conditional purchase, a Crown grant in fee-simple of the land shall be issued upon application.

*Additional conditional purchases out of conditional leases.*

Conversion of conditional lease into additional conditional purchase.

53 Vic. No. 21, s. 25.

No. 15, 1903, s. 27.

No. 42, 1905, s. 29.

No. 30, 1908, s. 42.

**57.** (1) The holder of a conditional lease which is not liable to forfeiture may at any time convert the whole or part of the land comprised in such conditional lease into an additional conditional purchase or purchases, and all provisions of this Act relating to the making of ordinary additional conditional purchases and to such additional conditional purchases when made shall apply to an additional conditional purchase made out of a conditional lease, subject, however, to qualification in the following respects:—

- (a) The fact that a series may exceed one thousand two hundred and eighty acres in the Eastern Division, or two thousand five hundred and sixty acres in the Central Division, shall not

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not prevent the conversion of a conditional lease comprised in the series into an additional conditional purchase or purchases.

- (b) Where the conditional lease was applied for in virtue of an additional conditional purchase the holder of the additional conditional purchase may convert the conditional lease, notwithstanding the fact that he may not be the holder of the original conditional purchase of the series.
- (c) The provision prescribing twenty shillings per acre as the price at which land shall be open to conditional purchase shall not be taken to extend to an additional conditional purchase of land comprised in a conditional lease in any case where another price for such land shall have been fixed in pursuance of any provision in that behalf contained in this Act:

Provided always that nothing in this section shall be taken to refer to any part of a conditional lease which is for the time being the subject of a dedication as a State forest or reservation from sale under the Forestry Act, 1909.

(2) A refund of rent shall not be granted until after confirmation of the application for the additional conditional purchase but when granted shall be computed from the date of the application.

(3) Where part of a conditional lease has been converted into an additional conditional purchase the remaining area of the conditional lease may be held at a proportionate part of the rent thereof.

(4) Additional conditional purchases out of conditional leases granted or confirmed before the passing of this Act shall be governed by the provisions of section three hundred and seven hereof.

*Conditional purchases without residence.*

**58.** Crown lands open to ordinary conditional purchase may be conditionally purchased without a condition of residence in the manner hereinbefore provided in respect of ordinary conditional purchases, subject however to the qualifications and conditions following:—

- (1) The area purchased under this section shall not be more than three hundred and twenty acres; and the age of the applicant shall not be less than twenty-one years.
- (2) No person shall make a second or subsequent purchase under this section except by way of additional conditional purchase, which, together with the original conditional purchase, shall not exceed three hundred and twenty acres; and no person who has made (whether before or after the passing of this Act) a conditional purchase under the Crown Lands Acts shall make or hold a conditional purchase under this section.

Non-residential conditional purchase.  
48 Vic. No. 18, ss. 35, 36 and 47.  
52 Vic. No. 7, ss. 4, 6, 9 and 11.  
53 Vic. No. 21, ss. 3, 22 and 23.  
58 Vic. No. 18, s. 32.  
No. 15, 1903, s. 14.  
No. 42, 1905, s. 31.  
No. 53, 1912, s. 24.

(3)

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- (3) The price shall be two pounds per acre. The deposit shall be four shillings per acre.

The holder of the conditional purchase shall at the end of the third year after the date of the application therefor or within three months thereafter pay to the Crown land agent an instalment at the rate of two shillings per acre, and in each succeeding year at the recurring date of the application or within three months thereafter shall pay in like manner a like instalment until the balance of purchase money together with interest thereon at the rate of two and one-half per centum per annum shall have been paid :

Provided that any annual payment may be made at the rate of ninepence for each pound of the full purchase money of the land.

The holder of the conditional purchase may pay off the whole or any number of the instalments of the purchase money at any time after the issue of the certificate as hereinafter provided.

The requirements of this subsection shall be read subject to the provisions of Division 3 of Part VIII of this Act as to the suspension and deferring of the payment of instalments.

- (4) Unless an application for permission to substitute other improvements in lieu of fencing is made in pursuance of the next succeeding subsection and is approved—
- (a) the boundaries of the conditional purchase shall within twelve months after the date of the confirmation of the application be fenced by the conditional purchaser with a substantial fence of any of the classes of fencing prescribed by the local land board, but the provisions for extension of time and exemption from fencing which are hereinbefore contained with reference to ordinary conditional purchases shall apply to conditional purchases under this section—and
  - (b) the holder of the conditional purchase shall within five years after the date of the confirmation of the application expend a sum of not less than one pound per acre upon permanent improvements otherwise than for the boundary fencing.
- (5) At any time before the confirmation of the application for the conditional purchase, or within two years after such confirmation, the conditional purchaser may apply to the chairman of the local land board in the prescribed form for permission to substitute other improvements, wholly or partly, in lieu of fencing, and any such application may be approved or refused by the local land board, subject to appeal. (6)

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- (6) Where the local land board has approved of an application under the last preceding subsection, permanent improvements, including any fencing, to the value of not less than thirty shillings per acre shall be made on the land within five years after the date of the confirmation of the application for the conditional purchase.
- (7) When the local land board is satisfied after due inquiry that all conditions attaching to the conditional purchase, except that of payment of the balance of purchase money, have been duly complied with, it shall issue a certificate to that effect, and a like certificate may be issued by the local land board in respect of any additional conditional purchase when such board shall be satisfied after like inquiry that all conditions attaching thereto, except that of payment of balance of purchase money, have been duly complied with. The local land board may, in the prescribed manner, issue to the person entitled thereto a fresh certificate upon satisfactory proof being adduced of the loss or destruction of the original certificate.
- (8) The estate or interest of a conditional purchaser under this section shall be incapable of being transferred alienated mortgaged encumbered or pledged until after the issue of the aforesaid certificate by the local land board, but subject to the payment of any instalments due may devolve or be transferred by operation of law.
- (9) A conditional purchase under this section shall, upon failure to comply with the conditions hereinbefore prescribed, be liable to be forfeited in the same manner as an ordinary conditional purchase is liable to be forfeited for failure to comply with the conditions thereof.

*Conditional purchases within special areas.*

**59.** (1) It shall be lawful for the Minister by notification in the Gazette to set apart Crown lands in the Eastern Central or Western Division as special areas, and to notify the areas in which—  
the prices (not being less than thirty shillings per acre) at which—and  
the conditions subject to which—the lands so set apart may be conditionally purchased, and thereupon the lands so set apart shall, notwithstanding anything to the contrary in this Act, be open to conditional purchase in accordance with the terms so notified: Provided that the areas so notified may be less than forty acres, and shall not exceed three hundred and twenty acres in the Eastern Division or six hundred and forty acres in the Central or Western Division.

Special areas and conditional purchases therein.  
53 Vic. No. 21, s. 18.  
No. 30, 1908, s. 42.  
No. 53, 1912, ss. 23 and 26.

(2)

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(2) It shall also be lawful for the Minister by notification in the Gazette to set apart as special areas any Crown lands in the Eastern Central or Western Division which are within population areas or within the limits of suburban lands attached to cities towns or villages, and to notify the dates on or after which—the areas in which—the prices deposits and instalments at which—and the conditions (as to residence fencing improvement or otherwise) subject to which—the lands so set apart may be conditionally purchased. And thereupon the lands so set apart without revocation of such population areas or alteration of the limits of such suburban lands shall, notwithstanding anything to the contrary in this Act, be open to conditional purchase in accordance with the terms so notified.

(3) Any special area shall be surveyed before the same is declared to be open for conditional purchase, and shall be taken in portions as measured.

(4) Any conditions specified in any proclamation or notification setting apart Crown lands as a special area shall have the force of law, and any breach thereof shall render the conditional purchase liable to be forfeited.

(5) Subject to the provisions of this section, all provisions of this Act relating to ordinary conditional purchases shall apply to conditional purchases under this section.

(6) The Minister may at any time revoke or modify any proclamation or notification of any special area or of any conditions applicable thereto, and any such revocation or modification shall take effect upon notification in the Gazette.

*Additional conditional purchases or conditional leases in virtue of freeholds.*

Additional conditional purchase and conditional lease in virtue of freehold.

No. 15, 1903, s. 30.

No. 42, 1905, s. 29.

No. 30, 1908, s. 42.

No. 53, 1912, ss. 2 and 29.

**60.** The holder of any freehold (not being in the Western Division) which freehold contains not less than forty acres and in the opinion of the local land board does not constitute a home maintenance area may apply for an additional conditional purchase or conditional lease in virtue thereof, as if such freehold were a conditional purchase :

Provided that for two years immediately before such application he has been, and that at the time of making the same he is, resident on such freehold, and using it for the maintenance of his family by farming pursuits.

Any such additional conditional purchase or conditional lease shall be subject to the provisions of this Act, as if such freehold were a conditional purchase.

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*Crown Lands Consolidation Act, 1913.**Additional conditional purchase leases, &c., outside classified areas.*

**61.** Subject to the provisions of section one hundred and thirteen hereof, Crown lands open to ordinary conditional purchase shall be open to additional conditional purchase lease in virtue of an original conditional purchase lease, and to additional conditional purchase in virtue of an original conditional purchase which is a conversion of a conditional purchase lease.

Additional conditional purchase lease, etc., not within classified area.

No. 30, 1908, s. 22.

*Improvement purchases.*

**62.** 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 or under the Western Lands Act of 1901 or any Act amending the same—of land within a proclaimed goldfield or mineral field constituted under the Mining Act, 1906, the Governor may sell and grant such land to such owner without competition, subject to the provisions hereunder specified :—

Improvement purchase within goldfield or mineral field.

48 Vic. No. 18, s. 40.

53 Vic. No. 21, s. 11.

No. 18, 1907, s. 3.

No. 53, 1912, s. 24.

- (1) A fee in accordance with the prescribed scale for the survey of the land shall be tendered with the application—
- (2) The price shall be determined by the local land board so as to be irrespective of the value of the improvements, and shall not be less than at the rate of eight pounds per acre for town lands, or two pounds ten shillings per acre for suburban or other lands, or two pounds ten shillings for any area less than one acre—
- (3) Any such sale shall be made in accordance with the general subdivision of the land, and shall embrace only allotments or portions on which the improvements may be, and for the purposes of this section improvements of value equal to the respective minimum prices aforesaid shall be sufficient—
- (4) The areas to be sold shall not exceed one-quarter of an acre within the boundaries of a town or village as defined in the Mining Act, 1906, or two acres outside such boundaries, and no person shall be permitted to make a subsequent purchase within three miles of a prior purchase by him :

No. 49, 1906, s. 16.

48 Vic. No. 18, s. 46.

Provided always that—

- (a) where any person is the holder—claiming through or by virtue of registration duly effected before the fifteenth day of July, one thousand nine hundred and seven—of a business area within the limits of the suburban lands attached to any town or village as defined in this Act, which business area exceeds one-quarter of an acre and does not exceed one acre, the Governor may upon application by such person, and on the recommendation of the local land board, sell and grant such area to him—and

No. 8, 1909, s. 2.

No. 70, 1901, s. 4.

(b)

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- (b) the Governor may make it a term of the sale or grant of any area the subject of such application as last aforesaid that any part thereof recommended and specified by the local land board may at any time be resumed for streets or lanes or the widening of streets or lanes without payment of compensation other than for the value of improvements as determined by the local land board; and the applicant shall before completing his purchase be furnished with a plan or sketch showing the land specified in the recommendation of the local land board.

*Auction sales.*

Sale by auction of Crown lands.

48 Vic. No. 18, ss. 61 and 62.

50 Vic. No. 39, s. 1.

53 Vic. No. 21, s. 44.

58 Vic. No. 18, ss. 48 and 56.

No. 15, 1903, s. 24.

No. 53, 1912, s. 24.

**63.** (1) Crown lands—not exceeding in the aggregate for the whole State two hundred thousand acres in any one year—may be sold by public auction at such places (whether within or without the land district in which the lands to be sold are situate) and at such times as the Minister shall direct and notify in the Gazette not less than one month before the day of sale.

(2) 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—country lands shall not be sold in areas exceeding six hundred and forty acres.

(3) The upset prices per acre shall not be lower than—for town lands, eight pounds—suburban lands, two pounds ten shillings—other lands, fifteen shillings. But such upset prices may be respectively fixed at any higher amounts, and the value of improvements, if any, shall be added thereto, and when not the property of the Crown shall be refunded to the owner.

(4) The Minister may make special terms of payment on auction sales of town lands, suburban lands, or lands which may have been subdivided for sale by auction into areas not exceeding twenty acres, or any portions of country lands of a less area than forty acres: Provided that the time allowed for any deferred payments shall in no case exceed five years after the day of sale, and that all such deferred payments shall bear interest at the rate of five per centum per annum, and that in every case the deposit shall be one-quarter of the purchase money.

(5) A deposit of not less than one-quarter of the purchase money for all lands sold by auction shall be paid by the purchaser at the time of sale, and if the purchaser fails to pay such deposit the land may be again offered by the Crown land agent or other person authorized to conduct the sale, who shall not accept any bid by the person so failing to pay: Provided that where the upset price includes the value of any improvements which has been remitted to the purchaser, the deposit need not include any sum on account of the value so remitted.

(6)

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(6) Where the sale is not subject to special terms of payment as hereinbefore provided, the balance of purchase money shall be paid within three months after the day of sale, and upon default the purchase may be declared to have lapsed, and the deposit shall thereupon become forfeited: Provided that the Minister may authorize the receipt of the balance of purchase money after the expiration of such period of three months.

(7) Where the sale is subject to special terms of payment as hereinbefore provided, and any instalment remains unpaid for thirty days after the day when the same falls due, the purchase may be declared to have lapsed, and all moneys paid in respect of the land shall thereupon become forfeited.

*After-auction purchases.*

**64.** The Governor may grant any town or suburban Crown lands or Crown lands within population areas or any portions of country lands of a less area than forty acres, which have been offered for sale at auction and not sold (whether such offering for sale was before or after the passing of this Act) at the upset price thereof to any person who shall duly apply for the same.

Crown lands not sold at auction : purchase after auction. 58 Vic. No. 18, s. 56. No. 15, 1903, s. 24.

The applicant shall with his application lodge a deposit of one-quarter of the said upset price, and if the application be approved by the Minister shall pay the balance of the said price in accordance with the terms and conditions which were notified in the Gazette in connection with the aforesaid offering at auction; and upon default in the due payment thereof the purchase may be declared to have lapsed, and any moneys paid in respect thereof shall thereupon become forfeited.

*Special purchases—Upon rescission of reservation.*

**65.** 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.

Rescission of reservation of water frontage. 48 Vic. No. 18, s. 63. No. 38, 1898, s. 3. No. 53, 1912, s. 24.

The land the subject of such rescission on payment in the prescribed manner of the fair value thereof to be determined by the local land board—being not less than the minimum upset price per acre of the class of land as set forth in section sixty-three hereof in regard to auction sales—and of the deed fee may be granted to the owner of the land contained in such Crown grant; and the expression “fair value,” as used in the foregoing provision, shall be taken to mean the additional value which may reasonably be expected to accrue to the applicant in connection with the land adjoining the land the subject of the reservation



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reservation (where such applicant is the owner of such adjoining land) by reason of the rescission of the reservation and granting of the land the subject thereof:

Provided that—

- (a) 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—and
- (b) notice of the application shall be published in the Gazette and some local newspaper, if any, for four consecutive weeks before the authorization of such rescission—and
- (c) the applicant shall pay all costs of survey reports and notification incurred in dealing with his application.

*Special purchases—Miscellaneous cases.*

Miscellaneous  
special purchases.  
48 Vic. No. 18, s. 66.  
No. 53, 1912, s. 24.

**66.** Crown lands which are—

- (a) insufficient in area for conditional sale—or
  - (b) situated between granted land and a street or road which forms or should form the way of approach to such granted land—or
  - (c) encroached on by buildings erected on granted land—or to which
  - (d) no practicable road has been provided,
- may be sold after recommendation by the local land board to the proprietor or proprietors in fee-simple of adjacent lands at a price to be determined by the local land board being not less than the minimum upset price per acre of the class of land as set forth in section sixty-three hereof in regard to auction sales. Purchasers under this section shall in addition to the price of the land and deed fee pay the costs of survey and report incurred in dealing with their applications.

*Special purchases—Payment of purchase money, &c., under preceding sections.*

Payment for special  
purchases under  
preceding sections.  
48 Vic. No. 13, s. 68.  
No. 53, 1912, s. 24.

**67.** On the approval of any application to purchase made under either of the last two 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.

*Special purchases—Upon reclamation.*

Reclamation and  
purchase of land.  
48 Vic. No. 18, s. 64.  
58 Vic. No. 18, s. 54.

**68.** (1) 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

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lying beyond or below high-water mark (not being land forming part of the bed or shores of the Port of Sydney, as defined in the Sydney Harbour Trust Act, 1900) and in giving such authority to reclaim may give the same subject to such terms and conditions as may appear desirable in the public interest, and in particular to the conditions—

- (a) that the reclaimed lands or any portion thereof may be resumed for public purposes by notification by the Governor in the Gazette, and that upon resumption the lands shall vest in the Crown, freed and discharged from all private rights interests titles and estates in and to the same—and
- (b) that no other compensation shall be payable than the value of any improvements upon the lands resumed, effected with the written approval of the Minister first had and obtained, together with a repayment of the purchase money and of the cost of reclamation, or if the land resumed be a portion only of the land reclaimed, of a fair proportion of such purchase money and cost as aforesaid.

(2) Where the Governor authorizes the reclamation of any land, the local land board shall determine—

- (a) the amount by which the value of the whole holding will be enhanced, by reason of the land to be reclaimed having been reclaimed and being held and enjoyed with the land held in fee-simple—and
  - (b) the amount of the estimated cost of the reclamation—
- and the excess, if any, of such first-mentioned amount over such last-mentioned amount shall, within three months after the notice in the Gazette calling for the same, be paid by the applicant to the Colonial Treasurer, and in default of such payment the authority to reclaim may be declared to have lapsed, and the same shall thereupon become void and of no effect.

(3) The applicant shall, within such period as may be allowed for the purpose, complete the reclamation to the satisfaction of the Minister within the Metropolitan land district and elsewhere of the local land board, and upon due completion thereof (the amount hereinbefore provided and the deed fee having been duly paid) a Crown grant of the land so reclaimed shall be issued. The grant shall embody the terms and conditions subject to which the authority was given, or such of them as require to be so embodied.

(4) If the reclamation be not completed to the satisfaction of the Minister within the Metropolitan land district or elsewhere of the local land board, or be not so completed within the aforesaid period, the right to purchase the land may be declared to have lapsed and all moneys paid in respect thereof shall thereupon become forfeited; and upon such declaration the said authority to reclaim shall become void and of no effect, and any land which may have previously been reclaimed

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reclaimed under such authority shall revert to the Crown, freed and discharged from any right or claim of the applicant or any other person in or to the same :

48 Vic. No. 18, s. 64.

Provided always that—

- (a) no such reclamation shall be authorized which may interrupt or interfere with navigation—and
- (b) notice of the application 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
- (c) the applicant shall pay all costs of survey reports and notification incurred in dealing with his application.

*Complaint against rescission of reservation or reclamation.*

Complaint against  
rescission of  
reservation or  
reclamation.

*Ibid.* s. 65.

No. 53, 1912, s. 24.

**69.** At any time before the expiration of the four weeks mentioned in section sixty-five hereof and in the last preceding section respectively, any person feeling aggrieved may lodge a complaint setting forth objections against the authorization of any such rescission or reclamation as aforesaid, and such objections shall be duly heard and determined before any such rescission or reclamation as aforesaid is authorized.

*Occupation licenses.*

Occupation license.

48 Vic. No. 18, s. 81.

53 Vic. No. 21 s. 44.

No. 30, 1908, s. 42.

**70.** Subject to the provisions hereinafter contained, the Minister may issue occupation licenses :—

- (1) Licenses shall be in force from the first day of January to the thirty-first day in 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 to the Colonial Treasurer by the licensee the right to renew such license may be declared to have lapsed.
- (2) The Minister may at any time direct a fresh determination of the license fee to be made, and may require the licensee to pay his annual license fee on the basis of such fresh determination after the expiration of any current year during the continuance of the license.
- (3) An occupation license shall entitle the licensee to occupy for grazing purposes the Crown lands which are the subject thereof, but shall not exempt such lands from sale or from lease of any other kind and upon any land held thereunder being sold or leased the occupation license shall cease and determine so far as regards the land so sold or leased, but the licensee shall be entitled to a refund of so much of the license fee paid in advance as shall be proportionate to the area

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area so withdrawn and the unexpired part of the current year, and to a ratable reduction in future license fee and to payment in accordance with Division 8 of Part VIII of this Act for any improvements on the land so sold or leased, which are his property.

- (4) The right to occupation licenses for any vacant lands (not being in the Western Division) may be disposed of by auction or tender in the prescribed manner and on such conditions as the Minister may think fit: Provided always that subject to the provisions of section two hundred and fourteen hereof the licensee shall pay the rental value of any improvements on the lands.

*Annual leases for pastoral purposes.*

**71.** (1) Crown lands which are not in the Western Division and are not held under any lease or reserved from lease generally or from annual lease specifically may be offered by the Minister in areas not exceeding one thousand nine hundred and twenty acres for annual lease by auction or tender. Such annual leases shall be subject to such conditions as he may think fit, and the letting shall be in accordance with the following provisions:—

- (a) No such letting by auction or tender shall take place (either on application or otherwise) without one month's notice of the intended offering, and of the amount of the upset rent having been given in the Gazette.
- (b) Any sale by auction shall be at the lands office of the district, and the amount bid at auction shall be the annual rent of the lease. An amount computed in accordance with the next succeeding subsection shall be paid at the time of sale on account of the first year's rent, and if it is not paid forthwith the lease may be again offered for sale.
- (c) The rent of an annual lease sold by auction shall commence as from the first day of the month succeeding the date of sale. The rent of an annual lease let by tender shall commence as from the first day of the month succeeding the date of the notification in the Gazette of the Minister's acceptance of the tender. In either case the rent for the first year of the lease shall be proportionate to the number of months between the commencement of the lease and the thirty-first day of December then next succeeding.
- (d) A lease of any land which may have been offered at auction and not bid for (whether before or after the passing of this Act) may be obtained on application to the Crown land agent and payment of the upset rent; or the lease may be again submitted to auction, unless the land shall have previously been otherwise dealt with.

Annual lease by  
auction or tender.  
48 Vic. No. 18, s. 85.  
53 Vic. No. 21, s. 28.  
58 Vic. No. 18, s. 49.  
No. 30, 1908, s. 42.  
No. 70, 1901, s.

(2)

Annual lease upon application.

53 Vic. No. 21 s. 33.

58 Vic. No. 18, s. 49.

No. 30, 1908, s. 42.

No. 53, 1912, ss. 21 and 27.

No. 70, 1901, s. 2.

(2) Crown lands which are not in the Western Division and are not held under lease or license, or reserved from lease or license, shall be open to annual lease upon application in the prescribed manner, and the first applicant shall have a right to an annual lease of the land applied for—subject to approval or modification by the local land board—on payment of such rent as the local land board shall determine :

Provided that no such application for an annual lease made after any of the land applied for has been notified in the Gazette for lease by auction or tender shall prevent the land from being let as so notified.

An application for an annual lease may be refused by the local land board in any case where the granting of such lease appears to it to be contrary to the public or general interest or to be otherwise undesirable.

Any such annual lease shall commence from the date of the notification in the Gazette of the local land board's approval thereof, but the rent shall commence as from the first day of the month succeeding such date. Rent for the first year of the lease shall be proportionate to the number of months between the commencement of the lease and the thirty-first day of December then next succeeding.

If an application for an annual lease be withdrawn otherwise than before or immediately after a ballot or be refused, a reasonable sum for costs incurred in dealing with the application and (if the land has been occupied) for rent from the date thereof may be retained out of the deposit.

Annual leases generally : terms and conditions.

48 Vic. No. 18, s. 85.

53 Vic. No. 21, ss. 33, 38, and 44.

58 Vic. No. 18, s. 49.

No. 15, 1903, s. 23.

**72.** The following provisions shall apply to all annual leases, howsoever acquired :—

- (1) The first year of the lease shall expire on the thirty-first day of December of the year then current, and every succeeding year for which the lease is renewed shall expire on the thirty-first day of December in that year.
- (2) The lease may be renewed subject to the payment of the rent for the ensuing year to the Colonial Treasurer or the Crown land agent, such payment being made on or before the thirtieth day of September in the current year. And if such rent be not paid the right to renew such lease may be declared to have lapsed, and the lease shall become liable to be sold by auction or tender.
- (3) The Minister may at any time upon giving three months' notice prior to the expiration of any current year increase the rent for the ensuing year by any sum not exceeding one-quarter thereof.
- (4) The Minister may at any time cancel any annual lease by giving not less than three months' notice in the Gazette or otherwise of his intention to do so, such notice to terminate at the end of the then current year.

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- (5) Any holder of an annual lease may apply to have the rent thereof determined by the local land board.
- (6) Subject to the provisions of section two hundred and fourteen hereof, the holder of an annual lease shall be liable to pay the rental value of any improvements on the land leased.
- (7) An annual lease shall not exempt the land held thereunder from sale or from lease of any other kind, and upon the land being sold or leased the annual lease shall cease and determine so far as regards the land so sold or leased, but the lessee shall be entitled to payment in accordance with Division 8 of Part VIII of this Act for any improvements on the land so sold or leased which are his property.

**73.** The holder of any annual lease or leases (not being in the Western Division) may apply to the Minister for a lease under improvement conditions of the whole or any part of the lease or leases so held, and the Minister shall thereupon refer the application to the local land board. The local land board, if of opinion that the applicant has not a home maintenance area and that no valid objection in the public interest exists to the granting of such application, may recommend, and the Minister may grant, for a period not exceeding ten years, a lease of an area sufficient for the maintenance of a home, subject to such rent and conditions as may be set out by the Minister in such reference, or such other rent and conditions as the Minister may after such recommendation determine. The remainder, if any, of the area may be held by the applicant as an annual lease :

Lease under improvement conditions out of annual lease.  
No. 15, 1903, s. 23.  
No. 30, 1908, s. 42.  
No. 53, 1912, ss. 2 and 23.

Provided that no such lease shall be granted within any proclaimed goldfield or mineral field except with the approval of the Secretary for Mines.

*Special leases—For wharfs and jetties.*

**74.** 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 where such lands are not in the Western Division they may be leased by the Minister on such conditions as he may think fit for the erection of wharfs jetties piers or floating docks.

Special leases for wharfs and jetties.  
48 Vic. No. 18, s. 89.  
53 Vic. No. 21, s. 11.  
58 Vic. No. 18, s. 46.  
No. 30, 1908, s. 42.  
No. 38, 1905, s. 2.

No such lease shall be made of such Crown lands 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 grant 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.

With

With any application for a lease under this section there shall be tendered a fee in accordance with the prescribed scale for the survey of the land ; and the rent shall be determined by the local land board.

The term of the lease may be fixed for such period—not exceeding twenty-eight years—as the Minister may think fit, and if fixed for a less period than twenty-eight years may be extended as provided in section two hundred and twenty-nine hereof.

*Special leases—For miscellaneous purposes.*

Special leases :  
miscellaneous  
purposes.

48 Vic. No. 18, s. 90.  
53 Vic. No. 21, s. 11.  
58 Vic. No. 18, s. 43.  
No. 30, 1908, s. 42.  
No. 38, 1905, s. 2.

**75.** The Minister may lease by auction or otherwise in areas not exceeding in any case three hundred and twenty acres Crown lands (not being in the Western Division) 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—brick earth—gravel—or ballast—or for an inn—store—smithy—bakery—or mail station in sparsely populated districts—or for business purposes—or for the erection of buildings—or for any purpose declared by the Minister by notification in the Gazette to be a purpose within this section, and if the letting be by auction, may determine the upset rent thereof, and may annex to any such lease such conditions reservations and provisions as he may think fit.

Any such condition reservation or provision may on application by the lessee in the prescribed manner and on the recommendation of the local land board be varied modified or revoked by the Minister ; and this power shall not be affected by anything contained in section one hundred and eighty-two hereof.

If it should appear to the satisfaction of the Minister that the land comprised in any such lease is not used and occupied bona fide for the purpose for which the lease was granted, such lease together with any rent paid in respect thereof shall be liable to be forfeited.

No. 53, 1912, s. 6. With any application for a lease under this section there shall be tendered a fee in accordance with the prescribed scale for the survey of the land ; and if the lease be let otherwise than by auction or tender the rent shall be determined by the local land board.

The term of the lease may be fixed for any period not exceeding twenty-eight years, and if fixed for a less period than twenty-eight years may be extended as provided in section two hundred and twenty-nine hereof.

*Special*

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*Crown Lands Consolidation Act, 1913.**Special leases—For tramway and irrigation purposes.*

**76.** Subject to such conditions as may be prescribed the Minister may grant leases of Crown lands (not being in the Western Division) 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 for the purposes of this section may grant permission to construct and maintain tramways across any roads subject to such conditions as the Minister may approve after report by the local land board. And notice of every application for a lease under this section, and of the purpose for which it is proposed to be granted, shall be published in the Gazette for at least four consecutive weeks before the issue of such lease.

Special leases :  
tramway and  
irrigation purposes.  
48 Vic. No. 18, s. 92.  
53 Vic. No. 21, s. 11.  
58 Vic. No. 18, s. 46.  
No. 42, 1905, s. 29.  
No. 53, 1912, s. 23.  
No. 38, 1905, s. 2.

With any application for a special lease under this section there shall be tendered a fee in accordance with the prescribed scale for the survey of the land; and the rent shall be determined by the local land board.

The term of the lease may be fixed for any period not exceeding twenty-eight years, and if fixed for a less period than twenty-eight years may be extended as provided in section two hundred and twenty-nine hereof.

*Scrub leases.*

**77.** On the recommendation of the local land board the Minister may declare by notification in the Gazette any Crown lands—wholly or partly covered by scrub or noxious undergrowth—to be scrub-lands; lands so declared to be scrub-lands shall not until leased in accordance with this section be withdrawn from any lease or license under which they may at the time be held. On the like recommendation (and notwithstanding anything contained in the Prickly-pear Destruction Act, 1901), the Minister may grant leases of such lands (not being in the Western Division) upon application or sell the same by auction or tender at such times and places and under such conditions and for such terms not exceeding twenty-one years as he may deem desirable.

Scrub lease.  
53 Vic. No. 21, s. 35.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 26.  
No. 70 1901, s. 2.

The term of a scrub lease may be divided into such periods as the Minister shall fix, and the rent for the second or any succeeding period shall be determined by the local land board.

The applicant for any scrub lease shall pay the cost of the survey of the land within three months after the date of demand, or in the event of his withdrawing his application all costs of survey reports or inquiry incurred in dealing therewith.



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And all such leases of scrub-lands shall be subject to the provisions hereunder specified :—

- (1) Every such lease shall, if granted in pursuance of an application or by tender, commence from the date of the notification in the Gazette of the Minister's approval of the application or acceptance of the tender; and if sold by auction shall commence from the date of sale.
- (2) Rent for the first year of the lease shall be paid within three months after the date of a demand made as prescribed for such rent specifying the amount thereof; and the rent for succeeding years shall be paid annually in advance before the recurring date of the commencement of the lease.
- (3) Every scrub lease shall be subject to the conditions that the holder thereof shall take all such steps as the local land board shall from time to time, subject to appeal, direct for the purpose of destroying the kinds of scrub specified in his lease in and upon the land included under the lease, or in and upon any land within the external boundaries of the lease, or in and upon any reserves or roads within such boundaries—and, when so destroyed, to keep such lands free from the same—and shall commence to destroy the same within three months after the commencement of the lease.
- (4) If it should appear to the satisfaction of the Minister, after report by the local land board, that the holder of a scrub lease has failed to comply with any condition thereof, the lease shall be liable to be forfeited: Provided that no such report shall be necessary in any case of non-payment of rent.
- (5) Any land held under scrub lease shall, on the forfeiture or surrender thereof, be added to the lands held under lease or license within the boundaries of which it may be situated, and rent therefor shall be payable at such rate per acre as may be determined by the local land board, and shall form part of the rent payable for such lease or license, which shall be liable to be forfeited if the rent for the added lands be not paid as prescribed.
- (6) Nothing in this section shall affect the operation of the provisions (set out in Part VIII of this Act) as to withdrawal of land from the lease, extension of the term of the lease, granting of tenant-right in improvements, right to apply for a homestead grant of portion of the leasehold, or otherwise.

*Snow leases.*

Snow lease.

**78.** The Minister may, on the recommendation of the local land board, lease by auction or tender any Crown lands which may be

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be usually covered with snow for a part of each year and unfit for continuous use or occupation. The areas in which such lands may be leased shall not exceed ten thousand two hundred and forty acres. 53 Vic. No. 21, s. 36. No. 53, 1912, s. 26.

Every such lease shall commence from the date of sale or the Minister's acceptance of the tender, and shall withdraw the land from any annual lease or occupation license under which it may be held :

Provided that the holder of a lease under this section shall not acquire any right of impounding any stock of the outgoing lessee or licensee until one month after the commencement of such lease.

The prescribed fee for the survey of the land and the first year's rent shall be paid by the purchaser at the time of sale, and upon default the lease may there and then be re-offered for sale ; or if the lease be let by tender, such fee and rent shall be paid within sixty days after the notification in the Gazette requiring payment thereof, and upon default the lease, together with any amounts paid in respect thereof, shall be liable to be forfeited. The rent for each year of the lease succeeding the first shall be paid annually in advance before the recurring date of the commencement of the lease.

The lease shall have a term of seven years, and at the expiration thereof the lessee shall have a right of extension for three years, subject to the payment of such annual rent as may be determined by the local land board, provided that he shall have notified to the Minister at least one year before the expiration of such term his intention of claiming such extension.

The Minister may terminate any such lease by giving the lessee notice to that effect not later than one year before the date of the expiration of the term :

Provided always that not more than two of such leases shall be held by, or in the interest of, one person.

*Inferior lands leases.*

**79.** The Minister may, after report by the local land board, lease by auction or tender for a period not exceeding twenty years Crown lands in the Eastern or Central Division which in consequence of being of inferior character or in isolated positions have not been held under any tenure or having been held have been abandoned, or are only held under annual lease, subject to the provisions hereunder specified :— Inferior lands lease. 53 Vic. No. 21, s. 37. No. 30, 1908, s. 42. No. 70, 1901, s. 2.

- (1) Such leases shall be subject to such conditions as may be specified in the notice in the Gazette offering the land for lease ; and the upset rent shall be determined by the Minister after report by the local land board,

(2)

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- (2) No sale by auction shall take place, nor shall any tender be accepted, until after the expiration of thirty days after the date of such notice, and the lease shall commence from the date of sale or notification of acceptance of tender, as the case may be.
- (3) The amount bid at auction or offered by an accepted tender shall be the annual rent of the lease; and shall be paid, if the lease be sold by auction, at the time of such sale, but if by tender, within sixty days after the notification in the Gazette requiring payment thereof. If the rent be not paid within the time allowed, the lease together with any amounts paid in respect thereof shall be liable to be forfeited. And any lease sold by auction, the amount bid for which shall not forthwith be paid, may there and then be re-offered for sale. The rent for ensuing years shall in all cases be paid on or before the recurring date of the commencement of the lease.
- (4) Tenders shall be made in the form prescribed, and shall describe the land applied for in terms of the notice calling for tenders, and shall be accompanied by a receipt showing that a sum of two pounds has been paid to the Crown land agent or to the Colonial Treasurer as a deposit thereon. Such deposit paid by a person, whose tender is accepted, shall be credited on account of the first year's rent.
- (5) A lease of any such land, which may have been offered at auction and not bid for (whether before or after the passing of this Act) may be obtained on application to the Crown land agent, and payment of the upset rent; or the lease may be again submitted to auction unless the land shall have previously been otherwise dealt with.
- (6) Upon application being made by any person for the submission of land to lease under this section, the Minister may demand such amounts as may seem necessary to cover the expenses of report in connection therewith.
- (7) If it should appear to the satisfaction of the Minister, after inspection by an authorized officer and report by the local land board, that the holder of any such lease has failed or is failing to fulfil any condition thereof, the lease, together with any amounts paid in respect thereof, shall be liable to be forfeited: Provided that no such inspection or report shall be necessary in any case of non-payment of rent.
- (8) Nothing in this section shall affect the operation of the provisions (set out in Part VIII of this Act) as to the extension of the term of the lease, granting of tenant-right in improvements, right to apply for a homestead grant of portion of the leasehold, or otherwise.

*Residential*

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*Crown Lands Consolidation Act, 1913.**Residential leases.*

**80.** (1) It shall be lawful for the local land board, on the recommendation of the warden of any goldfield, to grant residential leases of Crown lands (not being in the Western Division) within a goldfield or mineral field to holders of miners' rights for the purpose of bona fide residence upon the terms and conditions hereunder specified:—

- (a) The area of the lease shall not exceed twenty acres.
- (b) The term of the lease may be fixed for any term not exceeding twenty-eight years, and if fixed for a less period than twenty-eight years may be extended as provided in section two hundred and twenty-nine hereof.
- (c) The lease shall be upon such conditions as to cost of survey rent and erection of fences and buildings, and for the protection in other respects of the public interest, as shall be prescribed.
- (d) The last holder of the lease shall have tenant-right in improvements.

Residential lease on goldfield, or mineral field.  
53 Vic. No. 21, s. 48.  
58 Vic. No. 18, s. 50.  
No. 30, 1908, s. 42.  
No. 53, 1912, ss. 26 and 27.  
No. 38, 1905, s. 2.

(2) Subject to the provisions hereinbefore contained, any holder of a residential lease—not exceeding nineteen acres in area—may apply for and acquire additional residential leases adjoining the original or any prior additional residential lease, or may acquire by purchase or otherwise any residential lease so adjoining:

Provided that the area of the original and any additional residential leases shall not exceed in the whole twenty acres.

Residence may be carried out on any part of the land under lease.

(3) Any resident holder of an area (whether freehold or otherwise) within a goldfield or mineral field may in like manner apply for and acquire a residential lease of land not being in the Western Division:

Provided that—

- (a) the area which may be leased, when taken with the area which such person already holds within such goldfield or mineral field, shall not exceed twenty acres—and
- (b) lands held under any lease having less than five years to run (unless such lease confers a right or power to purchase the freehold which right or power may still be exercised) shall not be taken into account in computing such area—and
- (c) the condition of residence attaching to the residential lease may be fulfilled on the lease or on the land on which such person was theretofore resident.

*Purchases*

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*Crown Lands Consolidation Act, 1913.*

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*Purchases in virtue of residential leases.*

Purchase of  
residential lease.  
No. 30, 1908, s. 28.

**81.** (1) The holder of any residential lease applied for under the last preceding section (including any additional residential lease) may at any time after the first five years of his lease apply to purchase the land held thereunder.

(2) Application shall be made as prescribed and shall be accompanied by a deposit as prescribed to be applied towards the cost of dealing therewith. Such application shall be referred to the Secretary for Mines for consideration, and if he concurs therein it shall be forwarded to the local land board for inquiry and report.

The local land board shall report to the Minister as to whether there are any objections to the granting of the application and generally as to the merits thereof. If the local land board deems it expedient to recommend the granting of the application, it shall proceed to determine the value of the land.

After receipt of such report the Minister may at his discretion grant or refuse such application :

Provided that any right title or interest acquired under the Mining Act, 1906, or any Act thereby repealed, in respect of any portion of such land shall not be prejudicially affected by any such purchase.

Any areas required for roadways or other public purposes may be excluded and the boundaries may be otherwise modified at the Minister's discretion.

(3) The price of the land shall be as determined by the local land board, and the purchase money, together with all costs stamp duty and deed fee, shall be paid within three months, or within such further time as the Minister may allow, subject to payment of interest at the rate of five per centum per annum. Upon default in payment as aforesaid, the application to purchase may be declared to have lapsed, and all moneys paid in connection therewith shall thereupon become forfeited.

(4) It shall not be competent for any person to hold more than one purchase made of a residential lease, and no transfer or conveyance or assignment in contravention of this provision shall be valid for any purpose whatsoever.

*Improvement leases.*

Improvement lease.

**82.** The Minister may on the recommendation of the local land board grant leases of Crown lands (not being in the Western Division) which, by reason of inferior quality heavy timber scrub noxious animals undergrowth marshes swamps or other similar cause, are not suitable for settlement until improved, and can only be rendered suitable by the

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the expenditure of large sums in the improvement thereof. The granting of the leases shall be subject to the provisions hereunder specified:—

- (1) The term of the lease shall not exceed twenty-eight years, and shall commence from the date of the execution of the lease.
- (2) The area included in the lease shall not exceed twenty thousand four hundred and eighty acres.
- (3) The amount bid at a sale by public auction of the lease or offered by an accepted tender shall be the yearly rent of the lease; but an upset rent may be placed upon any such lease, if offered at auction, and the Minister shall not be bound to accept any tender.
- (4) The lease may contain such covenants and provisions as to the Minister may seem expedient according to the circumstances of each case, and all such covenants and provisions shall be notified in the Gazette—and attention shall be invited thereto by advertisement in a local newspaper—before the lease is offered for sale or tenders called for. The lease shall contain covenants and provisions for the improvement of the land leased and for the expenditure of money thereon, for the payment of rent, and for the termination of the lease upon any breach by the lessee of the covenants and provisions thereof.
- (5) The holder of an improvement lease may apply for a home-stead grant of portion of the leasehold subject to the provisions in that behalf contained in section one hundred and ninety-three hereof; and upon the expiration of the term of the lease by effluxion of time the lessee shall have tenant-right in improvements, except as otherwise provided in section two hundred and twenty-two hereof.

*Leases or licenses offered and not sold.*

**83.** Where the lease or license of any Crown lands (not being in the Western Division) has before or after the passing of this Act been offered for sale by auction or tender, and has not been sold at the date fixed or within the period limited for the purpose, nothing contained in this Act shall be taken to prevent the acceptance of any tender for the lease or license of the whole or any part of such lands made after such date or after the expiration of such period if the amount tendered is not less than the upset rent or license fee: Provided that nothing contained in this section shall be construed so as to compel the acceptance of any such tender.

**PART V.**

**CLASSIFICATION OF CROWN LANDS—HOLDINGS WITHIN CLASSIFIED AREAS—CONDITIONAL PURCHASES AND CONDITIONAL LEASES—HOMESTEAD SELECTIONS—SETTLEMENT LEASES—CONDITIONAL PURCHASE LEASES AND CONDITIONAL PURCHASES BY CONVERSION THEREOF—ADDITIONAL HOLDINGS—SPECIAL CONDITIONAL PURCHASE LEASES—HOMESTEAD FARMS—SUBURBAN HOLDINGS—CROWN-LEASES.**

*Crown lands may be withheld pending classification.*

Power to withhold  
Crown lands pending  
classification.  
58 Vic. No. 18, s. 10.  
No. 6, 1910, s. 9.  
No. 53, 1912, s. 27.

**84.** The Minister shall have power to declare by notification in the Gazette that the Crown lands comprised within any area to be described in the notification shall not be available for the purposes of any application until a further notification has been published in the Gazette, and thereupon the Crown lands comprised within the area so described shall cease to be available, and any lands within the area which may thereafter become Crown lands shall not become available, for the purposes of any application until such further notification has been published, or if such further notification specify a future date, then until such date.

*Classification of Crown lands.*

Power to classify  
Crown lands.  
58 Vic. No. 18, s. 10.  
No. 42, 1905, s. 4.  
No. 6, 1910, s. 9.  
No. 6, 1912, ss. 3, 13,  
and 18.  
No. 53, 1912, s. 27.

**85.** (1) The Minister shall have power after such inquiry and report as may be deemed expedient to declare by notification in the Gazette that the Crown lands comprised within any area to be described in the notification shall be set apart for holdings (whether by way of purchase homestead selection or lease) of the kinds which are specified in the notification, and thereupon (save as otherwise in this Act provided)—

- (a) any Crown lands comprised in the area so described shall cease to be available and any lands within the area which may thereafter become Crown lands shall not become available for the purpose of any application for a holding of a kind not specified in the notification—and
- (b) any Crown lands within the area so described and any lands within the area which may thereafter become Crown lands shall be or become, as the case may be, available for any holdings of the kind or kinds specified in the notification on and after such dates as may be notified in that behalf:

58 Vic. No. 18, s. 12.

Provided always that Crown lands comprised in any areas which may be set apart under this section for specified kinds of holdings shall be and be deemed to be Crown lands for the purposes of the Mining Act, 1906, and any Act amending the same.

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(2) The areas of land set apart by the Minister may be limited to the surface only of such land or to the surface and to such depth below the surface as may be specified in the notification, and such areas shall also be subject to any reservations of timber scrub or undergrowth and to such other reservations and restrictions as to the Minister may seem necessary in the public interest and be specified in the notification.

(3) The Minister may also by the same or subsequent notification specify the prices capital values or rents of lands so set apart, but if such prices capital values or rents are not so notified, they shall be as determined by the local land board.

(4) Notwithstanding anything to the contrary in this Act, or the Mining Act, 1906, or the Forestry Act, 1909, the setting apart of any land for original or additional conditional purchase conditional lease homestead selection settlement lease conditional purchase lease homestead farm suburban holding or Crown-lease shall have the effect of revoking any reserves, or parts of reserves, or population areas within the boundaries of the lands so set apart, unless the contrary is expressly declared by the terms of the notification. Such revocation shall take immediate effect on the expiration of the day next preceding the day upon which the land becomes available in pursuance of the notification: Provided that the revocation of any reserve for mining or mining purposes or any timber reserve shall not be so effected unless in the case of a reserve for mining or mining purposes the consent thereto of the Secretary for Mines or in the case of a timber reserve of the Secretary for Agriculture has been obtained.

Such setting apart as aforesaid shall also have the effect of revoking any previous setting apart of the same land unless the contrary is expressly declared by the terms of the notification.

(5) The Minister shall not by any such notification set apart any area in such a way as to be available for original holdings at the same time as for additional holdings of the respective kinds hereunder specified, that is to say (as original holdings)—

original conditional purchases—

original conditional purchases and conditional leases to be taken up in virtue of and at the same time as original conditional purchases within the said area—

original homestead selections—

original settlement leases—and

original conditional purchase leases—

and (as additional holdings)—

additional conditional purchases—

conditional leases not being conditional leases taken up in virtue of and at the same time as original conditional purchases within the said area—

additional



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additional homestead selections—  
additional settlement leases—and  
additional conditional purchase leases.

No. 70, 1901, s. 2.  
No. 38, 1905, s. 2.  
No. 6, 1912, s. 38.  
No. 53, 1912, s. 2.

(6) The Minister shall not set apart any areas in the Western Division in pursuance of this section.

*Alteration of notifications.*

Correction, &c., of  
notifications under  
preceding sections.  
58 Vic. No. 18, s. 10.  
No. 42, 1905, ss. 4  
and 10.  
No. 6, 1912, s. 2.

**86.** Any notification under either of the last two preceding sections may by the like notification in the Gazette be corrected amended modified or revoked, whether as to the whole or any part thereof; and it shall be sufficient for the purposes of any such notification if the description of lands is in any form of general description:

Provided always that no notification under either of such sections shall affect—

- (a) the dedicating for public purposes or reserving of any Crown lands—or
- (b) the granting or renewing of occupation licenses and annual leases, unless the contrary is expressly declared by the terms of the notification—or
- (c) any lease in existence at the date thereof.

*Conditional purchases and conditional leases within classified areas.*

Classified areas :  
conditional  
purchases and  
conditional leases.  
No. 42, 1905,  
ss. 4, 5, and 8.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 30.

**87.** (1) Where a classified area is set apart so as to be available for original conditional purchases or conditional leases—to be taken up in virtue of, and at the same time as, original conditional purchases within such area—such original conditional purchases and conditional leases shall in all respects be subject to the terms of the notification or notifications under which such area has been made available.

(2) Where a classified area is set apart so as to be available for additional conditional purchases or conditional leases—not being conditional leases to be taken up in virtue of, and at the same time as, original conditional purchases within the same area—such additional conditional purchases and conditional leases shall in all respects be subject to the terms of the notification or notifications under which such area has been made available, and the applications for the same respectively shall be governed by the provisions hereunder specified :—

- (a) An application shall not be made for an additional conditional purchase in virtue of an original conditional purchase under section forty-seven of the Crown Lands Act of 1884 or section fifty-eight hereof or for a conditional lease in virtue of any conditional purchase under either of the said sections—
- (b) An application may be made for a conditional lease notwithstanding the fact that the conditional purchase in virtue of which it is applied for was made before the first day of January, one thousand eight hundred and eighty-five—
- (c)

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- (c) No application under this subsection shall be made by the transferee of an original conditional purchase unless the applicant shall have been in residence on his holding for twelve months immediately before his application, or the local land board find that the applicant was forced to discontinue his residence by reason of adverse circumstances beyond his control ; but this provision shall not extend to the case of an applicant who, being the transferee of a conditional lease applied for before the first day of June, one thousand eight hundred and ninety-five, is applying for an additional conditional purchase of lands held by him under such conditional lease—
- (d) Subject to the foregoing provisions, any person who is the holder of or applicant for an original conditional purchase and who is not subject to any disqualification in that behalf specified in Part VII of this Act may on or after the day notified for that purpose apply to the Crown land agent for an additional conditional purchase, and any person who is the holder of or applicant for an original or additional conditional purchase and who is not subject to any such disqualification as aforesaid may in the like manner apply for a conditional lease of an area not to exceed three times the area of the conditional purchase in virtue of which it is applied for—and
- (e) Every such application shall be subject to the provisions of section one hundred and fourteen hereof.

(3) The price at which land in a classified area may be purchased by way of original conditional purchase or additional conditional purchase (including an additional conditional purchase out of a conditional lease) shall—subject to the provision relating to non-residential conditional purchases which is hereinafter contained—be as notified, or if not notified then as determined by the local land board, and the rent of a conditional lease within such area shall be as notified, or if not notified then as determined by the local land board.

(4) The price at which land in a classified area may be purchased by way of original non-residential conditional purchase shall be double the price as notified for ordinary conditional purchases.

(5) The provision that an additional conditional purchase shall adjoin the original conditional purchase or a prior additional conditional purchase of the series shall not be taken to extend to the first additional conditional purchase made out of a conditional lease if not adjoining such original conditional purchase or prior additional conditional purchase ; and the provision that the area of a conditional purchase shall not be less than forty acres shall not be taken to prevent the conversion of the whole of a conditional lease, if less than forty acres in area, into an additional conditional purchase.

(6)

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(6) Subject to the qualifications contained in this section the general provisions and conditions of this Act respectively relating to original or additional conditional purchases or conditional leases of Crown lands open to ordinary conditional purchase shall—save as otherwise in this Act provided—apply to original or additional conditional purchases or conditional leases respectively within a classified area.

*Subdivision for original homestead selections.*

Original homestead  
selection areas.

58 Vic. No. 18, s. 13

No. 38, 1898, s. 2.

No. 15, 1903, s. 22.

No. 42, 1903, s. 4.

No. 33, 1908, s. 42.

No. 53, 1912, ss. 23  
and 27.

**88.** Where a classified area is set apart for disposal by way of original homestead selection, such area shall be dealt with as follows:—

- (1) A subdivision shall be made thereof into blocks, no one of which shall be more than one thousand two hundred and eighty acres in area, but such subdivision may be made before the blocks are measured, and in such case the blocks shall be taken according to the published plan or design thereof. Any subdivision, whether made before or after the notification setting apart the area, may be taken to be a subdivision within the meaning of this section, and one or more measured portions may, by notification under this section, constitute a block.
- (2) A valuation of the said blocks may be made and if made shall be according to the capabilities and situation of the land the timber thereon and means of access thereto, and in making such valuation due regard shall be paid to the tenure of the holding, and an estimate shall be made of the value to an incoming tenant of any improvements on the said blocks.
- (3) A notification by the Minister shall be published in the Gazette and in a local newspaper giving particulars of the said blocks and of their respective areas and the estimated values of any improvements thereon, and specifying a date on and after which the said blocks shall be available for selection; and the area of any block, as stated in the said notification, shall (subject to any adjustment which may prove to be necessary after survey) be taken to be the area thereof for all purposes of the rent hereinafter mentioned. The said notification may also give particulars of the capital values of the said blocks, and in such case the capital value of any block as stated in the said notification shall, unless and until the capital value thereof be determined by the local land board in pursuance of the provisions of this Act, be taken to be the capital value thereof for all purposes of such rent.

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- (4) The Minister may also notify that special conditions as to drainage irrigation the clearing cutting preservation or planting of timber, or such other matters as require to be regulated in the public interest, shall attach to a homestead selection of any block, and will be inserted in the grant thereof when issued. Any notification under this or the last preceding subsection may be corrected amended modified or revoked by notice in the Gazette.
- (5) The setting apart of any area of Crown lands for disposal by way of original homestead selection and the notification of the particulars of the blocks and other matters required by this section may, whenever it shall be deemed expedient, be effectuated by one and the same notification in the Gazette, and in any such case any preliminary notification shall be deemed to have been unnecessary.

*Applications for original homestead selections.*

**89.** (1) On or after the date notified for that purpose any person who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for any block notified as available as an original homestead selection. The application shall be made and lodged in the prescribed manner, and shall be accompanied by one half-year's rent in advance and a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section.

Original homestead selection : application, how made and dealt with. 58 Vic. No. 18, s. 14. No. 30, 1908, s. 37. No. 53, 1912, s. 27.

The applicant shall, upon the day appointed, satisfy the local land board that he is qualified to apply, and that the application has been made in accordance with the provisions of this Act. The local land board shall confirm the application if so satisfied, unless it permits the applicant to withdraw the same; if not so satisfied it shall disallow the application.

Except as against the Crown—

- (a) any land which has been applied for as a homestead selection and for which the application has been confirmed shall be deemed to be land contracted to be granted—and
- (b) confirmation of the application shall be deemed to be a sale of the said land.

58 Vic. No. 18, s. 22.

(2) Where the block is measured after the same has been applied for as an original homestead selection, any roads deemed to be necessary may be reserved or excluded in the measurement, and any necessary adjustment as to the area or rent shall thereafter be made.

No. 15, 1903, s. 22.

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Any rent due for any excess of area or other moneys due shall be paid within such period as the Minister may allow, and if not so paid the homestead selection shall be liable to be forfeited.

*Determination of value of improvements.*

Value of  
improvements on  
homestead selection:  
how determined.  
No. 38, 1898, s. 2.

**90.** After a block has become the subject of an application for an original homestead selection the value of the improvements thereon shall be determined by the local land board, except in the case where the person (not being the Crown) entitled to receive payment for such improvements and the incoming selector have agreed as to payment therefor.

*Conditions precedent to a homestead grant.*

Conditions precedent  
to homestead grant.  
58 Vic. No. 18, s. 15.  
No. 30, 1908, s. 37.

**91.** (1) The applicant shall perform to the satisfaction of the local land board the following conditions, which shall be taken to be conditions precedent to the right to a grant:—

No. 38, 1898, s. 2.  
No. 53, 1912, s. 12.

(a) He shall within the prescribed time pay the balance of survey fee, or all instalments thereof and interest accruing due before the issue of the grant.

58 Vic. No. 18, s. 15.

(b) He shall pay the value of the improvements as determined by the local land board, or fixed by agreement with the person entitled to receive payment therefor.

(c) He shall within three months after the confirmation of his application commence to reside upon the homestead selection, and shall continue to reside thereon until the issue of the grant, but the local land board shall have power to grant leave to the applicant to cease living upon the selection for such necessary causes as may be prescribed, and for such period as may be determined.

*Ibid.*  
No. 53, 1912, s. 27.

(d) He shall within eighteen months after the confirmation of his application erect upon the homestead selection and thereafter maintain a dwelling-house of not less than twenty pounds in value:

Provided, however, that the granting of leave to cease living on the selection, or the giving of consent to the residence condition being carried out on any other holding, or the granting of permission for such condition to be performed in a village or town, shall operate as a suspension of the condition imposed by this subsection.

58 Vic. No. 18, s. 15.  
59 Vic. No. 26, s. 2.  
No. 15, 1903, s. 7.

(e) He shall pay, by two equal half-yearly instalments in advance, an annual rent accruing as from the date or the recurring date of the application; the amount of such rent shall

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shall be one and one-quarter per centum of the capital value of the block until the expiration of six years after the application or until the issue of the grant, whichever event shall first happen; and if the period of six years expires before the issue of the grant, then the amount of such rent shall be two and one-half per centum of such capital value, and shall so continue until a rent of a similar amount becomes payable under the grant.

- (f) He shall perform and observe the special conditions, if any, which have been notified by the Minister, as hereinbefore provided. 58 Vic. No. 18, s. 15.

(2) If the applicant for a homestead selection dies or becomes of unsound mind, his interest in the homestead selection may be held by his representatives, subject to the provisions of section two hundred and sixty-nine hereof. No. 15, 1903, s. 10.

(3) Where a homestead selection has before the issue of the grant in respect thereof been transferred in pursuance of the provisions of this Act, the foregoing provisions shall—for the purposes of such of the aforesaid conditions precedent as remain to be performed after the date of the transfer—be read as if the words “the applicant” included such transferee.

*Inquiries by local land board.*

**92.** The local land board may at any time inquire as to the performance of any condition precedent to the right to a homestead grant, and at the expiration of five years after the date of the confirmation of the application the local land board shall hold an inquiry whether all such conditions have up to the date of the inquiry been duly performed. Homestead selection : inquiries by board. 58 Vic. No. 18, s. 16.

If upon the final inquiry the local land board is satisfied that all the said conditions have been duly performed up to the date of the inquiry it shall issue a certificate to that effect.

If at any time the local land board is not satisfied that any condition is being duly performed, or if upon the final inquiry the local land board is not satisfied that all conditions as aforesaid have been duly performed, the homestead selection shall be liable to be forfeited.

Where the aforesaid rent shall not be duly paid, the homestead selection shall be liable to be forfeited.

*Homestead grants.*

**93.** (1) Subject to the aforesaid certificate being obtained from the local land board by an applicant or lawful transferee, the Governor shall issue a Crown grant of the homestead selection (to be termed a homestead grant). Homestead grant. 58 Vic. No. 18, s. 17. No. 30, 1908, s. 42.

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The Governor may, upon the expiration of five years after the date of the confirmation of the application for a homestead selection, issue a grant thereof to an applicant or lawful transferee who has failed to obtain the said certificate in any case where the local land board reports that he is nevertheless deserving of the grant :

Provided that where the applicant or lawful transferee fails to obtain such certificate by reason only that certain moneys which have fallen due remain unpaid, the local land board shall report that the applicant or lawful transferee is deserving of the grant on payment of such moneys with interest thereon within such period as the Minister may allow.

(2) The grant of a homestead selection shall contain provisions for—

- (a) the annual payment by the grantee his heirs and assigns for ever of a perpetual rent, the yearly amount of which shall be two and one-half per centum of the capital value of the homestead selection—and
- (b) the performance by the grantee his heirs and assigns for ever of an obligation to live on the homestead selection, having his or their home and place of abode there—and
- (c) forfeiture to the Crown of the lands granted in case the obligation to live thereon or to pay any sums due as rent be not duly performed.

The obligations to live on the lands granted and to pay rent shall be incidents in perpetuity of the tenure of the lands held under a homestead grant; and the provisions to be inserted in a homestead grant for the purpose of defining the said incidents of tenure, and securing the due performance thereof, shall be in such form as may be prescribed.

(3) The grant of a homestead selection may contain provisions to secure the creation and maintenance of channels for drainage or irrigation purposes, and the preservation or planting of trees for timber and shade, and such reservations of rights powers minerals and materials as may appear to the Governor necessary in the public interest.

(4) The Governor may from time to time by regulations define the minimum period of living on the land in each year which shall be taken to satisfy the aforesaid obligation, being not less than seven months in every year; and may in the like manner provide for the granting of exemptions from the performance of the aforesaid obligation or for the relaxation thereof in such cases of inability difficulty or hardship as are likely to arise, and may attach such conditions to the granting of an exemption or relaxation as may appear desirable to secure the proper user of the land and to carry out the policy of this Act, but no such exemption or relaxation shall be granted for more than one year either retrospectively or in advance.

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Where, in pursuance of the regulations for the time being in force, an exemption or relaxation has been granted, and the conditions, if any, of such exemption or relaxation fulfilled, a forfeiture shall not be enforced for the non-performance of the obligation to live on the lands granted during the period of such exemption or relaxation.

The Governor shall not have power to discharge release or abrogate the obligation to live upon the lands held under any such grant or to pay the rent.

(5) No transfer of the lands described in a homestead grant shall be registered by the Registrar-General unless the Minister certifies, in the prescribed form, that all the obligations of the grant have been duly performed up to the date of such certificate, and the registration of such transfer shall be evidence of the performance of all the obligations under the grant up to the date of the aforesaid certificate.

(6) Upon the forfeiture to the Crown of any lands held under a homestead grant, the Registrar-General shall make an entry of such forfeiture upon the folium of the register containing such grant, and the holder of the duplicate copy of such grant shall deliver up the same to the Registrar-General for the purpose of being cancelled.

(7) The holder of an estate in fee-simple in possession 58 Vic. No. 18, s. 21. in any lands held under a homestead grant may with the consent of the Governor surrender the said lands to the Crown by an instrument in the prescribed form.

*Capital value of homestead grant.*

**94.** The capital value of the homestead selection shall for the first period of fifteen years after the execution of the grant thereof be the value, as notified or determined in pursuance of the provisions of this Act, and for every succeeding period of fifteen years shall be determined, irrespective of improvements, by the local land board. Homestead grant : capital value of land. *Ibid.* s. 17. No. 6, 1910, s. 2. No. 53, 1912, s. 27.

*Homestead selections without residence before grant.*

**95.** Where the applicant for a homestead selection is debarred by his calling from residing on the selection, the condition of residence may, until issue of a grant, be performed by a deputy, to be approved by the local land board ; but in every such case— Homestead selection without residence before grant. 58 Vic. No. 18, s. 18. No. 30, 1908, s. 37.

- (1) the application shall be expressed to be made under the provisions of this section, and the applicant shall, before his application is confirmed, satisfy the local land board that his calling prevents him residing on the selection, and that he ultimately intends to establish his home thereon—

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(2)



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- (2) a deputy to be approved by the local land board shall perform the condition of residing on the selection—
- (3) the annual rent, until issue of the grant, shall be three and one-half per centum of the capital value—
- (4) the dwelling-house to be erected and maintained shall be not less than forty pounds in value—and
- (5) the applicant shall, within three years after the confirmation of the application, have not less than one-tenth of the area of the homestead selection in full tillage, and shall during the fourth and fifth years after the confirmation have one-fifth of such area in full tillage, to the satisfaction of the local land board.

Save as aforesaid, all provisions as to homestead selections shall apply to a homestead selection under this section, and the grant thereof when issued shall be in the same terms as the grant of a homestead selection in other cases : . Provided always that a conflicting application from a person intending to perform personally the obligation of residence shall in all cases have priority over an application under this section lodged at the same time.

*Communities of homestead selectors.*

Community of  
homestead selectors.  
58 Vic. No 18, s. 19.

**96.** If a number of homestead selectors, embracing at least twenty families, with a view to greater convenience in the establishment of schools and churches, and to the attainment of social advantages of like character, ask to be allowed to settle together in a hamlet or village adjacent to their selections, the Governor may, in his discretion, vary or dispense with the requirements as to residing or living upon the homestead selection and substitute residing or living in such hamlet or village, subject to such conditions as he may prescribe.

*Additional homestead selections.*

Additional home-  
stead selection.  
No. 42, 1905, ss. 4  
and 8.  
No. 30, 1908, s. 42.

**97.** (1) Where a classified area is set apart so as to be available for additional homestead selections, the Minister may by notification in the Gazette attach any conditions to additional homestead selections within such area ; and additional homestead selections within such area shall in all respects be subject to the terms of the notification or notifications in pursuance of which such area has been made available.

No. 42, 1905, s. 5.

(2) Any person who is the holder of or applicant for an original homestead selection and who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for an additional homestead selection within a classified area which has been made available as aforesaid, and every such application shall be subject to the provisions of section one hundred and fourteen hereof.

(3)

## Act No. 7, 1913.

99

*Crown Lands Consolidation Act, 1913.*

(3) The Crown grant for an additional homestead selection may, upon application by the holder thereof, be issued at any time after the issue of the Crown grant for the original homestead selection, notwithstanding that five years may not have elapsed after the confirmation of the application for the additional homestead selection: Provided that the local land board shall have previously issued its certificate as to the payment of survey fee and value of improvements (if any) and the performance of any special conditions attaching to the additional homestead selection. 58 Vic. No. 18, s. 17. No. 30, 1908, s. 42.

(4) Subject to the qualifications contained in this section, the general provisions and conditions of this Act relating to original homestead selections shall—save as otherwise in this Act provided—apply to additional homestead selections. No. 42, 1905, s. 8.

*Subdivision for original settlement leases.*

**98.** Where a classified area is set apart for disposal by way of original settlement lease, such area shall be dealt with as follows:— Original settlement lease areas. 58 Vic. No. 18, s. 24.

- (1) A subdivision shall be made thereof into farms which, in cases where the land appears suitable for agriculture, shall not contain more than one thousand two hundred and eighty acres, and in cases where the land appears suitable chiefly for grazing shall not be more than ten thousand two hundred and forty acres, in area; and the standard to be adopted in regulating the extent of each such farm shall be that the lessee thereof may be able to establish and maintain a home thereon by the use of the land. A subdivision may be made before the farms are measured, and in such case the farms shall be taken according to the published plan or design thereof. Any subdivision whether made before or after the notification setting apart the area may be taken to be a subdivision within the meaning of this section, and one or more measured portions may by notification under this section constitute a farm. No. 38, 1898, s. 2. No. 15, 1903, s. 22. No. 42, 1905, s. 4. No. 53, 1912, ss. 23 and 27.
- (2) A valuation of the said farms may be made and if made shall be according to the capabilities and situation of the farm, and in making such valuation due regard shall be paid to the term and conditions of a settlement lease and to the intention of these provisions that the lessee may be enabled to establish and maintain his home thereon; and an estimate shall be made of the value to an incoming tenant of any improvements on the said farms.
- (3) A notification shall be published in the Gazette and in a local newspaper giving particulars of the areas and qualities of the

*Crown Lands Consolidation Act, 1913.*

the said farms, and of the estimated values of any improvements thereon, and specifying a date on and after which leases of the said farms may be applied for; the area of any farm as stated in the said notification shall (subject to any adjustment which may prove to be necessary after survey) be taken to be the area thereof for the purposes of the provisions hereinafter contained. The said notification may also give particulars of the rents of the said farms. Any notification under this subsection may be corrected amended modified or revoked by notice in the Gazette.

- (4) The setting apart of any area of Crown lands for disposal by way of original settlement lease and the notification of the particulars of the farms and other matters required by this section may, whenever it shall be deemed expedient, be effectuated by one and the same notification in the Gazette, and in any such case any preliminary notification shall be deemed to have been unnecessary.

*Applications for original settlement leases.*

Original settlement lease: application, how made and dealt with.

58 Vic. No. 18, s. 24.

No. 30, 1908, s. 37.

No. 53, 1912, s. 27.

**99.** (1) On or after the date notified for that purpose any person who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for any farm notified as available as an original settlement lease. The application shall be made and lodged in the prescribed manner, and shall be accompanied by one half-year's rent in advance and a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section.

The applicant shall, upon the day appointed, satisfy the local land board that he is qualified to apply, and that the application has been made in accordance with the provisions of this Act. The local land board shall confirm the application if so satisfied, unless it permits the applicant to withdraw the same; if not so satisfied it shall disallow the application.

No. 15, 1903, s. 22.

(2) Where the farm is measured after the same has been applied for as an original settlement lease, any roads deemed to be necessary may be reserved or excluded in the measurement, and any necessary adjustment as to the area or rent shall thereafter be made.

Any rent due for any excess of area or other moneys due shall be paid within such period as the Minister may allow, and if not so paid the settlement lease shall be liable to be forfeited.

*Determination*

## Act No. 7, 1913.

101

*Crown Lands Consolidation Act, 1913.**Determination of value of improvements.*

**100.** After a farm has become the subject of an application for an original settlement lease the value of the improvements thereon shall be determined by the local land board, except in the case where the person (not being the Crown) entitled to receive payment for such improvements and the incoming lessee have agreed as to payment therefor.

Value of improvements on settlement lease : how determined.

No. 38, 1898, s. 2.

*Original settlement leases.*

**101.** The Minister may grant to an applicant whose application has been confirmed by the local land board a settlement lease of the farm applied for.

Original settlement lease.

58 Vic. No. 18, s. 25.

59 Vic. No. 26, s. 2.

No. 38, 1898, s. 2.

No. 15, 1903, s. 5.

No. 30, 1908, s. 42.

The rent for the first year of the lease shall be payable as from the date of the application.

The term of the lease shall be forty years.

Such term shall be divided into a first period of fifteen years computed from the commencement of the lease, a second period of fifteen years commencing from the expiration of such first period, and a third and final period of ten years.

No. 6, 1910, s. 2.

No. 53, 1912, ss. 14,

23, and 29.

The annual rent for the first period shall be as notified by the Minister or if not so notified as determined by the local land board : Provided that where the rent has been notified by the Minister the lessee may within three months after the confirmation of his application require the said rent to be determined by the local land board.

The annual rent for each succeeding period may on application by the lessee or reference by the Minister be separately determined by the local land board.

The lease shall be in the prescribed form, and shall contain provisions to secure—

- (1) that the lessee shall pay an annual rent as fixed under this Act—
- (2) that the lessee shall pay the value of the improvements as determined by the local land board or fixed by agreement with the person entitled to receive payment therefor—
- (3) that the lessee shall reside on the farm during the whole term, or if the lease be transferred by way of bona fide mortgage, then that the owner, subject to such mortgage, shall reside—
- (4) that the lessee shall fence the farm within five years : provided that the local land board upon application in the prescribed manner may grant the lessee an exemption from fencing any part of the farm, but such exemption shall not prejudice any claim arising under section one hundred and ninety-nine hereof—

(5)

*Crown Lands Consolidation Act, 1913.*

- (5) that the lessee shall conform to any regulations made by the Minister relating to keeping the farm clear of rabbits and other noxious animals, and also to clearing the farm of scrub and noxious weeds—
- (6) that the lessee shall not assign or sublet without the Minister's consent—
- (7) that the Minister may forfeit the lease upon breach of any of the conditions covenants and provisions therein contained.

The lease may also contain such additional provisions conditions and covenants as to the Minister may seem expedient in the public interest.

The holder of a settlement lease may apply for a homestead grant of portion of such lease subject to the provisions in that behalf contained in section one hundred and ninety-three hereof.

Upon the expiration of the full term of the lease the last holder thereof shall have tenant-right in improvements.

*Settlement leases—Ring fencing.*

Settlement leases :  
ring fences.  
No. 42, 1905, s. 30.

**102.** Where settlement leases held by members of one family standing in the relation of parents and children adjoin so as to form one block or are separated only by roads or creeks, the local land board may upon a joint application made within the prescribed time and in the prescribed manner by the holders of such settlement leases, sanction the erection of a ring fence on the external boundaries of the lands—so as to enclose them as one holding—within a period to be fixed by the local land board, such period being determined as far as practicable with due regard to the respective dates of commencement of such settlement leases; and the erection of a ring fence as so sanctioned within the period so fixed shall be a performance of the requirement as to fencing in respect of each and every of such settlement leases.

The ring fence shall in every case be a fence of the classes of fencing prescribed by the local land board.

The period within which the ring fence shall be erected may upon application be extended by the local land board :

Provided that—

- (a) the local land board may allow or disallow an application to sanction a ring fence wholly or in part—and
- (b) if the ring fence be not erected within the period as fixed or extended by the local land board in that behalf, each and every of the settlement leases as to which such application was made shall be liable to be forfeited.

*Additional*

## Act No. 7, 1913.

103

*Crown Lands Consolidation Act, 1913.**Additional settlement leases.*

**103.** (1) Where a classified area is set apart so as to be available for additional settlement leases, the Minister may by notification in the Gazette attach any conditions to additional settlement leases within such area; and additional settlement leases within such area shall in all respects be subject to the terms of the notification or notifications in pursuance of which such area has been made available.

Additional settlement lease.

No. 42, 1905, ss. 4 and 8.

No. 30, 1908, s. 42.

(2) Any person who is the holder of or applicant for an original settlement lease and who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for an additional settlement lease within a classified area which has been made available as aforesaid, and every such application shall be subject to the provisions of section one hundred and fourteen hereof.

No. 42, 1905, s. 5.

(3) The term of an additional settlement lease shall cease upon the termination of the original settlement lease in virtue of which it was applied for or is held.

No. 30, 1908, s. 33.

(4) When the rent of the original settlement lease is determined by the local land board, the rent of the additional settlement lease shall also be determined at the same time.

(5) Subject to the foregoing qualifications, the general provisions and conditions of this Act relating to original settlement leases shall—save as otherwise in this Act provided—apply to additional settlement leases.

No. 42, 1905, s. 8.

*Subdivision for original conditional purchase leases.*

**104.** Where a classified area is set apart for disposal by way of original conditional purchase lease, any lands within the boundaries of such area which may thereafter be forfeited shall (subject to the provisions of section thirty-three and section one hundred and sixty-five hereof) be added thereto and form part thereof.

Original conditional purchase lease areas.

Ibid. ss. 10 and 12.

No. 15, 1903, s. 22.

No. 30, 1908, s. 42.

No. 53, 1912, s. 29.

The area so set apart shall be dealt with as follows:—

- (1) A subdivision thereof shall be made into blocks of such areas as the Minister may determine, but such subdivision may be made before the blocks are measured, and in such case the blocks shall be taken according to the published plan or design thereof. Any subdivision whether made before or after the notification setting apart the area may be taken to be a subdivision within the meaning of this section, and one or more measured portions may by notification under this section constitute a block.

(2)

- (2) The capital value of each such block for the first period of the lease shall be fixed by the Minister according to the capabilities and situation of the land the timber thereon and means of access thereto; and a similar basis shall be adopted by the local land board in determining the capital value of a block for the first or any succeeding period of the lease as hereinafter provided.
- (3) The Minister shall notify in the Gazette particulars of the said blocks, and of their respective areas capital values and rents, and of the estimated values of any improvements thereon, and specify a date on and after which leases of the said blocks may be applied for.
- (4) The Minister may also notify what special conditions as to improvements cultivation and preservation or planting of timber and such other matters as require to be regulated in the public interest shall attach to the lease of any such block.
- (5) Any notification under this section may be corrected amended modified or revoked, whether as to the whole or any part thereof, by notice in the Gazette.

*Applications for original conditional purchase leases.*

Original conditional  
purchase lease :  
application how  
made and dealt with.  
No. 42, 1905, ss. 13,  
14, and 15.  
No. 30, 1908, s. 37.  
No. 53, 1912, s. 30.

**105.** (1) On or after the date notified for that purpose any person who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for any block notified as available as an original conditional purchase lease. The application shall be made and lodged in the prescribed manner, and shall be accompanied by one half-year's rent in advance and a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section.

The applicant shall, upon the day appointed, satisfy the local land board that he is qualified to apply, and that the application has been made in accordance with the provisions of this Act. The local land board shall confirm the application if so satisfied unless it permits the applicant to withdraw the same; if not so satisfied it shall disallow the application.

No. 15, 1903, s. 22.  
No. 53, 1912, s. 29.

(2) Where the block is measured after the same has been applied for as an original conditional purchase lease, any roads deemed to be necessary may be reserved or excluded in the measurement, and any necessary adjustment as to the area or rent shall thereafter be made.

Any

## Act No. 7, 1913.

105

*Crown Lands Consolidation Act, 1913.*

Any rent due for any excess of area or other moneys due shall be paid within such period as the Minister may allow, and if not so paid the conditional purchase lease shall be liable to be forfeited.

The Governor may do all things necessary for the execution No. 42, 1905, s. 11. and issue of the lease.

*Determination of value of land and of improvements.*

**106.** (1) The lessee may within six months after the confirmation of his application apply in the prescribed manner to have the capital value of the conditional purchase lease determined by the local land board, and on payment by him of such costs as may be ordered—  
Capital value of and value of improvements : determination by board.  
*Ibid.* s. 10.  
 not exceeding five pounds—such capital value shall be determined accordingly, and the rent for the first period of the lease shall be paid on the basis of the capital value so determined.

(2) The value to an incoming tenant of any improvements on the block shall be determined by the local land board and the value so determined shall—as between the Crown or person entitled to receive payment for such improvements, as the case may be, and any lessee of the block—be conclusive evidence of the value of the improvements at the date of such determination :

Provided that where the improvements do not belong to the Crown, and the applicant and such person as aforesaid have agreed as to payment therefor, no determination of the value thereof by the local land board shall be necessary.

*Term and rent of original conditional purchase leases.*

**107.** A conditional purchase lease shall have a term of forty years from the date of the application therefor. The term shall be divided into a first period of fifteen years computed from the commencement of the lease, a second period of fifteen years commencing at the expiration of such first period, and a third and final period of ten years.  
Original conditional purchase lease : term and rent.  
*Ibid.* ss. 10 and 11.  
 No. 6, 1910, s. 2.  
 The rent shall be at the rate of two and one-half per centum per annum of the capital value of the block as notified or as determined by the local land board. For each period of the lease succeeding the first the capital value of the block shall be determined by the local land board.

*Conditions of original conditional purchase leases.*

**108.** The lessee shall perform to the satisfaction of the local land board the following conditions :—  
Original conditional purchase lease : conditions.  
 No. 42, 1905, ss. 10, 17, 18, 25, and 26.  
 No. 53, 1912, ss. 14 and 30.  
 (1) He shall within the prescribed time pay the balance (if any) of the survey fee with interest as prescribed.  
 (2) He shall pay the value of the improvements as determined by the local land board, or fixed by agreement with the person entitled to receive payment therefor.  
 (3)



## Act No. 7, 1913.

*Crown Lands Consolidation Act, 1913.*

- (3) He shall pay, by two equal half-yearly instalments in advance, an annual rent accruing as from the date or the recurring date of the application, paying such instalments when the same fall due or within thirty days thereafter.
- (4) He shall commence to reside on the lease within twelve months after the confirmation of his application, and shall continue so to reside for a period of ten years: Provided that the commencement of residence may be postponed to any date within five years of such confirmation on such terms and conditions as to improvements cultivation or otherwise as may be agreed upon between the local land board and the lessee. Upon application in the prescribed form the local land board may permit the residence condition to be performed in any adjacent village or town, and such permission may be conditional or unconditional. At any time and in any case (not being a case coming within the operation of subsection one of section one hundred and seventy-eight hereof) the Minister may after application in the prescribed form and for due cause shown suspend the condition of residence either unconditionally or on conditions.
- (5) He shall perform and observe any special conditions of the lease notified as hereinbefore mentioned: Provided that any such conditions attaching to the lease or the conditional purchase by conversion thereof may upon application as prescribed and for sufficient cause be modified by the local land board.

In the event of the lessee dying or becoming of unsound mind the aforesaid conditions shall be performed by his representatives either personally or by a deputy approved by the local land board.

*Conversion of conditional purchase leases into conditional purchases.*

Conditional purchase  
lease: conversion  
into conditional  
purchase.

No. 42, 1905, ss. 19  
and 20.

**109.** At any time after the confirmation of an application for a conditional purchase lease the holder thereof (provided such lease is not liable to forfeiture) may upon application in the prescribed form and payment of a deposit at the rate of five per centum of the capital value of the land convert the conditional purchase lease into a conditional purchase, which shall be held subject to all the conditions of the lease so far as the same remain to be performed at the date of conversion except the payment of rent.

Upon approval by the Minister of any conversion as aforesaid, the rent of the lease shall cease and determine, and a refund shall be made of rent paid in advance as from the date of the application for conversion.

*Purchase*

## Act No. 7, 1913.

107

*Crown Lands Consolidation Act, 1913.**Purchase money payable upon conversion and manner of payment.*

**110.** The capital value for the period of the lease current at the date of the application for conversion shall be the purchase money payable in respect of the land.

Payment of purchase money on conversion.

No. 42, 1905, ss. 20 and 21.

The balance of purchase money shall be paid by equal annual instalments, each of which shall be at the rate of five per centum of the purchase money. The first of such instalments shall be paid twelve months after the date of the application for conversion, and payment of such instalments shall be continued until the balance of purchase money together with interest thereon at the rate of two and one-half per centum per annum shall have been paid: Provided that it shall be lawful for the conditional purchaser to pay off the whole or any number of such instalments at any time.

If any moneys due are not paid within three months after the day when the same fall due, the conditional purchase together with any moneys paid in respect either of the conditional purchase or of the improvements thereon shall be liable to be forfeited.

*Inquiries as to performance of conditions, &c.*

**111.** The provisions of this Act relating to inquiries by the local land board in connection with ordinary conditional purchases and to the forfeiture lapsing or avoidance of such conditional purchases shall mutatis mutandis be applied to conditional purchase leases and to conditional purchases which are conversions thereof.

Inquiries by board.  
No. 42, 1905, s. 27.  
No. 53, 1912, s. 30.

*Crown grants.*

**112.** Upon the finding of the local land board that the conditions attaching to a conditional purchase which is a conversion of a conditional purchase lease have been performed and upon payment of the balance of purchase money and stamp duty and deed fee the Governor shall issue a Crown grant in fee-simple of the land.

Issue of Crown grant.  
No. 42, 1905, s. 22.

*Additional to conditional purchase leases or conditional purchases being conversions thereof.*

**113.** (1) Any holder of an original conditional purchase lease—whether applied for before or after the passing of this Act—or of any conditional purchase being a conversion of any such conditional purchase lease—, who is not subject to any disqualification in that behalf specified in Part VII of this Act, may apply to the Crown land agent for an additional conditional purchase lease or an additional conditional purchase, as the case may be, of Crown lands open to ordinary conditional purchase, adjoining the original or any prior additional conditional purchase lease or conditional purchase: Provided

Additional to conditional purchase leases, &c.  
No. 30, 1908, s. 22.  
No. 6, 1910, ss. 2 and 9.

*Crown Lands Consolidation Act, 1913.*

Provided that in no case shall the applicant be allowed to acquire an area which, together with all other the lands held by him that under the provisions of this Act are to be taken into account, would in the opinion of the local land board exceed a home maintenance area.

The capital value for the first fifteen-year period of any such additional conditional purchase lease shall be determined by the local land board.

No. 30, 1908,  
ss. 22 and 42.  
No. 42, 1905,  
ss. 4 and 5.

(2) Where a classified area is set apart so as to be available for additional conditional purchase leases, any person who is the holder of or applicant for an original conditional purchase lease and who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for an additional conditional purchase lease within such area, and every such application shall be subject to the provisions of the next succeeding section. Additional conditional purchase leases within such area shall in all respects be subject to the terms of the notification or notifications under which the area has been made available.

No. 30, 1908, s. 22.

(3) The holder of a conditional purchase being a conversion of a conditional purchase lease, who is not subject to any disqualification in that behalf specified in Part VII of this Act, may apply to the Crown land agent for an additional conditional purchase within a classified area set apart so as to be available for additional holdings of that kind, and every such application shall be subject to the provisions of the next succeeding section.

(4) A conditional lease shall not be applied for in virtue of an original conditional purchase being a conversion of a conditional purchase lease or in virtue of an additional conditional purchase applied for in virtue of such original conditional purchase; and except as provided in this and the next succeeding section an additional conditional purchase shall not be applied for in virtue of any such original conditional purchase.

*Ibid.*

No. 6, 1910, s. 9.

(5) A condition of ten years' residence shall attach to every additional conditional purchase lease or additional conditional purchase under this section:

Provided that—

- (a) if the person performing the condition of residence has immediately before the commencement of the term of such residence continuously resided upon some conditional purchase lease or conditional purchase of the same series, the term of residence shall be reduced by the period of such continuous residence; but if an additional conditional purchase lease or an additional conditional purchase be transferred at any time before the expiration of the term of ten years after the date of the application therefor, the transferee shall perform the condition of residence until such term expires—and
- (b)

## Act No. 7, 1913.

109

*Crown Lands Consolidation Act, 1913.*

- (b) a person residing upon any conditional purchase lease or conditional purchase of a series shall for the purpose of any conditions of residence be taken to be residing upon every conditional purchase lease or conditional purchase of the series.

(6) The general provisions and conditions of this Act No. 42, 1905, s. 8. respectively relating to original conditional purchase leases and con- No. 30, 1908, s. 22. ditional purchases being conversions of conditional purchase leases shall mutatis mutandis apply to any additional conditional purchase lease or additional conditional purchase under this section.

*Additional holdings within classified areas.*

**114.** (1) Where any classified area of Crown lands is set apart so as to be available for additional holdings of the kinds of such holdings specified in section eighty-five hereof, or any one or more of such kinds, any additional holding to be applied for within such area shall be of the same kind as the land in virtue of which the application is made (except that a conditional lease may, subject to the provisions of this Act, be applied for in virtue of a conditional purchase).

Classified areas :  
applications for  
additional holdings,  
how dealt with.  
No. 42, 1905, ss. 5,  
6, and 8.  
No. 30, 1908, s. 37.  
No. 53, 1912, s. 30.

(2) All applications for additional holdings within such area shall be made and lodged as prescribed and be accompanied by a provisional deposit and a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section, and shall be dealt with in the following manner :—

- (a) The local land board shall inquire into the merits of every such application and may permit withdrawal of or disallow the same or confirm the same for the area applied for, or— with the applicant's consent—for an area greater or less than, or in a different position from, that applied for; and the area so allotted may exceed the maximum area prescribed by this Act for the kind of holding in question, or may be less than forty acres if a greater area be not available : Provided always that the area allotted by the local land board, together with all other the lands held by the applicant which under the provisions of this Act are to be taken into account, may exceed such maximum area as aforesaid but shall not exceed a home maintenance area.
- (b) The mere fact that the land applied for does not adjoin the original conditional purchase or any conditional purchase or lease of the same series or the original homestead selection settlement lease or conditional purchase lease, as the case may be, shall not be a bar to the additional conditional purchase homestead selection or lease applied for, (c)

- (c) In the case of simultaneous applications preference shall be given to the applicant whose land adjoins or is nearest to the land applied for, unless in the opinion of the local land board such applicant is substantially less in need of additional land than an applicant whose land does not adjoin or is not nearest to the land applied for.
- (d) The local land board may disallow any application if in its opinion the applicant should have applied for available land nearer the land in virtue of which the application is made, or if such last-mentioned land is not within a reasonable working distance of the land applied for.
- (e) The local land board may impose a penalty for the withdrawal or disallowance of any application by retaining the whole or such portion of the provisional deposit as may, after due inquiry, seem justifiable.

No. 42, 1905, s. 7.

No. 30, 1908, s. 42.

No. 53, 1912, s. 30.

(3) There shall be no appeal to the Land Appeal Court from the decision of the local land board under this section, except in the case where such appeal if successful would not affect any person who, having made a simultaneous conflicting application, has had land allotted to him by the local land board: Provided that the Minister may, within twenty-eight days after the decision of the local land board has been given, refer it for determination to the Land Appeal Court, and in such case the decision of the Land Appeal Court shall be final.

*Special conditional purchase leases.*

Special conditional purchase leases.

No. 30, 1908, ss. 19 and 37.

No. 53, 1912, s. 31.

**115.** (1) The Minister may by notification in the Gazette set apart any Crown lands for disposal by way of special conditional purchase lease, and specify the date on and after which the lands shall become available: Provided that—

- (a) lands shall not be so set apart until they have for a period of at least six months been available for some kind of residential holding under the Crown Lands Acts—and
- (b) the setting apart of any lands for special conditional purchase lease shall not prevent them being available also for any form of purchase or other form of lease or license under this Act, unless the contrary is expressly declared by the notification, or unless the lands are otherwise reserved.

Any such notification may be modified or revoked, whether as to the whole or any part thereof, by notification by the Minister in the Gazette.

(2) On or after the date notified for that purpose, any person who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for a special conditional purchase lease of any area—not less than twenty and not exceeding three hundred and twenty acres—of land so set apart.

(3)

## Act No. 7, 1913.

111

*Crown Lands Consolidation Act, 1913.*

(3) A deposit of rent at the rate of sixpence per acre shall be made with the application, and also a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section.

(4) Where the land applied for is unmeasured the design thereof shall be as approved by the Minister.

(5) Any person who is the holder of or applicant for a special conditional purchase lease of an area not exceeding three hundred acres and who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for an additional special conditional purchase lease of adjoining lands set apart as aforesaid, of an area which, together with the original and any prior additional special conditional purchase lease or leases, shall not exceed three hundred and twenty acres: Provided that in the event of any conflicting applications being received, whether original or additional, the local land board shall determine the order of priority in accordance with section one hundred and fifty-three hereof.

**116.** Special conditional purchase leases and conditional purchases which are conversions thereof shall not be subject to any condition of residence, but otherwise shall be subject to the provisions and conditions of this Act respectively relating to conditional purchase leases and conditional purchases which are conversions thereof, and shall also be subject to the following conditions:—

Conditions attaching to special conditional purchase leases.  
No. 30, 1908, s. 20.  
No. 53, 1912, s. 31.

(1) the applicant shall effect substantial improvements on the land to the value of one pound per acre or such less value as the Minister may deem sufficient, not being less than ten shillings per acre—and

(2) such improvements shall be completed within three years after the date of the confirmation of the application.

**117.** The capital value for the first period of ten years shall be determined by the local land board after survey according to the capabilities and situation of the land the timber thereon and the means of access thereto. For each succeeding period of ten years the local land board shall determine the capital value on a similar basis.

Determination of capital value.  
No. 30, 1908, s. 21.

*Subdivision for homestead farms.*

**118.** Where a classified area is set apart under and subject to the provisions of section eighty-five hereof for disposal by way of homestead farms, such area shall be dealt with as follows:—

Homestead farm areas.  
No. 6, 1912, s. 3.

(1) A subdivision thereof shall be made into farms of such areas as the Minister may determine to be home maintenance areas; the land may be made available before the farms are measured, and in such case the farms shall be taken according to the published plan or design thereof.

(2)

*Crown Lands Consolidation Act, 1913.*

- (2) The capital value of each farm for the first period of the lease shall be fixed by the Minister according to the capabilities and situation of the land the value to an incoming tenant of any improvements thereon which are the property of the Crown the timber on such land and means of access thereto.
- (3) The Minister shall notify in the Gazette particulars of the said farms and of their respective areas capital values and rents and of the estimated values of any improvements thereon which are not the property of the Crown, and shall specify a date on and after which leases of the said farms may be applied for.
- (4) The Minister shall also notify in the Gazette what special conditions as to improvements cultivation and preservation or planting of timber and such other matters as require to be regulated in the public interest shall attach to the homestead farms.

*Applications for homestead farms.*

Homestead farm :  
application, how  
made and dealt  
with.

No. 6, 1912, ss. 3, 4,  
5, 6, and 36.

No. 53, 1912, s. 32.

**119.** (1) On or after the date notified for that purpose any person who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for any block notified as available as a homestead farm.

The application shall be made and lodged in the prescribed manner, and shall be accompanied by a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section.

The applicant shall, upon the day appointed, satisfy the local land board that he is qualified to apply, and that the application has been made in accordance with the provisions of this Act. The local land board shall confirm the application if so satisfied, unless it permits the applicant to withdraw the same. The local land board shall disallow the application if not so satisfied, and in any such case shall have power to declare that the moneys, or any portion thereof, lodged with the application shall be forfeited to the Crown, and the same shall be forfeited accordingly.

(2) Where the block is measured after the same has been applied for as a homestead farm, any roads deemed to be necessary may be reserved or excluded in the measurement, and any necessary adjustment as to the area or rent shall thereafter be made: Provided also that before or after the confirmation of an application for a homestead farm the Minister may make any minor variation of the design or survey thereof, so as to enable a better boundary to be secured for fencing or other purposes.

*Determination*

## Act No. 7, 1913.

*Crown Lands Consolidation Act, 1913.**Determination of value of land and of improvements.*

**120.** (1) The applicant may within six months after the confirmation of his application apply in the prescribed manner to have the capital value of the homestead farm determined by the local land board; and on his paying the fee in connection with such application as prescribed such capital value shall be determined accordingly upon the same basis as that provided for fixing the capital value in the first instance.

Capital value of land and value of improvements: determination by board.  
No. 6, 1912, s. 3.

(2) The value to an incoming tenant of any improvements on a homestead farm which are not the property of the Crown shall be determined by the local land board, and such determination shall, as between the person entitled to receive payment for such improvements and any lessee of the farm, be conclusive evidence of the value of the improvements at the date of such determination: Provided that where the applicant for the homestead farm and such person have agreed as to payment for such improvements no determination by the local land board shall be necessary.

*Residence on homestead farms.*

**121.** A condition of residence on a homestead farm shall attach thereto in perpetuity, and shall be performed by the holder thereof for the time being, and residence shall commence within six months after the confirmation of the application; but in certain circumstances, as provided in section one hundred and seventy-eight hereof, the condition of residence may be performed elsewhere.

Homestead farm: condition of residence.  
No. 6, 1912, s. 10.  
No. 53, 1912, s. 14.

*Rent for homestead farms.*

**122.** The annual rent for a homestead farm—to be paid half-yearly in advance—shall be two and one-half per centum of the capital value of the farm for each and every period of the lease.

Homestead farm: rent and periods.  
No. 6, 1912, s. 9.  
No. 53, 1912, s. 32.

The first period of the lease shall determine at the expiration of twenty-five years after the date of the application for the homestead farm, and the second and all succeeding periods shall be each of twenty years, each of such periods commencing at the expiration of the last preceding period.

The capital value of the homestead farm for the first period shall be the capital value as notified by the Minister in the Gazette or determined by the local land board as hereinbefore provided. The capital value of the homestead farm for the second and every succeeding period shall be determined by the local land board upon the same basis as that provided for fixing the capital value in the first instance, but irrespective of any improvements on the farm effected or owned by the lessee. The unimproved values of freehold lands of similar quality and similarly situated, if any, shall be a factor in determining such capital value:

H

Provided



*Crown Lands Consolidation Act, 1913.*

Provided that during the first five years of the lease the holder of the homestead farm may, in lieu of paying rent, expend during each year a sum not less than the rent for such year in effecting on the farm improvements of a permanent fixed and substantial character, the same being in addition to those which may be otherwise required by the conditions of the lease; but in the event of a transfer of such homestead farm being approved by the Minister within ten years after the application therefor, the transferor shall, at the discretion of the Minister, pay to the Crown a sum not exceeding the amount of the rent (so remaining unpaid) for the first five years of the lease.

*Issue of perpetual lease grants for homestead farms.*

Homestead farm :  
inquiry by board  
and issue of grant.  
No. 6, 1912, ss. 7  
and 11.  
No. 53, 1912, s. 32.

**123.** (1) The title to a homestead farm shall be a lease in perpetuity.

(2) After the expiration of five years after the confirmation of the application for a homestead farm, the local land board shall hold an inquiry whether all the conditions attaching to the homestead farm have so far been duly complied with; and if it be found by the local land board that all such conditions have so far been duly complied with, the Governor shall issue a grant in the prescribed form of the homestead farm to the lessee his heirs and assigns for ever, such grant being made subject to the conditions attaching to such farm.

*Subdivision for suburban holdings.*

Suburban holding  
areas.  
No. 6, 1912, s. 13.  
No. 53, 1912, s. 32.

**124.** The areas which under and subject to the provisions of section eighty-five hereof the Minister may set apart for disposal by way of suburban holdings shall be any suburban Crown lands or Crown land within population boundaries or within the Newcastle pasturage reserve or any other Crown land. Areas so set apart shall be dealt with as follows:—

- (1) A subdivision thereof shall be made into blocks of such areas as the Minister may determine; the land may be made available before the blocks are measured, and in such case the blocks shall be taken according to the published plan or design thereof.
- (2) The capital value of each block for the first period of the lease shall be fixed by the Minister according to the capabilities and situation of the land the value to an incoming tenant of any improvements thereon which are the property of the Crown the timber on such land and means of access thereto.

(3)

## Act No. 7, 1913.

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*Crown Lands Consolidation Act, 1913.*

- (3) The Minister shall notify in the Gazette particulars of the said blocks and of their respective areas capital values and rents and of the estimated values of any improvements thereon which are not the property of the Crown, and shall specify a date on and after which leases of the said blocks may be applied for.
- (4) The Minister shall also notify in the Gazette what special conditions as to improvements cultivation and preservation or planting of timber and such other matters as require to be regulated in the public interest shall attach to the suburban holdings.

*Applications for suburban holdings.*

**125.** (1) On or after the date notified for that purpose any person who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for any block notified as available as a suburban holding.

Suburban holding application, how made and dealt with.

No. 6, 1912, ss. 13, 14, 15, and 36.

No. 53, 1912, s. 32.

The application shall be made and lodged in the prescribed manner, and shall be accompanied by one half-year's rent in advance and a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section.

The applicant shall, upon the day appointed, satisfy the local land board that he is qualified to apply, and that the application has been made in accordance with the provisions of this Act. The local land board shall confirm the application if so satisfied, unless it permits the applicant to withdraw the same. The local land board shall disallow the application if not so satisfied, and in any such case shall have power to declare that the moneys, or any portion thereof, lodged with the application shall be forfeited to the Crown, and the same shall be forfeited accordingly.

(2) Where the block is measured after the same has been applied for as a suburban holding, any roads deemed to be necessary may be reserved or excluded in the measurement, and any necessary adjustment as to the area or rent shall thereafter be made: Provided also that before or after the confirmation of an application for a suburban holding the Minister may make any minor variation of the design or survey thereof, so as to enable a better boundary to be secured for fencing or other purposes.

(3) The value to an incoming tenant of any improvements on a suburban holding which are not the property of the Crown shall be determined by the local land board, and such determination shall, as between the person entitled to receive payment for such improvements and any lessee of the suburban holding, be conclusive evidence of the value of the improvements at the date of such determination:

*Crown Lands Consolidation Act, 1913.*

determination: Provided that where the applicant for the suburban holding and such person have agreed as to payment for such improvements no determination by the local land board shall be necessary.

*Residence on suburban holdings.*

Suburban holding:  
condition of  
residence.  
No. 6, 1912, s. 16.

**126.** A condition of residence on a suburban holding shall attach thereto in perpetuity, and shall be performed by the holder thereof for the time being, and residence shall commence within six months after the confirmation of the application.

*Rent for suburban holdings.*

Suburban holding:  
rent and periods.  
*Ibid.* s. 13.  
No. 53, 1912, s. 32.

**127.** The annual rent for a suburban holding—to be paid half-yearly in advance—shall be two and one-half per centum of the capital value of the suburban holding for each and every period of the lease: Provided that the annual rent during any period shall not be less than one pound.

The first period of the lease shall determine at the expiration of twenty years after the date of the application for the suburban holding, and the second and all succeeding periods shall be each of twenty years, each of such periods commencing at the expiration of the last preceding period.

The capital value of the suburban holding for the first period shall be the capital value as notified by the Minister in the Gazette.

The capital value of the suburban holding for the second and every succeeding period shall be determined by the local land board, irrespective of any improvements on the holding effected or owned by the holder thereof, but any improvements which are the property of the Crown shall be taken into account.

*Issue of perpetual lease grants for suburban holdings.*

Suburban holding:  
inquiry by board  
and issue of grant.  
No. 6, 1912,  
ss. 13 and 17.  
No. 53, 1912, s. 32.

**128.** (1) The title to a suburban holding shall be a lease in perpetuity.

(2) After the expiration of five years after the confirmation of the application for a suburban holding, the local land board shall hold an inquiry whether all conditions attaching to the suburban holding have so far been duly complied with; and if it be found by the local land board that all such conditions have so far been duly complied with, the Governor shall issue a grant in the prescribed form of the suburban holding to the lessee his heirs and assigns for ever, such grant being made subject to the conditions attaching to such suburban holding.

*Restrictions*

## Act No. 7, 1913.

117

*Crown Lands Consolidation Act, 1913.**Restrictions upon right to hold suburban holdings.*

**129.** (1) A person not qualified to apply for a suburban holding shall not be competent to hold a suburban holding except in the case where such suburban holding has devolved upon him under the will or intestacy of a deceased holder, in which case the provisions of section two hundred and sixty-nine shall apply.

Suburban holding :  
who may hold.  
No. 6, 1912, ss. 13  
14, and 36.

(2) It shall not be lawful for any person to acquire or hold, except as mortgagee, more than one suburban holding; but this provision shall not be taken to affect the operation of subsection two of section two hundred and seventy hereof.

*Subdivision for Crown-leases.*

**130.** Where a classified area is set apart under and subject to the provisions of section eighty-five hereof for disposal by way of Crown-leases (either for agriculture or for grazing, or for agriculture and grazing), such area shall be dealt with as follows :—

Crown-lease areas.  
No. 6, 1912, s. 18.  
No. 53, 1912, s. 32.

- (1) A subdivision thereof shall be made into blocks of such areas as the Minister may determine; the land may be made available before the blocks are measured, and in such case the blocks shall be taken according to the published plan or design thereof.
- (2) The capital value of each block for the first period of the lease shall be fixed by the Minister according to the capabilities and situation of the land the value to an incoming tenant of any improvements thereon which are the property of the Crown the timber on such land and means of access thereto.
- (3) The Minister shall notify in the Gazette particulars of the said blocks and of their respective areas capital values and rents, and of the estimated values of any improvements thereon which are not the property of the Crown, and shall specify a date on and after which leases of the said blocks may be applied for.
- (4) The Minister shall also notify in the Gazette what special conditions as to improvements cultivation and preservation or planting of timber and such other matters as require to be regulated in the public interest shall attach to the Crown-leases; and if any Crown-lease be not convertible (as hereinafter provided) into a homestead farm, the Minister shall so state in the notification.

*Applications for Crown-leases.*

**131.** (1) On or after the date notified for that purpose any person who is not subject to any disqualification in that behalf specified in Part VII of this Act may apply to the Crown land agent for any block notified as available as a Crown-lease.

Crown-lease : appli-  
cation, how made  
and dealt with.

The

*Crown Lands Consolidation Act, 1913.*

No. 6, 1912, ss. 19  
and 36.  
No. 53, 1912, s. 32

The application shall be made and lodged in the prescribed manner, and shall be accompanied by one half-year's rent in advance and a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section.

The applicant shall, upon the day appointed, satisfy the local land board that he is qualified to apply, and that the application has been made in accordance with the provisions of this Act. The local land board shall confirm the application if so satisfied, unless it permits the applicant to withdraw the same. The local land board shall disallow the application if not so satisfied, and in any such case shall have power to declare that the moneys, or any portion thereof, lodged with the application shall be forfeited to the Crown, and the same shall be forfeited accordingly.

(2) Where the block is measured after the same has been applied for as a Crown-lease, any roads deemed to be necessary may be reserved or excluded in the measurement, and any necessary adjustment as to the area or rent shall thereafter be made: Provided also that before or after the confirmation of an application for a Crown-lease, the Minister may make any minor variation of the design or survey thereof, so as to enable a better boundary to be secured for fencing or other purposes.

*Determination of value of land and of improvements.*

Capital value of  
land and value of  
improvements :  
determination by  
board.  
No. 6, 1912, s. 18.

**132.** (1) The applicant may within six months after the confirmation of his application apply in the prescribed manner to have the capital value of the Crown-lease determined by the local land board, and on his paying the fee in connection with such application as prescribed such capital value shall be determined accordingly upon the same basis as that provided for fixing the capital value in the first instance.

(2) The value to an incoming tenant of any improvements on a Crown-lease which are not the property of the Crown shall be determined by the local land board, and such determination shall, as between the person entitled to receive payment for such improvements and any lessee, be conclusive evidence of the value of the improvements at the date of such determination: Provided that where the applicant for the Crown-lease and such person have agreed as to payment for such improvements, no determination by the local land board shall be necessary.

*Residence on Crown-leases.*

Crown-lease :  
condition of  
residence.  
No. 6, 1912, s. 20.

**133.** A condition of residence during the whole term of the lease on a Crown-lease shall attach thereto, and shall be performed by the holder thereof for the time being, and residence shall commence within

*Crown Lands Consolidation Act, 1913.*

within six months after the confirmation of the application; but in certain circumstances, as provided in section one hundred and seventy-eight hereof, the condition of residence may be performed elsewhere.

*Term and rent of Crown-leases.*

**134.** The term of a Crown-lease shall be forty-five years, and shall be divided into three periods each of fifteen years. Crown-lease : rent term and periods. No. 6, 1912, s. 18.

The capital value of the Crown-lease for the first period of the term shall be the capital value as notified by the Minister in the Gazette, or determined by the local land board as hereinbefore provided.

The capital value of the Crown-lease for the second and third periods of the term respectively shall be determined by the local land board irrespective of any improvements effected or owned by the lessee, but any improvements which are the property of the Crown shall be taken into account.

The annual rent—to be paid half-yearly in advance—shall for each period of the term be one and one-quarter per centum of the capital value of the Crown-lease for that period: Provided that the annual rent payable during any period shall not be less than one pound, and that the rent payable for the first year of the term shall be remitted if the lessee during such year expends a sum not less than the rent for that year in improving the land, the improvements so effected being in addition to those which may be otherwise required by the conditions as to improvements or expenditure attaching to the lease.

*Conversion of Crown-leases into homestead farms.*

**135.** During the last five years of the term of the lease the holder of any Crown-lease may, with the approval of the Minister, convert so much thereof, as will not in the opinion of the local land board exceed a home maintenance area, into a homestead farm: Crown lease : conversion into homestead farm. Ibid. s. 21. Provided that such conversion shall not be allowed in any case where it was so stated in the notification setting apart the land.

*Subdivision of Crown-leases.*

**136.** The holder of any Crown-lease may, with the approval of the Minister, subdivide his holding for the purpose of transferring portions thereof to any of his sons who are above the age of sixteen years and otherwise qualified to apply for a Crown-lease. Crown-lease : subdivision. Ibid. s. 27

The Minister before approving of any such subdivision shall be satisfied that it will not interfere with or prejudice the ultimate fixing of home maintenance areas in connection with the exercise of the lessee's right of conversion into a homestead farm, and that it is not otherwise objectionable.

Part VI.

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Act No. 7, 1913.

*Crown Lands Consolidation Act, 1913.*

PART VI.

IRRIGATION AREAS.

*Operation of this Part.*

Irrigation areas :  
lands to be disposed  
of under this Part.

No. 6, 1912, ss. 2  
and 23.

No. 73, 1912, ss. 3  
and 6.

**137.** Where by proclamation of the Governor published in the Gazette any specified area of land of the Crown has been or shall be constituted an irrigation area the enactments contained in this Part shall be or become, as the case may be, applicable to such irrigation area, and lands within such irrigation area shall be disposed of subject to the terms and conditions provided in this Part in addition to the particulars and provisions contained in the proclamation constituting the irrigation area.

*Special land board.*

Special land board  
for irrigation area.

No. 6, 1912, s. 29.

No. 73, 1912, s. 8.

**138.** The Governor may under and subject to the provisions of section eight hereof define the boundaries of a land district as being coincident with the boundaries of an irrigation area, and may also, for the purposes of the provisions of this Act relating to holdings within an irrigation area, constitute a special land board which shall within such district have the powers and duties of a local land board.

The Commissioner may also delegate to such special land board all or any of his powers under the provisions of the Crown Lands Acts.

*Subdivision of irrigation areas.*

Irrigation area :  
how dealt with.

No. 6, 1912, s. 23.

**139.** Where any area is proclaimed an irrigation area the lands within such area shall be dealt with as follows :—

(1) The lands shall be subdivided into farms or blocks of such areas as may be fixed by the Commissioner, and such farms or blocks shall be classified (as the case may require and permit) into irrigable lands—non-irrigable lands—town lands.

No. 73, 1912, s. 8.

(2) The capital value of each farm or block shall be determined by the Commissioner, due regard being had to the additional value given or to be given thereto by reason of the works constructed or to be constructed for irrigation or other purposes, and to the benefits derived or to be derived therefrom.

(3)

## Act No. 7, 1913.

121

*Crown Lands Consolidation Act, 1913.*

- (3) The Minister shall cause a notification to be published in the Gazette and in a local newspaper giving particulars of—

No. 6, 1912, s. 23.

No. 73, 1912, s. 6.

- (a) the areas capital values rents and qualities of the said farms or blocks, and the values of any improvements thereon which are the property of the Crown other than improvements effected or provided by the Commissioner in pursuance of the Irrigation Act, 1912— and
- (b) the special conditions as to improvements cultivation and preservation or planting of timber and such other matters as require to be regulated in the public interest which shall be conditions attaching to the lease of any such farm or block—

and specifying a date on and after which leases of the said farms or blocks may be applied for.

- (4) Any notification under the last preceding subsection may be corrected amended modified or revoked, whether as to the whole or any part thereof, by notification in the Gazette.
- (5) Notwithstanding anything to the contrary in this Act, or the Mining Act, 1906, or the Forestry Act, 1909, any notification under subsection three of this section shall have the effect of revoking any reserves, or parts of reserves, or population areas within the boundaries of the tract which is the subject of the notification, unless the contrary is expressly declared by the terms of the notification. Such revocation shall take immediate effect on the expiration of the day next preceding the day upon which the farms or blocks become available in pursuance of the notification: Provided that the revocation of any reserve for mining or mining purposes or any timber reserve shall not be so effected unless in the case of a reserve for mining or mining purposes the consent thereto of the Secretary for Mines or in the case of a timber reserve of the Secretary for Agriculture has been obtained.

No. 30, 1908, s. 29.

No. 6, 1912, s. 36.

No. 53, 1912, s. 31.

Such notification as aforesaid shall also have the effect of revoking any previous notification of the like nature affecting the same land unless the contrary is expressly declared by the terms of the notification.

No. 6, 1910, s. 9.

- (6) The provisions of this section shall extend to any irrigation area constituted before the passing of this Act if and so far as the lands comprised within such area have not been dealt with in a manner analogous to that provided by this section.

*Applications*



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*Crown Lands Consolidation Act, 1913.*

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*Applications for irrigation farms or blocks.*

Irrigation farm :  
application, how  
made.  
No. 6, 1912, ss. 23,  
26, and 36.  
No. 53, 1912, ss. 8  
and 9.  
No. 73, 1912, s. 8.

**140.** On or after the date notified for that purpose any person who is not incompetent by reason of his or her age or of her marriage, as provided in Part VII of this Act, and who is not subject to the disqualification specified hereunder—or two or more of such persons jointly—may apply to the Commissioner for any irrigation farm or block notified for disposal as such.

The application shall be made and lodged in the prescribed manner, and shall be accompanied by—

- (a) a deposit as prescribed—
- (b) a survey fee or instalment thereof in accordance with the provisions of section one hundred and sixty-one hereof, except where otherwise provided in the said section—and
- (c) an instalment of one-tenth of the value as notified of improvements which are the property of the Crown.

The fact that a person is the holder of irrigable land shall disqualify him from being an applicant for an irrigation farm or block.

*Dealing with applications.*

Irrigation farm :  
application, how  
dealt with.  
No. 6, 1912, s. 23.  
No. 73, 1912, s. 8.

**141.** Applications for irrigation farms or blocks shall be dealt with in the prescribed manner. The granting of any such application shall be entirely at the discretion of the Commissioner, who may give preference to any applicant, or to groups of applicants, or to an applicant who does not hold any land.

Where simultaneous applications are deemed to have equal claims to priority, the order of their priority may be determined in the manner provided by section one hundred and fifty-three hereof.

*Residence on irrigation farms or blocks.*

Irrigation farm :  
condition of  
residence.  
No. 6, 1912, s. 25.  
No. 73, 1912, s. 8.

**142.** A condition of residence on an irrigation farm or block shall attach thereto in perpetuity, and shall be performed by the holder thereof for the time being, and residence shall commence within six months after the granting of the application: Provided that such condition may be suspended in any case for such term and on such conditions as in the circumstances may to the Commissioner seem warranted, and that where any irrigation farm or block is held jointly, the residence condition may, with the consent of the Commissioner, be performed by any one or more of the joint holders.

No. 53, 1912, s. 14.

Notwithstanding anything to the contrary in this Act, residence for the purposes of this section shall consist in the holder of the farm or block having his principal place of abode thereon.

*Rent*

## Act No. 7, 1913.

123

*Crown Lands Consolidation Act, 1913.**Rent for irrigation farms or blocks.*

**143.** The annual rent for an irrigation farm or block—to be paid half-yearly in advance—shall be two and one-half per centum of the capital value of the farm or block for each and every period of the lease: Provided that a date other than the granting of the application may be notified to the applicant as the date from which the rent for the first year is to commence, and that the power of the Commissioner to suspend under and subject to the provisions of section nineteen of the Irrigation Act, 1912, the payment of any part of the rent shall not be affected by anything contained in this section.

Irrigation farms:  
rent and periods.  
No. 6, 1912, s. 24.  
No. 73, 1912, s. 8.

The first period of the lease shall expire twenty-five years after the date of the granting of the application for the farm or block, and the second and all succeeding periods shall be each of twenty years, each of such periods commencing at the expiration of the last preceding period.

The capital value of the irrigation farm or block for the first period shall be the capital value as notified in the Gazette in pursuance of the provisions hereinbefore contained.

The capital value of the irrigation farm or block for the second and every succeeding period shall be determined by the special land board on the same basis as that provided for fixing the capital value in the first instance, but irrespective of any improvements effected or owned by the lessee.

*Issue of perpetual lease grants for irrigation farms or blocks.*

**144.** (1) The title to an irrigation farm or block shall be a lease in perpetuity.

Irrigation farm:  
issue of grant.

(2) After the expiration of five years after the granting of the application for an irrigation farm or block, if the Commissioner be satisfied that all the conditions attaching to the farm or block have so far been duly complied with, the Governor shall issue a grant in the prescribed form of the irrigation farm or block to the lessee his heirs and assigns for ever, such grant being made subject to the conditions attaching to the farm or block.

No. 6, 1912, ss. 23  
and 24.  
No. 53, 1912, s. 32.  
No. 73, 1912, s. 8.

(3) The perpetual lease grant shall contain provisions for the payment of rent and performance of residence as respectively required by this Act, and shall also contain such other provisions covenants and reservations as may be deemed desirable in the public interest: Provided that the same have been duly notified in the Gazette as hereinbefore provided.

*Town lands blocks.*

**145.** (1) Where town lands blocks within an irrigation area have been notified for disposal as such, any person who is not incompetent by reason of his or her age or her marriage, as provided in

Town lands blocks.  
No. 6, 1912, s. 27.  
No. 53, 1912, s. 32.  
No. 73, 1912, ss. 8.  
Part and 21.

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*Crown Lands Consolidation Act, 1913.*

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Part VII of this Act, shall be qualified to apply for a town lands block; and the provisions of this Act relating to the making and dealing with applications for irrigation farms shall be extended so as to govern applications for town lands blocks.

The title to a town lands block shall be a lease in perpetuity, which shall be subject to the same terms and conditions as the lease of an irrigation farm, except that—

- (a) the annual rent during any period shall not be less than one pound—
- (b) the lease shall be subject to such building and other conditions as the Commissioner may deem desirable—
- (c) the condition of residence may, with or without conditions, be waived or suspended by the Commissioner—and
- (d) three adjoining blocks for the purpose of residence, or four adjoining blocks for business purposes, and no more, may be held by any one person, or in his interest.

The provisions of this Act as to the issue of the perpetual lease grant of an irrigation farm shall apply *mutatis mutandis* to the issue of the perpetual lease grant of a town lands block.

(2) Town lands blocks may also be sold by auction. The provisions of this Act relating to the making and dealing with applications for town lands blocks in other cases, and to the terms and conditions required to be performed before the issue of perpetual lease grants in respect thereof, shall not be taken to extend to town lands blocks so sold.

*Non-irrigable lands.*

Non-irrigable lands.  
No. 6, 1912, s. 28.  
No. 53, 1912, s. 32.  
No. 73, 1912, s. 8.

**146.** Where blocks of non-irrigable land within an irrigation area have been notified for disposal as such, any person who is not incompetent by reason of his or her age or her marriage, as provided in Part VII of this Act, shall be qualified to apply for a block of non-irrigable land, and the provisions of this Act relating to the making and dealing with applications for irrigation farms shall be extended so as to govern applications for blocks of non-irrigable land.

With the concurrence of the Commissioner two or more blocks may be jointly leased for the common use and benefit of a number of lessees.

Leases of blocks of non-irrigable land shall be upon the following terms and conditions, that is to say—

- (1) The lease shall be in perpetuity, or for such term as may be determined by the Commissioner.

(2)

## Act No. 7, 1913.

125

*Crown Lands Consolidation Act, 1913.*

- (2) The lease shall contain such conditions covenants and reservations as the Commissioner may deem desirable in the public interest: Provided that the same have been duly notified in the Gazette as hereinbefore provided.
- (3) The annual rent for the first twenty-five years of the lease shall be at the rate of two and one-half per centum of the capital value of the block as notified in the Gazette.

The annual rent for each period of twenty years after the expiration of the first twenty-five years of the lease shall be two and one-half per centum of the capital value, which shall for each such period be determined by the special land board on the same basis as that provided for fixing the capital value in the first instance, but irrespective of any improvements effected or owned by the lessee.

The provisions of this Act as to the issue of the perpetual lease grant of an irrigation farm shall mutatis mutandis apply in any case where the lease of a block of non-irrigable land is in perpetuity.

*Forfeiture for non-performance of conditions.*

**147.** The Commissioner shall cause to be reported to the chairman of the special land board any non-performance or breach of the conditions attaching to a lease within an irrigation area, and thereupon the board shall proceed to inquire into the matter. If the special land board after due inquiry finds that any of the conditions attaching to a lease within an irrigation area have not been or are not being duly performed by the lessee or his representatives, and so reports to the Commissioner, it shall be lawful for the Commissioner by notification in the Gazette to declare the lease together with all improvements on the land leased to be forfeited, and the same shall be forfeited accordingly.

Lease within  
irrigation area  
forfeiture.  
No. 6, 1912, s. 30.  
No. 73, 1912, s. 8.

Nothing in this section shall be taken to affect the power of the Commissioner to take possession under and subject to the provisions of section sixteen of the Irrigation Act, 1912, of any holding which has been abandoned or in respect of which charges for water or any interest thereon have been unpaid for four years.

**PART VII.**

PROVISIONS COMPLEMENTARY TO PARTS IV, V, AND VI, SO FAR AS  
RELATING TO THE ACQUISITION OF HOLDINGS, &c.

**Division 1.**—APPLICATIONS FOR HOLDINGS—*sections 148–154.*

**Division 2.**—COMPETENCY OF APPLICANTS—*sections 155–160.*

**Division 3.**—PAYMENT OF SURVEY FEE AND FOR IMPROVEMENTS  
BY APPLICANTS—*sections 161–2.*

**Division 1.**

APPLICATIONS FOR HOLDINGS—*sections 148–154.*

*Applications pending at the passing of this Act.*

Pending applications.

**148.** Applications for holdings made before and pending at the date of the passing of this Act shall (except as to matters upon which the validity or otherwise of the application may depend) be dealt with as if they had been made after such date; and holdings acquired in pursuance of such applications shall (except as to the matters aforesaid) be governed by the provisions of this Act, as if they had been applied for after such date.

*Amendment of applications.*

Informal applica-  
tions for holdings,  
how rectified.

53 Vic. No. 21, s. 14

No. 30, 1908, s. 42.

No. 53, 1912, s. 26.

**149.** No error uncertainty misdescription or omission in or from any application for any holding whatever under the Crown Lands Acts, or in or from any declaration made in connection with any such application, shall invalidate the application in any case where the local land board is satisfied that such error uncertainty misdescription or omission was not wilful, and made with intent to deceive. The local land board shall have full power to authorize the correction of any error or omission in or from any application or declaration, so as to bring the same into conformity with the statutory requirements.

Where a declaration or consent required by the Crown Lands Acts has not been lodged, the local land board may permit such omission if not wilful to be supplied, and the required declaration or consent to be furnished.

This section shall extend to applications made before and pending at the passing of this Act.

*Applications to give title in certain cases.*

In what cases appli-  
cations give title.

**150.** The title to any holding within a classified area or to a conditional purchase conditional lease or additional conditional purchase lease not within a classified area shall commence from the  
date

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date of the application therefor, if valid, and any such application shall withdraw such of the lands therein described as may be available for the purpose from any annual lease or occupation license under which they may be held :

Provided that any allotted lands which are not described in the application, as originally made, for a conditional purchase or conditional lease shall for the purpose of the foregoing provision as to withdrawal be deemed to have been applied for on the date of the confirmation of the application.

If the land allotted in satisfaction of an application for a holding of a kind referred to or specified in this section (except a homestead selection or settlement lease) be of a less area than or in a different position from the land applied for, such of the land described as may not be allotted—or if the application be disallowed or withdrawn, the whole of the land described therein—shall revert at the confirmation or disallowance of the application or approval of its withdrawal, as the case may be, to the annual lease or occupation license.

The Crown land agent shall within one week after the receipt of an application for a holding of a kind referred to or specified in this section notify the same through the post to the holder of any annual lease or occupation license within which the land applied for, or any part thereof, may be situated.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas.

*Application not to bar subsequent applications.*

**151.** On the withdrawal refusal or modification of any application for a holding within a classified area or for a conditional purchase conditional lease or additional conditional purchase lease not within a classified area the land ceasing to be affected thereby shall be held to have been available as from the date of such application, and any other application made and not disposed of before such withdrawal refusal or modification as aforesaid shall be dealt with as if the prior application had not been made.

It shall be immaterial for the purposes of this section whether any application therein referred to was lodged before or after the passing of this Act.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas.

*Withdrawal of applications.*

**152.** (1) If an application (whether lodged before or after the passing of this Act) for a conditional purchase conditional lease homestead farm suburban holding or Crown-lease is not confirmed within

59 Vic. No. 21, ss. 12, 13, and 19.

59 Vic. No. 26, s. 2. No. 42, 1905, s. 16.

No. 30, 1908, s. 20.

No. 6, 1912, ss. 8, 15, and 36.

No. 53, 1912, s. 26.

Successive applications.

53 Vic. No. 21, s. 15.

No. 53, 1912, s. 13.

No. 6, 1912, s. 36.

When applications may be withdrawn.

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53 Vic. No. 21, s. 15. within six months after the date of such application, the applicant  
No. 6, 1912, s. 36. shall, on giving within one month after the expiration of such  
six months the prescribed notice of withdrawal to the chairman,  
be entitled to withdraw the application and to receive a refund of  
moneys paid by him in respect thereof, unless the local land board  
shall be of opinion that the application was not made in good faith,  
or that the applicant improperly caused or contributed to the delay.

Where an application for any such holding as aforesaid  
cannot be confirmed except subject to modification, or where other  
sufficient reason may in the opinion of the local land board exist,  
the applicant may before, or within twenty-eight days after, the  
confirmation thereof withdraw the application, subject to the approval  
of such board:

Provided that in any case of withdrawal under this subsection  
the local land board may deduct from the moneys lodged with the  
application such amount as may be deemed necessary to defray the  
cost of survey and of dealing with the application.

No. 6, 1912, s. 36. (2) Subject to the provisions of Part VI of this Act,  
the provisions of the last preceding subsection shall mutatis mutandis  
apply to leases within irrigation areas.

No. 38, 1898, s. 2. (3) Where the value, as determined by the local land  
board, of the improvements on a homestead selection or settlement  
lease is at least twenty per centum higher than their estimated value  
as notified in the Gazette, the local land board may allow the incoming  
selector or lessee, upon application within the prescribed time, to  
withdraw his application for the homestead selection or settlement lease,  
and to obtain a refund of any moneys paid in connection therewith.

*Conflicting applications.*

Simultaneous  
conflicting  
applications.

No. 42, 1905, s. 28.

No. 30, 1908, s. 42.

**153.** Subject to regulations which may be made hereunder—

- (a) the order of priority of conflicting applications for holdings—  
other than those for additional holdings within areas set  
apart under section eighty-five hereof—made tendered or  
lodged to or with the Crown land agent simultaneously  
shall be determined by the local land board; and where in  
the opinion of the local land board any such applications  
have equal claims to priority, the order of their priority shall  
be determined by ballot. The local land board may impose  
a penalty on the withdrawal or disallowance of any appli-  
cation by retaining the whole or such portion of the deposit  
money as may, after due inquiry, seem justifiable, and may  
at its discretion disqualify such applicant from making any  
fresh application for such period as it may determine—

(b)

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- (b) conflicting applications shall be dealt with by the local land board in the order of their priority as determined in accordance with this section—
- (c) applications for conditional purchases and conditional leases of the same series shall, for the purposes of any ballot, be deemed to form together a single application for the whole of the land comprised within the said applications taken conjointly—
- (d) no determination of the order of priority, or decision of the local land board as to whether an applicant is or is not entitled to be included in a ballot to determine priority, shall be the subject of an appeal to the Land Appeal Court.

*Good faith required of applicants.*

**154.** Every application for a holding within a classified area or for a conditional purchase conditional lease or additional conditional purchase lease not within a classified area is hereby required to be made in good faith; and an application shall be taken to be made in good faith when the sole object of the applicant in making the application is to obtain the land or a lease thereof, as the case may be, in order that he may hold and use the land for his own exclusive benefit.

Applications to be made in good faith.  
58 Vic. No. 18, s. 42.  
No. 15, 1903, s. 16.  
No. 42, 1905, s. 29.  
No. 6, 1912, ss. 5, 15, 19, and 36.  
No. 53, 1912, s. 27.

The local land board in dealing with an application for any such holding as is hereinbefore referred to or specified shall disallow the same unless it is satisfied that the application is made in good faith; but the local land board shall not disallow any application as not having been made in good faith merely because the applicant has been or is to be assisted financially in connection with such holding by a parent of such applicant, and shall not disallow an application for an additional conditional purchase or for a conditional lease as not having been made in good faith merely because the original conditional purchase is subject to a mortgage.

Where the local land board in dealing with an application for any such holding as aforesaid other than a homestead farm suburban holding or Crown-lease is satisfied that the same has been made otherwise than in good faith, it shall have power to declare that any moneys lodged with such application shall be forfeited to the Crown, and the same shall be forfeited accordingly.

Where the local land board in dealing with an application for a homestead farm suburban holding or Crown-lease is not satisfied that the same has been made in good faith, it shall have power to declare that any moneys lodged with such application or any portion of such moneys shall be forfeited to the Crown, and the same shall be forfeited accordingly.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas.



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**Division 2.**

**COMPETENCY OF APPLICANTS—sections 155-160.**

*Age of applicants.*

Minimum age of applicants.

**155.** Such of the provisions contained in section two hundred and thirty-nine hereof as relate to the incompetency of minors in certain cases to apply for purchases homestead selections or leases of Crown lands shall be deemed to be incorporated and specified in this Part.

*Aliens.*

Aliens: right to apply, how qualified.

**156.** Such of the provisions contained in section two hundred and forty-one hereof as relate to the incompetency of aliens in certain cases to apply for original conditional purchases original homestead selections original settlement leases original conditional purchase leases or original special conditional purchase leases shall be deemed to be incorporated and specified in this Part.

*Disqualification by reason of previous acquisition of Crown lands.*

Disqualification by having previously selected.  
58 Vic. No. 18, s. 40.  
No. 42, 1905, s. 29.  
No. 30, 1908, s. 42.  
No. 6, 1912, s. 36.

**157.** (1) No person who on or after the first day of June, one thousand eight hundred and ninety-five, or after the passing of this Act, as the case may be, has applied for any holding within a classified area (not being an additional holding) or for an original conditional purchase not within a classified area or for an original homestead lease, and has obtained a title thereto in pursuance of such application, shall be qualified to apply for another holding of a kind hereinbefore referred to or specified whether of the same kind as, or of a different kind from, the holding first applied for, unless he has previously obtained a certificate as prescribed that he was compelled by adverse circumstances to abandon or to surrender the holding first applied for.

No. 70, 1901, s. 2

For the purposes of this section, title in pursuance of an application shall be taken to have been obtained—in the case of a holding within a classified area or of a conditional purchase not within a classified area—when the application has been confirmed by the local land board—and in the case of a homestead lease when the approval of the issue of the lease was notified in the Gazette, and a valid notice of non-acceptance was not duly given:

Provided always that—

- (a) notwithstanding the non-obtaining of such certificate in respect of any holding of a kind hereinbefore referred to or specified, any person may, with the approval of the Minister in writing previously had, exercise any right conferred by this Act—

(b)

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- (b) if the holding first applied for were a settlement lease homestead lease or Crown-lease, the disqualification enacted by this section shall cease to operate upon the expiration of the term of the lease by effluxion of time, or—if the lease have been forfeited surrendered or otherwise sooner terminated—then upon the expiration of the period which the term of the lease would have had to run, but for such forfeiture surrender or other sooner termination—and
- (c) the holder of any homestead lease who has complied with the condition of residence thereon may, notwithstanding anything to the contrary hereinbefore contained, apply for and acquire a conditional purchase conditional lease settlement lease or homestead selection in the Eastern or Central Division. No. 70, 1901, s. 35.

(2) Any person who before or after the passing of this Act has applied for a settlement purchase under the Closer Settlement Act, 1904, or any Act amending the same, and who has obtained a title thereto, shall not be qualified to apply for any holding of a kind hereinbefore referred to or specified unless he has previously obtained a certificate as prescribed that he was compelled by adverse circumstances to abandon or surrender the settlement purchase. No. 30, 1908, s. 42.

(3) Nothing in this section shall be taken to refer to an application for the conversion of any holding (other than a special lease or an agricultural or pastoral lease granted under the Church and School Lands Dedication Act, 1886) into a holding of a kind hereinbefore referred to or specified. No. 30, 1908, s. 11.

(4) Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas. No. 6, 1912, s. 36.

*Disqualification by reason of ownership of land.*

**153.** (1) No person shall be competent to apply for an original conditional purchase original homestead selection original settlement lease original conditional purchase lease or original special conditional purchase lease who— Disqualification by ownership of land. 58 Vic. No. 18, s. 41. No. 42, 1905, s. 29. No. 30, 1908, s. 42. No. 53, 1912, s. 27. No. 70, 1901, s. 2.

- (a) at the date of application owns or holds under any tenure (other than a lease having less than five years to run, unless such lease confers a right or power to purchase the freehold, which right or power may still be exercised)—or

- (b) owned or held under any tenure (other than as aforesaid) at any time previous to the date of application, and divested himself of the ownership thereof by transfer conveyance assignment or otherwise, or purported so to do, in order to evade the foregoing provision—

an area of land, which area, when added to the area of the holding proposed to be applied for, would exceed the maximum area prescribed by this Act for the kind of holding applied for. For

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For the purposes of the foregoing provision, the maximum area prescribed for a conditional purchase lease shall be deemed to be the same as that prescribed for an ordinary conditional purchase, or to be the area of the block applied for if it exceeds such maximum area.

No. 6, 1912, ss. 4  
and 19.  
No. 53, 1912, s. 32.

(2) No person shall be competent to apply for a homestead farm or Crown-lease who—

(a) owns or holds under any tenure (other than a lease having less than five years to run, unless such lease confers a right or power to purchase the freehold, which right or power may still be exercised)—or

(b) owned or held under any tenure (other than as aforesaid), and divested himself of the ownership thereof, or purported so to do, in order to evade the foregoing provision—

an area of land (except town or suburban land or land within population boundaries the value of which irrespective of improvements does not exceed one hundred pounds) which area—when added to the area of the homestead farm or Crown-lease proposed to be applied for—would in the opinion of the local land board substantially exceed a home maintenance area: Provided always that a person shall cease to be affected by the provisions of paragraph (b) of this subsection if he obtains and lodges with his application a certificate by the Minister that the circumstances under which such person divested himself of the land do not warrant his being disqualified.

No. 6, 1912, s. 14.

(3) No person shall be competent to apply for a suburban holding who is the owner of any land.

*Disqualification by legal disability other than nonage or marriage.*

Disabilities other  
than nonage or  
marriage.  
48 Vic. No. 18, s. 23.  
58 Vic. No. 18, s. 14.  
No. 6, 1912, ss. 4,  
14, and 19.

**159.** A person who is under any legal disability other than nonage or marriage shall be disqualified from applying for a conditional purchase homestead selection homestead farm suburban holding or Crown-lease.

*Married women.*

Married women.

**160.** Such of the provisions contained in section two hundred and thirty-eight hereof as relate to the incompetency of married women in certain cases to apply for purchases homestead selections or leases of Crown lands shall be deemed to be incorporated and specified in this Part.

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## Division 3.

PAYMENT OF SURVEY FEE AND FOR IMPROVEMENTS BY APPLICANTS—  
*sections 161-2.**Survey fee—how payable.*

**161.** The survey fee payable in respect of any holding within a classified area or a conditional purchase conditional lease or additional conditional purchase lease not within a classified area shall be according to the prescribed scale, and shall—unless the applicant or holder desires to pay the fee sooner—be paid in ten equal yearly instalments, with interest at the rate of four per centum per annum on the amount which for the time being is unpaid.

Payment of survey fees.  
No. 30, 1908, ss. 20 and 37.

No. 6, 1912, ss. 5, 15, 19, 23, and 36.  
No. 53, 1912, s. 31.

Payment of the first of such instalments shall be made with the application.

If any instalment is not paid within three months after it becomes due, the holding, together with any moneys paid in respect thereof, shall be liable to be forfeited :

Provided always that an applicant shall not be required to pay a survey fee in respect of any land in connection with which a previous holder had paid such fee, unless a subdivision is necessary, in which case a subdivision fee at the prescribed rate shall accompany the application.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas.

No. 6, 1912, s. 36.

*Improvements not to exempt land from sale, lease, &c.*

**162.** No Crown land shall be exempt from any purchase homestead selection lease or license by reason only that it contains improvements. Where Crown land containing improvements becomes the subject of any purchase homestead selection or lease (except a homestead farm suburban holding or Crown-lease) or license, the incoming tenant shall be liable in respect of such improvements in accordance with the respective provisions in that behalf contained in Division 8 of Part VIII of this Act.

Improvements not to bar applications.

53 Vic. No. 21, s. 44.

58 Vic. No. 18, s. 22.

No. 6, 1912, s. 36.

Where Crown land containing improvements becomes the subject of a homestead farm suburban holding or Crown-lease, the incoming tenant shall be liable in accordance with the said provisions in respect of such of the said improvements as are not the property of the Crown ; but improvements which are the property of the Crown shall be taken into account in fixing or determining the capital value of the land.

No. 6, 1912, ss. 3, 13, and 18.

**PART VIII.**

PROVISIONS COMPLEMENTARY TO PARTS IV, V, AND VI, SO FAR AS RELATING TO HOLDINGS AFTER ACQUISITION, AND ALSO TO PART IX, &c.

**Division 1.**—ADDITIONS TO HOLDINGS—*sections 163-5.*

**Division 2.**—APPRAISEMENTS—*sections 166-173.*

**Division 3.**—CONDITIONS ATTACHING TO HOLDINGS—PROVISIONS ANCILLARY TO PERFORMANCE—*sections 174-182.*

**Division 4.**—CONVERSION OF HOLDINGS (OTHER THAN CONDITIONAL LEASES, ANNUAL LEASES, RESIDENTIAL LEASES, CONDITIONAL PURCHASE LEASES, AND SPECIAL CONDITIONAL PURCHASE LEASES) INTO OTHER HOLDINGS—*sections 183-194.*

**Division 5.**—EXCHANGES AND PURCHASES BY THE CROWN—*sections 195-8.*

**Division 6.**—FENCING—*sections 199-203.*

**Division 7.**—FORFEITURES—*sections 204-212.*

**Division 8.**—IMPROVEMENTS—PAYMENT, OWNERSHIP, TENANT-RIGHT, &c.—*sections 213-225.*

**Division 9.**—LEASES AND LICENSES—GENERAL AND MISCELLANEOUS PROVISIONS—*sections 226-233.*

**Division 10.**—LEGAL PROVISIONS—EVIDENCE—PROCEDURE—*sections 234-255.*

**Division 11.**—RESUMPTIONS—*section 256.*

**Division 12.**—SUBDIVISION OF HOLDINGS—*sections 257-8.*

**Division 13.**—TRANSFER—TRANSMISSION AND DEVOLUTION OF TITLE—RESTRICTIONS AS TO PERSONS WHO MAY TAKE—*sections 259-274.*

**Division 14.**—VARIOUS PROVISIONS—*sections 275-280.*

**Division 1.**

ADDITIONS TO HOLDINGS—*sections 163-5.*

*Addition to conditional purchase or homestead selection.*

Addition to  
conditional purchase  
or homestead  
selection.

**163.** Where a measured portion is wholly or in part the subject of a conditional purchase or homestead selection, and a strip or parcel of Crown land is within or adjoins the external boundaries of such measured portion and has not been included in the conditional purchase

or

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or homestead selection and is available to be added thereto, then and in any such case, such strip or parcel of Crown land may, with the consent of the holder and the approval of the Minister given on the recommendation of the local land board, be added to such conditional purchase or homestead selection, notwithstanding that the area of such conditional purchase or homestead selection may thereby be increased beyond the maximum prescribed by the Crown Lands Acts, and the grant of the conditional purchase or homestead selection, when issued, shall include such added land.

Payment for the added land shall be made at the same rate as for the conditional purchase or homestead selection, or at the rate determined by the local land board on reference by the Minister.

Where the grant in respect of any conditional purchase or homestead selection has been issued (whether before or after the passing of this Act) all such additions as might have been made if such grant had not been issued may in the like manner be made: Provided that in any such case the grant or certificate of title shall be surrendered, and any instruments necessary to effectuate the surrender shall be executed before any such addition is made.

*Addition to lease or license.*

**164.** Where vacant Crown land is within, or adjoins, or is adjacent to the external boundaries of any lease or license, and the lessee or licensee desires that such land or part thereof should be included under his lease or license, and the local land board reports that in its opinion the land in question should not be otherwise disposed of, the Minister may, by notice in the Gazette, and subject to such conditions as to him may seem fit, include such land under the lease or license, notwithstanding that the total area included under the lease may thereby be increased beyond the maximum prescribed by the Crown Lands Acts.

The fact that land is held under annual lease or occupation license shall not prevent it being added to lands held under lease or license, and such addition shall have the effect of withdrawing the land so added from the annual lease or occupation license.

In all cases of additions to leases or licenses under this section the local land board shall determine the rent to be paid for such added land and any improvements thereon, and may recommend conditions to be attached to such land when included under the lease or license.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas, and subject to the provisions in that behalf contained in Part V of this Act, to homestead farms suburban holdings and Crown-leases.

*Reverter*

*Reverter to pastoral or homestead lease or occupation license.*

Reverter to pastoral  
or homestead lease  
or occupation  
license.

53 Vic. No. 21, s. 32.

58 Vic. No. 18,

ss. 22 and 45.

No. 42, 1905, s. 29.

No. 6, 1912, s. 36.

**165.** (1) Upon the forfeiture of any conditional or other purchase or homestead selection (until the grant thereof), or upon the forfeiture surrender or expiration of any conditional or other lease or upon the revocation of any reserve from lease or license situate wholly or in part within the external boundaries of any pastoral or homestead lease or occupation license, the land comprised therein shall (subject to the power of the Minister to reverse such forfeiture, or to cancel or modify such revocation) be added to the land under such lease or license, and be included under such lease or license :

Provided always that—

(a) only so much of the said lands shall be added to the lease or license as is situated within the external boundaries thereof—  
and

(b) nothing in this section shall affect the operation of section two hundred and twenty-eight hereof.

For the purposes of the foregoing provisions, the external boundaries of any pastoral lease or occupation license are hereby declared to be so much of the external boundaries of the pastoral holding duly defined under authority or recognized by the Lands Department as together with the dividing line determined under section seventy-six of the Crown Lands Act of 1884 form the ambit within which the pastoral lease or occupation license is situated.

(2) Where any reserve from sale or lease or license or reserve from conditional sale or population area or special area or homestead selection area or settlement lease area or suburban lands or goldfield is or are held under pastoral or homestead lease or occupation license, as the case may be, and upon the forfeiture or surrender of any conditional or other purchase or homestead selection (until the grant thereof), or the forfeiture surrender or expiration of any conditional or other lease, any lands are added to the lands so reserved or set apart as aforesaid in pursuance of section thirty-three hereof, the lands so added shall be also included under the lease or license.

(3) Where under the provisions of this section any lands have been included under any lease or license, the rent or license fee payable for such lands if unimproved shall be at the same rate per acre as for the rest of the land held under the lease or license ; and in respect of any land which contains improvements the rent or license fee shall be determined by the local land board. Upon default in the payment within the prescribed time of any sums due as aforesaid the lease or license of the whole area shall be liable to be forfeited.

(4) Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas which are forfeited or surrendered or which expire, but not to leases within such areas of which the Commissioner takes possession in pursuance of section sixteen of the Irrigation Act, 1912.

**Division**

*Ibid.*

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## Division 2.

APPRAISEMENTS—*sections 166–173.**Appraisements—procedure.*

**166.** Whenever any of the Crown Lands Acts contain a provision that any rent license fee price capital value or value is to be determined by the local land board, or is to be as determined by the local land board, or any provision to the like effect, or whenever section six of the Crown Lands Act of 1889 is expressly referred to in any lease homestead grant or other instrument issued under the Crown Lands Acts in connection with the determination of any rent license fee price capital value or value, the rate or the amount, as the case may require, of such rent license fee price capital value or value shall be determined by the local land board in accordance with the provisions of this section:

Appraisements by  
local land boards.  
No. 53, 1912, s. 6.

Provided always that in any case where it is made to appear to the local land board that the parties concerned (which expression shall not be taken to exclude the Crown) have agreed in writing as to any rent license fee price capital value or value, the same shall be determined by the local land board in accordance with such agreement, but such determination shall not prevent an appeal or reference in any case of error or mistake.

Subject to the foregoing provision, any determination of the local land board as to any rent license fee price capital value or value shall be subject to appeal to the Land Appeal Court, and to reference as hereinafter provided by the Minister.

Where the rent of any lease (not being an improvement lease or special lease granted under the Church and School Lands Act, 1897, or settlement lease granted under the said Act the term of which has not been extended under section five of the Crown Lands Act Amendment Act, 1903, or under section three hundred and twenty-three hereof) or any license fee is to be determined, such rent or license fee shall be determined irrespective of the unexhausted value of any then existing improvements effected or owned by the lessee or licensee; and in the foregoing provision the expression "unexhausted value" means the fair cost of making the improvements less any depreciation in value from use or otherwise.

58 Vic. No. 18, s. 53.

Where the rent of an improvement lease or special lease granted under the Church and School Lands Act, 1897, or of a settlement lease granted under the said Act (the term of which has not been extended under section five of the Crown Lands Act Amendment Act, 1903, or under section three hundred and twenty-three hereof) is to be determined, such rent shall be determined irrespective of improvements the property of the holder of such lease.

No. 20, 1897, s. 9.

Where the capital value of any land is to be determined and it is made to appear to the local land board that such value has become reduced

No. 53, 1912, s. 6.

reduced



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reduced by any acts defaults or neglects of the holder thereof, or by his acquiescence in the acts defaults or neglects of any other person, the capital value of such land shall be determined by the local land board as if such reduction in value had not taken place.

The Minister, on behalf of the Crown, may either accept the determination by the local land board of the rate or the amount of any rent license fee price capital value or value, or refer it to the Land Appeal Court with a statement of his reasons for so doing. Any such reference shall be made within one month after receipt of any determination against which an appeal is not made, or if an appeal is made against the determination, then within one month after the receipt of the notice of appeal by the Under-Secretary for Lands. The Land Appeal Court shall both in cases of appeal and reference determine the rate or the amount, as the case may require, of such rent license fee price capital value or value, and the rate or amount so determined shall, subject to the provisions of this Act, be final and conclusive:

Provided, however, that if it shall appear to the Minister that further consideration or inquiry is necessary, he may within one month return the case to the Land Appeal Court for such purpose, and the determination of the Land Appeal Court thereupon shall, subject to the provisions of this Act, be final and conclusive.

Nothing in this section shall be taken to affect any rent license fee price capital value or value the rate or the amount of which has been or shall be duly fixed by auction or tender, or by any method other than is prescribed by the aforesaid section six of the Crown Lands Act of 1889 or this section.

*Applications for determination of capital values of conditional purchases, conditional leases, and homestead selections.*

Conditional purchases, conditional leases, homestead selections : application for appraisalment.

No. 109, 1902, ss. 3, 4, and 5.

No. 30, 1908, s. 42.

No. 6, 1910, s. 9.

**167.** (1) Subject to the provisions hereinafter contained, the capital value of any land held under a conditional purchase or conditional lease or homestead selection shall be determined by the local land board upon application in that behalf.

(2) The application shall not be made in respect of—

- (a) a mining conditional purchase—or
- (b) a conditional purchase being a conversion of a conditional purchase lease or special conditional purchase lease—or
- (c) a conditional purchase the capital value of which has previously been determined by the local land board otherwise than under section thirty-six of the Crown Lands Act of 1895—or
- (d) a conditional lease the capital value of which has previously been determined by the local land board—or
- (e) a homestead selection the capital value of which has previously been determined by the local land board.

(3)

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(3) Subject to the provisions of the last preceding subsection, the application shall in the case of conditional purchases and conditional leases comprise all conditional purchases and conditional leases of the series which are then held by the applicant and may comprise more than one series; and in all cases the application shall be made in the following manner, that is to say:—

- (a) it shall be made in the prescribed form by the holder of the land, and be accompanied by the declaration and fee prescribed—and
- (b) if the land comprised in the application or any part thereof be subject to any mortgage, the consent of the mortgagee in the prescribed form shall accompany the application:

Provided however that an application may be withdrawn by the applicant by leave of the local land board at any time before the commencement of the hearing of the application by such board or with the consent of the Minister at any time thereafter if he be satisfied that the circumstances warrant it.

*Area for which, and circumstances under which, capital values may be determined.*

**168.** Notwithstanding anything hereinbefore contained, an applicant shall not be entitled to have the capital value determined of any area in excess of what is in the opinion of the local land board a home maintenance area, and in dealing with an application by a husband or a wife (where they are not living apart under an order for judicial separation made by a court of competent jurisdiction) the local land board shall, for the purpose of fixing the area as to which the capital value is to be determined, take into account any area of the wife's or the husband's, as the case may be, in respect of which the capital value has already been determined under the Appraisalment Act, 1902, or this Act.

Appraisalment of capital value : where allowed.  
No. 109, 1902, ss. 4, 5, and 7.  
No. 30, 1908, s. 42.

The local land board shall not determine the capital value of any land unless it is satisfied that such land is held bona fide for the sole use and benefit of the applicant, and that he is resident on some part of the holding (as hereinafter defined) of which such land forms part, or is exempted from this requirement of residence under the provisions hereinafter contained: Provided that the local land board may (as hereinafter set forth) excuse the applicant from this requirement of residence.

*Basis to be adopted by the local land board.*

**169.** Subject to the provisions of the last preceding section, the capital value of the land comprised in the application shall be determined by the local land board, such capital value being determined per acre, and as at the date of such application, and irrespective of improvements; and the local land board shall determine the capital value at the nearest multiple of one shilling and eightpence.

Basis of appraisalment.  
No. 109, 1902, s. 7.

*Effect*

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*Effect upon payments for conditional purchases and conditional leases.*

Payments pending  
appraisement and  
after.  
No. 109, 1902, ss. 8  
and 9.  
No. 30, 1908, s. 32.

**170.** (1) In the case of a conditional purchase so much of the total amount paid as has been appropriated to purchase money shall be deducted from the capital value so determined, and any interest, payment of which has been suspended or is in arrear, shall be added to such capital value; and the amount resulting after such deduction and addition as aforesaid have respectively been made shall be taken to be the balance of purchase money due on the conditional purchase as at the date of the determination of capital value:

Provided always that—

- (a) no sums which have been appropriated to interest shall go towards the reduction of the balance of purchase money owing at the date of the determination, or be refunded or set off against any instalments payable after such date—and
- (b) if the total amount which has been appropriated to purchase money exceed the value so determined, such total amount shall be deemed to be the capital value determined in respect of the conditional purchase.

(2) Any instalments of purchase money falling due in respect of a conditional purchase after the lodging with the Crown land agent of the application to have the capital value thereof determined shall be deemed to be payable or shall be payable, as the case may be, at the rate of five per centum of the capital value as so determined and when not a first instalment shall be taken to include the interest at the rate which in each case may be payable on the balance of purchase money: Provided that pending determination of the capital value and subject to an adjustment of accounts thereupon any instalment of purchase money falling due before the determination shall be paid as if no application as aforesaid had been made.

(3) Where payment of any interest on a conditional purchase has been suspended the amount of such interest shall be paid before the Crown grant is issued.

(4) In the case of a conditional lease the capital value determined by the local land board shall be the price at which the land comprised therein or any part of such land shall be convertible into an additional conditional purchase.

*Residence required after reduction of capital value and consequential provisions.*

Provisions applicable  
after appraisement.

**171.** (1) Except as hereinafter is excepted, an applicant who has obtained a reduction of the capital value of any land shall from the date of his application until the expiration of five years thereafter reside

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reside on some part of the holding (as hereinafter defined); but this term of residence shall be reduced by any period not exceeding two and one-half years during which the applicant has immediately before such date resided upon some part of such holding: Provided that upon a bona fide transfer of the holding the aforesaid condition of residence may be performed by the transferee. No. 109, 1902, ss. 10, 12, 13, and 14. No. 30, 1908, s. 42.

(2) If the local land board, after due inquiry, finds that the aforesaid condition of residence has not been performed, or that by any transfer conveyance assignment or otherwise the ownership of any land under conditional purchase or conditional lease has been wrongfully acquired or transferred, or has purported to have been so acquired or transferred, in order to evade the aforesaid condition of residence or any of the provisions of this Division relating to the determination of capital values upon application, every conditional purchase of such land or any part thereof, together with all moneys paid in respect of the same, shall be liable to be forfeited.

(3) The holder of a conditional purchase shall not be entitled to a Crown grant of the land unless and until the local land board, after due inquiry, issues a certificate that the aforesaid condition of residence has been performed, and unless and until all other conditions required to be performed before the issue of such Crown grant have been duly performed.

(4) If any instalment of purchase money or other amount due under the provisions of this Division relating to the determination of capital values upon application is not duly paid in respect of any conditional purchase or conditional lease, the conditional purchase or conditional lease, together with all moneys paid in respect thereof, shall be liable to be forfeited.

(5) The costs incurred by the Crown in dealing with an application as aforesaid shall be paid by the applicant, and if the costs so incurred exceed the amount of the fee lodged with the application the applicant shall pay the difference between such amount and the actual costs incurred; and the Crown grant shall not be issued until payment of the costs has been made: Provided always that the total amount payable as costs shall in no case exceed three pounds.

*Requirement of residence dispensed with in certain cases.*

**172.** The several provisions of this Division, whereby an applicant is required to be resident on some part of his holding at the date of his application to have the capital value of any portion of such holding determined by the local land board, and whereby an applicant who has obtained a reduction of the capital value of any land is required to perform a condition of residence on some part of his holding, shall not apply in the following cases:—

- (1) Where the applicant is the holder of any conditional purchase—  
other than a conditional purchase under section forty-seven  
of

When residence may be dispensed with.  
No. 109, 1902, s. 11.  
No. 30, 1908, s. 42.

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of the Crown Lands Act of 1884 or section fifty-eight hereof—  
or of any conditional lease, and is the original conditional  
purchaser or lessee, or is a person on whom such purchase or  
lease has devolved under the will or intestacy of such original  
purchaser or lessee, and such purchaser lessee or person has  
not transferred such purchase or lease, otherwise than by  
way of bona fide mortgage or security only—and

- (2) Where the holding of the applicant is such as is hereinafter de-  
fined, and the local land board, upon application as prescribed,  
decides that the circumstances of the case warrant the  
applicant being excused from the requirement of residence  
at the date of his application, or from the requirement of  
performing a condition of residence after a reduction of capital  
value has been obtained, as the case may be, and excuses  
him accordingly.

*Definition of "holding," provision as to joint owners, &c.*

Appraisalment of  
capital values :  
miscellaneous  
provisions.  
No. 109, 1902,  
ss. 2 and 6.  
No. 30, 1908, s. 42.

**173.** For the purposes of the provisions of this Division  
relating to the determination of capital values upon application—

- (1) The expression "holding" means any number of portions of  
land held by one person bona fide in his own interest in fee-  
simple, or as conditional purchases or conditional leases of  
the same or of different series, or as a homestead selection,  
such portions being contiguous, or separated only by roads  
or watercourses—and
- (2) Where land is held by two or more persons as joint owners,  
they shall be entitled to make the application as if they were  
a single holder thereof, and residence by one of such persons  
shall be a compliance with any requirement or condition of  
residence—

No. 38, 1905, s. 39. and in the case of conditional purchases in the Western Division the  
said provisions shall be read with the qualifications made by section  
thirty-nine of the Western Lands (Amendment) Act of 1905.

**Division 3.**

**CONDITIONS ATTACHING TO HOLDINGS—PROVISIONS ANCILLARY TO  
PERFORMANCE—sections 174-182.**

*Original and additional holdings, when to be deemed one holding.*

When originals and  
additional form one  
holding.  
48 Vic. No. 18, ss. 43  
and 51.  
52 Vic. No. 7, s. 13.  
53 Vic. No. 21, ss. 3  
and 26.

**174.** (1) All conditional purchases and conditional leases of  
the same series shall for all purposes of residence fencing or improve-  
ment be deemed to be one holding.

(2)

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(2) Original and additional homestead selections shall be deemed to be one holding, and the condition of residence attaching to the original and additional holdings may be performed on one of such holdings. No. 42, 1905, ss. 8 and 9.

(3) Original and additional settlement leases shall be deemed to be one holding, and the condition of residence attaching to the original and additional holdings may be performed on one of such holdings. Ibid.

(4) Original and additional conditional purchase leases and conditional purchases (being conversions of conditional purchase leases) of the same series shall be deemed to be one holding. No. 42, 1905, s. 9. No. 30, 1908, ss. 22 and 42.

(5) Original and additional special conditional purchase leases shall be deemed one holding for all purposes. Ibid. s. 19. No. 53, 1912, s. 31.

*Residence by members of a family.*

**175.** Where two or more holdings situated within working distance are of any of the following kinds—holdings within a classified area (except a special conditional purchase lease)—or a conditional purchase conditional lease or additional conditional purchase lease not within a classified area—and such holdings are held by members of one family bona fide in their own separate interests, any conditions of residence required to be performed by them in respect of their holdings shall be deemed to have been duly performed if such residence is carried out on any portion of the lands so held: Provided that the consent of the local land board shall have been obtained in the prescribed manner. Residence by members of one family. No. 15, 1903, s. 19. No. 42, 1905, s. 17. No. 6, 1912, s. 36.

A conditional purchase (whether fully paid up or otherwise) shall be a holding for the purposes of this section.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas. No. 6, 1912, s. 36.

*Residence on two holdings concurrently.*

**176.** Where a person is the holder of two holdings of any tenure under the Crown Lands Acts within a reasonable working distance of each other, and a condition of residence attaches to either or both of such holdings, he may, with the consent of the local land board and subject to such conditions as such board may impose, perform the condition or conditions of residence by residing on one of such holdings: Provided that where a homestead grant has been issued for portion of the land held under a settlement lease the conditions of residence attaching to the settlement lease and to the homestead grant may be performed for both holdings conjointly either on the land held under the homestead grant or on the land held under the settlement lease, so long as both are held in the same interest; and the consent of the local land board need not in such case be obtained. Residence on two holdings concurrently. No. 15, 1903, ss. 25 and 33. No. 30, 1908, s. 42.

*Residence*

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*Residence—homestead selections or settlement leases under the  
Church and School Lands Act, 1897.*

Residence : home-  
stead selections or  
settlement leases  
under Church and  
School Lands Act,  
1897.

No. 20, 1897, s. 9.

**177.** Where on the conversion of any lease or leases of church and school lands into a homestead selection or settlement lease the Minister allowed the applicant to continue his residence in an adjacent village or town, or on land adjacent to the land comprised in the homestead selection or settlement lease, such residence shall for the purpose of the performance of any condition as to residence required by the Crown Lands Acts or by the provisions of any lease made thereunder be deemed for the period during which such residence continues to be residence on the homestead selection or settlement lease, as the case may be.

For the purposes of the foregoing provision the village or town need not have been proclaimed or notified as such.

*Suspension or remission of conditions of residence, fencing, or  
improvement.*

Suspension or  
remission of  
conditions other  
than payment.

No. 30, 1903, s. 31.

No. 53, 1912, s. 31.

**178.** (1) Where a condition of residence attaches to any holding under the Crown Lands Acts (not being a homestead farm or Crown-lease) and the holder or the owner (subject to mortgage) thereof has been or shall be prevented by sickness of himself or family or other adverse circumstances from performing such condition, or shall desire to live in a village or town within a reasonable distance of his holding for the purpose of educating his children, the local land board may, upon application as prescribed, and on sufficient reason being shown, suspend or remit such condition of residence, or may permit such condition to be performed in such village or town.

In cases of sickness or other adverse circumstances as aforesaid, the local land board may in like manner suspend a condition of fencing or improvement attaching to any holding under the Crown Lands Acts.

Any suspension, remission, or permission granted under this subsection may be for such periods and on such conditions as the local land board may determine; and the non-performance or breach of any condition imposed by the local land board shall render the holding liable to be forfeited.

No. 6, 1912, ss. 10  
and 20.

(2) Upon application in the prescribed form by the holder of a homestead farm or Crown-lease the local land board may permit him to reside at the nearest hamlet village or town for the purpose only of educating his children; but such permission shall not be granted, or if granted shall not continue and may be cancelled by the local land board, in any case where the holder, or his wife, or her husband, as the case may be, carries on business in

the

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the hamlet village or town, or has means of livelihood other than by manual labour outside his homestead farm or Crown-lease: Provided that where the homestead farm or Crown-lease is difficult of access, or where it is otherwise undesirable that the holder or his family should be compelled to reside thereon, the local land board may permit the condition of residence to be carried out anywhere within a reasonable working distance of such homestead farm or Crown-lease.

(3) For the purposes of this section a village or town need not have been proclaimed or notified as such.

*Suspension of payment of instalments on conditional purchases.*

**179.** The holder of a conditional purchase may, in case of temporary inability to pay the instalments of purchase money thereon as they fall due, apply to the Minister in the prescribed manner that the condition of payment attaching thereto may be suspended; and the Minister may, either with or without reference to the local land board, upon the conditional purchaser paying the prescribed fee to cover expenses incurred by the Crown in consequence of the aforesaid application, suspend the said condition for one year under any one suspension.

Conditional  
purchase: sus-  
pension of payment.  
58 Vic. No. 18, s. 25.

During the period of any such suspension, interest on the balance of purchase money at the rate of four per centum per annum, shall be added to the balance of the purchase money owing, unless the conditional purchaser pays such interest on the date at which an instalment of purchase money would otherwise be payable.

The Minister shall not grant suspension of the condition of payment unless he is satisfied that the holder of the said conditional purchase, or if the same has been transferred by way of mortgage, that the owner thereof subject to such mortgage, is in residence upon the said conditional purchase, or upon some purchase or lease of the same series, and is the holder or owner thereof, as the case may be, bona fide for his sole use and benefit.

Suspension of the condition of payment shall be deemed to be determined—

- (a) upon the conditional purchase being transferred—or
- (b) upon the holder or owner ceasing to reside upon the series—or
- (c) upon an instalment of the purchase money being paid.

Upon the expiration of the period of suspension, payment of instalments, as prescribed by this Act, shall be resumed, and no sums paid by way of interest as aforesaid shall be taken to form part of the balance of purchase money.



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*Payments may be deferred by Minister.*

Deferring of  
payments.

No. 15, 1903, s. 15.

No. 30, 1908, s. 42.

No. 53, 1912, s. 29.

**180.** Upon application, the Minister may at any time defer the payment of any amount due, or to become due within twelve months from the date of the application, on any holding in the Eastern or Central Division for any period not exceeding five years, subject to the performance of any conditions he may deem fit to impose, and if the conditions so imposed or any of them are or is not duly performed the concession granted by the Minister shall cease to operate. Any payment so deferred shall bear interest at the rate of five per centum per annum from the date of its becoming due until the date of payment; and such interest shall, if the Minister so directs, be payable on such dates as he may determine. The Minister may allow the deferred amounts to be paid by annual instalments, with interest at the rate aforesaid:

Provided that in any case where the Minister is satisfied that the circumstances warrant it, he may remit the payment of such interest wholly or in part.

Nothing in this section shall prevent the payment of any amount before it becomes due under the foregoing provisions.

*Successors in title expressed to be bound by conditions in certain cases.*

Successors in title  
bound by conditions:  
expressed, in what  
cases.

48 Vic. No. 18, s. 40.

No. 42, 1905, s. 25.

**181.** Save as otherwise in this Act provided, the conditions attaching to conditional purchases conditional leases conditional purchase leases and conditional purchases which are conversions thereof, as set forth in this Act, shall bind not only the persons who in the first instance applied for the same, but also all persons deriving title through or under them and all persons upon whom title shall devolve or be cast by operation of law.

*Leases—Alteration of conditions by consent in certain cases.*

Conditions attaching  
to certain leases:  
alteration by consent.  
No. 53, 1912, s. 15.

**182.** Any covenant condition or provision of a special lease scrub lease inferior lands lease snow lease residential lease improvement lease settlement lease or lease under section eighteen of the Crown Lands Act Amendment Act, 1903, or lease under section twenty-three of the said Act or section seventy-three of this Act—such covenant condition or provision being with reference to the management or improvement of the land held under lease, or the expenditure of money thereon—may, on the recommendation of the local land board, and with the consent of the lessee, be varied modified revoked or added to by the Minister to such extent and on such terms as he may deem desirable.

The Minister may require the instrument evidencing the title to any such lease to be produced for the purpose of being indorsed with a memorandum of any such variation modification revocation or addition as aforesaid.

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## Division 4.

CONVERSION OF HOLDINGS (OTHER THAN CONDITIONAL LEASES, ANNUAL LEASES, RESIDENTIAL LEASES, CONDITIONAL PURCHASE LEASES, AND SPECIAL CONDITIONAL PURCHASE LEASES) INTO OTHER HOLDINGS—*sections 183-194.*

*Conversion of homestead selections or grants.*

**183.** (1) Upon application as prescribed the holder or the owner (subject to mortgage) of any homestead selection or grant in the Eastern or Central Division which is not liable to forfeiture may convert the same into—

- (a) a conditional purchase lease—or
- (b) a conditional purchase—or
- (c) a conditional purchase and conditional lease, but so that the area of the conditional lease shall not exceed three times the area of the conditional purchase.

Conversion of  
homestead selection  
or grant.

No. 30, 1908, ss. 3  
and 4.

No. 6, 1910, s. 5.

No. 53, 1912, s. 2.

With any such application for conversion a provisional deposit shall be paid at the rate of one shilling per acre of the area proposed to be converted into a conditional purchase, as payment or part payment of a deposit to be made of five per centum of the capital value of the land. Any balance of the said deposit shall be paid by the applicant within one month after he has been called upon to do so, and upon default the application may be declared to have lapsed, and any moneys paid therewith shall thereupon become forfeited.

With any application for conversion of a homestead grant there shall be forwarded a surrender of such grant to the Crown. Such surrender shall be in the form prescribed:

Provided that in any such application made in respect of a homestead selection or grant which is subject to mortgage the mortgagee shall join:

Provided also that a person who has converted (whether before or after the passing of this Act) one homestead selection or grant into a conditional purchase lease or a conditional purchase or a conditional purchase and conditional lease, shall not, except with the permission of the Minister, effect other such conversions.

(2) A conversion under this section shall not take effect until confirmed by the local land board.

(3) The conditional purchase lease or conditional purchase, or conditional purchase and conditional lease shall be subject—

- (a) to any special conditions which attached to the homestead selection or grant—and
- (b) to the general provisions of this Act relating to the kind of holding into which the homestead selection or grant is converted—except that

(c) the term of residence shall commence on the date of the confirmation of the conversion, but shall be reduced by the

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the period during which continuous residence has been performed by the applicant upon the homestead selection or grant up to and immediately before the date of such confirmation: Provided that the period of any lawful exemption or relaxation shall be reckoned in such term of continuous residence—and that

- (d) the balance of the purchase money of any conditional purchase shall be paid by annual instalments of five per centum of such purchase money, one of such instalments being paid in each and every year on the recurring date of the application for conversion or within three months thereafter until the balance of purchase money together with interest thereon at the rate of two and one-half per centum per annum shall have been paid: Provided however that it shall be lawful for the conditional purchaser to pay off the whole or any number of such instalments at any time after the other conditions attaching to the conditional purchase have been performed, and upon payment of the whole of the purchase money and interest he shall be entitled to have a Crown grant issued to him.

(4) Upon conversion of a homestead selection or grant into a conditional purchase lease or into a conditional purchase with or without a conditional lease, the capital value of the conditional purchase lease for the first fifteen-year period thereof or the price of the conditional purchase or the price at which land comprised in the conditional lease shall be convertible into an additional conditional purchase shall (except as provided in the next following subsection) be the capital value upon which the rent of the homestead selection or grant was payable at the date of the application for such conversion.

No. 6, 1912, s. 37.

(5) Where the homestead selection was acquired from the Crown under the Church and School Lands Act, 1897, and at the date of the application under this section the capital value of the homestead selection had not or shall not have been determined by the local land board, the capital value for the first fifteen-year period of the conditional purchase lease or the price of the conditional purchase or the price at which land comprised in the conditional lease shall be convertible into an additional conditional purchase shall be such sum as the Minister and the applicant for conversion or the holder of the land agree upon, or failing such agreement within the time allowed by the Minister—not being less than two months—such sum as shall be determined by the local land board on reference by the Minister: Provided that—

- (a) The capital value to be determined by the local land board shall be the capital value of the land as at the date of the commencement of the title to the homestead selection, irrespective of the value of any improvements owned by the applicant for conversion or the holder of the land—and (b)

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- (b) the costs of having the capital value determined by the local land board, not exceeding five pounds, shall be paid by such applicant or holder.

(6) Upon a conversion under this section, the annual rent payable in respect of any conditional lease for the first fifteen-year period thereof shall be two and one-half per centum of the capital value of the land comprised therein.

(7) The expression "homestead selection or grant" in this section means and includes an original homestead selection or homestead grant and any additional homestead selection or homestead grant held in virtue thereof.

*Conversion of settlement leases.*

**184.** (1) Upon application as prescribed the holder or the owner (subject to mortgage) of any settlement lease which is not liable to forfeiture may convert such lease into a conditional purchase or into a conditional purchase and conditional lease in the manner and subject to the conditions following:—

Conversion of  
settlement lease.  
No. 30, 1908, s. 5.  
No. 6, 1910, s. 9.

- (a) Where in the opinion of the local land board the land comprised in such settlement lease, together with all other the lands held by the applicant for conversion which under the provisions of this Act are to be taken into account, would not—when improved by necessary ringbarking suckering scrubbing clearing and provision for water supply, and when used for the purpose for which they are reasonably fitted—exceed a home maintenance area, the conversion shall be into an original conditional purchase, or into an original conditional purchase and a conditional lease, but so that the area of the conditional lease shall not exceed three times the area of the conditional purchase.
- (b) Where in the opinion of the local land board the land comprised in the settlement lease, together with all such other lands as aforesaid, would, when improved as aforesaid, exceed a home maintenance area, the conversion shall be—
- (i) as to so much of the land comprised in the settlement lease as the local land board determines would not, together with all such other lands as aforesaid, exceed when improved as aforesaid a home maintenance area, or as to not less than one-fourth of such area, into an original conditional purchase—and
- (ii) as to the remainder of the land comprised in the settlement lease into a conditional lease:

Provided that upon confirmation of the conversion the local land board shall define the area of the conditional lease which shall be convertible into an additional conditional purchase, and that the right of conversion is hereby limited to such area.

(c)

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- (c) The value (irrespective of improvements) of the area to be converted into a conditional purchase with or without an additional conditional purchase shall not exceed three thousand pounds as at the date of the conversion of the settlement lease.
- (d) If the applicant is dissatisfied with the determination of the local land board as to the area which may be converted into a conditional purchase or additional conditional purchase, or as to the capital value thereof, he may within one month after such determination withdraw his application for conversion, upon payment of costs as assessed by the local land board.
- (e) In an application for conversion in respect of a settlement lease which is subject to mortgage the mortgagee shall join.
- (f) A conversion under this section shall not take effect until confirmed by the local land board. On such confirmation the settlement lease shall be deemed to be surrendered to the Crown unless the application for conversion is withdrawn as hereinbefore provided.
- (g) With any such application for conversion a provisional deposit shall be paid at the rate of one shilling per acre of the area proposed to be converted into a conditional purchase as payment or part payment of a deposit to be made of five per centum of the capital value of the land.
- (h) The cost of any necessary survey or subdivision and any balance of the said deposit shall be paid by the applicant within one month after he has been called upon to do so; and upon default the application may be declared to have lapsed, and any moneys paid therewith shall thereupon become forfeited: Provided that at the request of the applicant such survey may be deferred pending the conversion into an additional conditional purchase of land comprised in any conditional lease granted in pursuance of a conversion under this section.
- (i) The design of the area to be converted shall be in accordance with the provisions of section forty-six of this Act.

(2) The expression "settlement lease" in this section means and includes an original settlement lease and any additional settlement lease held in virtue thereof.

**185.** Upon conversion of a settlement lease into a conditional purchase or into a conditional purchase and conditional lease as aforesaid, any such conditional purchase and conditional lease shall be subject to regulations under this Act, and to any special conditions which attached to the settlement lease, also to the general provisions of

Conversion of  
settlement lease  
conditions upon  
conversion.

No. 30, 1908, s. 6.

No. 6, 1910, s. 9.

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of this Act respectively relating to conditional purchases and conditional leases (except as modified by the enactments contained in this Division) and also to the following provisions:—

- (1) Any such conditional lease shall terminate on the date at which the settlement lease would have expired.
- (2) The rent payable in respect of any such conditional lease shall, until the expiration of the first fifteen-year period thereof or the sooner termination of the lease, be at the same rate per acre as was payable in respect of the settlement lease, and thereafter and until the expiration of the second fifteen-year period thereof or the sooner termination of the lease shall be as determined by the local land board, and the rent for the third and final period of ten years or portion, if any, thereof shall be determined in the like manner.
- (3) An additional conditional purchase or conditional lease of land outside the area which was comprised in the settlement lease shall not be applied for and acquired in virtue of any holding of land within such area unless in the opinion of the local land board such holding, together with all other the lands held by the applicant, which under the provisions of this Act are to be taken into account, and also the proposed additional conditional purchase or conditional lease, would not exceed a home maintenance area.
- (4) A person who has applied for and acquired (whether before or after the passing of this Act) a conditional purchase or a conditional purchase and conditional lease by conversion of a settlement lease shall be disqualified from effecting another such conversion unless he has first obtained the Minister's approval in writing.

**186.** (1) Upon conversion of a settlement lease into a conditional purchase or into a conditional purchase and a conditional lease the price of the conditional purchase and the price at which land comprised in the conditional lease shall be convertible into an additional conditional purchase shall be—

Conversion of  
settlement lease :  
price and payment.  
No. 30, 1908, s. 7.  
No. 6, 1910, s. 6.

- (a) the capital value of the land comprised in the settlement lease as the same may have been determined by the local land board, or, if not so determined, such capital value as may have been duly notified in that behalf—or
- (b) if not so determined or notified, such sum as the Minister and the applicant for conversion agree upon, or, failing such agreement within the time prescribed, such sum as shall be determined by the local land board on reference by the Minister :

Provided always that the local land board in determining the capital value of the land shall determine the same as at the date of the application for the settlement lease, and irrespective of the value of any improvements owned by the applicant for conversion. (2)

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(2) The balance of the purchase money shall be paid by annual instalments of five per centum of such purchase money, one of such instalments being paid in each and every year on the recurring date of the application for conversion or within three months thereafter, until the balance of purchase money together with interest thereon at the rate of two and one-half per centum per annum shall have been paid: Provided that the holder of the conditional purchase may pay off the whole or any number of such instalments at any time after the issue of the final certificate.

Conversion of  
settlement lease :  
residence.

No. 30, 1908, s. 8.

**187.** The term of residence in respect of any conditional purchase or conditional purchase and conditional lease into which a settlement lease has been converted shall be ten years, but such term of residence shall be reduced by the period of continuous residence performed by the applicant up to and immediately before the date of the confirmation of the conversion. The residence term shall commence on such date.

Conversion of  
settlement lease :  
exempt land.

*Ibid.* s. 9.

**188.** If a settlement lease comprises land which is reserved from sale such reserved land shall not be convertible into a conditional purchase unless and until such reservation shall have been revoked.

*Conversion of non-residential conditional purchases.*

Conversion of  
non-residential  
conditional  
purchase.

*Ibid.* s. 10.

**189.** (1) Upon application as prescribed, the holder of an original non-residential conditional purchase made under section forty-seven of the Crown Lands Act of 1884 or section fifty-eight hereof which is not liable to forfeiture may convert such conditional purchase, together with any additional non-residential conditional purchase made in virtue thereof and held by him, into an original conditional purchase, which shall be subject to the provisions and conditions of this Act relating to ordinary original conditional purchases: Provided that the term of ten years' residence shall commence from the date of the application for conversion, but such term shall be reduced by any period (not exceeding five years) of continuous residence on the land by the holder up to and immediately before such application for conversion.

(2) All moneys which have been appropriated to purchase money in respect of such original or additional non-residential conditional purchase shall be credited towards payment of the purchase money of the conditional purchase into which it is converted, but no sums which have been appropriated to interest shall be so credited. The balance of purchase money shall be paid by annual instalments of five per centum of the purchase money, one of such instalments being paid in each and every year on the recurring date of the application for conversion, or within three months thereafter, until the said balance together with interest thereon

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thereon at the rate of two and one-half per centum per annum shall have been paid: Provided that the holder of the conditional purchase may pay off the whole or any number of such instalments at any time after the issue of the final certificate.

If the total amount appropriated to purchase money exceeds the price of the land, such total amount shall be deemed to be the purchase money.

*Conversion of special leases and of church and school lands leases.*

**190.** (1) The holder of a special lease in the Eastern or Central Division for any of the following purposes, that is to say:—  
 access to water—agriculture—bee and poultry farming—dairying—  
 dams—drainage—garden (vegetable or nursery)—grazing—irrigation  
 —orchard—pig and poultry farm—residence—sugar-cane growing—  
 tanks—tobacco growing—or water conservation—or of any agricul-  
 tural or pastoral lease granted under the Church and School Lands  
 Dedication Act, 1880, who is not subject to any disqualification in  
 that behalf specified in this Act, may at any time during the currency  
 of his lease apply to convert the same (as to the whole or any part  
 of the land comprised therein) into—

Conversion of  
 special lease or  
 church and school  
 lands lease.  
 No. 30, 1908, ss. 2  
 and 11.  
 No. 53, 1912, ss. 2  
 and 31.

- (a) a conditional purchase lease or an additional conditional purchase lease—or
- (b) a conditional purchase or an additional conditional purchase—or
- (c) a homestead selection or an additional homestead selection—or
- (d) a settlement lease or an additional settlement lease—or
- (e) a conditional lease:

(2) Provided that—

- (a) a conversion shall not be allowed of land within any proclaimed goldfield or mineral field except with the approval of the Secretary for Mines—
- (b) a person shall not be allowed to convert an area which, together with all other the lands held by him that under the provisions of this Act are to be taken into account, would in the opinion of the local land board exceed a home maintenance area—and
- (c) conversion into an additional holding shall not be allowed unless such additional holding is adjoining or adjacent to the holding in virtue of which it is applied for.

(3) The application shall be made as prescribed, and shall be accompanied by a provisional deposit as prescribed to be applied towards the cost of dealing therewith, and shall be referred to the local land board for inquiry and report.

(4)



(4) If the land is wholly or in part within a travelling stock reserve camping reserve or water reserve, particulars of the application and of the time and place appointed for the inquiry by the local land board shall be notified in the Gazette, and attention shall be invited thereto by advertisement in a local newspaper not less than fourteen days before the holding of the said inquiry.

(5) The local land board shall report to the Minister as to whether there is any objection in the public interest or otherwise to the granting of the application and generally as to the merits thereof. If the local land board deems it expedient to recommend the granting of the application it shall proceed to determine the capital value or rent or price of the land.

After receipt of such report the Minister may grant the application if the local land board so recommends, or he may at his discretion refuse it. Any areas required for roadways or other public purposes may be excluded or the boundaries may be otherwise modified at the Minister's discretion.

(6) The cost of any necessary survey or subdivision and any balance of the said deposit shall be paid by the applicant within one month after he has been called upon to do so; and upon default the application may be declared to have lapsed, and any moneys paid therewith shall thereupon become forfeited: Provided that at the request of the applicant such survey may be deferred pending the conversion into an additional conditional purchase of land comprised in any conditional lease granted in pursuance of a conversion under this section.

(7) Such conditional purchase lease—or additional conditional purchase lease—or conditional purchase—or additional conditional purchase—or homestead selection—or additional homestead selection—or settlement lease—or additional settlement lease—or conditional lease shall be subject to the regulations under this Act and to the general provisions of this Act relating thereto respectively, except that—

- (a) the term of residence—which shall commence within three months after the date of the Minister's approval of the conversion—shall be reduced by the period during which continuous residence immediately before such approval has been performed by the applicant upon the special lease or agricultural or pastoral lease, as the case may be, or upon the holding in virtue of which such special lease or agricultural or pastoral lease has been converted into an additional holding or conditional lease—and that
- (b) the purchase money of any conditional purchase shall be paid by annual instalments of five per centum thereof, one of such instalments being paid in each and every year on the

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the recurring date of the application for conversion or within three months thereafter until the balance of purchase money together with interest thereon at the rate of two and one-half per centum per annum shall have been paid: Provided that the holder of the conditional purchase may pay off the whole or any number of such instalments at any time after the issue of the final certificate.

(8) Upon approval by the Minister of any conversion under this section the capital value of the land comprised in the conditional purchase lease or the additional conditional purchase lease or the homestead selection or the additional homestead selection until the expiration of the first fifteen-year period thereof respectively, or the rent of the settlement lease or the additional settlement lease or the conditional lease until the expiration of the first fifteen-year period thereof respectively, or the price of the land comprised in the conditional purchase or additional conditional purchase shall respectively be the capital value or rent or price determined by the local land board as hereinbefore provided.

*General provisions relating to conversions under preceding sections.*

**191.** Any conditional lease into which any tenure has, as to any part of the land held thereunder, been converted under the preceding provisions of this Division, or any additional conditional purchase which may be made out of land comprised in any such conditional lease shall not be surrendered unless with the Minister's approval; and any forfeiture thereof shall operate as a forfeiture of any conditional purchases held in connection therewith, together with all moneys paid in respect of such purchase or lease.

Surrender or forfeiture of conditional lease &c. acquired by conversion.  
No. 30, 1908, s. 12.

**192.** Any right title or interest acquired under the Mining Act, 1906, or any Act thereby repealed, shall not be prejudicially affected by any conversion under the preceding provisions of this Division.

Conversion not to affect title under Mining Act.  
No. 30, 1908, s. 13.

*Conversions—Homestead grants out of certain leases.*

**193.** (1) The holder of any pastoral or homestead lease in the Western Division or of any scrub lease not being within a pastoral or homestead lease or of any inferior lands lease or any improvement lease, whose dwelling-house may be erected on Crown lands, may, at any time during the last year of the term of the lease, apply for the portion of the leasehold which contains such dwelling-house—such portion not exceeding six hundred and forty acres in area—as a homestead selection, subject to the provisions hereunder specified:—

Conversion of certain leases into homestead grants.  
58 Vic. No. 18, s. 27.

- (a) The area which may be so applied for shall, before the date of the application for the same, have been improved by the holder

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*Crown Lands Consolidation Act, 1913.*

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holder of the lease or his predecessors in title with permanent fixed and substantial improvements to the value of not less than one pound per acre, and the improvements shall at the date of the application be on the land and be the property of the applicant.

- (b) The application shall be made in the prescribed manner, and the applicant shall, before the grant is issued, pay the full cost of survey.
- (c) The land shall be measured in the same form as if it were an original conditional purchase, and the measurement shall be completed before the application is confirmed, and the local land board shall have the same powers of modification allotting land and otherwise in respect of any such application as it has in the case of applications for ordinary conditional purchases.
- (d) The Governor may thereafter grant to the applicant the land for which the application has been confirmed as a homestead selection, the capital value of which for the first and succeeding periods shall be as determined by the local land board.
- (e) Upon the issuing of the grant the land granted shall be withdrawn from the lease, but the lease shall otherwise continue in full force and effect.

58 Vic. No. 18, s. 27.  
No. 15, 1903, s. 25.

(2) The holder of any settlement lease which is not liable to forfeiture may, at any time after the expiration of the first five years of the lease, make the like application for a homestead grant out of the land leased, and any such application and the manner in which the same shall be dealt with and carried to completion shall be governed by the provisions of subsection one hereof, qualified as hereunder :—

- (a) The maximum area which may be applied for and granted shall be one thousand two hundred and eighty acres.
- (b) The area which may be so applied for need not contain any improvements other than the applicant's dwelling-house.
- (c) The local land board may allow such application wholly or in part if it finds that the applicant is deserving of the homestead grant.
- (d) In any such case the remaining area of the settlement lease may be held at a proportionate part of the rent thereof.
- (e) A refund of rent shall not be granted until after the execution of the homestead grant, but when granted shall be computed from the date of such execution.

No. 30, 1908, s. 42.

(3) I lands reserved from sale conditionally or otherwise shall not be available to be acquired under this section as a homestead selection.

*Conversion*

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*Crown Lands Consolidation Act, 1913.**Conversion of certain holdings into homestead farms.*

**194.** The holder of any conditional purchase or conditional purchase and conditional lease or homestead selection or homestead grant or conditional purchase lease or settlement purchase under the Closer Settlement Acts (other than a settlement purchase acquired under the Closer Settlement Promotion Act, 1910) which is not liable to forfeiture or in the Western Division may, upon application in the prescribed form, convert such holding into a homestead farm, subject to the following provisions:—

Conversion of  
certain holdings into  
homestead farms.  
No. 6, 1912, s. 12.

- (1) The conversion shall be subject to the approval of the Minister.
- (2) If the holding to be converted is subject to a mortgage or charge, the unconditional concurrence of the person having such mortgage or charge shall appear on the application for conversion.
- (3) If a homestead grant has been issued, a surrender thereof to the Crown in the prescribed form shall be executed and forwarded with the application for conversion. If the application be not approved, the applicant or his mortgagee shall be entitled to have the homestead grant and surrender thereof returned to him.
- (4) Where the holding the subject of the application is a conditional purchase or settlement purchase, interest shall be paid on the balance of purchase money owing on such conditional purchase or settlement purchase up to the date of the approval of the application for conversion, but such interest, together with all arrears of interest and interest payable in respect of such arrears, may be deducted from the moneys appropriated to purchase money in respect of the conditional purchase or settlement purchase, if sufficient for the purpose, and the balance which remains after all such interest has been deducted as aforesaid shall be credited towards the rent of the homestead farm.
- (5) Where the holding the subject of the application for conversion is a conditional lease or conditional purchase lease or homestead selection or homestead grant, rent shall be paid up to the date of the approval of the application for conversion, and upon default in the payment thereof within the time allowed by the Minister the approval of the application for conversion may be cancelled.
- (6) The capital value for the first period of the homestead farm, which shall commence from the date of approval of the application for conversion, shall be taken to be—
  - (a) in the case of a conditional purchase (whether a residential or non-residential conditional purchase) not within

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within a special area or a classified area, one pound per acre, unless the capital value has been determined by the local land board, in which case the value so determined shall be the capital value of the homestead farm for the said period—

- (b) in the case of a conditional purchase within a special area or a classified area, the price of the conditional purchase—
- (c) in the case of a settlement purchase, the price of the settlement purchase—
- (d) in the case of a conditional lease, the price at which the land comprised therein is convertible into an additional conditional purchase—and
- (e) in the case of a conditional purchase lease or a homestead selection or grant, the capital value upon which the rent thereof was payable at the date of the application for conversion :

Provided however that except as hereinafter mentioned the applicant may in his application request (paying the prescribed fee), or the Minister may direct, that the capital value of the whole of the land included in the application shall be determined by the local land board, in which case the capital value of the homestead farm for the aforesaid first period shall be the capital value as so determined; but no such determination shall be made in the case of any land the capital value of which has been determined within the previous two years, nor in the case of any settlement purchase.

- (7) The provision contained in section one hundred and twenty-two hereof allowing the holder of a homestead farm in lieu of paying rent to expend a sum not less than the rent on improving the farm shall not be applicable to homestead farms which are conversions under this section where the holding so converted—

- (a) was a settlement purchase—or

- (b) had been in existence for five years—

and where the holding (not being a settlement purchase) had been in existence for less than five years, the provision hereinbefore referred to shall cease to be applicable after the expiration of five years after the original commencement of the holding.

- (8) The annual rent of a homestead farm into which a settlement purchase has been converted shall be three and one-half per centum of the capital value.
- (9) Subject to the foregoing qualifications, the general provisions of this Act relating to homestead farms shall govern homestead farms under this section.

**Division**

*Crown Lands Consolidation Act, 1913.***Division 5.****EXCHANGES AND PURCHASES BY THE CROWN—sections 195–8.***Exchanges and surrenders—generally.*

**195.** (1) It shall be lawful for the Governor, with the consent of the owner, to exchange any Crown lands for any other lands of which a grant in fee-simple has been issued or may be called for, and to accept such surrenders and issue such grants as may be necessary for effectuating an exchange. Exchanges and surrenders.  
58 Vic. No. 18, s. 47.

(2) It shall be lawful for the Governor to accept a surrender of lands, in respect of which a balance of purchase money remains unpaid, if upon payment of such balance, with or without interest thereon, the right to a grant of the said lands in fee-simple will become absolute, and to grant Crown lands in exchange therefor; but in any such case the acceptance of the surrender shall not be taken to affect the aforesaid balance of purchase money or any right remedy or liability in respect thereof, and a grant of the Crown lands allotted in exchange shall not be issued until the aforesaid balance of purchase money together with interest has been duly paid.

When any lands have been surrendered as aforesaid and Crown lands have been allotted in exchange therefor, the provisions of the Crown Lands Acts in respect of the payment of the balance of purchase money together with interest and of forfeiture upon default shall be deemed to apply to the lands so allotted in the same way as if the lands so allotted were the lands originally purchased.

(3) The Governor may reserve from sale and lease any lands included in a proposal for a surrender and exchange under this section; and every such proposal shall be notified in the Gazette and in a local newspaper.

(4) The local land board shall inquire into and report upon any such proposal referred to such board by the Minister, and the values of any lands included therein shall be determined by the local land board before the exchange is carried out. In any such exchange the lands exchanged shall as nearly as practicable be of equal value, or if the Crown lands to be granted be of greater value the difference of value shall be paid before any grant is issued.

(5) A surrender of lands to the Crown shall be evidenced by an instrument in the prescribed form, which shall, without enrolment in the Supreme Court, revert the surrendered lands in His Majesty, His Heirs and Successors according to law; and an entry of any such instrument shall be made in the register under the Real Property Act, 1900, in all cases where it may be necessary: Provided that lands so becoming vested in His Majesty shall not be available for the purposes of this Act until a notification has been published in the Gazette declaring the lands to be Crown lands. No. 51, 1899, s. 9.

(6)

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No. 47, 1897, s. 1.

(6) A surrender under this section may be effected by a trustee or executor in respect of land which he holds as trustee or executor, as if a power to that effect were contained in the instrument creating such trust or the will appointing such executor, as the case may be, or by any administrator in respect of land which he holds as administrator: Provided that no such surrender shall be effected by any administrator without the consent of all persons beneficially interested, or the order of the Court in that behalf, which may be obtained in the same manner as an order under section fifty-six of the Wills, Probate and Administration Act, 1898: Provided also that any land assured to any trustee executor or administrator by way of exchange under this section shall be held by him subject to the same trusts as the land surrendered by him.

58 Vic. No. 18, s. 47.

No. 51, 1899, s. 9.

No. 70, 1901, s. 2.

(7) Lands which have been surrendered under this section or under section forty-seven of the Crown Lands Act of 1895, and which are not in the Western Division, may by notification in the Gazette be added to any adjoining lease or license or conditional purchase or homestead selection (notwithstanding that such lease license purchase or selection may or may not already contain the maximum area prescribed by the Crown Lands Acts), subject to such conditions as to payment of purchase money or rent as may be determined by the Governor, and consented to by the lessee licensee purchaser or selector.

58 Vic. No. 18, s. 47.

No. 30, 1908, s. 33.

(8) Where under the foregoing provision any surrendered lands are added to an adjoining holding with a condition that payment shall be made for the improvements on such surrendered lands, and the Crown and the holder of such adjoining holding fail to agree as to the value of such improvements, the local land board shall determine the capital value thereof or upon a reference by the Minister shall determine the rental value thereof, and such capital value or rental value shall be paid in such amounts and at such periods as the local land board may determine; and for the purposes of this subsection the local land board shall adopt and apply the definition of capital value of improvements contained in section two hundred and thirteen hereof.

*Exchanges and surrenders—lands within pastoral holdings in the Western Division.*

Exchanges and surrenders within pastoral holdings in Western Division.

53 Vic. No. 21, s. 46.

58 Vic. No. 18, s. 47.

**196.** (1) It shall be lawful for the Governor to accept from the holder of any pastoral lease in the Western Division a surrender of any portion of land within the leasehold area or resumed area of the pastoral holding, of which portion he holds a Crown grant or is entitled to demand a Crown grant, and to assure to him—by way of exchange for the land so surrendered—an equal area within the leasehold area, provided that if the land applied for in exchange is measured

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measured land and the area thereof in the aggregate exceeds the area of the land proposed to be surrendered by less than forty acres, the excess of area may be granted to the lessee at a price to be determined by the local land board.

(2) The local land board shall inquire into and report upon any proposal for a surrender and exchange under this section, and the respective values of any lands to be surrendered or granted in pursuance thereof shall be determined by such board, and every such proposal for surrender and exchange shall be notified in the Gazette and in a local newspaper.

(3) Where the public interest seems so to demand, 53 Vic. No. 18, s. 47. the Governor may require that any such surrender shall be a surrender of the land, together with any improvements thereon; and upon the surrenderor consenting in writing thereto the said improvements shall upon the acceptance of the surrender become the property of the Crown; but subject to the foregoing provision any 53 Vic. No. 21, s. 46. improvements on the surrendered land shall, notwithstanding the surrender, remain the property of the surrenderor.

(4) After the acceptance of any such surrender the *Ibid.* land surrendered shall—upon proclamation in the Gazette and not No. 70, 1901, s. 2. before—become Crown lands for the purposes of this Act.

(5) The Governor may make all grants of lands exchanged for the purposes of this section, and the lessee shall pay all costs and fees incurred in respect of any such surrender and exchange.

*Exchanges and purchases for public purposes.*

**197.** The Governor may acquire, for the purpose of access or approaches to any natural water, tank, or dam, or for a road, or travelling stock route, or camping reserve, or watering place, or for any public purpose any land of any tenure, either by way of purchase or by granting in fee-simple, or for any less estate, any Crown land of equal value in exchange for such land. And any land so acquired shall thereupon be deemed to be reserved from sale and lease, and may on revocation of the reserve be dealt with in accordance with this Act. Exchanges and purchases for public purposes. 53 Vic. No. 21, s. 46. No. 53, 1912, s. 26.

The local land board shall inquire into and report upon any application or proposal for the exchange or purchase of any land under this section, and the respective values of any land to be acquired or granted in pursuance thereof shall be determined by the local land board. And the Governor may make all grants of lands exchanged for the purposes of this section.

*Exchanges—Conditional purchases and conditional leases.*

**198.** In order to complete an exchange of conditionally purchased or conditionally leased land for Crown lands it shall not be necessary for the purchaser or lessee of such land to convert the same into freehold or conditionally purchased land. Exchange may include conditional purchase or conditional lease. No. 15, 1903, s. 11.



**Division 6.**

**FENCING—sections 199–203.**

*Fencing—Contributions.*

Contribution to cost  
and maintenance of  
fencing.

4 Vic. No. 18, s. 141.

52 Vic. No. 7, s. 10.

53 Vic. No. 21, s. 23.

58 Vic. No. 18, s. 22.

No. 30, 1908, s. 41.

No. 6, 1912, s. 36.

No. 53, 1912, ss. 24  
and 25.

**199.** Whenever land adjoining a conditional purchase un-granted homestead selection or any lease other than an annual lease becomes (whether before or after the passing of this Act) the subject of any purchase homestead selection or lease from the Crown, the person who fences his land may demand and enforce from the purchaser homestead selector or lessee of the adjoining land or his successor in title a contribution towards the cost of such fencing to the extent of one-half of the value thereof as determined by the local land board—but so far only as such fencing marks a common boundary line or forms a common boundary fence—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 :

Provided that 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.

For the purposes of this section it shall be immaterial whether the fencing was erected before or after the passing of this Act, and it shall be sufficient that the fencing—

- (a) is of a class prescribed by the local land board—or
- (b) is in the opinion of the local land board of a sufficiently useful and substantial kind—or
- (c) has been or is made or treated as a boundary fence.

The local land board shall have power to hear and determine all disputes and claims under this section as to fencing, and to determine all values and estimate all costs, and the adjudication of the local land board shall in all cases be final and conclusive unless an appeal therefrom be lodged by either party in the prescribed manner.

*Fencing—Disputes to be settled by local land board.*

Disputes as to  
fencing : jurisdiction  
of local land board.  
53 Vic. No. 21, s. 23.

**200.** In all cases of dispute as to the erection completion or repair of fencing, or as to contributions towards the cost or maintenance of any fence upon or between adjoining lands or lands on opposite sides of roads or creeks, which fence has been or is made or treated as a boundary fence, the local land board shall on application as prescribed by any party concerned determine all questions in dispute and make any order necessary or incident to the settlement thereof ; and any such order shall be a sufficient authority and justification for entering upon any of the said lands, and doing such acts as may be necessary for carrying the same into effect.

*Fencing*

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*Crown Lands Consolidation Act, 1913.**Fencing—Give-and-take fences.*

**201.** Where the boundaries of any holding are required by the Crown Lands Acts to be fenced, the local land board may on application in the prescribed manner authorize the erection of a give-and-take fence between such holding and any other holding; and such fence when erected shall for all purposes of fencing and contributions and occupation be taken to be the boundary fence between the parties :

Give-and-take  
fences.  
No. 15, 1903, s. 26.  
No. 53, 1912, s. 29.

Provided that on complaint made by the holder of either of such holdings or by any person aggrieved the local land board may cancel the authorization of any such fence or direct that the position of the fence be altered and may in either case impose such terms and conditions and make such orders as may appear to be just.

The local land board shall have the like powers in respect of any give-and-take fence authorized before the passing of this Act.

*Fencing—Roads and watercourses may be enclosed.*

**202.** (1) Upon application being made to the chairman in the prescribed form and within the prescribed time by any holder of any holding under the Crown Land Acts, the local land board may grant permission to such holder to enclose, wholly or in part, any road or watercourse traversing or bounding such holding subject to payment of such annual rent as may be determined, and in any such case the local land board shall direct that gates or suitable substitutes such as it may consider necessary shall be erected or made so as not to interfere unnecessarily with any traffic or divert to any large extent the natural flow of water.

Enclosure of roads  
and water-courses.  
No. 51, 1899, s. 8.  
No. 15, 1903, s. 26.  
No. 53, 1912,  
ss. 28 and 29.

The fact that a road forms part of an annual lease or occupation license shall not prevent the granting of permission to enclose the same; and the granting of the permission shall have the effect of withdrawing the land comprised in such road from the annual lease or occupation license.

(2) A permission granted by the local land board to enclose a road bounding any holding shall operate so as to exempt the person obtaining such permission from erecting a fence along the frontage to such road.

(3) Where permission is granted to enclose a road situated between lands held by different persons, and the person to whom such permission is granted derives in the opinion of the local land board a benefit from or uses any fence on or adjoining such road, such person or his successor in title shall, so long as such permission remains unrevoked, be liable as a contributory towards the cost of maintaining in good repair such part of the fence as benefits or is used by him.

(4)

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(4) Any gate erected in pursuance of such direction as aforesaid may on application to, and approval of, the Minister who (or other public authority which) may administer the Public Gates Act, 1901, be made a public gate within the meaning and subject to the provisions of that Act.

(5) On complaint made, the local land board may, for any sufficient reason, cancel any permission to enclose wholly or in part a road or watercourse, whether granted before or after the passing of this Act, and may order any fence gate or other structure on any road or watercourse to be removed by such person, and within such period, as such board may determine :

No. 30, 1908, s. 42.

Provided that—

- (a) without making such complaint the Minister may by notification in the Gazette cancel any permission granted under this section if the rent determined by the local land board as aforesaid remains unpaid at the expiration of three months after the date when the same fell due—and
- (b) the Minister shall have power to reverse the cancellation by him of any such permission upon such terms and conditions as to him may seem fit.

*Fencing—Restriction on kinds to be prescribed.*

Fencing : what kinds not to be prescribed.

52 Vic. No. 7, s. 9.

**203.** Where the local land board is authorized to prescribe the class of fencing to be erected in connection with any holding, it shall not prescribe any fence likely to be a harbour or shelter for rabbits or such other animals as the Minister may by notice in the Gazette declare to be vermin.

**Division 7.**

**FORFEITURES—sections 204-212.**

*Liability of lease or license to forfeiture.*

Lease or license : when forfeitable.

48 Vic. No. 18, s. 96.

No. 30, 1908, s. 42.

**204.** Every lease or license shall be liable to be forfeited if any rent or license fee be not paid within the prescribed period or upon breach of any condition annexed to such lease or license, but no forfeiture shall operate to extinguish any debt to the Crown in respect of such rent or license fee.

*Declaration of forfeiture or lapse.*

Forfeiture: how declared.  
48 Vic. No. 18, ss. 38, 39, and 96.  
55 Vic. No. 1, s. 3.  
58 Vic. No. 18, ss. 16 and 54.  
No. 42, 1905, s. 21.  
No. 30, 1908, s. 42.  
No. 6, 1912, s. 31.  
No. 53, 1912, ss. 18 and 24

**205.** (1) Whenever in pursuance of the provisions of this Act any purchase lease license or homestead selection before the grant thereof, or any right title or interest to or in any land, becomes liable to be forfeited, such forfeiture may be declared by the Minister by notification

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notification in the Gazette; but nothing in this subsection shall be taken to affect the provisions of section one hundred and forty-seven hereof.

(2) Wherever in this Act it is provided that any purchase right authority application or other matter may be declared to have lapsed, such lapsing may be declared by the Minister by notification in the Gazette.

48 Vic. No. 18, s. 62.  
50 Vic. No. 39, s. 1.  
58 Vic. No. 18,  
ss. 54 and 56.  
No. 30, 1908, ss. 3,  
5, and 11.

*Operation of forfeiture.*

**206.** (1) No forfeiture of any purchase lease or license or of any homestead selection before the grant thereof shall take effect until the expiration of thirty clear days after notification of such forfeiture in the Gazette.

Operation of  
forfeiture.  
No. 53, 1912, s. 18.  
No. 42, 1905, s. 21.  
No. 6, 1912, ss. 31  
and 36.

(2) Whenever after the passing of this Act the forfeiture of any purchase lease or homestead selection shall have taken effect, the lands theretofore comprised in such purchase lease or homestead selection shall (if not already such) become Crown lands, and the lands theretofore comprised in such purchase lease or homestead selection shall become and be reserved from every form of sale or lease, until otherwise notified in the Gazette: Provided that nothing in the foregoing provision shall operate so as to repeal or affect any enactment whereby it is enacted that forfeited lands shall revert or be added to or form part of any lease, license, reserve, or other area.

(3) The forfeiture of an original conditional purchase shall operate as a forfeiture of every additional conditional purchase of the same series held by the same holder if a final certificate of conformity has not been issued in respect of such additional conditional purchase, and shall also operate as a forfeiture of any conditional lease held wholly or partly in virtue of such original or any such additional conditional purchase as aforesaid.

Any forfeiture of an additional conditional purchase (whether in pursuance of the foregoing provision or otherwise) shall operate as a forfeiture of any conditional lease held wholly or partly in virtue thereof.

Subject to the foregoing provisions, the forfeiture of any original holding shall operate as a forfeiture of every additional holding if it be, in terms or in effect, provided by the Crown Lands Acts that such additional holding and such original holding (with or without further additional holdings) are to be deemed to be or to form one holding together.

(4) Any forfeiture of an improvement purchase or any forfeiture voidance or lapsing of an auction purchase shall be notified by the Minister in the Gazette, and shall take effect as a forfeiture in accordance with this section.

55 Vic. No. 1, s. 5.

*Acceptance*

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*Crown Lands Consolidation Act, 1913.*

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*Acceptance of moneys no waiver of forfeiture.*

Forfeiture:  
acceptance of moneys  
no waiver.

49 Vic. No. 18, s. 126.

58 Vic. No. 18, s. 17.

No. 53, 1912, s. 24.

**207.** The acceptance by or on behalf of the Crown of any purchase money or part thereof in respect of any conditional purchase or of any interest rent or other payment in respect of any homestead selection (whether ungranted or granted) or lease or license shall not be held to operate 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 homestead selector lessee or licensee.

*Waiver of forfeiture.*

Waiver of forfeiture.

58 Vic. No. 18, s. 22.

No. 6, 1912, s. 36.

No. 53, 1912, s. 20.

**208.** In any case in which a purchase ungranted homestead selection lease or license has, before or after the passing of this Act, become liable to be forfeited by reason of the non-fulfilment of any condition annexed by law or otherwise attaching to such purchase homestead selection lease or license, and in which the Minister shall be satisfied that such non-fulfilment has been caused by accident error mistake inadvertence or other innocent cause, and that such forfeiture ought, therefore, to be waived, or in any case in which there appears to be any other good and sufficient reason for the waiver of any forfeiture, then and in any such case it shall be lawful for the Minister, notwithstanding anything contained in the conditions of any purchase homestead selection lease or license, to declare that such forfeiture is waived either absolutely or subject to compliance with the conditions annexed by law or otherwise attaching to such purchase homestead selection lease or license within such time or extension thereof as he may see fit to determine; or upon such other conditions to be attached to the purchase homestead selection lease or license, as he may, after the local land board has made a recommendation in the matter, see fit to impose; and the forfeiture shall thereupon be waived accordingly:

Provided that, in any case where the Minister decides to impose conditions different from those recommended by the local land board or Land Appeal Court, as the case may be, he shall, on the day of so deciding, record in writing in the Lands Department his reasons for so doing.

And when the forfeiture of any conditional purchase or ungranted homestead selection or conditional purchase lease shall have been waived, and the conditions, if any, of such waiver shall have been performed, the holder of such conditional purchase or homestead selection or conditional purchase lease shall, if otherwise entitled thereto, be entitled to receive a certificate of conformity in respect of the same, notwithstanding that such certificate may have previously been applied for and refused.

55 Vic. No. 1, s. 2.

For the purposes of this section the word "forfeiture" shall be taken to include the lapse or voidance of any contract with the Crown under the Crown Lands Acts for the purchase or leasing of Crown lands.

No. 6, 1912, s. 33.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas.

*Reversal*

*Crown Lands Consolidation Act, 1913.**Reversal of forfeiture.*

**209.** Subject to the provisions hereinafter contained, the Minister shall have power to reverse, whether provisionally or otherwise, any forfeiture notified declared or otherwise asserted or enforced under the Crown Lands Acts:—

Revers of  
forfeiture.  
55 Vic. No. 1,  
ss. 3 and 4.  
58 Vic. No. 18, s. 22.

- (1) A provisional reversal of a forfeiture shall suspend the operation of the forfeiture, as from the date when such forfeiture shall have been notified declared or otherwise asserted or enforced. In any case, where such provisional reversal shall afterwards be revoked, such revocation shall have the same effect as if the provisional reversal so revoked had never been made.
- (2) Any absolute reversal of a forfeiture shall relate back to the date when such forfeiture shall have been notified declared or otherwise asserted or enforced, and shall have the same effect as if the forfeiture so reversed had never been notified declared or otherwise asserted or enforced.
- (3) Where a forfeiture shall have been duly notified or declared for any cause other than the non-payment of money the Minister shall, before absolutely reversing such forfeiture, refer to the local land board for inquiry and report as to any fact or circumstance in virtue of which he proposes to make such absolute reversal as aforesaid. And such board shall inquire into such fact or circumstance, and make a report and recommendation thereon to the Minister: Provided that should the Minister decide in any case contrary to the recommendation of the local land board or Land Appeal Court, as the case may be, he shall, on the day of so deciding, record in writing in the Lands Department his reasons for so doing; and the Minister shall, as soon as practicable, lay before both Houses of Parliament a copy of his decision, together with such reasons as aforesaid.
- (4) Any reversal of a forfeiture shall, as soon as practicable, be notified in the Gazette; but the date of such reversal shall be the date of the Minister's approval thereof.
- (5) No provisional or absolute reversal of any forfeiture shall defeat any valid application for a conditional purchase conditional lease homestead selection homestead farm suburban holding or Crown-lease lodged before the receipt by, or on behalf of, the Minister of a request in writing for such reversal, unless the applicant shall consent in writing to such reversal.

For the purposes of this section the word "forfeiture" shall be taken to include the lapse or voidance of any contract with the Crown under the Crown Lands Acts for the purchase or leasing of Crown

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Crown lands; and the provisions of this section shall *mutatis mutandis* extend to forfeitures notified declared or otherwise asserted or enforced before the passing of this Act.

No. 6, 1912, s. 36.

Subject to the provisions of Part VI of this Act, the provisions of this section shall *mutatis mutandis* apply to leases within irrigation areas.

*Forfeiture for false statement or evidence in certain cases.*

Forfeiture for false statement evidence, &c.

48 Vic. No. 18, s. 135.

53 Vic. No. 21, s. 2.

58 Vic. No. 18, s. 22.

No. 6, 1912, s. 36.

No. 53, 1912, s. 19.

**210.** If it be found by the local land board after due inquiry—

- (1) 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 the Code of 1884-1912 or this Act—  
or
- (2) that any such statement declaration or evidence wilfully misrepresents facts—or
- (3) that any fraudulent attempt has been made to prove that the conditions of the said Code or of this Act have been complied with—

(whether such statement declaration or evidence was made or given or such fraudulent attempt was made before or after the passing of this Act)—

then and in any such case, the conditional purchase conditional lease homestead farm suburban holding Crown-lease or lease within an irrigation area or (until the grant thereof) homestead selection, in connection with which such statement declaration or evidence was made or given, shall be liable to be forfeited, together with all moneys paid on account thereof or in connection therewith.

*Forfeiture for want of good faith.*

Forfeiture for want of good faith.

58 Vic. No. 18, s. 43.

No. 30, 1908, s. 42.

No. 6, 1912, s. 36.

No. 53, 1912, s. 27.

**211.** Where an application for any holding within a classified area or for a conditional purchase conditional lease or additional conditional purchase lease not within a classified area has been confirmed on or after the first day of June, one thousand eight hundred and ninety-five, or after the passing of this Act, as the case may be, and it appears to the satisfaction of the local land board—

- (1) that the application was not made in good faith—or
- (2) that the land is not held or used for the exclusive benefit of the purchaser selector lessee or apparent owner thereof—

the purchase selection or lease in question, together with all moneys paid in respect thereof, shall be liable to be forfeited.

In the case of any holding of a kind hereinbefore referred to or specified which has been applied for on or after the first day of February, one thousand nine hundred and nine, or after the passing of this Act, as the case may be, the allowing of stock not owned by the holder of the land to depasture thereon without having first obtained the Minister's consent thereto shall be *prima facie* evidence that the land is not so held or used.

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The provisions of this section shall, so far as applicable, extend to homestead leases recommended for approval on or after the first day of June, one thousand eight hundred and ninety-five.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas. No 6, 1912, s. 36.

*Forfeiture—Protection of transferees, &c.*

**212.** A forfeiture under section twenty-six of the Crown Lands Act of 1884 or section forty-four or section three hundred and four hereof, or under section one hundred and thirty-five of the Crown Lands Act of 1884 or under section two hundred and ten hereof, or under that part of section forty-three of the Crown Lands Act of 1895 or section two hundred and eleven hereof which provides for a forfeiture upon the ground that an application was not made in good faith shall not operate so as to vest in the Crown any derivative interest in any holding of a kind referred to or specified in the said respective sections in any case where the person in whom such derivative interest is vested acquired the same for valuable consideration, and without knowledge or notice of the matter out of which the liability to forfeiture arises or may arise. Forfeiture: protection of transferees, &c. No. 53, 1912, s. 19.

For the purposes of the foregoing provision it shall be presumed that any derivative interest acquired by any person within six years after the date of the application for the holding which is or may become liable to forfeiture was acquired by him with knowledge and notice of all matters out of which the liability to forfeiture arises or may arise, until the contrary be proved.

Any forfeiture under that part of section forty-three of the Crown Lands Act of 1895 or section two hundred and eleven hereof which provides for a forfeiture upon the ground that the land comprised in any holding of a kind referred to or specified in the said respective sections is not held or used for the exclusive benefit of the purchaser selector lessee or apparent owner thereof shall not be affected or limited in its operation by the existence of any derivative interest in such land created after the date of the making by the Minister of a reference or the lodging of a complaint setting forth or suggesting such ground of forfeiture.

For the purposes of this section the expression "derivative interest" shall not be taken to include any interest vested in the applicant for the conditional purchase homestead selection or settlement or other lease, as the case may be, whether by virtue of his application for the same or of any subsequent transaction; and the existence of any derivative interest which is exempt from forfeiture shall not prevent a forfeiture being made of the conditional purchase homestead selection or settlement or other lease, as the case may be, saving such interest.

**Division**



*Crown Lands Consolidation Act, 1913.*

**Division 8.**

**IMPROVEMENTS—PAYMENT, OWNERSHIP, TENANT-RIGHT, &c.—sections 213–225.**

*Definition of “improvements” and “capital value.”*

Definitions of  
“improvements”  
and “capital value.” contained—

48 Vic. No. 18,  
s. 141.  
53 Vic. No. 21, s. 44.  
58 Vic. No. 18, s. 51.

**213.** For the purposes of the provisions in this Division

The expression “improvements” shall mean improvements which are of a permanent fixed and substantial character, and necessary for the profitable occupation of the land; and fencing—where of the description aforesaid—shall be deemed to be an improvement common to the land on either side of such fencing; but the said expression shall not be taken to include improvements in or in connection with an irrigation area effected or provided by the Commissioner in pursuance of the Irrigation Act, 1912—

No. 38, 1898, s. 1.

and the expression “capital value of improvements” shall mean their capital value determined so as to be—

- (a) their value at the date of the commencement of the title of the incoming tenant—and
- (b) their value to such tenant – and
- (c) exclusive of any value which may be due to the inherent capabilities of the land—and
- (d) not in excess of the cost of making the improvements.

*Payment for improvements.—Liability of incoming tenant.*

Improvements :  
liability of incoming  
tenant.  
53 Vic. No. 21, s. 44.  
58 Vic. No. 18, s. 22.  
No. 6, 1912, ss. 3,  
13, 18, 26, and 36.

**214.** (1) Where Crown land containing improvements which are the property of the Crown becomes the subject of any purchase homestead selection or lease—other than a homestead farm suburban holding Crown-lease annual lease or occupation license—the incoming tenant shall pay the capital value of such improvements.

Where Crown land containing improvements which are the property of the Crown becomes the subject of a homestead farm suburban holding or Crown-lease, separate payment in respect of such improvements shall not be required.

53 Vic. No. 21, s. 44.  
No. 53, 1912, s. 26.

Where Crown land containing improvements which are the property of the Crown becomes the subject of an annual lease or occupation license, the rental value of such improvements shall be paid by the incoming tenant in any case where the letting is not by auction or tender, and also in any case where—the letting being by auction or tender—it was notified in the Gazette that the upset or minimum rent or license fee did not include the rental value of the improvements.

53 Vic No 21, s. 44.  
58 Vic. No. 18, s. 51.

(2) Where Crown land containing improvements which are not the property of the Crown becomes the subject of any purchase homestead selection or lease—other than an annual lease or occupation license—the incoming tenant shall pay the capital value of such improvements to the owner thereof or the person having tenant-right therein.

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Where Crown land containing improvements which are not the property of the Crown nor the subject of tenant-right becomes the subject of an annual lease or occupation license the incoming tenant shall pay the rental value of such improvements to the owner thereof. 53 Vic. No. 21, s. 44.

(3) Nothing in this section shall affect the provisions of this Act relating to lands containing improvements which lands are added or revert to any holding, nor the provisions of section two hundred and seventeen hereof.

*Assessment of capital or rental value of improvements.*

**215.** (1) Where the capital value of improvements which are the property of the Crown is payable by an incoming tenant under the provisions of the last preceding section, the amount of such capital value shall be determined by the local land board, except in the case of any lease within an irrigation area, in which case the amount of the capital value to be so paid shall be as notified in the Gazette in pursuance of the provisions in that behalf contained in the Code of 1884-1912 or in this Act. Assessment of capital or rental value.  
53 Vic. No. 21, s. 44.  
58 Vic. No. 18,  
ss. 22 and 51.  
No. 38, 1898, s. 2.  
No. 51, 1899, s. 10.  
No. 42, 1905, s. 10.  
No. 30, 1908, s. 20.  
No. 6, 1912, ss. 3, 13,  
18, 26, and 36.  
No. 53, 1912, s. 12.

Where the rental value of improvements which are the property of the Crown is payable by an incoming tenant under the provisions of the last preceding section or of section two hundred and seventeen hereof, the amount of such rental value shall be determined by the local land board.

(2) Where Crown land containing improvements which are not the property of the Crown becomes the subject of a conditional purchase conditional lease homestead selection settlement lease conditional purchase lease special conditional purchase lease homestead farm suburban holding or Crown-lease, then (whether such improvements are or are not the subject of tenant-right) the amount of the capital value payable by an incoming tenant shall be determined by the local land board:

Provided that where the incoming tenant has agreed with the owner of the improvements or the person having tenant-right therein as to payment for such improvements, no determination by the local land board shall be necessary.

Where Crown land containing improvements which are not the property of the Crown nor the subject of tenant-right becomes the subject of a purchase or lease—other than a conditional purchase conditional lease homestead selection settlement lease conditional purchase lease special conditional purchase lease homestead farm suburban holding Crown-lease annual lease or occupation license—the capital value of such improvements shall be as fixed by agreement between the parties, or failing such agreement (and on application by either party in the prescribed manner, accompanied by a deposit of ten pounds to cover the cost of dealing therewith) as determined by the local land board. 53 Vic. No. 21, s. 44.

Where

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*Crown Lands Consolidation Act, 1913.*

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53 Vic. No. 21, s. 44.

Where Crown land containing improvements which are not the property of the Crown nor the subject of tenant-right becomes the subject of an annual lease or occupation license, the rental value of such improvements payable by the incoming tenant shall be as fixed by agreement between the parties, or, failing such agreement, as determined by the local land board on the like application, accompanied by the like deposit.

58 Vic. No. 18, s. 51.

Where Crown land containing improvements which are the subject of tenant-right becomes the subject of a purchase or lease—other than a conditional purchase conditional lease homestead selection settlement lease conditional purchase lease special conditional purchase lease homestead farm suburban holding Crown-lease annual lease or occupation license—the amount of the capital value payable by an incoming tenant shall be determined by the local land board.

*Periods allowed for payment for improvements.*

Periods allowed for payment.

No. 53, 1912, s. 12.

**216.** (1) Where Crown land containing improvements which are the property of the Crown becomes the subject of a conditional purchase conditional lease homestead selection settlement lease conditional purchase lease or special conditional purchase lease, payment of the capital value of such improvements shall be made by an incoming tenant within three months after the determination of such value by the local land board, or at the option of the applicant for the holding by not more than four equal yearly instalments, together with interest at the rate of four per centum per annum.

No. 6, 1912, s. 26.

Where Crown land containing improvements which are the property of the Crown becomes the subject of a lease within an irrigation area, payment of the capital value of such improvements shall be made by ten equal yearly instalments, together with interest at the rate of four per centum per annum, of which the first shall be tendered with the application, and the second and all subsequent instalments shall be paid on the recurring dates of the granting of the application, and two or more instalments may be paid in any one year.

53 Vic No. 21, s. 44.

Where Crown land containing improvements which are the property of the Crown becomes the subject of any holding not mentioned in the foregoing provisions of this subsection and the capital value of such improvements is payable by an incoming tenant and no other provision is made in this Act as to the period within which payment therefor is to be made, then and in any such case payment of such capital value shall be made within such periods and by such amounts as the local land board shall determine.

*Ibid.*

Where Crown land containing improvements which are the property of the Crown becomes the subject of any lease in respect of which it is provided by this Act that the rental value of such improvements shall or may be payable by the incoming tenant, the period within which such rental value shall be paid shall be determined by the local land board.

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(2) Where Crown land containing improvements which are not the property of the Crown becomes the subject of a conditional purchase conditional lease homestead selection settlement lease conditional purchase lease or special conditional purchase lease and the capital value of such improvements has been determined by the local land board, payment of such value shall be made within three months after the determination or at the option of the applicant for the holding by not more than four equal yearly instalments, together with interest at the rate of four per centum per annum. No. 53, 1912, s. 12.

Where Crown land containing improvements which are not the property of the Crown becomes the subject of a homestead farm suburban holding or Crown-lease, and the capital value of such improvements has been determined by the local land board, payment of such value shall be made within three months after the determination (in which case no interest shall be charged), or at the option of the applicant for the holding—where such value does not exceed forty pounds—by not more than four equal yearly instalments, and where such value exceeds forty pounds, by not more than ten equal yearly instalments, together with interest in either case at the rate of four per centum per annum. No. 6, 1912, ss. 3, 13, and 18.

Where Crown land containing improvements which are not the property of the Crown becomes the subject of any holding not mentioned in the foregoing provisions of this subsection, and the capital value of such improvements has been determined by the local land board, payment of such capital value shall be made within such periods and by such amounts as the local land board shall determine, except in the case of any improvements which are the subject of tenant-right, in which case payment of the capital value shall be made by such instalments and at such dates as may be prescribed. 53 Vic. No. 21, s. 44.  
58 Vic. No. 18, s. 51.

Where Crown land containing improvements which are not the property of the Crown becomes the subject of an annual lease or occupation license and the incoming tenant is liable to pay the rental value thereof, and such rental value has been determined by the local land board, payment of such rental value shall be made within such periods and in such amounts as the local land board shall determine. 5 Vic. No. 21, s. 44.

*Payment of rent for Crown improvements in lieu of capital value.*

**217.** Where Crown land containing improvements which are the property of the Crown becomes the subject of a lease (not being a conditional lease settlement lease conditional purchase lease special conditional purchase lease or lease within an irrigation area) and the incoming tenant would otherwise be liable to pay the capital value of such improvements under the provisions hereinbefore contained, the holder of the lease may, with the consent of the Minister, pay the rental value of such improvements for the use thereof, Rental value for Crown improvements.  
No. 51, 1899, s. 10.  
No. 53, 1912, s. 28.

In

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In any such case the lease shall be liable to be forfeited if default is made in paying such rental value when due, or if the said improvements are not maintained in a reasonably good condition during the currency of the lease: Provided always that the lessee shall not be compelled to make good any damage caused by fire flood or other inevitable accident.

*Crown may pay off owner of improvements on certain leases.*

When owner may  
be paid off by  
Crown.  
No. 6, 1912,  
ss. 3, 13, and 13.

**218.** Where Crown land containing improvements which are not the property of the Crown becomes the subject of a homestead farm suburban holding or Crown-lease, and the capital value of such improvements exceeds forty pounds, the person entitled to receive payment for such improvements may apply in the prescribed form to the Crown to purchase such improvements, and the Crown may pay the capital value of such improvements to the person entitled to receive payment therefor, and thereupon the holder of the homestead farm suburban holding or Crown-lease shall become liable to pay to the Crown the amount of such capital value, together with the same interest, and in the same manner, as if the person previously entitled to receive such amount had not ceased to be so entitled.

*In what cases improvements become the property of the Crown.*

When improvements  
become the  
property of the  
Crown.  
53 Vic. No. 21, s. 44.  
58 Vic. No. 18, s. 22.  
No. 6, 1912, s. 36.

**219.** Improvements which have been effected—

48 Vic. No. 18,  
s. 102.  
No. 53, 1912, s. 24.

58 Vic. No. 18, s. 4.

- (1) under colour of any application for a purchase homestead selection or lease, which application is afterwards forfeited disallowed or withdrawn—or
- (2) whilst the lands containing the same are the subject of any purchase homestead selection (until the grant thereof) lease or license which afterwards is forfeited or surrendered or expires (which last-mentioned expression shall not be taken to include any lease or license which is renewed or extended, whilst any renewal or extension continues)—or
- (3) subsequently to the first day of July, one thousand eight hundred and seventy-six, upon lands which were for the time being reserved from sale, such reservation from sale being afterwards revoked, or such lands being after the making of the improvements withdrawn from lease or license—or
- (4) on or after the first day of June, one thousand eight hundred and ninety-five, or after the passing of this Act, as the case may be, upon lands within the Central Division which at the making of the said improvements were held under pastoral lease or preferential occupation license, such improvements having been made without the consent of the Crown given by such authorities and evidenced in such manner as may have been from time to time prescribed—or
- (5)

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- (i) upon lands which at the making of such improvements were held under a preferential occupation license granted or to be granted in compensation for a withdrawal from pastoral lease such improvements having been made without the consent of the Crown given by such authorities and evidenced in such manner as may have been from time to time prescribed—  
and which are not and do not become the subject of tenant-right in any person, shall be the property of the Crown.
- Improvements in respect of which tenant-right has lapsed shall be the property of the Crown :  
Provided, however, that—
- (a) where any lands in the Western Division are surrendered by a pastoral lessee in pursuance of section one hundred and ninety-six hereof and the Governor does not require that the surrender shall be a surrender of the lands together with any improvements thereon, any improvements on the land so surrendered shall, notwithstanding the surrender, remain the property of the pastoral lessee—and
- (b) where the Minister deems it expedient, he may waive the Crown's right to improvements effected subsequently to the first day of July, one thousand eight hundred and seventy-six, on any reserve from sale.

*Remission of right of Crown as to improvements.*

**220.** (1) Where improvements have been made through misapprehension as to the boundaries of land, or for any sufficiently reasonable cause, and the Crown land containing such improvements becomes the subject of a purchase homestead selection lease or license by or to the maker of such improvements or his representatives or assigns, or any other person, it shall be lawful for the Minister to remit the value of such improvements to the maker thereof or his representatives or assigns.

(2) Upon application within the time and in the manner prescribed being made by the last holder of any lease or license the Minister may permit him to remove all or any movable improvements effected by him or at his expense during the currency of the lease or license.

*Removal of improvements not the property of the Crown.*

**221.** Where Crown land containing improvements which are not the property of the Crown becomes the subject of any purchase homestead selection lease or license, the local land board, before the value of such improvements has been determined, may grant permission to the owner thereof to remove such of them as are of a removable nature, and may fix the period within which the same may be removed ; and thereupon the owner shall have full power by himself or his agents to enter upon the land within such period and to do all things necessary to effect such removal.

*Certain*

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*Certain cases in which tenant-right in improvements accrues or may be granted.*

Tenant right : when it arises.

58 Vic. No. 18, s. 7.

*Ibid.* s. 35.

No. 6, 1912, s. 34.

58 Vic. No. 18, s. 7.

*Ibid.* s. 25.

No. 6, 1912, s. 34.

58 Vic. No. 18, s. 7.

*Ibid.* s. 50.

*Ibid.* s. 25.

No. 20, 1897, s. 10.

58 Vic. No. 18, s. 6.

*Ibid.* s. 21.

No. 6, 1912, s. 34.

No. 73, 1912, s. 8.

58 Vic. No. 18,

ss. 21 and 35.

**222.** (1) Upon the expiration by effluxion of time of the term of any—

artesian well lease—

conditional lease—

Crown-lease—

homestead lease—

improvement lease—

lease (not being in perpetuity) of a block of non-irrigable land within an irrigation area—

pastoral lease in the Western Division—

residential lease—

settlement lease—or

of any lease or agreement for a lease of church and school lands granted or entered into before the second day of December one thousand eight hundred and ninety-seven, or of any lease of such lands granted or renewed after the said day in pursuance of a lease or agreement for a lease granted or entered into before the said day—or

upon the withdrawal of any land from a pastoral lease in the Western Division under the power in that behalf contained in section three hundred and forty-two hereof—or

upon the surrender (otherwise than formally for the purposes of a conversion addition subdivision or the like) of any lands held under a homestead grant—

the last holder, or holder, or surrenderor, as the case may be, shall have tenant-right in improvements upon the lands theretofore held under the expired lease, or so withdrawn from lease, or surrendered, as the case may be.

(2) Upon the surrender of the lease of a homestead farm suburban holding Crown-lease or of a lease within an irrigation area the surrenderor shall be entitled to tenant right in improvements existing at the date of such surrender on the surrendered lands, other than improvements which are the property of the Crown. Upon the forfeiture of a homestead farm suburban holding or Crown-lease the Minister, and upon the forfeiture of a lease within an irrigation area the Commissioner, may upon application in the prescribed manner grant by notification in the Gazette tenant-right to the last owner thereof.

(3) Upon the forfeiture of lands held under a homestead grant or upon the forfeiture or surrender of a conditional lease, the Governor may, on application in the prescribed manner, grant by notification in the Gazette to the last holder of the land so forfeited or

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or surrendered tenant-right in the improvements thereon; and the Minister may grant to the last holder of any scrub lease or inferior lands lease tenant-right in improvements. 58 Vic. No. 18, s. 26. No. 53, 1912, s. 23.

(4) Upon the refusal to renew a preferential occupation license granted in the first instance subject to section four of the Crown Lands Act of 1895, the last holder thereof shall have tenant-right in improvements made on or after the first day of June, one thousand eight hundred and ninety-five, upon lands which at the making of the said improvements were held under pastoral lease or preferential occupation license, such improvements having been made with the consent of the Crown given by such authorities and evidenced in such manner as may have been from time to time prescribed. 58 Vic. No. 18, s. 4.

(5) Upon the refusal to renew a preferential occupation license granted or to be granted in compensation for a withdrawal from the pastoral lease of a leasehold area the last holder of such license shall have tenant-right in improvements made upon lands which at the making of such improvements were held under such license, such improvements having been made with the consent of the Crown given by such authorities and evidenced in such manner as may have been from time to time prescribed. 58 Vic. No. 18, s. 6.

(6) Notwithstanding anything to the contrary contained in the Crown Lands Acts, a condition in any scrub lease inferior lands lease improvement lease or lease under section eighteen of the Crown Lands Act Amendment Act, 1903, affecting the tenant-right of the lessee in improvements shall be valid. No. 30, 1908, s. 38. No. 53, 1912, s. 31.

*Tenant-right in improvements—its effect.*

**223.** Where, under or by virtue of the Crown Lands Acts or by a condition attached to any lease granted thereunder, the last holder of any lease or other holding has tenant-right in improvements, such tenant-right shall accrue upon the determination of such lease or other holding as aforesaid, and shall entitle the person in whom for the time being the tenant-right is vested to receive the capital value of the improvements from any persons who make purchases or take leases (not being annual leases or occupation licenses) of the land containing the improvements, and the following provisions as to tenant-right shall apply in all cases—

- (1) the improvements shall be the property of the person claiming to have tenant-right in respect thereof, and any improvements which were forfeited or forfeitable to, or vested in, the Crown immediately prior to the accruing of the tenant-right shall not be included—
- (2) the capital value of the improvements, or so much thereof as for the time being remains unpaid, shall be and remain a charge upon the land containing such improvements while in the hands of a purchaser or lessee, until payment thereof—

M

(3)



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- (3) the holder of the purchase or lease of the land containing the improvements shall be liable to pay any instalments of the capital value thereof which shall accrue due during his holding—
- (4) the tenant-right shall lapse after the expiration of twelve years from the date of its first accruing, and thereafter the improvements shall be the property of the Crown, but such lapsing shall not affect any agreement determination or order for payment previously made—and
- (5) the capital value of any successful and useful well or bore for artesian water shall not be taken to exceed the first cost thereof and no allowance shall be made for any unsuccessful or useless well or bore.

*Right to payment for improvements not to be lost by subsequent forfeiture of the land.*

Forfeiture of lands containing improvements subject to tenant-right or ownership.

58 Vic. No. 18, s. 52.

**224.** (1) Where a purchaser or lessee of land containing improvements which are the subject of tenant-right pays (before or after the passing of this Act) to the person having tenant-right part of the capital value of the improvements, and the purchase or lease becomes forfeited, such share of the capital value of the improvements, as is represented by the amount paid up to the time of the forfeiture, shall vest in the Crown, and the remaining share of the improvements, or in the case of no such payment having been made, then the whole of the improvements shall continue to belong to the person having tenant-right, and shall be subject to tenant-right as defined by this Act: Provided that if after the forfeiture the land becomes the subject of a purchase or lease, a determination or redetermination, as the case may be, shall thereupon be made of such share of the capital value of the improvements as is vested in the person having tenant-right.

(2) The provisions of the last preceding subsection shall extend to cases where a person is the owner of improvements without having tenant-right therein—except that an application by either party in the prescribed manner, accompanied by a deposit of ten pounds to cover the cost of dealing therewith, shall be made before any determination or redetermination, as the case may be, by the local land board of the capital value of the improvements or of any share therein.

*Forfeiture upon default in paying for certain improvements.*

Payment for improvements: forfeiture upon default in certain cases.

53 Vic. No. 21, s. 44.

**225.** Where Crown land containing improvements which are not the subject of tenant-right has become or shall become the subject of any purchase homestead selection lease or license and the purchaser homestead selector lessee or licensee has failed, or shall fail, to make any payment for or in respect of such improvements within the period allowed by the Crown Lands Acts for making such payment, his purchase homestead selection lease or license, together with all moneys paid in connection therewith, shall be liable to be forfeited.

*Crown Lands Consolidation Act, 1913.***Division 9.****LEASES AND LICENSES—GENERAL AND MISCELLANEOUS  
PROVISIONS—sections 226–233.***General provisions governing leases and licenses.*

**226.** (1) The following provisions shall govern all leases or licenses in the Eastern or Central Division the title to which commenced or commences on or after the first day of January one thousand nine hundred and ten or after the passing of this Act, as the case may be, and the holders of such leases or licenses respectively, that is to say:—

General provisions  
governing leases  
and licenses.  
48 Vic. No. 18, s. 98.

- (a) 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 lessees or licensees respectively.
- (b) No lease or license—other than a special lease—shall confer any right to remove material from the land under lease or license or to sublet such land for other than grazing purposes or to prevent the entry and removal of material by persons authorized in that behalf.
- (c) No lessee or licensee shall prevent other persons authorized 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—or from camping or grazing (free of charge) such horses or other animals as may be necessary for the bona fide pursuit of their calling and while legitimately employed as aforesaid upon such land—and where any land subject to any such lease or license is enclosed the lessee licensee or occupier of the land shall provide reasonable means of access thereto for any of the said purposes, to the satisfaction of the Minister, by gates or otherwise:

No. 30, 1908, s. 42.

No. 6, 1909, s. 22.

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.

- (d) In the construction of the foregoing provisions, unless the context otherwise indicates, the word “material” shall include timber and products of growing or dead timber, trees, shrubs, or vegetable growth of economic value, and the expression “persons authorized” shall include persons authorized by licenses granted under the Forestry Act, 1909.

*Ibid.* ss 4 and 22.

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48 Vic. No. 18, s. 98.  
No. 30, 1908, s. 42.

(2) Leases or licenses in the Eastern or Central Division the title to which commenced on or after the first day of February one thousand nine hundred and nine and before the first day of January one thousand nine hundred and ten and the holders of such leases or licenses respectively shall be governed by provisions in the terms of subsection one of this section, excepting always the provision requiring that means of access to the land shall be provided.

48 Vic. No. 18, s. 98.  
No. 70, 1901, s. 2.

(3) Leases or licenses in the Eastern or Central Division the title to which commenced before the first day of February one thousand nine hundred and nine, and leases or licenses in the Western Division the title to which commenced before the first day of January one thousand nine hundred and two, and the holders of such leases or licenses respectively shall be governed by provisions in the terms of subsection one of this section excepting always the provisions requiring that camping and the grazing of animals shall not be prevented and that means of access to the land shall be provided.

(4) For the purposes of this section the title to a lease or license which has been renewed shall be taken to have commenced at the date at which it was granted in the first instance.

(5) Nothing in this section shall be taken to prejudice or affect any conditions which under or by virtue of the Crown Lands Acts attach to leases in particular cases or have been duly inserted in the instruments evidencing the title thereto.

*Authorized persons not to be obstructed.*

Authorized person  
not to be obstructed.  
48 Vic. No. 18, s. 133.

**227.** It shall not be lawful for the holder of any lease or license to obstruct any surveyor acting under instructions from the Crown or any other authorized person from entering upon the land under lease or license whenever such surveyor or authorized person may require to do so.

*Expiration of certain leases—reservation of land.*

Expiration of certain  
leases: land to be  
reserved.  
No. 53, 1912, s. 34.

**228.** Upon the expiration of the term of any conditional lease special lease scrub lease improvement lease settlement lease Crown-lease or lease under section eighteen of the Crown Lands Act Amendment Act, 1903, the land formerly held under such lease shall be deemed to be reserved from sale or lease until otherwise notified in the Gazette.

*Extension of term of scrub lease, inferior lands lease special lease, or residential lease.*

Extension of terms  
of certain leases.  
58 Vic. No. 18, s. 28.  
No. 53, 1912, s. 23.

**229.** The Minister may upon application as prescribed extend the term of any scrub lease or inferior lands lease to a term not exceeding twenty-eight years, on such terms and conditions as he may think fit, but such term shall be computed from the commencement of such lease,  
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The term of any special lease or residential lease—if in the first instance fixed for less than twenty-eight years—may be extended to any term not exceeding twenty-eight years. 58 Vic. No. 18, s. 46. No. 15, 1903, s. 21.

*Minister's consent to assignment or subletting in certain cases.*

**230.** (1) It shall be a condition attaching to every scrub lease snow lease inferior lands lease or improvement lease granted on or after the first day of January, one thousand nine hundred and thirteen, that the lessee shall not transfer assign or sublet without the Minister's consent in writing. Assignment or subletting of certain leases : Minister's consent required. No. 53, 1912, s. 16.

(2) In the case of any such lease as aforesaid the fact that any stock not owned by the lessee have been or are being depastured on the land held thereunder (other than travelling stock depasturing on any part of such land which is included within a travelling stock route or camping reserve) shall be prima facie evidence of an assignment or subletting and a provision giving effect to this and the last preceding subsection may be inserted in any instrument evidencing any such lease as aforesaid.

(3) In the case of a settlement lease, whether granted before or after the passing of this Act, the fact that any stock not owned by the lessee are depasturing on the farm (other than travelling stock depasturing upon a part thereof included within a travelling stock reserve) shall be prima facie evidence of a subletting of the farm. 58 Vic. No. 18, s. 25. No. 30, 1908, s. 42.

*Surrender of certain leases.*

**231.** (1) The holder of any conditional lease or scrub lease may with the consent of the Governor surrender the lease. Surrender of certain leases. 58 Vic. No. 18, s. 35.

(2) The holder of the lease of a homestead farm suburban holding or Crown-lease may with the consent of the Minister, and the holder of a lease within an irrigation area may with the consent of the Commissioner, surrender such lease to the Crown by an instrument in the prescribed form. 53 Vic. No. 21, s. 35. No. 6, 1912, s. 34.

*Survey of boundaries in certain cases.*

**232.** The Minister may direct the survey of the boundaries or portions of the boundaries of any land held under pastoral or homestead lease or occupation license. Survey of boundaries of pastoral and homestead leases and occupation licenses. 48 Vic. No. 18, s. 143.

If such survey be made at the request of the holder of a pastoral lease or occupation license the Minister may demand from him the whole or any part of the cost thereof. 53 Vic. No. 21, s. 52.

If the survey be made otherwise than at the request of the holder of the pastoral lease, or in the case of a homestead lease whether

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whether at the request of the holder thereof or otherwise, the Minister may, upon such survey being made, demand from the holder of the pastoral lease or homestead lease, as the case may be, towards defraying the cost thereof, any sum not exceeding twenty shillings for each linear mile of the boundary so surveyed.

Upon default in the payment of any sum so demanded within sixty days after notification of the demand in the Gazette, the pastoral or homestead lease or occupation license, as the case may be, shall be liable to be forfeited.

*Withdrawals from lease or license.*

Withdrawal from  
lease or license.

48 Vic. No. 18,  
s. 108.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 24.

**233.** (1) The Minister may withdraw from any lease (other than a conditional lease conditional purchase lease or special conditional purchase lease) or license any lands required as sites for towns or villages or for any public purpose.

Such withdrawal shall take effect upon a notification thereof in the Gazette.

48 Vic. No. 18,  
ss. 78 and 82.  
53 Vic. No. 21, s. 35.

(2) The Governor may withdraw from any pastoral or homestead lease in the Western Division, or from any scrub 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 appraisalment by the local land board.

53 Vic. No. 21, s. 39.  
No. 30, 1908, s. 42.

(3) The Minister may by notification in the Gazette revoke or modify any withdrawal made before or after the passing of this Act from lease or license, and such revocation or modification shall take effect at the date of the notification as aforesaid.

**Division 10.**

**LEGAL PROVISIONS—EVIDENCE—PROCEDURE—sections 234-255.**

*Crown grants.*

Crown grants.

48 Vic. No. 18, s. 6.

*Ibid.* s. 137.

**234.** (1) No Crown grant issued after the passing of this Act shall be expressed or purport to be in trust for private persons or purposes.

(2) Every Crown grant and registration copy of such grant issued under the Crown Lands Acts (whether issued before or after the passing of this Act) shall, for the purpose of enabling the Crown to proceed by way of scire facias for the repeal of any such grant issued improvidently or inadvertently or in violation of the provisions of any of the said Acts, be deemed to be a record of the Supreme Court notwithstanding anything to the contrary in the Real Property Act, 1900, or any Act thereby repealed. *Crown*

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*Crown Lands Consolidation Act, 1913.**Crown grants—reservations.*

**235.** (1) The Crown grant of a conditional purchase made under the Code of 1861-80, not being a conditional purchase for mining purposes, shall be made with reservation of any minerals which the land may contain. Reservations in Crown grants. 25 Vic. No. 1, ss. 18 and 19. 48 Vic. No. 18, s. 2.

(2) The Crown grant of a conditional purchase for mining purposes, whether made in the first instance for mining purposes or converted before or after the passing of this Act into a conditional purchase for such purposes, shall be made without reservation of minerals other than gold. 25 Vic. No. 1, s. 19. 48 Vic. No. 18, s. 2.

(3) Subject to the foregoing provision, all Crown grants of land issued under the authority of the Code of 1884-1912 or 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 always that nothing in this section shall affect any special provision of this Act as to the matters to be contained in Crown grants in particular cases. Ibid. s. 7.

*Devise or contract, &c., in fraud of Act to be void.*

**236.** Every devise contract lease agreement or security made entered into or given before at or after the date of any application for any holding within a classified area—or a conditional purchase conditional lease or additional conditional purchase lease not within a classified area—or a homestead lease—with the intent or 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. Devise contract, &c., void in certain cases. Ibid. s. 121. 58 Vic. No. 18, s. 22. No. 6, 1912, s. 36. No. 53, 1912, s. 24.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas. No. 6, 1912, s. 36.

*Illegal transaction to be a misdemeanour.*

**237.** 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 apply for and acquire any conditional purchase homestead selection homestead farm suburban holding or Crown-lease 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 homestead selector lessee or licensee of any land otherwise than for the use benefit and advantage of such purchaser homestead selector 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. Illegal transaction a misdemeanour. 48 Vic. No. 18, s. 122. 58 Vic. No. 18, s. 22. No. 6, 1912, s. 36.

Subject to the provisions of Part VI of this Act, the provisions of this section shall mutatis mutandis apply to leases within irrigation areas. Ibid. s. 36.

*Married*

*Married women—Competency to acquire or hold.*

Competency of  
married woman to  
acquire or hold.  
No. 53, 1912, s. 9.

**238.** Any married woman who shall be living apart from her husband under an order for judicial separation made by any court of competent jurisdiction shall not be prevented by the mere fact of being a married woman from applying for or otherwise acquiring from the Crown any purchase homestead selection lease or license under the Crown Lands Acts or from acquiring from any private person or from holding any such purchase homestead selection lease or license.

Any married woman who shall not be living apart from her husband under an order for judicial separation made by any court of competent jurisdiction shall not be prevented by the mere fact of being a married woman from—

No. 6, 1912,  
ss. 4 and 19.  
No. 53, 1912, s. 32.

- (a) acquiring from the Crown and holding any purchase lease or license under the Crown Lands Acts which is offered for disposal by auction or tender or is open for disposal as having been so offered or from acquiring from any private person and holding any purchase lease or license which in the first instance was so acquired as aforesaid—or
- (b) applying for a homestead farm or Crown-lease with moneys belonging to her for her separate estate and thereafter holding the same—or
- (c) applying in pursuance of any provision in that behalf in the Crown Lands Acts for the conversion of any holding (other than a special lease or an agricultural or pastoral lease granted under the Church and School Lands Dedication Act, 1880) into a holding of another kind and continuing to be the holder thereof when so converted—or
- (d) applying for or otherwise acquiring from the Crown, or from acquiring from any private person, or from holding purchases homestead selections and leases under the Crown Lands Acts in the following cases, that is to say:—
  - (i) She may with the consent of the Minister, out of moneys belonging to her for her separate estate, acquire from any private person and hold any purchase homestead selection or lease under the Crown Lands Acts.
  - (ii) She may with the consent of the Minister, out of moneys belonging to her for her separate estate, apply for any purchase homestead selection or lease under this Act as additional to any holding held by her at the date of her marriage or duly acquired by her during the marriage: Provided that nothing contained in this subsection shall be construed so as to require the consent of the Minister in any case coming within the next succeeding subsection.

(iii)

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- (iii) She may without the consent of the Minister apply for any purchase homestead selection or lease as an additional holding to any purchase homestead selection or lease under the Crown Lands Acts which was applied for by her before the marriage, and of which she has continued to be the holder or owner up to the date of the application for such first-mentioned purchase homestead selection or lease.
- (iv) She may without the consent of the Minister hold any purchase homestead selection or lease under the Crown Lands Acts which may have been held by her at the time of the marriage or may have devolved upon her during the marriage under the will or intestacy of any deceased holder, or which may be lawfully held by her on the first day of January, one thousand nine hundred and thirteen.

Save as aforesaid, a married woman shall not be competent to apply for or otherwise acquire from the Crown or to acquire from any private person or to hold any purchase homestead selection lease or license under the Crown Lands Acts.

The Minister shall not give his consent to the acquisition of any purchase homestead selection or lease by a married woman from any private person or to the application for an additional holding by any married woman except where he is satisfied that the lands proposed to be acquired or applied for, together with all other the lands which under the provisions of this Act are to be taken into account by him, will not exceed a home maintenance area.

*Minors—Competency to acquire or hold.*

**239.** (1) Any person who being a male is of the age of sixteen years or upwards or being a female is of the age of eighteen years or upwards shall, if otherwise not disqualified under this Act, be competent to apply for or otherwise acquire from the Crown or to acquire from a private person or to hold any purchase (other than a non-residential conditional purchase) homestead selection lease or license under the Crown Lands Acts, and any person who being a male is under the age of sixteen years or being a female is under the age of eighteen years shall not be competent to apply for or otherwise acquire from the Crown or to acquire from a private person or to hold any such purchase homestead selection lease or license: Provided always that nothing in this section shall be taken to prevent the devolution or holding of a purchase homestead selection lease or license devolving under the will or intestacy of a deceased holder.

(2) Any person above the age of sixteen years being the holder of any holding under the Crown Lands Acts may be sued for any moneys due to the Crown as if he were of the full age of twenty-one years.

*Minors*

Competency of  
minors to acquire or  
hold.  
No. 53, 1912, s. 8.

48 Vic. No. 18, s. 123.  
No. 53, 1912, s. 24.



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*Minors—Competency to contract.*

Competency of  
minor to contract  
otherwise than with  
Crown.

48 Vic. No. 18, s.  
123.

58 Vic. No. 18, s. 22.

No. 6, 1912, s. 36.

No. 53, 1912, s. 24.

**240.** Any person between the ages of sixteen and twenty-one years who before or after the passing of this Act becomes the owner of any holding under the Crown Lands Acts and during his ownership either personally or by an agent enters into any agreement for or in relation to the performance of any work or rendering of any services on such holding or in relation thereto or to the loan of money or the sale or purchase of goods and chattels of any description whatsoever or who in like manner enters into any agreement connected with the occupation management or general purposes of such holding—not being in violation of the provisions of the Crown Lands Acts—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.

*Naturalization of alien applicants and holders.*

Rights of aliens.

58 Vic. No. 18, s. 41.

No. 42, 1905, s. 29.

No. 30, 1908, s. 42.

No. 70, 1901, s. 2.

**241.** (1) A person who is not a natural-born or naturalized subject of His Majesty shall not be qualified to apply for an original conditional purchase original homestead selection original settlement lease original conditional purchase lease or original special conditional purchase lease unless he has resided in New South Wales for one year, and at the time of making such application he lodges a declaration of his intention to become naturalized within five years from the time of making such declaration. And if such person fails to become so naturalized within the period aforesaid, he shall absolutely forfeit all land the subject of his application.

No. 6, 1912, ss. 4,  
14, 19 and 23.

(2) An alien may apply for and acquire a homestead farm suburban holding Crown-lease or lease within an irrigation area.

No. 6, 1912, s. 32.

(3) Any alien who shall become the holder of a homestead farm suburban holding Crown-lease or lease within an irrigation area, shall become naturalized within three years after his becoming such holder. If such person fails to become so naturalized within the period aforesaid, he shall absolutely forfeit all his interest in such holding.

No. 53, 1912, s. 33.

(4) Nothing contained in the Crown Lands Acts shall prejudice the rights of any of the subjects of a foreign power between which and the United Kingdom of Great Britain and Ireland there is now subsisting, or shall hereafter subsist, any treaty of commerce whereby reciprocal civil rights of the subjects of such treaty powers are reserved granted or declared, and which treaty is or shall hereafter be applicable to the State of New South Wales.

*Sufficiency of general description of lease.*

Lease or license :  
general description,  
when sufficient.

48 Vic. No. 18, s.  
142.

**242.** For the purposes of any lease or license under the Crown Lands Acts, except a conditional lease, it shall be sufficient if the land and the boundaries thereof be defined by a general description

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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.

*Evidence—Admissibility of agreement for lease—Effect of receipt for rent.*

**243.** 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 put in evidence any agreement with the Crown or its agents lawfully authorized in that behalf, and such agreement shall, as between the parties and subject to the provisions of the Crown Lands Acts, have the same effect as if a lease from the Crown of such lands had been duly issued in pursuance of such agreement 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 current shall, according to the tenor thereof, be prima facie evidence that the party therein named is the holder of the lease or agreement for a lease thereof for the time being.

Agreement for lease or receipt for rent may be given in evidence.  
48 Vic. No. 18, s. 128.  
No. 53, 1912, s. 24.

*Evidence—Certified copy of document.*

**244.** 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 the Crown Lands Acts—and whether of the original or of any press copy thereof—and of any indorsement 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.

Certified copy of document to be evidence.  
48 Vic. No. 18, s. 127.

*Evidence of lands being measured.*

**245.** No land shall be taken to be measured until the plan of the measurement shall have been approved by the district surveyor or an officer duly authorized by the Minister in that behalf of which approval the signature of the district surveyor or such duly authorized officer on such plan shall be prima facie evidence: Provided that, where lands have been measured in pursuance of the provisions of such of the Crown Lands Acts as were in force at any time before the first day of December, one thousand eight hundred and eighty-nine, and the plan of such measurement has been approved or accepted by the then Surveyor-General or some other officer, such lands shall, for the purposes of this Act, be taken to be measured lands.

Evidence of lands being measured.  
53 Vic. No. 21, s. 27.

*Evidence*

*Crown Lands Consolidation Act, 1913.*

*Evidence—Questions exposing witness to forfeiture not to be unlawful.*

Witness may be compelled to answer question exposing him to forfeiture, &c.  
53 Vic. No. 21, s. 9.

No. 20, 1900, s. 13.  
No. 40, 1900, s. 330.

**246.** No question put to any witness before a local land board or the Land Appeal Court shall be deemed to be unlawful by reason only that the answer thereto may expose him to any forfeiture or penalty under the Crown Lands Acts: Provided that no examination before a local land board or the Land Appeal Court or any answer therein given shall be admissible in evidence against the witness in any criminal proceeding other than a prosecution against him for perjury or for an offence punishable as perjury or for making a false statement.

*Official plan of boundary of lease.*

Official plan: when to be evidence of boundary of lease.  
43 Vic. No. 18, s. 144.

**247.** 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.

*Affidavits and declarations—Before whom to be made.*

Affidavit or declaration: who may take.  
48 Vic. No. 18, s. 34.  
53 Vic. No. 21, s. 22.

**248.** Any Crown land agent shall by virtue and during his tenure of office be deemed for the purposes of the Crown Lands Acts or the Registration of Deeds Act, 1897, to be a commissioner of the Supreme Court for taking affidavits.

Declarations required by the Crown Lands Acts may be made before the Crown land agent or any justice of the peace or commissioner for taking affidavits for the State of New South Wales.

*Actions against officers.*

Actions against officers.  
43 Vic. No. 18, s. 129.

**249.** All actions or other proceedings against any officer acting under the provisions of the Crown Lands Acts for anything wrongfully done under or against such provisions 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

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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.

*Impounding and actions for trespass.*

**250.** (1) No person occupying—  
any holding within a classified area—or  
a conditional purchase, conditional lease, or additional conditional purchase lease not within a classified area—or  
a homestead lease, special lease, or annual lease—  
and no person occupying land in virtue of an application for a conditional purchase or homestead selection or for any lease of a kind hereinbefore referred to or specified, the application for which lease entitles him to go into occupation of the land, shall—

- (a) impound any stock trespassing on the holding or land—or
- (b) bring an action for trespass committed by stock on the holding or land—

unless the holding or land, or the portion thereof trespassed upon, was at the date of the trespass enclosed with a fence reasonably sufficient to keep out stock: Provided however that the foregoing enactment shall not be taken to—

- (c) apply to any trespass wilfully caused—or
- (d) refer to any conditional purchase or homestead selection for which a grant has been issued at the date of such trespass:

Provided moreover in reference to an application for any holding of a kind hereinbefore referred to or specified (except a homestead selection settlement lease special lease or annual lease), that, notwithstanding anything to the contrary hereinbefore contained, the person making the application shall not acquire any right of impounding any stock of the holder of any annual lease or occupation license under which the land applied for was held, until the expiration of three months after the date of such application; and for the purposes of this proviso any allotted lands which are not described in the application, as originally made, for a conditional purchase or conditional lease shall be deemed to have been applied for on the date of the confirmation of the application.

(2) Subject to the provisions of Part VI of this Act, the provisions of the last preceding subsection shall mutatis mutandis apply to leases within irrigation areas.

(3) The lessee or licensee of any lands within which travelling stock routes or camping places are situate shall not be entitled to impound any stock travelling pursuant to the provisions contained in section one hundred and six of the Pastures Protection Act, 1912, or to bring any action for trespass in respect thereof while such stock shall keep within the boundaries of the said routes or camping places.

Impounding and  
actions for trespass.<sup>1</sup>  
58 Vic. No. 18, s. 55.  
No. 6, 1912, s. 36.  
No. 53, 1912, s. 27.

53 Vic. No. 21, s. 12.  
58 Vic. No. 18, s. 55.  
59 Vic. No. 26, s. 2.  
No. 53, 1912, s. 27.

53 Vic. No. 21, s. 13.

No. 6, 1912, s. 36.

48 Vic. No. 18,  
s. 109.

*Moneys*

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*Crown Lands Consolidation Act, 1913.*

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*Moneys overdue may be recovered by Minister.*

Minister may sue  
for moneys and  
distrain for rent  
53 Vic. No. 21, s. 49

**251.** It shall be lawful for the Minister for Lands to bring under that name, and as nominal plaintiff on behalf of the Crown, any action or suit for the recovery of arrears of rent or of any other sums which under the Crown Lands Acts may be due to the Crown. And no such action or suit shall be prejudiced or abate or require amendment merely because after the commencement thereof the Minister who brought the same may have gone out of office or because another Minister may have been appointed or the office may for the time being be vacant: Provided that costs may be given for or against such plaintiff in the same way as in any ordinary action or suit.

And it shall be lawful for the Minister for the purpose of recovering arrears of rent due to the Crown to exercise by any duly authorized agent such powers of distress as are now given by law to any landlord.

*Punishment for destroying improvements.*

Improvements:  
punishment for  
destruction.  
48 Vic. No. 18,  
s. 132.

**252.** 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 the Crown Lands Acts, 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 or lease or license under the Crown Lands Acts (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.

*Recovery of penalties.*

Recovery of  
penalties.  
*Ibid.* s. 139.  
No. 53, 1912, s. 24.  
No. 27, 1902, s. 82.

**253.** Whenever by any section of the Crown Lands Acts or by any regulation made thereunder or by any condition contained in any lease, 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.

*Trespass*

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*Trespass on Crown lands or dedicated lands—Penalties.*

**254.** Any person—unless lawfully claiming under any subsisting lease or license or otherwise under the Crown Lands Acts or under the Mining Act, 1906—who shall be found occupying or using any Crown land or land granted reserved or dedicated for public purposes, either by—

- (a) residing thereon—or
- (b) erecting any hut building or other structure thereon—or
- (c) clearing digging up or enclosing or cultivating any part thereof—or
- (d) depasturing stock thereon—or
- (e) driving piles—or

who shall cause to be cut or removed any timber or products thereon—or obtain or cause to be obtained any stone clay shells earth gravel or similar material therefrom—or who shall remove or cause to be stripped or removed 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.

Trespass on Crown lands or dedicated lands.

48 Vic. No. 18, s. 183.

53 Vic. No. 21, s. 3.

58 Vic. No. 18, s. 58.

No. 42, 1905, s. 29.

No. 6, 1909, s. 2.

*Trespasser on Crown lands may be removed.*

**255.** 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 or use of any Crown land, or in the occupation or use 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 His Majesty, and the person to whom such warrant is addressed shall forthwith carry the same into execution.

Removal of trespassers.

48 Vic. No. 18, s. 131.

53 Vic. No. 21, s. 3.

Division

**Division 11.**

**RESUMPTIONS.**

*Resumption for canal or cutting for irrigation purposes.*

Resumption for  
canal, &c.

53 Vic. No. 21, s. 42.

58 Vic. No. 18, s. 22.

No. 6, 1912, s. 36.

No. 5, 1897, s. 3.

**256.** If at any time it shall be deemed expedient to open a canal or cutting for irrigation purposes through any land which is the subject of a conditional purchase homestead selection or conditional or other lease or which is held in fee-simple, it shall be lawful for the Governor by notification in the Gazette to resume so much of the land as may be required for the purpose, and in the like manner at any time to proclaim the same: Provided that—

- (a) no such resumption shall be made until the expiration of one month after notice in the Gazette and in one or more local newspapers as well as notice by letter to the reputed proprietors or occupiers of the said land addressed to their last known abode or place of business of the intention to resume during which time any person feeling aggrieved may address to the Minister any objection he may have thereto—and
- (b) no land shall be resumed under the provisions of this section which is situated within two hundred yards of any dwelling-house if attached thereto and used in connection therewith as a yard garden orchard plantation park or avenue unless the owner of such lands consent to the same being so resumed or the purposes of the resumption cannot be otherwise secured.

In any case where the resumed land was held in fee-simple or under conditional purchase homestead selection conditional lease homestead farm suburban holding Crown-lease or lease within an irrigation area the value thereof as determined by the local land board shall be paid by the Crown; in any other case a refund shall be made of any moneys paid on account of the land so resumed.

Any surveyor or other person duly authorized in that behalf may for all purposes of this section enter upon any lands proposed or liable to be resumed thereunder and do all things necessary thereon without obstruction or resistance.

**Division 12.**

**SUBDIVISION OF HOLDINGS—sections 257-8.**

*Subdivision of holdings.*

Subdivision of con-  
ditional purchase,  
homestead selection,  
settlement lease or  
conditional purchase  
lease.

**257.** The holder of a conditional purchase in respect of which a certificate of conformity has been issued, or (subject to regulations to be made hereunder) of a homestead selection, settlement lease, or conditional purchase lease, may make application to the Minister for the subdivision of his holding into two or more portions.

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The application shall be made in the prescribed manner and be accompanied by the prescribed deposit which shall be available for the payment of the costs of any survey or reports which may be required.

No. 30, 1908, ss. 26 and 27.  
No. 53, 1912, s. 31.

The Minister may grant refuse or modify any application under this section, and where he grants an application with or without modification, as the case may be, he shall settle the lines of subdivision so as to conform to any regulations made in that behalf, and in the case of a conditional purchase shall determine the portion of the subdivided conditional purchase to which any conditional lease acquired in virtue of the conditional purchase before the subdivision thereof shall be attached.

The holder of the conditional purchase, homestead selection, settlement lease, or conditional purchase lease, shall surrender such land as may be necessary for providing roads of access to the subdivided portions, which land shall thereupon become Crown land free from any claim thereto of such holder.

After subdivision the certificate of conformity shall in the case of a conditional purchase be surrendered and a new certificate issued for each portion, and in the case of a homestead selection the homestead grant, if any, shall be surrendered and a separate homestead grant issued for each portion, and in the case of a settlement lease or conditional purchase lease the lease, if any, shall be surrendered and a separate lease issued for each portion:

Provided always that grants and leases so issued shall contain such covenants and conditions as the Minister may approve.

**258.** Each portion of a subdivided conditional purchase shall, subject to regulations hereunder, be held and be transferable as a separate conditional purchase. Each portion of a subdivided homestead selection, settlement lease, or conditional purchase lease shall, subject to the right of conversion under this Act, continue to be held for the balance of the term or current period at the same rate of rent per acre as before subdivision and be subject to the same conditions, and be transferable, as if each were a separate homestead selection, settlement lease, or conditional purchase lease, as the case may be:

Provisions governing subdivided portions.  
No. 30, 1908, ss. 26 and 27.

Provided always that the holder of any subdivided portion shall not be entitled to apply for an additional conditional purchase, homestead selection, settlement lease, or conditional purchase lease, as the case may be, in virtue thereof, and that the person obtaining the subdivision shall not be entitled to apply for additional land in virtue of the subdivided holding (or, in the case of a conditional purchase, in virtue of any purchase or lease of the same series as the subdivided holding) unless he has previously obtained the Minister's permission in writing.

N

Division



**Division 13.**

**TRANSFER—TRANSMISSION AND DEVOLUTION OF TITLE—RESTRICTIONS AS TO PERSONS WHO MAY TAKE—sections 259–274.**

*Transfers—generally.*

Transfers generally.

42 Vic. No. 26, s. 3.

48 Vic. No. 18,  
ss. 117 and 119.

No. 53, 1912, s. 17.

**259.** (1) Where in pursuance of the Crown Lands Acts any purchase lease or license or ungranted homestead selection may be transferred such transfer shall be made in the prescribed form and manner.

In the case of a conditional purchase the transfer shall be notified to the Crown land agent, and in all cases transfers shall be lodged as prescribed.

48 Vic. No. 18,  
s. 120.

No. 53, 1912, s. 27.

(2) The effect given to duly registered deeds and instruments affecting lands hereditaments and other property by section twelve of the Registration of Deeds Act, 1897, 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 of Deeds Act, 1897, after the prescribed registration or record thereof in the books of the Department of Lands shall have been duly effected.

*Transfers of conditional purchases and conditional leases.*

Conditional  
purchases and  
conditional leases :  
transfers.

42 Vic. No. 26, s. 3.

48 Vic. No. 18,  
s. 117.

58 Vic. No. 18, s. 29.

No. 53, 1912, s. 27.

**260.** Transfers of original conditional purchases additional conditional purchases and conditional leases shall respectively be governed by the provisions hereunder specified :—

(1) An original conditional purchase applied for before the first day of June, one thousand eight hundred and ninety-five, —not being a non-residential conditional purchase—may be transferred at any time—

(2) An original conditional purchase applied for on or after the first day of June, one thousand eight hundred and ninety-five, or after the passing of this Act, as the case may be, —not being a non-residential conditional purchase—may be transferred at any time after the issue of the first certificate that all conditions attaching thereto except payment of the balance of purchase money have so far been duly complied with—

No. 15, 1903, s. 8.

(3) If the holder of any original conditional purchase—not being a non-residential conditional purchase—dies or becomes of unsound mind (whether before or after the passing of this Act) before the issue of such first certificate, the conditional purchase may be transferred to his representatives or their assigns but may not be again transferred except in similar circumstances until after such certificate has been issued.

(4)

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- (4) A non-residential original conditional purchase may be transferred at any time after the issue of the certificate that all conditions attaching thereto except payment of the balance of purchase money have been duly complied with— 48 Vic. No. 18, s. 47.
- (5) Additional conditional purchases and conditional leases shall not be transferred separately from the original conditional purchase of the series except subject to the following provisions:—
- (a) additional conditional purchases together with any conditional leases held in virtue thereof may be transferred separately from the original conditional purchase after all the conditions attaching to the original conditional purchase except that of payment of the balance of purchase money have been duly complied with— Ibid. s. 117. No. 6, 1910, s. 9.
- (b) a conditional lease shall not be transferred apart or held separately from the holding—whether consisting of one or more conditional purchases—in virtue of which it was acquired: Provided that where it is desired to make any transfer which would have the effect of separating any part of such holding from the residue thereof the Minister shall on application as prescribed determine the part of such holding to which the conditional lease is to be attached, and thereupon the conditional lease shall be deemed to be held in virtue of such part. No. 53, 1912, s. 17

Where before the first day of January, one thousand nine hundred and thirteen a conditional lease has by transfer or otherwise become separated from some part or parts of the holding in virtue of which it was acquired, the Minister may determine the part of such holding to which the conditional lease is to be attached, and thereupon the conditional lease shall be deemed to be attached to and held in virtue of the part so determined as aforesaid.

*Effect of transfer of conditional purchase.*

**261.** 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, that is to say:— Transfer of conditional purchase: its effect. 48 Vic. No. 18, s. 119. No. 53, 1912, s. 27.

- (1) The equities of all persons claiming any estate or interest in any such land by matter prior to the date of execution of any

*Crown Lands Consolidation Act, 1913.*

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.

- (2) No transfer shall have the effect hereinbefore expressed unless such transfer has been made executed and lodged in accordance with the regulations.
- (3) 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.

*Transfer of homestead selections.*

Transfer of  
homestead selection.  
58 Vic. No. 18, s. 17.  
No. 42, 1905, s. 9.

**262.** An original homestead selection or an original and additional homestead selection shall not be transferable before the issue of the grant in respect of the original homestead selection.

Where an original homestead selection is lawfully transferable any additional homestead selection held in virtue thereof shall also be transferable therewith.

An original and additional homestead selection—unless subdivided or exchanged in accordance with the respective provisions in that behalf contained in this Part—shall not be transferred apart or held separately.

*Transfer of settlement leases.*

Transfer of  
settlement lease.  
No. 30, 1908, s. 24.  
No. 53, 1912, s. 31.

**263.** (1) A settlement lease applied for on or after the first day of February, one thousand nine hundred and nine, or after the passing of this Act, as the case may be, shall not be transferable until five years of the condition of residence have been performed unless the Minister is satisfied that the lessee is compelled by sickness of himself or family or other adverse circumstances to leave the lease.

No. 30, 1908, s. 24.  
No. 53, 1912, s. 31.

(2) Where a settlement lease—applied for before the first day of January, one thousand nine hundred and four, and extended under the provisions of section five of the Crown Lands Act Amendment Act, 1903, or of section three hundred and twenty-three hereof—or applied for on or after the first day of January, one thousand nine hundred and four, or after the passing of this Act, as the case may be—shall be transferred assigned or sublet within fifteen years after the confirmation of the application for the lease the Minister may require the rent for the unexpired portion of the then current period of the lease to be determined by the local land board.

No. 42, 1905, s. 9.

(3) An original and additional settlement lease—unless subdivided or exchanged in accordance with the respective provisions in that behalf contained in this Part—shall not be transferred apart or held separately.

*Transfer*

*Crown Lands Consolidation Act, 1913.**Transfer of conditional purchase leases.*

**264.** Where an original conditional purchase lease is lawfully transferable any additional conditional purchase lease held in virtue thereof shall also be transferable therewith.

Transfer of conditional purchase lease.

No. 42, 1905, s. 9.

A conditional purchase lease applied for on or after the first day of February, one thousand nine hundred and nine, or after the passing of this Act, as the case may be, or a conditional purchase being a conversion of any such conditional purchase lease, shall not be transferable until five years of the condition of residence have been performed unless the Minister is satisfied that the holder is compelled by sickness of himself or family or other adverse circumstances to leave such holding.

No. 30, 1908, ss. 24 and 42.

No. 53, 1912, s. 31.

Original and additional conditional purchase leases and conditional purchases (being conversions of conditional purchase leases) of the same series—unless subdivided or exchanged in accordance with the respective provisions in that behalf contained in this Part—shall not be transferred apart or held separately.

No. 42, 1905, s. 9.

No. 30, 1908, ss. 22 and 42.

*Restrictions as to assignment and assigns of conditional purchase leases and conditional purchases which are conversions thereof.*

**265.** (1) The holder of any conditional purchase lease applied for before or after the passing of this Act, or conditional purchase which is a conversion thereof, shall not transfer convey assign mortgage or charge the same with the repayment of moneys advanced on the security thereof, or sublet such lease, or lease such purchase, without first having obtained the written consent of the Minister thereto; and before giving such consent the Minister shall be satisfied that all conditions attaching to such lease, or all conditions (except the payment of balance of purchase money) attaching to such purchase have so far been and are being duly complied with. This restriction shall cease to affect any such conditional purchase when the grant thereof has been issued.

Restrictions as to assignment and assigns of conditional purchase lease.

No. 42, 1905, s. 24.

(2) Except as provided by sections two hundred and sixty-seven and two hundred and sixty-eight hereof, no person who holds either a conditional purchase lease applied for before or after the passing of this Act, or a conditional purchase which is a conversion thereof, shall be qualified to acquire another holding of either of such kinds.

*Ibid.* s. 23.

No. 53, 1912, s. 30.

(3) No person unless qualified to apply under this Act for a conditional purchase lease shall acquire by transfer or otherwise a conditional purchase lease applied for before the first day of February one thousand nine hundred and nine, or a conditional purchase which is a conversion of such conditional purchase lease.

No. 42, 1905, s. 23.

No. 53, 1912, s. 30.

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No. 42, 1905, s. 23.  
No. 53, 1912, s. 30.

(4) The restrictions set out in subsections two and three of this section shall not extend to transfers by way of mortgage, but shall continue to apply to conditional purchases after the grant thereof, and no transfer conveyance or assignment in contravention of such restrictions shall be valid for any purpose whatsoever :

Provided always in reference to the restrictions mentioned in subsections two and three of this section respectively that if the conditional purchase lease or conditional purchase in question devolve under a will or intestacy upon a person who is not qualified under the said subsections respectively to hold the same, he may nevertheless hold such lease or purchase for a period of three years or such further period as the Minister may permit, and if before the expiration of any such period or further period the said person shall become qualified under the said subsections respectively, he shall be deemed to have been so qualified as from the date of such devolution.

*Limits of operation of six preceding sections.*

Limits of operation  
of last six preceding  
sections.

**266.** Nothing in the last six preceding sections shall affect the operation of the several provisions of this Act relating to the following matters :—

- (a) subdivision of holdings—
- (b) transfers upon additions to holdings—
- (c) transfers upon exchange of holdings between private persons—
- (d) devolution of title upon the holder of land dying or becoming of unsound mind—and
- (e) transfer under legal process or constraint.

And the said sections shall also be read subject to the provisions of section two hundred and seventy-two hereof.

*Transfers upon additions to holdings.*

Transfers upon  
additions to holdings.

**267.** The holder of any conditional purchase homestead selection settlement lease or conditional purchase lease may, subject to the provisions next hereinafter contained, acquire by transfer one or more conditional purchases homestead selections settlement leases or conditional purchase leases (although a condition of residence may attach to such conditional purchases or conditional purchase leases) as additional purchases selections or leases and in any such case the conditions of residence and improvement attaching to the original and additional holdings may be performed on any one of such holdings.

No. 15, 1903, s. 11.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 29.

Before any such acquisition takes place the local land board shall approve thereof and the Minister shall consent thereto, and the local land board shall not approve thereof unless it is of opinion that the area

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area proposed to be acquired when added to the area already held would not exceed a home maintenance area and that the circumstances—due regard being given to the purposes for which the lands were made available—warrant the holder being permitted so to enlarge his holding.

Whenever land shall have been acquired under the foregoing provision and thereafter any application shall be made for an additional holding, the area of the land so acquired as aforesaid shall be taken into account as if it had been acquired by virtue of an application for an additional holding; and whenever an original holding shall have been acquired under such provision and shall thereby have become attached to another original holding, such first-mentioned holding shall in all respects be deemed to be an additional to the holding to which it is so attached.

*Transfers upon exchanges of holdings between private persons.*

**268.** Holders of original or additional conditional purchases conditional leases homestead selections or grants settlement leases or conditional purchase leases may, with the approval of the Minister given on the recommendation of the local land board, exchange by transfer their holdings or portions thereof: Provided that an exchange of portions of holdings may be permitted if the portions exchanged will in the opinion of the local land board be within a reasonable working distance of the holdings to which they are respectively to be attached.

Transfers upon exchanges between private persons.  
No. 39, 1908, s. 36.

The condition of residence attaching to any portion of a holding may be performed by residence on any holding to which such portion shall by the exchange have become attached.

*Devolution of certain kinds of holdings upon death or unsoundness of mind.*

**269.** (1) If any holder of a homestead selection or of any lease (not being a conditional lease or conditional purchase lease) under the Crown Lands Acts dies or becomes of unsound mind (whether before or after the passing of this Act) his interest in such land may be held by his representatives, subject to the performance by them of all conditions remaining to be performed except the condition, if any, of residence in trust for the benefit of the persons entitled: Provided that where a condition of residence attaches to the holding such representatives shall either sell and assign the homestead selector's or lessee's interest in the land to a bona fide purchaser within twelve months after the date of their becoming entitled to possession in pursuance of this section, or else with the approval of the Minister and for such time as he may permit appoint a person as their deputy to reside upon the land.

Devolution upon death or unsoundness of mind.  
No. 15, 1903, s. 10.  
No. 6, 1912, s. 36.

(2)

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(2) The last preceding subsection shall be read subject to the provisions of sections two hundred and seventy-two and two hundred and seventy-four hereof respectively.

No. 6, 1912, s. 36.

(3) Subject to the provisions of Part VI of this Act, the provisions of this section shall *mutatis mutandis* apply to leases within irrigation areas.

*Transfer under legal process or constraint, &c.*

Transfers under legal process, &c.

48 Vic. No. 18, s. 125.

53 Vic. No. 21, s. 34

**270.** (1) Any sale transfer or other disposition whatsoever of the estate right title or interest of any conditional purchaser or homestead lessee by an official assignee or other lawful authority upon the bankruptcy of such purchaser or lessee or by the sheriff or by a 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 or homestead lessee was entitled to at the date of sequestration writ process decree order or assignment respectively, and subject to all conditions remaining to be performed at such date.

No. 15, 1903, s. 8.

Upon any such sale transfer or disposition of the estate or interest of a conditional purchaser before the issue of the first certificate in respect of the conditional purchase the conditional purchase may be transferred to the purchaser but may not be again transferred except in similar circumstances until after such certificate has been issued.

*Ibid.* s. 12.

No. 6, 1912, ss. 13 and 36.

(2) Any mortgagee who has under the powers of the mortgage submitted a homestead selection or settlement lease or area consisting of land of both tenures or homestead farm suburban holding Crown-lease or lease within an irrigation area for sale by public auction, and any execution creditor who has seized under process of any court any such selection lease area or holding, if the mortgagor's or debtor's interest in the land is not then sold to a bona fide purchaser, may, in the prescribed manner, go into possession of the land, and the condition of residence shall for a period of twelve months after the commencement of such possession or for such further period as may be approved by the Minister be deemed to be performed, if a deputy of such mortgagee or execution creditor, to be approved by the local land board, resides upon the land.

The mortgagee or execution creditor shall, within such period or further period as aforesaid, sell the mortgagor's or debtor's interest in the land to a bona fide purchaser, who thereafter shall be subject to all conditions which affected the original holder, and in default of such sale the selection lease area or holding shall be liable to be forfeited:

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Provided however that—

- (a) any mortgage or execution creditor before proceeding under this subsection shall register at the office of the Crown land agent the total amount of his mortgage or judgment debt and other particulars as prescribed, and thereafter any person may before such forfeiture as aforesaid apply to the local land board to purchase the said selection lease area or holding for the amount of such debt and the board may grant such application, and upon payment to the mortgagee or execution creditor of the amount then due the applicant shall become the holder of such land free of such debt, but subject to all conditions attaching to such land which remain to be performed—
- (b) any mortgagee or execution creditor shall not take proceedings under this subsection unless the mortgagor has been in default for one year, or in the case of such creditor until one year after judgment has been signed—and
- (c) this subsection shall not in any way abrogate the provisions of the next succeeding section.

*Protection of certain holdings.*

**271.** (1) The owner for the time being of a homestead selection homestead farm suburban holding Crown-lease or lease within an irrigation area, whether granted or ungranted, may, in any case where his home is established upon his holding as aforesaid, obtain for such holding protection under this Act by registering with the Crown land agent for the district, or any other prescribed authority, an instrument in the prescribed form; and the Crown land agent or other prescribed authority shall enter such particulars as may be prescribed in a book to be kept by him for the purpose, and such book shall be open to inspection by the public at such times and subject to such conditions as to payment of fees or otherwise as may be prescribed.

Protection of certain holdings.  
58 Vic. No. 18, s. 23.  
No. 6, 1912, s. 36.  
No. 53, 1912, s. 27.

Any holding protected under this Act—

- (a) shall not be sold under any writ of execution issuing out of any court—and
- (b) shall not vest in any official assignee or trustee or be ordered to be conveyed upon the bankruptcy of the owner thereof or pass by any assignment for the benefit of his creditors—and
- (c) shall not in any other way be taken from the owner thereof for the satisfaction of any debt or liability under process or constraint of law.

But nothing herein contained shall affect the validity of any charge or encumbrance created before the holding which is the subject thereof was registered.

(2)



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(2) Registration shall not have the foregoing effect if the owner was in insolvent circumstances at the date thereof; and the protection shall cease as to any holding—

when the owner fails to comply with the condition of residence—

or

when he obtains for another holding protection under this Act—

or

when the owner transfers the holding :

Provided always that nothing in this section contained shall—

(a) exempt the holding, or part thereof, or interest therein from levy or sale for rates or taxes legally imposed—or

(b) affect any remedy for any cause of action accruing before the registration or for any breach of trust or for any debt for rent instalments of purchase money or interest due to the Crown, or any power of forfeiture.

*Restrictions as to assigns of certain holdings applied for after February 1st, 1909.*

Restriction as to  
assigns of certain  
holdings applied  
for after  
1st February, 1909,  
No. 30, 1908, s. 25.  
No. 6, 1910, s. 7.

**272.** (1) Holdings of the kinds hereunder specified, that is to say—

(a) original conditional purchases—

(b) original homestead selections—

(c) original settlement leases—

(d) original conditional purchase leases—or

(e) original special conditional purchase leases—

respectively applied for on or after the first day of February, one thousand nine hundred and nine, or after the passing of this Act, as the case may be—or

(f) additional holdings held in virtue of any such holdings as aforesaid—or

(g) holdings consisting of portions into which any such conditional purchases homestead selections settlement leases or conditional purchase leases as aforesaid have been or shall be subdivided—or

(h) original or additional holdings into which homestead selections settlement leases special leases or agricultural or pastoral leases granted under the Church and School Lands Dedication Act, 1880, have been converted under the Crown Lands (Amendment) Act, 1908, or shall be converted under sections one hundred and eighty-three to one hundred and eighty-eight or one hundred and ninety of this Act—

shall respectively not be transferable except by way of mortgage only—to a person who at the date of the proposed transfer already holds an area of lands that under the provisions of this Act

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are to be taken into account, which area when added to the area proposed to be acquired by transfer will in the opinion of the Minister exceed a home maintenance area—or to a married woman who is not competent to take a transfer thereof under the provisions in that behalf contained in section two hundred and thirty-eight hereof.

(2) Application for permission to transfer by way of sale mortgage lease or otherwise any such holding as is hereinbefore mentioned shall be made to the Minister in the prescribed form, and such transfer shall not be effected, or if effected shall not be valid, unless the Minister's consent thereto has been obtained. The Minister shall have discretion to give or refuse such consent, and shall not refuse consent unless he has referred the matter to the local land board, and the local land board recommends that such consent should not be given.

(3) If any such holding as aforesaid is mortgaged and the mortgagee enters into possession of the same under his mortgage, he may hold the same for a period of three years after the date of his entering into possession as aforesaid, or for such further period as the Minister may permit.

But the mortgagee shall not, notwithstanding the terms of his mortgage, so enter into possession of the mortgaged land more than once, except by permission of the Minister.

Such mortgagee shall not foreclose the mortgage except with the consent of the Minister. Such consent shall be applied for and may be given or refused, as in the case of a sale; and the provisions of subsection two of this section shall apply thereto.

Such mortgagee shall not transfer the land except in accordance with this section.

If within such period the mortgagee does not obtain the certificate of the Minister to a foreclosure, or does not transfer the holding in accordance with this section, the same shall be liable to forfeiture, and on notification by the Minister in the Gazette may be forfeited, and thereupon shall revert to the Crown.

A foreclosure or transfer in contravention of this section shall be void.

The fact that the mortgagee or some person by his authority occupies or uses any part of the mortgaged land shall be prima facie evidence that the mortgagee has entered into possession of the land under the mortgage.

(4) If any such holding as aforesaid devolves under a will or intestacy upon a person who is not qualified under this section to be a transferee thereof, such person may nevertheless hold the holding for a period of three years after the death of the testator or intestate, or for such further period as the Minister may permit.

Within any such period such person may, upon application to the Minister and on showing that he is then qualified under this section

to

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to be a transferee as aforesaid, receive from the Minister a certificate to that effect, which shall entitle him to hold the holding; or such person may, subject to this section and notwithstanding the provisions express or implied of any will under which he claims, sell and transfer the holding:

Provided that where such person is a trustee not solely entitled beneficially to the said holding, he shall, before effecting any sale or any transfer in pursuance of this section, obtain the directions of the Chief Judge in Equity as to the manner of such sale, and as to the disposal of the proceeds thereof. Such directions may be obtained on petition or on originating summons.

If such person does not within any such period obtain the certificate of the Minister as aforesaid nor transfer the holding as aforesaid, the same shall be liable to forfeiture, and on notification by the Minister in the Gazette may be forfeited and thereupon shall revert to the Crown.

(5) It shall be immaterial for the purposes of the provisions of this section whether a transfer mortgage or devolution takes place before or after the passing of this Act; and no transfer or conveyance or assignment in contravention of such provisions shall be valid for any purposes whatsoever.

(6) The provisions of this section are extended so as to apply to any such original or additional conditional purchase or original or additional homestead selection as is hereinbefore mentioned whether a grant in respect of the same has or has not issued.

(7) Nothing in this section shall affect:—

- (a) any original conditional purchase which is a conversion of a conditional purchase lease applied for before the first day of February, one thousand nine hundred and nine, or any additional conditional purchase held in virtue thereof—or
- (b) any additional conditional purchase made out of a conditional lease held on the first day of February, one thousand nine hundred and nine.

*Transfer of homestead farms, Crown-leases, and leases within irrigation areas.*

Transfers, &c., of  
homestead farms,  
Crown-leases, and  
leases within  
irrigation areas.  
No. 6, 1912, s. 35.  
No. 53, 1912, s. 31.  
No. 73, 1912, s. 8.

**273.** (1) A homestead farm or Crown-lease shall not be capable of being transferred or otherwise dealt with until five years of the condition of residence have been performed unless the Minister is satisfied that the lessee is compelled by sickness of himself or family or other adverse circumstances to leave the holding.

(2) A lease of a holding within an irrigation area shall not be capable of being transferred or otherwise dealt with until five years of the condition of residence have been performed unless the Commissioner is satisfied that the lessee is compelled by sickness of himself or family or other adverse circumstances to leave the holding.

(3)

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(3) Where a homestead farm or Crown-lease is transferred or otherwise dealt with within fifteen years after the confirmation of the application therefor, the Minister may require the rent for the unexpired portion of the then current period to be determined by the local land board.

(4) The provisions of the last preceding subsection are hereby extended to and shall govern all transfers and other dealings with holdings within irrigation areas, except that in such cases the Commissioner shall be substituted for the Minister.

*Restrictions as to assigns of homestead farms Crown-leases, and leases within irrigation areas.*

**274.** (1) Homestead farms Crown-leases and holdings within irrigation areas shall respectively not be transferable except by way of mortgage only—

- (a) to a person who at the date of the proposed transfer already holds an area of lands that under the provisions of this Act are to be taken into account, which area when added to the area proposed to be acquired by transfer will in the opinion—in the case of a homestead farm or Crown lease—of the Minister, and in the case of a holding within an irrigation area, of the Commissioner, exceed a home maintenance area—or
- (b) to a married woman who is not made competent to take a transfer thereof by the provisions in that behalf contained in section two hundred and thirty-eight hereof.

(2) Application for permission to transfer or otherwise deal with any such holding as aforesaid shall be made in the prescribed form—in the case of a homestead farm or Crown-lease—to the Minister, and in the case of a holding within an irrigation area, to the Commissioner, and such transfer or other dealing shall not be effected, or if effected shall not be valid, unless the consent thereto of the Minister or of the Commissioner, as the case may require, has been obtained.

The Minister or Commissioner shall have a discretion to give or refuse consent which discretion shall be independent of the recommendation, if any, of the local land board, but the Minister or Commissioner shall not refuse consent unless the matter has been referred to the local land board for recommendation.

(3) Subsections three and four of section two hundred and seventy-two hereof shall be deemed to be incorporated in this section and shall be read mutatis mutandis so as to extend to holdings of the kinds referred to or specified in this section, and for the purposes of such incorporation—

- (a) the reference in the said subsection three to subsection two of the said section two hundred and seventy two shall be read as a reference to subsection two of this section—and

(b)

Restrictions as to assigns of homestead farms, Crown-leases, and leases within irrigation areas.  
No. 6, 1912, s. 35.  
No. 73, 1912, s. 8.

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(b) references to the Minister in the said subsections three and four shall in the case of holdings within an irrigation area be read as references to the Commissioner.

(4) The provisions of this section shall not cease to apply after the issue of a perpetual lease grant, if any, and it shall be immaterial for the purposes of such provisions whether a transfer or other dealing or a devolution takes place before or after the passing of this Act; and no transfer or other dealing or conveyance or assignment in contravention of such provisions shall be valid for any purposes whatsoever.

**Division 14.**

VARIOUS PROVISIONS—*sections 275–280.*

*Adjustment of boundaries*

*Home maintenance area*

*Interest on payments in arrear*

*Roads of access*

*Validating of purchases and leases.*

*Adjustment of boundaries.*

Adjustment of  
boundaries.  
53 Vic. No. 21, s. 52.

**275.** If at any inquiry or proceeding before a local land board concerning any application to purchase or lease Crown lands any question or dispute shall arise as to the extent or boundary of any land comprised in any lease or license, it shall be lawful for such board thereupon to inquire into the matter and recommend for the approval of the Minister any adjustment of such boundary which may appear reasonable; or such adjustment of boundary may, subject to the ultimate approval of the Minister, be determined by agreement between the parties; and for this purpose the description of any land applied for as aforesaid may be modified so as to conform to the boundary so determined; and any such boundary approved by the Minister as aforesaid shall for the purposes of the Crown Lands Acts be held to be the boundary of the lands applied for and (if the question or dispute is as to the boundary of a pastoral lease or occupation license) then of such pastoral lease or occupation license.

*Home maintenance area—Lands to be taken into account.*

Home maintenance  
area: what lands  
are to be taken into  
account.  
No. 6, 1912, s. 35.  
No. 53, 1912, s. 10.

**276.** Where under any provision of the Crown Lands Acts it becomes a matter for determination by the Minister or the Commissioner or a local land board, as to what area is or will be sufficient for home maintenance or to maintain a home thereon or to support a family or the like, the Minister or Commissioner or local land board shall not take into account any lands held under a lease then having less than five years to run, unless such lease confers a right or power to purchase the freehold, which right or power may still be

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be exercised, but, except where the contrary is expressly provided, shall take into account all other lands, and the Minister or Commissioner or local land board shall adopt and apply in all such cases the definition of home maintenance area contained in this Act.

*Home maintenance area—Lands of husband and wife to be taken into account reciprocally.*

**277.** Where under any provision of the Crown Lands Acts it becomes a matter for determination by the Minister or the Commissioner or a local land board as to what area when added to the area of land already held by any person will constitute a home maintenance area or will be sufficient to maintain a home thereon or to support a family or the like, the Minister or Commissioner or local land board shall take into account, in addition to lands already held by such person, lands already held by such person's wife or husband, as the case may be, as if the said lands were lands held by such person :

Home maintenance area : lands of husband and wife.  
No. 6, 1912, s. 33.  
No. 53, 1912, s. 11.

Provided that nothing herein contained shall apply to a case where husband and wife are living apart under a decree for judicial separation made by any court of competent jurisdiction.

*Interest on payments in arrears.*

**278.** Any sums which now are or shall hereafter become payable to the Crown under or by virtue of the Crown Lands Acts, whether as rent license fee purchase money interest payment for improvements or otherwise, shall from and after the due date for the payment thereof bear interest at the rate of five per centum per annum, and such interest shall be considered as accruing due day by day :

Interest on arrears.  
58 Vic. No. 18, s. 48.  
No. 51, 1899, s. 11.  
No. 42, 1905, s. 18.  
No. 30, 1908, s. 42.

Provided that in any case where the Minister is satisfied that the circumstances warrant it he may remit the payment of such interest wholly or in part or may grant an extension of time for the payment of all or any part of such interest.

Nothing in this section contained shall be construed so as to prevent the enforcement of any forfeiture, or to compel the acceptance of any overdue sums together with interest as aforesaid.

*Roads of access.*

**279.** 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 license 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 any lessee or licensee of such last-mentioned Crown lands and shall in every case follow such

Roads of access.  
48 Vic. No. 18,  
s. 111.

such a direction and be so marked as to occasion as little damage or inconvenience to such lessee or licensee 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.

*Validating of purchases and leases.*

Validating of  
purchases and  
leases.

58 Vic. No. 18, s. 44.

No. 6, 1912,  
ss. 31 and 36.

No. 53, 1912, s. 27.

**280.** Any purchase or lease of Crown lands purporting to have been made or granted before the first day of June, one thousand eight hundred and ninety-five (whether purporting to have been made or granted under the provisions of the Code of 1861-80, or of such of the Acts constituting the Code of 1884-1912 as were in force prior to the before-mentioned day) shall not be held to be void by reason of any breach or non-observance of such provisions, but every such breach or non-observance as aforesaid (if of a nature to affect the validity of the purchase or lease) shall render the same voidable only at the instance of the Crown.

If any such purchase or lease as aforesaid appears to be voidable at the instance of the Crown, the Minister may, in pursuance of section eighteen hereof, refer the case to the local land board, which shall inquire into the matter and find whether or not the said purchase or lease be voidable; and where the said purchase or lease is found to be voidable, the Governor may by notification in the Gazette declare the same to be void, and the same shall thereupon become void to all intents and purposes: Provided always that if the application for such purchase or lease has been confirmed by a local land board, the Minister may, in manner provided in section twenty hereof, refer to the Land Appeal Court the decision of the local land board confirming the same.

If the Crown elects to sustain any such purchase or lease as aforesaid, the Governor may by notification in the Gazette declare that the purchase or lease shall cease to be voidable by reason of any breach or non-observance of statutory provisions which may be specified in such notification, and the same shall become valid so far as regards the ground of objection so specified.

Nothing in this section contained shall affect—

- (a) any right accrued prior to the date of such purchase or lease—
- (b) any application for a conditional purchase or lease made before the thirteenth day of September, one thousand eight hundred and ninety-four, in reliance on the fact that the questioned purchase or lease was void—
- (c) any proceedings pending on the day last above-mentioned—or
- (d) any remedy by writ of scire facias where a grant has been or shall have been issued for any such purchase as aforesaid.

The provisions of this section shall apply in like manner to purchases homestead selections or leases purporting to have been or to

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be made or granted on or after the first day of June, one thousand eight hundred and ninety-five, or after the passing of this Act, as the case may be; but the Governor shall not in any such case declare that the purchase homestead selection or lease shall cease to be voidable, unless notice of the intention to make such declaration shall have lain before both Houses of Parliament for not less than ninety days without being objected to by specific resolution.

**PART IX.**

**PURCHASES, HOMESTEAD SELECTIONS, LEASES AND LICENSES EXISTING AT THE PASSING OF THIS ACT—sections 281–342.**

*General directions as to the construction of this Part.*

**281.** (1) The enactments contained in this Part refer only to purchases homestead selections leases and licenses which are existing at the passing of this Act; and a conditional purchase under the Code of 1884–1912 or a conditional lease homestead selection settlement lease conditional purchase lease special conditional purchase lease homestead farm suburban holding Crown-lease or lease within an irrigation area (other than a lease of a town lands block sold at auction) shall not be taken to be existing at the passing of this Act, unless the application therefor has been confirmed or granted before the passing of this Act, and such confirmation or granting remains in full force and effect after the passing of this Act. Part IX applicable only to existing holdings.

(2) Wherever in this Part it is enacted that any specified holding shall be deemed to have been and to be subject to the provisions of any subsection or section or to any set of provisions of this Act (howsoever described or collectively indicated), such enactment shall be taken to have the following effect:— Part IX : how to be construed.

- (a) The subsection section or set of provisions to which reference is made shall (subject to the qualifications contained in this section) become and henceforward be the statutory provisions governing—so far as regards the subject-matter thereof—the holding in question, and recourse shall be had thereto accordingly for the purposes of any inquiries to be held as to the performance (whether before or after the passing of this Act) of any conditions or obligations attaching to such holding or as to any ground of forfeiture (whether arising before or after the passing of this Act) or as to any other matter in respect of such holding, and also for the purposes of any forfeitures to be declared, conditions to be performed or other matters to be done not done or suffered after the passing of this Act in connection with such holding.

o

(b)



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- (b) The subsection section or set of provisions to which reference is made shall be construed *mutatis mutandis*, so far as may be necessary.
- (c) Such subsection section or set of provisions shall not be construed with any part of the context thereof, which is inconsistent with any special provision expressed to be applicable to the holding in question.
- (d) Such subsection section or set of provisions shall be construed so as not to alter in any matter of substance the statutory provisions heretofore governing the holding in question.

But an enactment to the purport hereinbefore mentioned shall not of itself be taken to—

prevent any provision contained in Part VIII of this Act or any other provision contained in this Part of this Act, if otherwise applicable to the holding in question, from applying thereto—or to

give any fresh commencement to any title term or period or affect the obligation to pay any rent now payable in respect of any holding for the period which is current at the passing of this Act.

The provisions of this section shall also extend to any enactment which is to the purport hereinbefore mentioned, and which, in addition, is expressed to be subject to any specified qualification or qualifications.

*Conditional purchases made before 10th August, 1875—Condition of payment.*

Conditional purchases before 10th August, 1875 : condition of payment.

25 Vic. No. 1, s. 18.

48 Vic. No. 18, s. 2.

**282.** The conditions of payment in respect of conditional purchases made before the tenth day of August, one thousand eight hundred and seventy-five, are as set forth hereunder :—

- (1) Where the conditional purchase—not being a conditional purchase made in the first instance for mining purposes or converted into a conditional purchase for mining purposes—has not been brought under the instalment system, and the capital value thereof has not been determined by the local land board, the balance of purchase money to be paid shall be at the rate of fifteen shillings per acre and until payment of such balance of purchase money interest thereon at the rate of five per centum per annum shall be paid in each and every year.
- (2) Where the conditional purchase—not being a conditional purchase made in the first instance for mining purposes or converted into a conditional purchase for mining purposes—has been brought under the instalment system before the passing of this Act, and the capital value thereof has not been

39 Vic. No. 13, s. 8.

48 Vic. No. 18, s. 35.

0 Vic. No. 2, s. 5.

No. 15, 1903, s. 14.

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been determined by the local land board, there shall continue to be paid in each and every year an instalment of purchase money which shall be at the rate of one shilling per acre until the now balance of purchase money together with interest thereon at the rate of four or two and one-half (as the case may be) per centum per annum shall have been paid.

- (3) Where the conditional purchase—not being a conditional purchase made in the first instance for mining purposes, or converted into a conditional purchase for mining purposes—has been brought under the instalment system after the passing of this Act, and the capital value thereof has not been determined by the local land board, there shall be paid in each and every year an instalment of purchase money which shall be at the rate of one shilling per acre until the balance of fifteen shillings per acre, less any sum by which it may be reduced under section two hundred and eighty-nine hereof, together with interest thereon at the rate of four or two and one-half (as the case may be) per centum per annum shall have been paid. 48 Vic. No. 18, s. 35.  
No. 15, 1903, s. 14.
- (4) Where the capital value of the conditional purchase has before the passing of this Act been determined by the local land board, there shall continue to be paid in each and every year an instalment at the rate of five per centum of the value so determined until the now balance of purchase money together with interest at the rate of four or two and one-half (as the case may be) per centum per annum shall have been paid. No. 51, 1899, s. 1.  
No. 109, 1902, s. 9.  
No. 15, 1903, s. 14.
- (5) Where the conditional purchase was in the first instance made for mining purposes, and such conditional purchase has not been brought under the instalment system, the balance of purchase money to be paid shall be at the rate of thirty shillings per acre and until payment of such balance of purchase money interest thereon at the rate of five per centum per annum shall be paid in each and every year. 25 Vic. No. 1, s. 19.
- (6) Where the conditional purchase was in the first instance made for mining purposes, and such conditional purchase has been brought under the instalment system, there shall continue to be paid in each and every year an instalment which shall be at the rate of two shillings per acre until the now balance of purchase money together with interest thereon at the rate of four per centum per annum shall have been paid. 48 Vic. No. 18, s. 35.  
No. 53, 1912, s. 24.
- (7) Where the conditional purchase has been converted into a conditional purchase for mining purposes the condition of payment shall, if such conditional purchase was before such conversion thereof under the instalment system, be the same as if the conditional purchase had in the first instance been made

made for mining purposes, and had been brought under the instalment system; or if the conditional purchase was not before such conversion thereof under the instalment system, the condition of payment shall be the same as if the conditional purchase had in the first instance been made for mining purposes, and had not been brought under the instalment system:

Provided always that the provisions of this section shall be construed so as to be subject to the provisions of sections two hundred and eighty-four and two hundred and eighty-eight hereof.

*Conditional purchases made between 10th August, 1875, and 1st January, 1885—Conditions of payment.*

Conditional purchases between 10th August, 1875, and 1st January, 1885: condition of payment.

39 Vic. No. 13, s. 8.  
48 Vic. No. 18, s. 2.  
60 Vic. No. 2, s. 5.  
No. 15, 1903, s. 14.

No. 51, 1899, s. 1.  
No. 109, 1902, s. 9.  
No. 15, 1903, s. 14.

48 Vic. No. 18, s. 35.  
No. 53, 1912, s. 24.

**283.** The conditions of payment in respect of conditional purchases made between the tenth day of August, one thousand eight hundred and seventy-five, and the first day of January, one thousand eight hundred and eighty-five, are as set forth hereunder:—

- (1) Where the capital value of the conditional purchase (not being a conditional purchase made in the first instance for mining purposes or converted into a conditional purchase for mining purposes) has not been determined by the local land board there shall continue to be paid in each and every year an instalment of purchase money which shall be at the rate of one shilling per acre until the now balance of purchase money together with interest thereon at the rate of four or two and one-half (as the case may be) per centum per annum shall have been paid.
- (2) Where the capital value of the conditional purchase (not being a conditional purchase made in the first instance for mining purposes or converted into a conditional purchase for mining purposes) has been determined by the local land board there shall continue to be paid in each and every year an instalment at the rate of five per centum of the value so determined until the now balance of purchase money together with interest thereon at the rate of four or two and one-half (as the case may be) per centum per annum shall have been paid.
- (3) Where the conditional purchase was in the first instance made for mining purposes, and such conditional purchase has been brought under the instalment system, there shall continue to be paid in each and every year an instalment of purchase money which shall be at the rate of two shillings per acre until the now balance of purchase money together with interest thereon at the rate of four per centum per annum shall have been paid.

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- (4) Where the conditional purchase has been converted into a conditional purchase for mining purposes, such conditional purchase having before such conversion been under the instalment system, the condition of payment shall be the same as if the conditional purchase had been in the first instance made for mining purposes and had been brought under the instalment system :

Provided always that the provisions of this section shall be construed so as to be subject to the provisions of the next succeeding section.

*Conditional purchases under Code of 1861-80—Provisions governing conditions of payment.*

**284.** The performance of the respective conditions of payment attaching to conditional purchases made before the first day of January, one thousand eight hundred and eighty-five, as set forth in the last two preceding sections shall be governed by the following provisions :—

- (1) Nothing in the said sections shall be taken to prejudice any reduction of the rate of instalment which may before the passing of this Act have been obtained under the Conditional Purchasers' Relief Act, or to affect the obligation to pay any such interest on overdue payments as may be due at the passing of this Act, or to affect the operation of the several sections of this Act relating to the following matters, that is to say—the payment of interest on payments in arrears—the suspension of payment of instalments—and the deferring of payments. 48 Vic. No. 18, s. 2.
- (2) Where the conditional purchase is under the instalment system and the rate of interest payable in respect thereof has been reduced under section fourteen of the Crown Lands Act Amendment Act, 1903, or shall hereafter be reduced under section two hundred and ninety hereof, the rate of interest payable shall be two and one-half per centum per annum instead of four per centum, and the annual payment may be made at the rate of ninepence for each pound of the full purchase money of the land. No. 15, 1903, s. 14.
- (3) The period in each year for the payment of the interest on the instalment, as the case may be, shall be the first quarter of such year : Provided that if the conditional purchase is under the instalment system two or more instalments may be paid in any one year, and if the conditional purchase is not under the instalment system the balance of purchase money may be paid at any time. 25 Vic. No. 1, s. 18.  
39 Vic. No. 13, s. 8.
- (4) Where payment in full has been made (the other conditions attaching to the conditional purchase having been performed) the Colonial Treasurer shall give a receipt in full for such payment. 25 Vic. No. 1 s. 18.

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25 Vic. No. 1, ss. 18  
and 19.  
39 Vic. No. 13, s. 8.

- (5) Upon any default in the performance of the condition of payment the conditional purchase in respect of which the default is made together with the deposit paid thereon and in the case of a conditional purchase under the instalment system all other moneys paid in respect thereof shall be liable to be forfeited.

*Conditional purchases under Code of 1861-80—Conversion into conditional purchases for mining purposes.*

Conversion of conditional purchase made before 1st January, 1885, into a conditional purchase for mining purposes.

48 Vic. No. 18, ss. 2 and 7.

50 Vic. No. 21, s. 7.

51 Vic. No. 29, s. 1.

No. 49, 1906, s. 177.

No. 6, 1910, s. 3.

**285.** Where the chief or most profitable mineral contents of any land held under a conditional purchase made under sections thirteen twenty-one or twenty-two of the Crown Lands Alienation Act of 1861 consist of coal or shale (and a certificate under the hand of the Government Geologist shall be accepted by the Secretary for Mines as conclusive evidence of such contents but not so as to debar the applicant from tendering any other evidence as to such contents), the right to convert such purchase into a conditional purchase for mining purposes shall subsist until the thirty-first day of December, one thousand nine hundred and thirteen, and application for such conversion may be lodged on or before that date.

The conversion shall be made in accordance with, and subject to the terms and conditions contained in, such regulations in that behalf as were made under the Crown Lands Acts prior to the first day of March, one thousand eight hundred and eighty-eight:

Provided always that the Minister may permit any such application for conversion to be withdrawn or annulled upon sufficient reason being shown to him before the issue of a certificate of conformity in respect of such conditional purchase for mining purposes; and on such withdrawal or annulment being permitted the moneys paid with the application for conversion (less such amount as the Minister may direct to be deducted for costs) shall be refunded:

Provided further that any right title or interest acquired under the Mining Act, 1906, or any Act thereby repealed in respect of any portion of such land shall not be prejudicially affected by any such conversion whether applied for before or after the fifteenth day of July, one thousand nine hundred and seven, or after the passing of this Act, as the case may be.

*Expenditure on conditional purchases for mining purposes.*

Condition of expenditure in mining operations on conditional purchase for mining purposes.

25 Vic. No. 1, s. 19.

39 Vic. No. 13, s. 26.

43 Vic. No. 29, s. 6.

48 Vic. No. 18, ss. 2 and 7.

50 Vic. No. 21, ss. 1 and 4.

No. 6, 1910, s. 3.

No. 53, 1912, s. 4.

**286.** Where in pursuance of the last preceding section a conditional purchase shall have been converted into a conditional purchase for mining purposes, the said conditional purchase shall be subject to a condition of expenditure in mining operations other than gold mining, which condition may be performed in any one of the following manners:—

- (a) An average sum of not less than two pounds per acre shall be expended in such mining operations as aforesaid on the land—or
- (b)

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- (b) A sum of not less than two pounds per acre of the aggregate area of the said conditional purchase and any adjoining conditional purchases for mining purposes shall be expended in such mining operations as aforesaid upon any part or parts of the said lands or upon any adjoining lands held and used in connection therewith—or
- (c) A sum of not less than two pounds per acre of the aggregate area of the said conditional purchase and any conditional purchases for mining purposes adjoining or separated only by railways roads or creeks shall be expended in such mining operations as aforesaid upon any part or parts of the said lands or upon any adjoining lands held and used in connection therewith: Provided always that the said conditional purchase and conditional purchases as last above-mentioned shall be held by one and the same person corporation or company respectively; and in the construction of this proviso the word "corporation" shall be taken to mean a corporation whether aggregate or sole, and the word "company" shall be taken to include all associations and co-partnerships whether registered under the Acts relating to joint stock companies or not and whether incorporated or not.

The period within which the condition of expenditure in such mining operations as aforesaid shall be performed shall be three years from the date of the conversion of the conditional purchase into a conditional purchase for mining purposes, but the said period may be extended to five years by the Minister on being satisfied that at the end of three years from the date of the conversion the condition of expenditure in such mining operations as aforesaid has been performed to the extent of twenty-four shillings per acre.

After the expiration of the period or extended period, as the case may be, a declaration shall be made that the required expenditure has been effected, and the local land board shall hold an inquiry as to the performance of the condition, and if satisfied as to the due performance thereof shall issue a certificate of conformity: Provided that such certificate may be issued at any time after the said condition has been performed notwithstanding that three or five years, as the case may be, from the date of the conversion may not have expired.

Subject to the issue of such certificate and payment of the balance of purchase money a Crown grant in fee simple shall be made without reservation of minerals other than gold.

A Crown grant of any portion (not being less than forty acres) of the conditional purchase may in like manner be made upon a declaration being made showing an expenditure in such mining operations as aforesaid of an average sum of not less than five pounds per

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per acre on the land so to be granted ; and in such case the purchase of the remainder of the conditional purchase shall be rescinded and any deposit paid in respect thereof shall be applied towards payment of the balance of the purchase money of the land so to be granted : Provided that if the Minister shall be dissatisfied with any such declaration as last aforesaid he may refer the matter to the local land board, and the issue of the Crown grant shall in such case be dependent upon the decision of the local land board.

Upon any default in the performance of the condition of expenditure in such mining operations as aforesaid the conditional purchase or portion thereof, as the case may be, in respect of which the default is made, together with any moneys paid in respect thereof shall be liable to be forfeited.

*Existing conditional purchases for mining purposes.*

Existing conditional purchases for mining purposes.

**287.** Where before the passing of this Act a conditional purchase made under sections thirteen twenty-one or twenty-two of the Crown Lands Alienation Act of 1861 has been converted into a conditional purchase for mining purposes, the conditional purchase shall be deemed to have been and to be subject to the provisions of the last preceding section.

*Conditional purchases under Alienation Act of 1861—Bringing under the instalment system.*

Conditional purchases made before 10th August, 1875 : bringing under instalment system.

48 Vic. No. 18, s. 35.

53 Vic. No. 21, s. 3.

No. 15, 1903, s. 13.

No. 53, 1912, s. 24.

**288.** Any holder of a conditional purchase made before the tenth day of August, one thousand eight hundred and seventy-five, which is not under the instalment system, may by writing addressed to the Crown land agent apply to convert the same so far as regards the unpaid balance of purchase money into a holding under the following condition of payment, that is to say—of paying to the Crown land agent an instalment of one shilling (or in the case of a conditional purchase for mining purposes, of two shillings) per acre annually.

Where an application as aforesaid is made during the first six months of any year the conversion shall take effect as from the first day of January of that year, but where the application is otherwise made the conversion shall take effect as from the first day of January of the succeeding year.

As from the date when any such application takes effect there shall be paid in each and every year an instalment of one shilling (or in the case of a conditional purchase for mining purposes, of two shillings) per acre until the balance of purchase money together with interest thereon at the rate of four per centum per annum shall have been paid : Provided that nothing in this section shall affect the operation of the next two succeeding sections.

*Conditional*

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*Crown Lands Consolidation Act, 1913.**Conditional purchases under Alienation Act of 1861—Reduction of balance of purchase money.*

**289.** Where a conditional purchase (not being a conditional purchase for mining purposes) made before the tenth day of August, one thousand eight hundred and seventy-five, has been or shall be brought under the instalment system after the first day of January, one thousand nine hundred and four, or after the passing of this Act as the case may be, the balance of purchase money on such conditional purchase shall, subject to the provisions hereinafter contained, be reduced by an amount equal to one-fifth of the total sum paid by way of interest on such balance of purchase money (exclusive of fines) between the date of the application for the conditional purchase and the date as from which the conversion into a conditional purchase under the instalment system has taken or shall take effect, and the balance of purchase money as so reduced shall be accepted as the balance of purchase money due and owing as on the date last above-mentioned :—

Conditional purchases made before 10th August, 1875 : reduction of balance.  
No. 15, 1903, s. 13.  
No. 53, 1912, s. 29.

- (1) The reduction shall be limited to such an area of conditionally purchased land held by any holder as the local land board may find to be sufficient to maintain the home of such holder, and in its determination of this matter the local land board shall take into consideration the number of persons who are to be maintained upon or by means of the land—and
- (2) The provisions of this section shall apply only in cases where the holder was for two years immediately preceding the first day of January, one thousand nine hundred and four, residing continuously on some part of such land, unless the local land board is satisfied that such land is held and used bona fide for the maintenance of the holder and his family and dispenses with the requirement of residence as aforesaid which it is hereby empowered to do : Provided that where two or more persons hold any such conditional purchase as joint holders such persons shall be deemed to be a single holder for the purposes of this section, and if one of such persons has resided continuously as aforesaid the said requirement of residence shall be deemed to have been fulfilled in respect of such conditional purchase.

*Conditional purchases made before 1st January, 1904—Reduction of rate of interest.*

**290.** The holder of a conditional purchase (not being a conditional purchase for mining purposes) applied for before the first day of January, one thousand nine hundred and four, in respect of which the balance of purchase money is payable by annual instalments, may apply that the rate of interest payable on such balance

Conditional purchases made before 1st January, 1904 : reduction of rate of interest.  
No. 15, 1903, s. 14.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 29.



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balance may be reduced so as to be two and one-half per centum instead of four per centum per annum, and, subject to the provisions hereinafter contained, the rate of such interest shall be reduced accordingly:—

- (1) The reduction shall be limited to such an area of conditionally purchased land held by any holder as the local land board may find to be sufficient to maintain the home of such holder, and in its determination of this matter the local land board shall take into consideration the number of persons who are to be maintained upon or by means of such land—and
- (2) The provisions of this section shall apply only in cases where the holder has for one year immediately before making an application for such reduction continuously resided on some part of such area or on a conditional purchase or conditional lease of the same series unless the local land board is satisfied that such land is held and used bona fide for the maintenance of the holder and his family and dispenses with the requirement of residence as aforesaid which it is hereby empowered to do: Provided that where two or more persons hold any such conditional purchase as joint holders such persons shall be deemed to be a single holder for the purposes of this section, and if one of such persons has resided continuously as aforesaid the said requirement of residence shall be deemed to have been fulfilled in respect of such conditional purchase—and
- (3) Interest shall not be computed at the reduced rate except where it commences to accrue for a full year of the conditional purchase after the date when an application under this section is made by the holder of the conditional purchase.

*Conditional purchases under Code of 1861–80—Issue of Crown grant.*

Conditional purchases made before 1st January, 1885: issue of Crown grant.  
25 Vic. No. 1, ss. 18 and 19.  
48 Vic. No. 18, s. 2.

**291.** Where the Colonial Treasurer has before the passing of this Act received and acknowledged the balance of purchase money due on a conditional purchase made before the first day of January, one thousand eight hundred and eighty-five, or shall hereafter receive and acknowledge such balance of purchase money, then if the other conditions in respect of the conditional purchase have been performed a Crown grant in fee-simple shall be made to the then rightful owner.

*Original conditional purchases under Code of 1884–1912—  
Condition of residence.*

Existing original conditional purchases: current residence.

**292.** Where the condition of residence in respect of an original conditional purchase made on or after the first day of June, one thousand eight hundred and ninety-five, has not been fully performed or has not been commenced to be performed, as the case may

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may be, before the passing of this Act, the said conditional purchase shall be deemed to have been and to be subject to such of the provisions of section forty-seven hereof, as relate to the performance of the condition of residence on original conditional purchases.

*Additional conditional purchases or conditional leases under  
Code of 1884-1912—Condition of residence.*

**293.** Where an additional conditional purchase or conditional lease was applied for between the twenty-ninth day of December, one thousand eight hundred and ninety-nine, and the first day of January, one thousand nine hundred and four, and the applicant for the same was not the person who applied for the original conditional purchase of the series, and the condition of residence in respect thereof has not been fully performed before the passing of this Act, the said additional conditional purchase or conditional lease shall be deemed to have been and to be subject to such of the provisions of the first and second subsections of section forty-seven hereof, as relate to the performance of the condition of residence on additional conditional purchases or conditional leases.

Existing additional conditional purchase or conditional lease : current residence.  
58 Vic. No. 18, s. 30.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 27.

**294.** Where an additional conditional purchase or conditional lease was applied for between the twenty-ninth day of December, one thousand eight hundred and ninety-nine, and the first day of January, one thousand nine hundred and four, and the applicant for the same was the person who applied for the original conditional purchase of the series, the performance of any condition of residence in respect of such additional conditional purchase or conditional lease shall be deemed to have been and shall be waived.

Existing additional conditional purchase or conditional lease : current residence.  
58 Vic. No. 18, s. 30.  
No. 51, 1899, s. 17.

**295.** Where an additional conditional purchase or conditional lease was applied for between the first day of January, one thousand nine hundred and four, and the first day of February, one thousand nine hundred and nine, the said additional conditional purchase or conditional lease shall be deemed to have been and to be subject to such of the provisions of the first second and third subsections of section forty-seven hereof, as relate to the performance of the condition of residence on additional conditional purchases or conditional leases.

Existing additional conditional purchase or conditional lease : current residence.  
58 Vic. No. 18, s. 30.  
No. 51, 1899, s. 17.  
No 15, 1903, s. 28.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 27.

**296.** Where an additional conditional purchase or conditional lease was applied for between the first day of February, one thousand nine hundred and nine, and the passing of this Act, the said additional conditional purchase or conditional lease shall be deemed to have been and to be subject to such of the provisions of the first, second, third, and fourth subsections of section forty-seven hereof, as relate to the performance of the condition of residence on additional conditional purchases or conditional leases.

Existing additional conditional purchase or conditional lease : current residence.  
58 Vic. No. 18, s. 30.  
No. 30, 1908, s. 42.  
No. 53, 1912, s. 27.

**297.** Nothing in the last four preceding sections shall be taken to refer to an additional conditional purchase made out of a conditional lease applied for before the first day of June, one thousand eight hundred and ninety-five.

What additional conditional purchases free from residence.  
58 Vic. No. 18, s. 30.

*Conditional*

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*Conditional purchases or conditional leases under Code of 1884-1912  
—Condition of fencing or improvement.*

Existing conditional  
purchase or  
conditional lease :  
fencing or  
improvement.

**298.** Where the condition of fencing or (in the alternative) improvement in respect of a conditional purchase—not being a non-residential conditional purchase—or conditional lease has not been fully performed or has not been commenced to be performed, as the case may be, before the passing of this Act, the said conditional purchase or conditional lease shall be deemed to have been and to be subject to the provisions of section forty-eight hereof or (in the alternative) section forty-nine hereof.

*Non-residential conditional purchases under Code of 1884-1912—  
Condition of fencing and improvement.*

Existing  
non-residential  
conditional  
purchase : fencing  
and improvement.

**299.** Where the condition of fencing and improvement in respect of a non-residential conditional purchase has not been fully performed or has not been commenced to be performed, as the case may be, before the passing of this Act, the said conditional purchase shall be deemed to have been and to be subject to such of the provisions of section fifty-eight hereof, as relate to the performance of the condition of fencing and improvement.

*Conditional purchases made between 1st January, 1885, and  
1st January, 1904—Conditions of payment.*

Conditional  
purchases made  
between 1st  
January, 1885, and  
1st January, 1904 :  
condition of  
payment.

**300.** The conditions of payment in respect of ordinary and non-residential conditional purchases and of conditional purchases within special areas or classified areas (whether original or additional conditional purchases) made between the first day of January, one thousand eight hundred and eighty five, and the first day of January, one thousand nine hundred and four, are as set forth hereunder :—

48 Vic. No. 18, s. 35.  
53 Vic. No. 21, s. 22.  
58 Vic. No. 18, s. 29.  
No. 15, 1903, s. 14.  
No. 30, 1908, s. 37.  
No. 53, 1912, s. 27.

(1) Where the capital value of the conditional purchase has not been determined by the local land board, there shall continue to be paid in each and every year an instalment of purchase money which shall be at the rate of five per centum of the price of the land until the now balance of purchase money together with interest thereon at the rate of four or two and one-half (as the case may be) per centum per annum shall have been paid.

58 Vic. No. 18, s. 36.  
No. 51, 1899, s. 1.  
No. 109, 1902, s. 9.

(2) Where the capital value of the conditional purchase has been determined by the local land board, there shall continue to be paid in each and every year an instalment, which (subject to the exception hereinafter contained) shall be at the rate of five per centum of the value so determined until the now balance of purchase money together with interest thereon at the rate of four or two and one-half (as the case may be) per centum per annum shall have been paid.

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- (3) Where the capital value of a non-residential conditional purchase within a special area has been determined by the local land board under section thirty-six of the Crown Lands Act of 1895, there shall continue to be paid in each and every year an instalment at the rate of ten per centum of the value so determined until the now balance of purchase money together with interest thereon at the rate of four or two and one-half (as the case may be) per centum per annum shall have been paid: 58 Vic. No. 18, s. 36. No. 15, 1903, s. 14.

Provided always that the provisions of this section shall be construed so as to be subject to the provisions of section three hundred and two hereof.

*Conditional purchases made between 1st January, 1904, and passing of this Act—Conditions of payment.*

**301.** The conditions of payment in respect of ordinary and non-residential conditional purchases and of conditional purchases within special areas or classified areas (whether original or additional conditional purchases) made on or after the first day of January, one thousand nine hundred and four, are as set forth hereunder:— Conditional purchases made after 1st January, 1904: condition of payment.

- (1) Where the capital value or price of the conditional purchase has not been determined by the local land board, there shall be paid, or continue to be paid, as the case may be, in each and every year an instalment which shall be at the rate of five per centum of the purchase money until the now balance of purchase money together with interest thereon at the rate of two and one-half per centum per annum shall have been paid. 48 Vic. No. 18, s. 35. 53 Vic. No. 21, s. 22. 58 Vic. No. 18, s. 29. No. 15, 1903, s. 14. No. 42, 1905, s. 31. No. 30, 1908, s. 37. No. 53, 1912, s. 27.
- (2) Where the capital value or price of the conditional purchase has been determined by the local land board, there shall be paid, or continue to be paid, as the case may be, in each and every year an instalment at the rate of five per centum of the value or price so determined until the now balance of purchase money together with interest thereon at the rate of two and one-half per centum per annum shall have been paid: No. 103, 1902, s. 9.

Provided always that—

- (a) it shall not in any case be necessary to pay an instalment until after the expiration of three years after the date of the application for the conditional purchase—and 53 Vic. No. 21, s. 22
- (b) the provisions of this section (which shall not be taken to extend to a conditional purchase into which any holding has been converted under the Crown Lands (Amendment) Act, 1908, or into which any conditional purchase lease or special conditional purchase lease has been converted) shall be construed so as to be subject to the provisions of the next succeeding section. *Conditional*

*Conditional purchases under Code of 1884-1912—Provisions governing conditions of payment.*

Conditional purchases made after 1st January, 1885 : payment.

**302.** The performance of the respective conditions of payment attaching to conditional purchases made after the first day of January, one thousand eight hundred and eighty-five, as set forth in the last two preceding sections, shall be governed by the following provisions :—

- (1) Nothing in the said sections shall be taken to prejudice any reduction of the rate of instalment which may before the passing of this Act have been obtained under the Conditional Purchasers' Relief Act, or to affect the obligation to pay any such interest on overdue payments as may be due at the passing of this Act, or to affect the operation of the several sections of this Act relating to the following matters, that is to say—the payment of interest on payments in arrears—the suspension of payment of instalments—and the deferring of payments.
- (2) The period in each year for the payment of the instalment in respect of any conditional purchase applied for between the first day of January, one thousand eight hundred and eighty-five, and the first day of December, one thousand eight hundred and eighty-nine, shall be the three months immediately following the recurring date of the confirmation of the application for the conditional purchase.
- (3) The period in each year for the payment of the instalment in respect of any conditional purchase applied for between the first day of December, one thousand eight hundred and eighty-nine, and the passing of this Act shall be the three months immediately following the recurring date of the application for the conditional purchase.
- (4) Where the rate of interest payable in respect of a conditional purchase applied for before the first day of January, one thousand nine hundred and four, has been reduced under section fourteen of the Crown Lands Act Amendment Act, 1903, or shall hereafter be reduced under section two hundred and ninety hereof the rate of interest payable shall be two and one-half per centum per annum, instead of four per centum.
- (5) In the case of a conditional purchase applied for before the first day of January, one thousand nine hundred and four in respect of which the rate of interest has been reduced as aforesaid, and in the case of any conditional purchase applied for on or after the date last above-mentioned, the annual payment may be made at the rate of ninepence for each pound of the full purchase money of the land.

48 Vic. No. 18, s. 35.

53 Vic. No. 21, s. 22.

No. 15, 1903, s. 14.  
No. 42, 1905, s. 31.

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- (6) Two or more instalments may be paid in any year if the final certificate for the conditional purchase has been issued. 58 Vic. No. 18, s. 29.  
No. 53, 1912, s. 27.
- (7) Upon any default in the performance of the condition of payment the conditional purchase in respect of which the default is made together with any moneys paid in respect thereof shall be liable to be forfeited. 48 Vic. No. 18, s. 38.

*Conditional purchases and conditional leases under Code of 1884-1912—Inquiries as to performance of conditions.*

**303.** Where a conditional purchase or conditional lease was applied for at a date such that all inquiries by the local land board as to the performance of the conditions attaching to the conditional purchase or conditional lease have not been held before the passing of this Act, the conditional purchase shall be deemed to have been and to be subject to the provisions of sections fifty-three and fifty-four and the conditional lease to the provisions of section fifty-four hereof. Existing conditional purchases and conditional leases : inquiries by board.

Where upon inquiry the local land board shall find that the conditions of residence fencing or improvement attaching to any such conditional purchase or conditional lease or any of such conditions have not been or are not being duly performed, the conditional purchase or conditional lease together with any moneys paid in respect thereof shall be liable to be forfeited. 48 Vic. No. 18, s. 39.  
58 Vic. No. 18, ss. 29 and 33.

*Forfeiture of existing conditional purchase for false statement in connection with application.*

**304.** (1) Where before the passing of this Act any person has made a false statement in the declaration lodged with his application for a conditional purchase as to any of the matters contained therein, all moneys paid by him in respect of the land applied for and all right and title to such land shall be liable to be forfeited. Existing conditional purchases : forfeiture for false statement in declaration.  
48 Vic. No. 18, s. 26.  
53 Vic. No. 21, s. 20.

(2) Where such declaration has been made by a duly authorized agent of the applicant and such agent has wilfully made a false statement in such declaration, the forfeitures hereinbefore mentioned shall be held to have been incurred by the person for whom such agent has acted.

*Conditional purchases under Code of 1884-1912—Issue of Crown grant.*

**305.** Where a certificate of the due compliance with all conditions other than the payment of the balance of the instalments of purchase money has been issued or shall be issued in respect of a conditional purchase applied for after the first day of January, one thousand eight hundred and eighty-five, then upon the balance of instalments of purchase money and stamp duty and deed fee being duly paid a Crown grant in fee-simple of the land shall be issued upon application. Existing conditional purchases made after 1st January, 1885 : issue of Crown grants.  
48 Vic. No. 18, s. 37.  
58 Vic. No. 18, s. 29.

*Additional*

*Additional conditional purchases made out of conditional leases.*

Existing additional  
conditional purchases  
made out of  
conditional leases.

**306.** An additional conditional purchase made before the passing of this Act out of a conditional lease shall be deemed to have been applied for under section fifty-seven hereof and to have been and to be subject to such of the provisions of Part IV of this Act, as relate to additional conditional purchases applied for under the said section, subject however to qualification in the following respects:—

58 Vic. No. 18, s. 30.

- (1) Where the conditional lease was applied for before the first day of June, one thousand eight hundred and ninety-five, an additional conditional purchase made out of the same shall not be deemed to have been or to be subject to any condition of residence.
- (2) The instalment of purchase money to be paid in each and every year shall be five per centum of the price at which the land comprised in the conditional lease was convertible into an additional conditional purchase, except in the case where the capital value of the land was after the conversion determined by the local land board, in which case the annual instalment shall be five per centum of the capital value so determined.

*Additional conditional purchases to be made out of existing conditional leases.*

Conversion of existing  
conditional leases into  
additional conditional  
purchases.

53 Vic. No. 21, s. 25.

No. 15, 1903, s. 27.

No. 42, 1905, ss. 8  
and 29.

No. 30, 1908, s. 42.

**307.** (1) The holder of a conditional lease granted or confirmed before the passing of this Act which is not liable to forfeiture may at any time convert the whole or part of the land comprised in such conditional lease into an additional conditional purchase or purchases, and all provisions of this Act relating to the making of ordinary additional conditional purchases and to such additional conditional purchases when made shall apply to an additional conditional purchase made out of a conditional lease, subject however to qualification in the following respects:—

No. 51, 1899, s. 13.

- (a) The fact that a series may exceed one thousand two hundred and eighty acres in the Eastern Division or two thousand five hundred and sixty acres in the Central Division shall not prevent the conversion of a conditional lease comprised in the series into an additional conditional purchase or purchases.
- (b) The mere fact that land held under conditional lease granted under the provisions of section fifty-two of the Crown Lands Act of 1884 does not adjoin the land in virtue of which such conditional lease was granted, shall not prevent any additional conditional purchase or purchases being made of the land held under such conditional lease by the holder thereof.

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- (c) Where the conditional lease is within a classified area, the provision that an additional conditional purchase shall adjoin the original conditional purchase or a prior additional conditional purchase of the series shall not be taken to extend to the first additional conditional purchase made out of such conditional lease, if not adjoining such original conditional purchase or prior additional conditional purchase; and the provision that the area of a conditional purchase shall not be less than forty acres shall not be taken to prevent the conversion of the whole of any such conditional lease, if less than forty acres in area, into an additional conditional purchase. No. 42, 1905, s. 8.
- (d) Where the conditional lease was applied for in virtue of an additional conditional purchase the holder of the additional conditional purchase may convert the conditional lease notwithstanding the fact that he may not be the holder of the original conditional purchase of the series. 53 Vic. No. 21, s. 25. No. 30, 1908, s. 42.
- (e) Where the conditional lease was applied for before the first day of June, one thousand eight hundred and ninety-five, any additional conditional purchase made out of the same shall not be subject to any condition of residence. 53 Vic. No. 18, s. 30.
- (f) The provision prescribing twenty shillings per acre as the price at which land shall be open to conditional purchase shall not be taken to extend to an additional conditional purchase of land comprised in a conditional lease in any case where another price for such land has been fixed in pursuance of any provision in that behalf contained in the Code of 1884-1912 or shall be so fixed under this Act : No. 51, 1899, ss. 1 and 4. No. 169, 1902, s. 8. No. 42, 1905, s. 4.

Provided always that an additional conditional purchase shall not be made under this section of any land comprised in a conditional lease which land at the date of the granting or confirmation of the conditional lease was exempt from conditional purchase unless such exemption shall have ceased or of any land which is for the time being the subject of a dedication as a State forest or reservation from sale under the Forestry Act, 1909. 53 Vic. No. 21, s. 25. No. 6, 1909, ss. 8, 12 and 13.

(2) A refund of rent shall not be granted until after confirmation of the application for the additional conditional purchase but when granted shall be computed from the date of the application. 53 Vic. No. 21, s. 25.

(3) Where part of a conditional lease has been converted into an additional conditional purchase the remaining area of the conditional lease may be held at a proportionate part of the rent thereof, although such lease may, when taken with the rest of the series, exceed one thousand two hundred and eighty acres in the Eastern, or two thousand five hundred and sixty acres in the Central or Western Division.



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*Conditional leases acquired before 1st January, 1904—Term, &c., if not extended.*

Conditional leases acquired before 1st January, 1904: term, if not extended.  
58 Vict. No. 18, s. 35.  
No. 30, 1908, s. 40.

**308.** Any conditional lease in the Eastern or Central Division applied for before the first day of January, one thousand nine hundred and four, in respect of which conditional lease an application for an extension has not been made under section six of the Crown Lands Act Amendment Act, 1903, or shall not be made under section three hundred and ten hereof, shall have a term of twenty-eight years computed from the commencement of the lease.

Where the first fifteen-year period of the lease has expired before the date of the passing of this Act, the rent which is payable at such date shall continue to be paid until the termination of the lease except in the cases where an application or reference for the redetermination of such rent is pending at such date or may lawfully be made after such date, in which cases the rent so to be redetermined shall (subject to the proviso hereinafter contained) be the rent payable until the termination of the lease.

Where the first fifteen-year period of the lease expires or shall expire on or after the passing of this Act, the rent may on application by the lessee or reference by the Minister—to be respectively made within twelve months after the expiration of such period—be redetermined by the local land board:

Provided that, if in any case the rent shall not have been redetermined within twelve months after the expiration of the first fifteen-year period, it shall until such redetermination be deemed to be payable at the same rate as was paid for the said period.

*Conditional leases acquired before 1st January, 1904—Term, &c., if already extended.*

Conditional leases acquired before 1st January, 1904: term already extended.  
No. 15, 1903, s. 6.  
No. 6, 1910, s. 2.  
No. 53, 1912, ss. 21 and 29.

**309.** Where a conditional lease in the Eastern or Central Division applied for before the first day of January, one thousand nine hundred and four, was before the passing of this Act extended under the provisions of section six of the Crown Lands Act Amendment Act, 1903, the term of such lease shall be deemed to have been and shall be divided into a first period of fifteen years computed from the commencement of the lease, a second period of fifteen years commencing from the expiration of such first period, and a third and final period of ten years, and the rent thereupon determined by the local land board in pursuance of the said section shall be deemed to have been and shall be applicable as follows:—

- (1) Where the part of the term of the lease to which the rent so determined is made applicable by the aforesaid section six does not extend up to the termination of the first of the aforesaid

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aforesaid periods of fifteen years, such rent shall continue to be the rent applicable until the termination of such first period of fifteen years—

- (2) Where the part of the term of the lease to which the rent so determined is made applicable by the aforesaid section six extends beyond the termination of such first period of fifteen years, but does not extend up to the termination of the second period of fifteen years, then such rent shall continue to be the rent applicable until the termination of such second period of fifteen years.
- (3) Where the part of the term of the lease to which the rent so determined is made applicable by the aforesaid section six commences on or after the commencement of such second period of fifteen years, but does not extend up to the termination of such second period, then such rent shall continue to be the rent applicable until the termination of such second period of fifteen years :

Provided always that notwithstanding anything hereinbefore contained there shall not be any adjustment of accounts in connection with any rent paid or due before the first day of January, one thousand nine hundred and thirteen.

Subject to the foregoing provisions, the rent for any period of the lease commencing after the passing of this Act shall be determined by the local land board if an application in that behalf is made by the lessee accompanied by a fee as prescribed, or if a reference for that purpose is made by the Minister, such application or reference being respectively made not later than twelve months after the commencement of the period in question : Provided that in the absence of any such application or reference, rent shall be payable for the period then current at the same rate as was paid for the period last expired.

*Conditional leases acquired before 1st January, 1901—Extension of term.*

**310.** The holder of any conditional lease in the Eastern or Central Division applied for before the first day of January, one thousand nine hundred and four, shall on application as prescribed have the term of his lease extended so as to be for a term of forty years computed from the commencement of the lease—such term being divided into a first period of fifteen years computed from the commencement of the lease, a second period of fifteen years commencing from the expiration of such first period, and a third and final period of ten years.

The rent for each period of the lease commencing after the date of the application for an extension as aforesaid shall be separately determined by the local land board if an application in that behalf is made

Conditional leases acquired before 1st January, 1901 : extension of term. No. 15, 1903, s. 6. No. 6, 1910, s. 2. No. 53, 1912, ss. 21 and 29.

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made by the lessee accompanied by a fee as prescribed, or if a reference for that purpose is made by the Minister, such application or reference being respectively made not later than twelve months after the commencement of the period in question, but in the absence of any such application or reference rent shall be payable for the current period at the same rate as was paid for the period last expired :

Provided always in reference to any determination of the rent consequent upon an application for an extension as aforesaid that—

- (a) where the unexpired portion of the period which is current at the date of such application does not exceed five years, it shall be joined with the period next succeeding, and the annual rent determined for the combined period—and
- (b) where the unexpired portion of the period exceeds five years, the annual rent for the unexpired portion of such period shall be determined as for a separate period.

*Conditional leases applied for on or after 1st January, 1904—  
Term, &c.*

Existing conditional  
leases : term, &c.

**311.** Where a conditional lease was applied for on or after the first day of January, one thousand nine hundred and four, the said conditional lease shall be deemed to have been and to be subject to the provisions of section fifty-two hereof.

*Conditional leases—Payment of rent.*

Existing conditional  
leases : payment of  
rent.

**312.** The rents of conditional leases shall be paid annually in advance in accordance with the provisions hereunder set out :—

- (1) Where the conditional lease was granted under section fifty-two of the Crown Lands Act of 1884, the time for paying the rent shall be on or before the thirty-first day of December in the year preceding that for which the payment is to be made.
- (2) Where the conditional lease—not being under the aforesaid section fifty-two—was applied for before the first day of December, one thousand eight hundred and eighty-nine, the time for paying the rent shall be before the recurring date of the confirmation of the application.
- (3) Where the conditional lease was applied for after the first day of December, one thousand eight hundred and eighty-nine, the time for paying the rent shall be before the recurring date of the application.

48 Vic. No. 18, s. 43.

53 Vic. No. 21, s. 12.

*Reclamations.*

Reclamations :  
authority already  
granted.

25 Vic. No. 1, s. 9.

**313.** (1) Where in pursuance of the provision in that behalf contained in the Code of 1861–80 the Governor has authorized the reclamation of any land—not being land forming part of the bed or shores

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shores of the port of Sydney, as defined in the Sydney Harbour Trust Act, 1900—and all moneys payable to the Crown in connection with the sale and granting of the land have been duly paid, and the reclamation has been or shall be completed to the satisfaction of the Minister, a Crown grant of the land shall be issued.

(2) Where in pursuance of the provision in that behalf contained in the Code of 1884-1912 the Governor has before the first day of June, one thousand eight hundred and ninety-five authorized the reclamation of any land—not being land forming part of the bed or shores of the port of Sydney, as defined in the Sydney Harbour Trust Act, 1900—and all moneys payable to the Crown in connection with the sale and granting of the land have been duly paid, and the reclamation has been or shall be completed to the satisfaction of the Minister within the Metropolitan Land District and elsewhere of the local land board, a Crown grant of the land so reclaimed shall be issued.

48 Vic. No. 13,  
ss. 64 and 68.

(3) Where between the first day of June, one thousand eight hundred and ninety-five and the passing of this Act, the Governor has authorized the reclamation of any land—not being land forming part of the bed or shores of the port of Sydney, as defined in the Sydney Harbour Trust Act, 1900—the said authority shall be deemed to have been granted under section sixty-eight hereof, and to have been and to be subject to such provisions of this Act as relate to proceedings consequent upon authorities granted under the said section.

*Existing leases not within classified areas.*

**314.** Leases in the Eastern or Central Division which are of the respective kinds hereunder specified shall be deemed to have been granted under the respective sections of this Act, which are specified hereunder against the names of the respective kinds of leases, and to have been and to be subject to such provisions of Part IV of this Act, as relate to leases granted under the said respective sections:

Existing leases not  
within classified  
areas.

Provided always that the provisions of any instrument of lease from the Crown shall not be affected by the foregoing enactment.

The kinds of leases and the sections of this Act hereinbefore referred to are as follow :—

Improvement lease under section twenty-six of the Crown Lands Act of 1895 (not being a conversion of a church and school lands lease)—section eighty-two.

Improvement lease or lease under improvement conditions under section twenty-three of the Crown Lands Act Amendment Act, 1903—section seventy-three.

Inferior lands lease—section seventy-nine.

Residential

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Residential lease—section eighty, subsections one, two, and three.

Scrub lease—section seventy-seven.

Snow lease—section seventy-eight.

Special lease—sections seventy-four, seventy-five, and seventy-six :

Provided always—in reference to the several subsections specified as aforesaid against the name of residential lease—a residential lease shall be deemed to have been granted under such one of the said subsections as is analogous to the provision under which it was in fact granted, and—in reference to the several sections specified as aforesaid against the name of special lease—a special lease shall be deemed to have been granted under such one of the said sections as is analogous to the section under which it was in fact granted.

Existing leases not within classified areas.

No. 20, 1897, s. 9.

**315.** Improvement leases and special leases granted under the Church and School Lands Act, 1897, and leases under section eighteen of the Crown Lands Act Amendment Act, 1903, shall for the residue of the terms thereof be respectively governed by the provisions contained in the instruments of lease from the Crown executed or to be executed in respect thereof, or if in any case no such instrument of lease has been executed or shall be executed, then the lease shall be held upon the conditions set out in the documents constituting the agreement for such lease.

Existing occupation licenses.

58 Vic. No. 18, s. 4.  
No. 53, 1912, s. 23.

**316.** Occupation licenses and preferential occupation licenses—whether in the Eastern, Central, or Western Division—which are current at the passing of this Act shall, when renewed after the passing of this Act, be deemed to have been and to be subject to the provisions of section seventy hereof: Provided always in reference to a preferential occupation license which was in the first instance granted subject to section four of the Crown Lands Act of 1895, that the Minister may giving not less than three months' notice in the Gazette refuse a renewal thereof; and in such case the preferential occupation license shall determine at the end of the then current year, and the last holder of the license shall have tenant-right in improvements made on or after the first day of June, one thousand eight hundred and ninety-five upon lands which at the making of the said improvements were held under pastoral lease or preferential occupation license, such improvements having been made with the consent of the Crown given by such authorities and evidenced in such manner as may have been from time to time prescribed.

Existing annual leases.

**317.** Annual leases which are current at the passing of this Act—whether in the Eastern or Central Division—shall, when renewed after the passing of this Act, be deemed to have been and to be subject to the provisions of section seventy-two hereof.

*Homestead*

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*Crown Lands Consolidation Act, 1913.**Homestead selections—Grant not executed.*

**318.** Where a homestead grant has not been executed before the passing of this Act in respect of a homestead selection in the Eastern or Central Division, such homestead selection shall be deemed to have been applied for under section eighty-nine hereof (or if the homestead selection is a homestead selection without residence before grant, then under section ninety-five hereof), and to have been and to be subject to such of the provisions of Part V of this Act as relate to homestead selections applied for under the said respective sections.

Existing homestead  
selections : grants  
not executed.

*Homestead selections—Grant executed.*

**319.** Where before the passing of this Act a homestead grant has been executed in respect of any homestead selection in the Eastern or Central Division, the homestead selection shall be held upon the terms and conditions of the homestead grant, and shall be deemed to have been and to be subject to such of the provisions of Part V of this Act, as relate to homestead selections in respect of which homestead grants have been executed under section ninety-three hereof; but all the foregoing provisions shall be read subject to qualification in the following respects:—

Existing homestead  
selections : grants  
executed.

- (1) Where the homestead selection was acquired from the Crown under the Church and School Lands Act, 1897, each and every period thereof shall be of fifteen years the first of such periods expiring fifteen years after the commencement of the title to the homestead selection, and for each of such periods commencing after the passing of this Act the local land board shall determine—instead of the capital value of the homestead selection—the rent thereof, determining such rent irrespective of improvements the property of the holder, and the rent to be paid in respect of the homestead selection shall be the rent as so determined: Provided that if the capital value of such homestead selection has been or shall be determined by the local land board, the rent until the expiration of the period current at such determination shall be two and one-half per centum of the capital value so determined---
- (2) Where the homestead selection was acquired from the Crown by way of conversion under section twenty of the Crown Lands Act of 1895, the capital value for the residue of the first fifteen-year period of such homestead selection (if such period be current at the passing of this Act) shall so far as regards any land held under conditional purchase before the conversion be taken to be the sum which would have been required to purchase immediately before the conversion the said

No. 6, 1910, s. 2.  
No. 53, 1912, s. 21.

No. 20, 1897, s. 9.

No. 51, 1899, s. 3.  
No. 109, 1902, ss. 3  
and 7.

58 Vic. No. 18, s. 20.

No. 6, 1910, s. 2.  
No. 53, 1912, s. 21.

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said land from the Crown, less any sums paid before the conversion as purchase money, exclusive of sums paid by way of interest, and so far as regards any land held under conditional lease before the conversion shall be deemed to be the amount of the rent payable at the date of the conversion capitalized on a two and one-half per centum basis, unless such capital value has been determined by the local land board; and for the second fifteen-year period or—if such period be current at the passing of this Act—for the residue thereof, and for every succeeding period the capital value of the homestead selection shall be taken to be the value of the land as determined by the local land board irrespective of improvements, less any sums paid before the conversion as purchase money of any part of such land, exclusive of sums paid by way of interest—

- (3) Where the homestead selection was acquired from the Crown by way of conversion under the Conditional Purchasers' Relief Act the capital value for the first fifteen-year period or residue thereof (if current at the passing of this Act) shall be taken to be—
  - (a) in the case where the land converted was a conditional purchase (whether a residential or a non-residential conditional purchase not being within a special area), one pound per acre—
  - (b) in the case where the land converted was a conditional purchase within a special area, the price of the conditional purchase—
  - (c) in the case where the land converted was a conditional lease, the sum represented by capitalizing the annual rent of the lease on a two and one-half per centum basis—  
unless the capital value of the whole land included in the application for conversion has been determined by the local land board, in which case the capital value of the homestead selection for the said first period or residue thereof shall be the capital value as so determined—and
- (4) Where the land comprised within a homestead selection acquired from the Crown by way of conversion under the Conditional Purchasers' Relief Act, was on the fourteenth day of July, one thousand eight hundred and ninety-six, held bona fide by way of mortgage or security, the Governor notwithstanding anything in section ninety-three hereof shall have power from time to time to waive the condition of residence attaching to the homestead selection: Provided that no one waiver shall operate over a longer period than one year, and during the period of waiver the annual rent shall be three and one-half instead of two and one-half per centum of the capital value of the land. *Additional*

60 Vic. No. 2, s. 6.  
No. 6, 1910, s. 2.  
No. 53, 1912, s. 21.

60 Vic. No. 2, s. 6.

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*Crown Lands Consolidation Act, 1913.**Additional homestead selections.*

**320.** An additional homestead selection in respect of which a homestead grant has not been executed before the passing of this Act shall be deemed to have been applied for under section ninety-seven hereof, and to have been and to be subject to such of the provisions of Part V of this Act, as relate to additional homestead selections applied for under the said section.

Existing additional  
homestead  
selections.

*Settlement leases applied for before 1st January, 1904—Term, &c., if not extended.*

**321.** Subject to the provisions hereinafter contained, a settlement lease applied for before the first day of January, one thousand nine hundred and four, in respect of which settlement lease an application for an extension has not been made under section five of the Crown Lands Act Amendment Act, 1903, or shall not be made under section three hundred and twenty-three hereof, shall have a term of twenty-eight years computed from the commencement of the lease, and the rent now payable shall continue to be paid until the termination of the lease, and (except as aforesaid) the lease shall be held upon the terms and conditions set out in the instrument of lease issued or to be issued in respect thereof; but the foregoing provisions shall be read subject to qualification in the following respects:—

Settlement leases  
applied for before  
1st January, 1904 :  
term, if not  
extended.  
58 Vic. No. 18, s. 25.  
59 Vic. No. 26, s. 2.

- (1) Where any such settlement lease shall be transferred or come—otherwise than by way of bona fide mortgage—into the possession of any person who was not the owner thereof on the first day of January, one thousand nine hundred and four, the rent payable for the residue of the term of the lease shall be determined by the local land board if the Minister so directs when giving his consent to the transfer:

Provided always that—

- (a) upon the transfer of any such settlement lease the rent shall be determined by the local land board in any case where no such determination of the rent has taken place within three years previously,—and
- (b) the provisions of this subsection shall not apply to a settlement lease which may come into the possession of any person through the holder thereof dying or becoming of unsound mind.
- (2) Where the settlement lease was acquired from the Crown under the Church and School Lands Act, 1897, and the capital value thereof was not determined by appraisal in pursuance of the Crown Lands (Amendment) Act, 1899, the first period of the lease shall expire fifteen years after the commencement

No. 15, 1903, s. 5.  
No. 30, 1908, s. 42.

No. 20, 1897, s. 9.  
No. 51, 1899, s. 3.  
No. 6, 1910, s. 2.  
No. 53, 1912, s. 21



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commencement of the lease, the rent for such first period being as heretofore determined by the local land board, and the second period shall expire with the term of the lease, the rent for such second period being as determined by the local land board.

*Settlement leases applied for before 1st January, 1904—Term, &c., if already extended.*

Settlement leases applied for before 1st January, 1904 : term already extended.

58 Vic. No. 18, s. 25.  
No. 15, 1903, s. 5.  
No. 6, 1910, s. 2.  
No. 53, 1912, s. 21.

**322.** Subject to the provisions hereinafter contained, any settlement lease applied for before the first day of January, one thousand nine hundred and four (including a settlement lease acquired from the Crown under the Church and School Lands Act, 1897), and extended before the passing of this Act under the provisions of section five of the Crown Lands Act Amendment Act, 1903, shall be held upon the terms and conditions set out in the instrument of lease issued or to be issued in respect thereof :—

- (1) The term of the lease shall be deemed to have been and shall be divided into a first period of fifteen years computed from the commencement of the lease, a second period of fifteen years commencing from the expiration of such first period, and a third and final period of ten years.
- (2) The rent determined by the local land board upon the application to bring the lease under the provisions of the aforesaid section five shall be deemed to have been and shall be applicable as follows that is to say :—Where the part of the term of the lease to which the rent so determined is made applicable by the aforesaid section five does not extend up to the termination of the first of the aforesaid periods of fifteen years, such rent shall continue to be the rent applicable until the termination of such first period of fifteen years—and where the part of the term of the lease to which the rent so determined is made applicable by the aforesaid section five extends beyond the termination of such first period of fifteen years then such rent shall continue to be the rent applicable until the termination of the second period of fifteen years: Provided always that notwithstanding anything hereinbefore contained there shall not be any adjustment of accounts in connection with any rent paid or due before the first day of January, one thousand nine hundred and thirteen.
- (3) Subject to the foregoing provisions the rent for any period of the lease commencing after the passing of this Act shall be separately determined by the local land board.

*Settlement*

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*Crown Lands Consolidation Act, 1913.**Settlement leases applied for before 1st January, 1904—Extension of term.*

**323.** The holder of any settlement lease applied for before the first day of January, one thousand nine hundred and four, (including a settlement lease acquired from the Crown under the Church and School Lands Act, 1897), shall on application as prescribed have the term of his lease extended so as to be for a term of forty years computed from the commencement of the lease, such term being divided into a first period of fifteen years computed from the commencement of the lease, a second period of fifteen years commencing from the expiration of such first period, and a third and final period of ten years.

Settlement leases applied for before 1st January, 1904 : extension of term.  
No. 15, 1903, s. 5.  
No. 6, 1910, s. 2.  
No. 53, 1912, s. 21.

The rent for each period commencing after the date of the application for an extension as aforesaid shall be separately determined by the local land board :

Provided that—

- (a) where the unexpired portion of the period which is current at the date of such application does not exceed five years, it shall be joined with the period next succeeding, and the annual rent determined for the combined period—and
- (b) where the unexpired portion of the period so current exceeds five years the annual rent for the unexpired portion of such period shall be determined as for a separate period.

*Settlement leases applied for before 1st January, 1904—Determination of rent.*

**324.** Where it becomes necessary for a local land board to determine the rent of any settlement lease applied for before the first day of January, one thousand nine hundred and four, the provision formerly in force in respect of a settlement lease applied for before such date, that is to say that the rent shall be one and one-quarter per centum of the capital value of the land, shall not be held to be applicable.

Settlement leases applied for before 1st January, 1904 rent not to be fixed in future on percentage basis.  
No. 15, 1903, s. 5.

*Settlement leases applied for on or after 1st January, 1904.*

**325.** Where a settlement lease was applied for on or after the first day of January, one thousand nine hundred and four, the lease shall be held upon the terms and conditions set out in the instrument of lease issued or to be issued in respect thereof, and shall be deemed to have been and to be subject to such of the provisions of Part V of this Act, as relate to settlement leases applied for under section ninety-nine hereof: Provided that where the rent for the first period of any such settlement lease has been or shall be determined by the local land board

Settlement leases applied for after 1st January, 1904

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board at an amount other than that specified in such instrument of lease, the rent as so determined shall be paid until the expiration of such period.

*Additional settlement leases.*

Existing additional  
settlement leases.

**326.** An additional settlement lease shall be deemed to have been applied for under section one hundred and three hereof, and to have been and to be subject to such of the provisions of Part V of this Act, as relate to additional settlement leases applied for under the said section.

*Conditional purchase leases.*

Existing conditional  
purchase leases.

**327.** An original conditional purchase lease shall be deemed to have been applied for under section one hundred and five hereof, and to have been and to be subject to such of the provisions of Part V of this Act, as relate to original conditional purchase leases applied for under the said section.

*Conditional purchases being conversions of conditional purchase leases.*

Existing conditional  
purchases by  
conversion of  
conditional purchase  
leases.

**328.** A conditional purchase into which a conditional purchase lease has been converted before the passing of this Act shall be deemed to have been applied for under section one hundred and nine hereof, and to have been and to be subject to such of the provisions of Part V of this Act, as relate to conditional purchases applied for under the said section.

*Additional conditional purchase leases.*

Existing additional  
conditional purchase  
leases.

**329.** An additional conditional purchase lease shall be deemed to have been applied for under section one hundred and thirteen hereof, and to have been and to be subject to such of the provisions of Part V of this Act, as relate to additional conditional purchase leases of similar lands applied for under the said section.

*Special conditional purchase leases.*

Existing special  
conditional purchase  
leases.

**330.** A special conditional purchase lease shall be deemed to have been applied for under section one hundred and fifteen hereof, and to have been and to be subject to such of the provisions of Part V of this Act, as relate to special conditional purchase leases applied for under the said section.

*Conditional purchases being conversions of special conditional purchase leases.*

Existing conditional  
purchases by conver-  
sion of special condi-  
tional purchase leases.

**331.** A conditional purchase into which a special conditional lease has been converted before the passing of this Act shall be deemed to have been applied for under section one hundred and sixteen hereof, and to have been and to be subject to such of the provisions of Part V of this Act as relate to conditional purchases applied for under the said section.

*Homestead*

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*Crown Lands Consolidation Act, 1913.**Homestead farms.*

**332.** A homestead farm shall be deemed to have been applied for under section one hundred and nineteen hereof, and to have been and to be subject to such of the provisions of Part V of this Act as relate to homestead farms applied for under the said section. Existing homestead farms.

*Suburban holdings.*

**333.** A suburban holding shall be deemed to have been applied for under section one hundred and twenty-five hereof, and to have been and to be subject to such of the provisions of Part V of this Act as relate to suburban holdings applied for under the said section. Existing suburban holdings.

*Crown-leases.*

**334.** A Crown-lease shall be deemed to have been applied for under section one hundred and thirty-one hereof, and to have been and to be subject to such of the provisions of Part V of this Act as relate to Crown-leases applied for under the said section. Existing Crown-leases.

*Leases within irrigation areas.*

**335.** Any lease within an irrigation area—other than a lease of a town lands block sold at auction—shall be deemed to have been applied for under Part VI of this Act, and to have been and to be subject to such of the provisions of the said Part as relate to leases of lands of a similar class to the lands comprised within such lease. Existing leases within irrigation areas.

A lease of a town lands block sold at auction shall be deemed to have been and to be subject to such of the provisions of Part VI of this Act as relate to town lands blocks sold at auction.

*Appraisements of capital value made before this Act.*

**336.** Where an appraisalment of capital value upon application has been made before or is pending at the passing of this Act under the Appraisalment Act, 1902, such appraisalment, so far as regards any matters consequent upon or subsequent to such appraisalment (including residence, if any, after a reduction has been obtained) shall be deemed to have been made under the analogous provisions in Division 2 of Part VIII of this Act. Appraisements of capital value heretofore made.

*Conversions effected under sections 1–13 of the Crown Lands (Amendment) Act, 1908.*

**337.** Conversions effected before or pending at the passing of this Act under the provisions of sections one to thirteen of the Crown Lands (Amendment) Act, 1908, shall be deemed to have been effected under the respective sections of this Act which are specified hereunder against the names of the kinds of holdings so converted, and to have been and to be subject to such provisions of this Act, as relate to conversions effected under the said respective sections. Conversions heretofore effected under No. 30, 1908, ss. 1 to 13.

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The kinds of holdings converted and the sections of this Act hereinbefore referred to are as follow :—

Homestead selections or grants—section one hundred and eighty-three.

Settlement leases—sections one hundred and eighty-four to one hundred and eighty-eight.

Non-residential conditional purchases—section one hundred and eighty-nine.

Special leases and church and school land leases—section one hundred and ninety :

Capital values of  
homestead selections  
for purposes of  
conversion.  
No. 6, 1910, s. 5.

Provided always—in reference to conversions of homestead selections or grants so effected—that the provisions of the aforesaid section one hundred and eighty-three of this Act shall be read with the following qualifications, that is to say :—Where the capital value or price of the land was determined in pursuance of such conversion before the nineteenth day of August, one thousand nine hundred and ten, so as to be lower than the capital value upon which the rent of the homestead selection or grant was payable at the date of the application for conversion, then and in any such case the capital value or price as so determined in pursuance of the conversion shall be deemed to have been and shall be the capital value of the land comprised in the conditional purchase lease for the first fifteen-year period thereof, or (as the case may be) the price of the conditional purchase or the price at which land comprised in the conditional lease shall be convertible into an additional conditional purchase.—And where the capital value or price of the land was determined in pursuance of such conversion before the nineteenth day of August, one thousand nine hundred and ten, so as not to be lower than the capital value upon which the rent of the homestead selection or grant was payable at the date of the application for conversion, then and in any such case (and notwithstanding such determination) the capital value upon which the rent of the homestead selection or grant was payable at the date of the application for conversion shall be deemed to have been and shall be the capital value of the land comprised in the conditional purchase lease for the first fifteen-year period thereof or (as the case may be) the price of the conditional purchase or the price at which land comprised in the conditional lease shall be convertible into an additional conditional purchase :

Capital values of  
settlement leases for  
purposes of  
conversion.  
No. 6, 1910, s. 6.

And further provided—in reference to conversions of settlement leases so effected—that the provisions of the aforesaid section one hundred and eighty-six of this Act shall be read with the following qualifications, that is to say :—Where the capital value of the settlement lease had been notified or determined prior to the application for conversion, and in pursuance of such conversion the capital value of the land converted was determined before the  
**nineteenth**

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nineteenth day of August, one thousand nine hundred and ten, so as to be lower than the capital value notified or determined as first above mentioned, then and in any such case the capital value as determined in pursuance of the conversion shall be deemed to have been and shall be the price of the conditional purchase, and the price at which land comprised in the conditional lease shall be convertible into an additional conditional purchase.—And where the capital value of the settlement lease had been notified or determined prior to the application for conversion, and in pursuance of such conversion the capital value of the land converted was determined before the nineteenth day of August, one thousand nine hundred and ten, so as not to be lower than the capital value notified or determined as first above mentioned, then and in any such case (and notwithstanding such determination) the capital value notified or determined as first above mentioned shall be deemed to have been and shall be the price of the conditional purchase, and the price at which land comprised in the conditional lease shall be convertible into an additional conditional purchase.—And where the capital value of the settlement lease had not been notified or determined prior to the application for conversion, then and in any such case (and notwithstanding any determination by the local land board made before the nineteenth day of August, one thousand nine hundred and ten, in pursuance of such conversion) the price of the conditional purchase and the price at which land comprised in the conditional lease shall be convertible into an additional conditional purchase shall be deemed to have been and shall be such sum as the Minister and the applicant for conversion have agreed upon or shall agree upon, or failing such agreement such sum as the local land board has determined or shall determine as the capital value of the land as at the date of the application for the settlement lease and irrespective of the value of any improvements owned by the applicant for conversion.

*Modification of plans of survey in certain cases.*

**338.** Where a conditional lease under section fifty-two of the Crown Lands Act of 1884 has been surveyed and charted and approved of by the Minister, or shall hereafter be surveyed and charted and approved of by the Minister, the land comprised within the lease as so approved or any modification thereof to be approved in like manner shall be deemed to be the land lawfully available for such lease. Plans of survey may be modified in certain cases. 50 Vic. No. 34, s. 3. No. 15, 1903, s. 22.

In the case of a homestead selection or settlement lease existing on the first day of January, one thousand nine hundred and four, the Minister may make any minor variation in the design or survey as then existing of such holding so as to enable a better boundary to be secured for fencing or other purposes.

*Pastoral*

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*Crown Lands Consolidation Act, 1913.*

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*Pastoral lease and homestead lease in the Western Division not to be held in combination.*

Certain leases in Western Division not to be held together.  
48 Vic. No. 18, s. 84.

**339.** 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 always that—

- (a) 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—and
- (b) nothing in this section shall affect the operation of section thirty-four of the Western Lands Act, 1901.

*Pastoral and homestead leases in the Western Division—Terms, periods, &c.*

Pastoral and homestead leases in Western Division.  
53 Vic. No. 18, s. 7.

**340.** (1) The term of a pastoral or homestead lease shall be of twenty-eight years computed from the commencement of the lease—or in the case of a lease in respect of which an application to bring the same under the provisions of section twenty-nine of the Crown Lands Act of 1889 was duly made, then from the date specified in that behalf by the said section—such term being divided for the purpose of the determination of the rate of rent into four periods each of seven years, and a separate determination shall be made of the rate of rent payable for each of such periods, if the same be a period commencing after the passing of this Act:

Provided that—

*Ibid.* s. 6.

53 Vic. No. 21, s. 34.

- (a) an addition may be made to the term of a pastoral lease upon a withdrawal from such lease as hereinafter provided—and
- (b) the term and periods of any additional homestead lease shall determine at the same respective dates as the term and periods of the original homestead lease, and the surrender or forfeiture (otherwise than for non-payment of rent) of the original shall involve the surrender or forfeiture of all additional homestead leases.

(2)

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(2) A pastoral or homestead 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. 48 Vic. No. 18, ss. 80 and 82.

(3) The holder of any pastoral or homestead lease may surrender his lease after having given the Minister not less than twelve months' notice of his intention so to do, and in the case of a pastoral lease such notice shall specify the date on which the surrender is intended to take effect. 53 Vic. No. 21, ss. 31 and 34.

(4) Upon the application of the holder of any pastoral or homestead lease the Minister shall cause to be issued to him a lease for the land held by him, which lease shall be in the form prescribed, and shall be subject to a fee of twenty shillings. Ibid. s. 29.

(5) The rent of any homestead lease applied for on or after the first day of December, one thousand eight hundred and eighty-nine, shall be paid annually in advance before the recurring date of the application. Ibid. s. 12.

*Attachment of resumed area to leasehold area in Western Division.*

**341.** Where the Minister, after inquiry by the local land board, is satisfied that any resumed area (not being within the land districts of Brewarrina, Hay North, or Walgett North) is not, and is not likely to be, required for purposes of settlement before the expiration of the pastoral lease of the leasehold area—and the occupation license, if any, of the resumed area is not held by a person other than the holder of the pastoral lease of the leasehold area—the Minister may with the consent of the holder of the pastoral lease by notification in the Gazette declare that the resumed area shall thenceforward be held under pastoral lease; and the occupation license, if any, of the resumed area shall thereupon expire, and any artesian well lease on the resumed area held concurrently with the pastoral lease shall be deemed to be surrendered, but not so as in either case to render thereby the improvements on the resumed area the property of the Crown. Attachment of resumed area to leasehold area in Western Division. 58 Vic. No. 18, s. 8.

The resumed area, or so much thereof as may be available, shall be added to the area held under the existing pastoral lease; and the rent of the area so added shall be fixed in accordance with the following provisions:—

- (1) If the Minister and the lessee so agree, such rent shall be at the rate per acre payable for the leasehold area.
- (2) If the Minister and the lessee do not agree, the rent for the area so added shall be determined by the local land board, as if it were the rent for a pastoral lease of the resumed area.
- (3) Any appraisalment of the rent of the pastoral lease shall be of the rent of the lease as including the whole area.

Q

(4)



- (4) Upon default in the due payment for the whole area of any sum due as rent, or added to the rent, the lease of the whole area shall be liable to be forfeited.
- (5) The accounts between the lessee and the Crown shall be adjusted, and for the purposes of such adjustment any rent and license fee shall be considered as accruing due day by day.

Withdrawal from  
attached resumed  
area.

No. 38, 1905, s. 35.

Any resumed area added to land under pastoral lease in accordance with the provisions of this section shall be deemed to be added subject to the provision that the Governor may by notice in the Gazette withdraw without compensation the whole or any part or parts thereof from pastoral lease whenever he shall deem it necessary or expedient to make the land available under any such provisions of this Act as are operative in the Western Division, or under the provisions of the Western Lands Acts. Upon such withdrawal, which shall not take effect until the expiration of six months after the date of notice thereof, the lessee shall, upon application within the prescribed time and payment of license fee as prescribed, be entitled to hold the withdrawn area under preferential occupation license; and any improvements upon the withdrawn area not forfeited or forfeitable to, or vested in, the Crown shall be taken to be the property of the lessee.

*Power of withdrawal from pastoral leases in the Western Division.*

Withdrawal from  
pastoral lease in  
Western Division.  
58 Vic. No. 18,  
ss. 3, 4, and 6.  
No. 53, 1912, s. 23.

**342.** (1) The Governor shall have power to withdraw from a pastoral lease in the Western Division any lands held thereunder whenever he shall deem it expedient so to do for the purpose of providing for settlement by other holdings: Provided that prior to any such withdrawal being notified as hereinafter provided the local land board shall make inquiry and report to the Minister with respect to the expediency of the proposed withdrawal and the portion of the lease to be withdrawn; and upon such inquiry the lessee may be a party without any right of appeal to the Land Appeal Court: Provided further that the leasehold area shall be divided by the Minister into two parts as nearly equal in area as practicable and the part from which withdrawals may be made shall be defined and notice thereof given to the lessee. The area withdrawn under one exercise of this power shall be in as compact a form as practicable and the first withdrawal shall not be less than one-sixteenth, and the aggregate areas to be withdrawn under this power shall not exceed one-eighth, of the area held under such lease on the first day of June, one thousand eight hundred and ninety-five, and this power shall only be exercised to withdraw land within ten miles of the boundary of a town containing at least fifty inhabitants.

Every

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Every such withdrawal shall be notified in the Gazette and some newspaper published in the district, and shall take effect four months after the date thereof or at such later date as may be specified for that purpose in the notification; and copies of such notifications together with the reasons for the withdrawals therein notified shall be laid upon the tables of both Houses of Parliament forthwith if Parliament be then in session, or otherwise within eight days after the commencement of the next ensuing session.

Upon any such withdrawal taking effect the pastoral lease shall cease to include the lands so withdrawn, but shall otherwise continue in full force and effect except as hereinafter provided.

(2) The power of withdrawal conferred by this section shall be in addition to, and not in substitution for, the power of withdrawal conferred by subsection two of section two hundred and thirty-three hereof.

(3) In compensation for a withdrawal under the power conferred by this section— Compensation for withdrawal.

- (a) a period shall be added to the term of the pastoral lease--and
- (b) the lands withdrawn may, upon payment of the license fee as prescribed, continue to be occupied in virtue of a preferential occupation license--and
- (c) the rent for succeeding years of the pastoral lease shall be reduced in proportion to the area withdrawn--and
- (d) a proportionate amount of any rent paid in advance shall be credited on account of the first year's license fee for the withdrawn area, or refunded at the request of the lessee--and
- (e) the lessee shall have tenant-right in improvements upon the land so withdrawn.

The period to be added to the term of a pastoral lease in consideration of a withdrawal shall be computed so that the added period shall bear the same ratio to the unexpired period as the area withdrawn bears to the area left.

The method of ascertaining the added period shall be by multiplying together the unexpired period and the area withdrawn, and dividing the product by the area left. And in the foregoing formula—

“unexpired period” means the number of months which the lease has to run, reckoning from the date of the withdrawal up to the day at which the lease (including all periods previously added) would have expired—

“added period” means the number of months by which the term of a pastoral lease is to be extended in consideration for such withdrawal—

“area withdrawn” means the number of acres included in such withdrawal—

“area left” means the number of acres left under the pastoral lease at the date of withdrawal.

For

For the purposes of computation, any fractional part of a month shall be reckoned as one month, and any fractional part of an acre shall be disregarded :

Provided always that upon application by the lessee within the time and in the manner prescribed, the rent of the area left shall be redetermined.

The Governor shall notify in the Gazette the length of the period to be added to the term of a pastoral lease in consideration of a withdrawal, and the date at which such added period will expire ; and the added period shall determine upon the date so notified ; and the Governor shall likewise notify the rate of the rent of the pastoral lease in any case where the rate has been varied, and the rate so notified shall be deemed to have been payable as from the date of withdrawal.

The conditions of the lease during any such added period shall be the same as immediately prior to the commencement of such period.

Preferential  
occupation license  
upon withdrawal.

(4) A preferential occupation license granted in compensation for a withdrawal under this section shall be subject to all the provisions of this Act in respect of occupation licenses, qualified as hereunder :—

- (a) The license fee payable in respect of the land held under the preferential occupation license shall be at the same rate as is payable in respect of the resumed area, unless the Minister shall direct an appraisalment thereof to be made ; or, if there be no resumed area, or if the resumed area be not held under occupation license, then at a rate to be determined, and, until such determination, and subject to an adjustment of accounts thereupon, at a provisional rate of two pounds per section of six hundred and forty acres.
- (b) The Minister may, giving not less than three months' notice in the Gazette, refuse a renewal of the preferential occupation license ; and in such case the preferential occupation license shall determine at the end of the then current year.
- (c) Improvements made with the consent of the Crown upon land which at the making of the said improvements were held under the preferential occupation license shall be taken to be the property of the licensee, but if made without such consent shall be the property of the Crown, and the consent of the Crown to the making of improvements may be given by such authorities and shall be evidenced in such manner as may be prescribed.
- (d) If the Minister refuses to renew the preferential occupation license of lands containing improvements made at such date and with such consent as aforesaid the last holder of the license shall have tenant-right in such improvements.

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## SCHEDULES.

## FIRST SCHEDULE.

Number of Act.	Title or short title.	Extent of Repeal.
48 Vic. No. 18...	Crown Lands Act of 1884 ... ..	The unrepealed portions.
50 Vic. No. 21...	Crown Lands Titles and Reservations Validation Act of 1886	The unrepealed portions.
50 Vic. No. 34...	Conditional Purchases and Leases Validation Act of 1887	The whole.
50 Vic. No. 39...	Crown Lands (Auction Sales Balances) Act of 1887	The whole.
51 Vic. No. 11...	Crown Lands Act Amendment Act of 1887	The whole.
51 Vic. No. 29...	Conversion into Mining Conditional Purchases Validation Act of 1888	The whole.
52 Vic. No. 7...	Crown Lands Act Further Amendment Act	The unrepealed portions.
53 Vic. No. 21...	Crown Lands Act of 1889 ... ..	The unrepealed portions.
54 Vic. No. 11...	Crown Rents Act of 1890 ... ..	The whole.
55 Vic. No. 1...	Crown Lands Act Amendment Act of 1891	The unrepealed portions.
55 Vic. No. 26...	Judicial Offices Act of 1892 ... ..	The unrepealed portions.
57 Vic. No. 27...	An Act to declare the meaning of the words "the publication of the report of the said Board," as used in the forty-third section of the Crown Lands Act of 1889	The whole.
58 Vic. No. 16...	Reserves Declaratory Act, 1895 ... ..	The whole.
58 Vic. No. 18...	Crown Lands Act of 1895 ... ..	The unrepealed portions.
59 Vic. No. 26...	Crown Lands (Homestead Selections and Settlement Leases) Act, 1896	The whole.
60 Vic. No. 2...	Conditional Purchasers' Relief Act ... ..	The unrepealed portions.
No. 8 of 1897...	Public Trusts Act, 1897 ... ..	Section 7.
No. 20 of 1897...	Church and School Lands Act, 1897 ... ..	The unrepealed portions.
No. 47 of 1897...	Real Property (Crown Lands) Act, 1897...	The unrepealed portions.
No. 38 of 1898...	Crown Lands Act, 1898 ... ..	The whole.
No. 51 of 1899...	Crown Lands (Amendment) Act, 1899 ... ..	The unrepealed portions.
No. 70 of 1901...	Western Lands Act of 1901 ... ..	Section 35.
No. 109 of 1902...	Appraisement Act, 1902 .. ..	The whole.
No. 15 of 1903...	Crown Lands Act Amendment Act, 1903...	The unrepealed portions.
No. 42 of 1905...	Crown Lands Amendment Act of 1905 ... ..	The unrepealed portions.
No. 42 of 1906...	Improvement Leases Cancellation Act, 1906	The whole.
No. 49 of 1906...	Mining Act, 1906 ... ..	Section 177.
No. 4 of 1908...	Improvement Leases Cancellation (Declaratory) Act, 1908	The whole.
No. 30 of 1908...	Crown Lands (Amendment) Act, 1908 ... ..	The unrepealed portions.
No. 3 of 1909...	Improvement Leases Cancellation (Declaratory) Act, 1909	The whole.
No. 6 of 1909...	Forestry Act, 1909... ..	Section 22.
No. 8 of 1909...	Crown Lands (Improvement Purchase) Act, 1909	The whole.
No. 6 of 1910...	Crown Lands (Amendment) Act, 1910 ... ..	The whole.
No. 6 of 1912...	Crown Lands (Amendment) Act, 1912 ... ..	The whole, except sections 1, 38, and 39.
No. 53 of 1912...	Crown Lands (Amending and Declaratory) Act, 1912	The whole.
No. 73 of 1912...	Irrigation Act, 1912 ... ..	Section 21.

SECOND

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SECOND SCHEDULE.

BOUNDARIES OF DIVISIONS.

**Eastern Division.**

That portion of the State 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 States 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; thence on the west by the boundaries dividing the land districts of Corowa, Urana, Wagga Wagga, Tumbarumba North, Cootamundry Central, Barmedman, Grenfell, Forbes, Parkes, Dubbo, Coonabarrabran, Gunnedah, Narrabri, Bingara, and Wialda, from the land districts of Albury, Tumbarumba, Tumut, Gundagai, Cootamundry, Barmedman East, Young, Cowra, Molong, Wellington, Mudgee, Murrumbidgee, Tamworth, and Inverell, northerly to the Dumaresq River; thence on the north by the boundary dividing the States of New South Wales and Queensland easterly to Point Danger aforesaid, at the point of commencement: and also all islands in the sea forming part of the State of New South Wales, except Lord Howe Island.

**Central Division.**

That portion of the State of New South Wales within the following boundaries:— Commencing on the boundary between the States of New South Wales and Queensland, at a point on the Dumaresq River where the eastern boundary of the land district of Wialda meets that river; and bounded thence by the boundaries dividing the land districts of Wialda, Bingara, Narrabri, Gunnedah, Coonabarrabran, Dubbo, Parkes, Forbes, Grenfell, Barmedman, Cootamundry Central, Wagga Wagga, Tumbarumba North, Urana, and Corowa from the land districts of Inverell, Tamworth, Murrumbidgee, Mudgee, Wellington, Molong, Cowra, Young, Barmedman East, Cootamundry, Gundagai, Tumut, Tumbarumba, and Albury southerly to the Murray or Hume River; thence by the boundary dividing the States of New South Wales and Victoria westerly to the confluence of the Murray or Hume and Wakool Rivers, and by the latter river upwards to the south-west corner of portion 5, parish of Tararie, county of Caira; thence by the south boundary of that portion east to its south-east corner; by the east boundaries of that portion and portions 3 and 4 north to the north-east corner of the latter portion; by part of the north boundary of that portion west to a point south of the easternmost south-east corner of Western Lands lease 2,192; by a line and the eastern boundaries of that lease and Western Lands leases 2,212 and 2,202 north; by the northern boundary of the last-mentioned lease and part of the northern boundary of Western Lands lease 2,204 westerly; by the easternmost boundary of Canally Western Lands lease 1,041, parishes of Chadwick and Benongal, northerly to the Murrumbidgee River; by that river upwards to the Lachlan River; by that river upwards to its eastern and western branches at the north-east corner of J. Tyson's portion 15 of 236 acres, parish of Tyson, county of Caira; thence by a south-eastern boundary of the county of Caira, being a line bearing north 33 degrees east to the Lachlan River aforesaid; thence again by that river upwards to the confluence of the Kalingalungaguy Creek; thence by marked lines, parts of which form south-western boundaries of the counties of Cunningham and Flinders north-westerly; by a line bearing north 28 degrees east, parts of which form a north-western boundary of the county of Flinders and south-eastern boundaries of Florida Western Lands lease 190, Western Lands leases 373, 321, 620, and part of 848, county of Canbelego, to the western corner of Western Lands lease 1,149, parish of Merri; by a western boundary of that lease southerly, the south-eastern boundaries of that lease, Western Lands lease 1,148, and Coolabah Western Lands lease

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507, parishes of Bannan and Glenariff, north-easterly; by the north-eastern boundary of the last-mentioned lease north-westerly to its most northern corner; thence by part of the south-western and the north-western boundaries of Willeroon resumed area No. 690, bearing respectively north 22 degrees 30 minutes west 5 miles, and north 70 degrees east 15 miles to the Bogan River; by that river upwards to the fenced southern boundary of Western Lands lease 2,039, parish of Graddell, county of Gregory; by that boundary and the south boundary of portion 5 easterly to Duck Creek; by that creek upwards to the north-west corner of portion 1 of 39 acres 2 roods 7 perches, parish of Gunnell; by the north, east, and south boundaries of that portion east, south, and west, to Duck Creek aforesaid; again by that creek upwards to the most southerly corner of portion 3; by the south-eastern boundaries of that portion and Western Lands leases 2,019 and 2,031 north-easterly; by the north-eastern boundary of the latter lease north-westerly; by north-eastern, south-eastern, and eastern boundaries of Murrawombie Western Lands lease 353 generally northerly to the south-western corner of Mondadoo Western Lands lease 152, parish of Mundadoo, county of Clyde; by the south boundaries of that lease and portion 40, and a line east, about 5 miles to Marrar Creek; by that creek downwards to the southern boundary of portion 6, parish of Mundawah; by that boundary westerly; by south-western boundaries of that portion and portions 5 and 4 north-westerly, and the north boundary of the last-mentioned portion east to Marrar Creek aforesaid; by that creek downwards to the Darling or Barwon River; and by that river, the Macintyre, and the Dumaresq Rivers aforesaid upwards, to the point of commencement.

**Western Division.**

That portion of the State of New South Wales within the following boundaries:— Commencing on the boundary between the States of New South Wales and Queensland, at the intersection of the twenty-ninth parallel of south latitude with the Barwon River; and bounded thence by that river and the Darling River downwards to the confluence of Marrar Creek; by that creek upwards to the north boundary of portion 4, parish of Mundawah, county of Clyde; by that boundary west, the south-western boundaries of that portion and portions 5 and 6 south-easterly, and the southern boundary of the last-mentioned portion easterly to Marrar Creek aforesaid; by that creek upwards to the north boundary of portion 1, parish of Cowal; by that boundary, a line and the southern boundaries of portion 40, parish of Mundadoo, and Mondadoo Western Lands lease 152 westerly; by eastern, north-eastern, and south-eastern boundaries of Murrawombie Western Lands lease 353 generally southerly; by the north-eastern boundary of Western Lands lease 2,031, parish of Gunnell, county of Gregory, south-easterly; by the south-eastern boundaries of that lease, Western Lands lease 2,019, and portion 3, south-westerly to Duck Creek; by that creek downwards to the south-west corner of portion 1 of 39 acres 2 roods 7 perches; by the south, east, and north boundaries of that portion east, north, and west to Duck Creek aforesaid; by that creek downwards to the south boundary of portion 5, parish of Graddell; by that boundary and the fenced southern boundary of Western Lands lease 2,039 westerly to the Bogan River; by that river downwards to the north-western boundary of Willeroon resumed area No. 690; by that boundary bearing south 70 degrees west 15 miles; and by part of the south-western boundary of that resumed area bearing south 22 degrees 30 minutes east 5 miles; by the north-eastern boundary of Coolabah Western Lands lease 507, county of Canbelego, south-easterly; by the south-eastern boundaries of that lease and Western Lands leases 1,148 and 1,149 south-westerly; by a western boundary of the latter lease northerly; by a line bearing south 28 degrees west, parts of which form part of the south-eastern boundary of Western Lands lease 848, and the south-eastern boundaries of Western Lands leases 620, 321, 373, and Florida Western Lands lease 190, and a north-western boundary of the county of Flinders; by marked lines, parts of which form south-western boundaries

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of the counties of Flinders and Cunningham, south-easterly to the confluence of Kalingaguy Creek with the Lachlan River; thence by that river downwards to the north-eastern corner of portion 21, parish of Quianderry, county of Caira; thence by a south-eastern boundary of that county bearing south 33 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 15 of 236 acres, parish of Tyson; thence again by the Lachlan River and the Murrumbidgee River downwards to the easternmost boundary of Canally Western Lands lease 1,041; by that boundary southerly; by part of the northern boundary of Western Lands lease 2,204, parish of Tararie, and the northern boundary of Western Lands lease 2,202 easterly; by the eastern boundaries of the latter lease and Western Lands leases 2,212 and 2,192, and a line south to the north boundary of portion 4; by part of that boundary east, the east boundaries of that portion and portions 3 and 5 south, and the south boundary of the last-mentioned portion west to the Wakool River; by that river downwards to its confluence with the Murray or Hume River; thence by the boundary dividing the States of New South Wales and Victoria to its intersection with the 141st meridian of east longitude, being the boundary between the States of New South Wales and South Australia; by that boundary northerly to its intersection with the 29th parallel of south latitude, being part of the boundary between the States of New South Wales and Queensland; and by that boundary easterly to the Barwon River aforesaid, at the point of commencement.

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THIRD SCHEDULE.

In the matter of the Crown Lands Consolidation Act, 1913.

To the Sheriff of New South Wales his deputy and assistants, and to all officers of the Police Force of New South Wales.

Whereas it has this day appeared to me, the chairman of the local land board, sitting at that A.B., of having been duly served with a summons to attend and give evidence before the said board in the matter of [*here state the nature of the proceedings*], and having had tender or payment of his reasonable expenses duly made to him has failed to appear when called, these are to command you forthwith to apprehend the said A.B. and to detain him in custody and bring him before the said board to give evidence in the said matter.

Given under my hand this            day of            , 19    , at            aforesaid.

C.D., Chairman of the            Local Land Board.

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## FOURTH SCHEDULE.

In the matter of the Crown Lands Consolidation Act, 1913.

To the Sheriff of New South Wales his deputy and assistants, and to all officers of the Police Force of New South Wales, and to the keeper of the gaol prison or lock-up at .

These are to command you the said sheriff and all officers as aforesaid to apprehend A.B. of and to convey him to the said gaol, &c., and to deliver him to the said keeper, together with this warrant; and you the said keeper to receive him into your custody in the said gaol, &c., and him there safely to keep for the term of [or unless the sum of shall be sooner paid], I, the undersigned, chairman of the local land board, sitting at , having now here adjudged the said A.B. [to pay a fine of and in default of immediate payment thereof] to be imprisoned for the said term, for that he the said A.B. [here state the offence to the following effect as the case may require] having been duly served with a summons to attend and give evidence before the said board in the matter of [here state the nature of the proceedings] and having had payment or tender of his reasonable expenses duly made to him has neglected to appear, such neglect having been without just cause or reasonable excuse (or) having been duly summoned (or) examined as a witness on the hearing of a certain matter [here state the nature of the proceedings] has refused to make oath, or declaration in lieu of an oath before the said board (or) has refused to answer a certain lawful question, that is to say [here state the nature of the question] (or) has refused to produce a certain document within his possession or control, that is to say [here state the nature of the document] (or) to sign his examination reduced to writing, &c., &c., being lawfully required by me the said chairman so to do, and such refusal being without lawful cause or excuse (or) has prevaricated in his evidence. No. 20, 1900, s. 13.

Given under my hand this            day of            , 19    , at            aforesaid.

C.D., Chairman of the            Local Land Board.



FIFTH SCHEDULE.

In the Land Appeal Court of New South Wales.

To the Sheriff of New South Wales, his deputy and assistants, and to all officers of the Police Force of New South Wales [and to the keeper of the gaol, prison, or lock-up at ].

It having this day appeared to the Land Appeal Court sitting at that A.B., of , having been duly served with a summons to attend and give evidence before the said court in the matter of [here state the nature of the proceedings], and having had tender or payment of his reasonable expenses duly made to him has failed to appear when called. These are therefore to command you forthwith to apprehend the said A.B. and to detain him in custody and bring him before the said court to abide the further order of the said court.

Given under my hand this day of , 19 , at aforesaid.

C.D., President.

(or) E.F., Acting-President.

No. 20, 1900, s. 13. (or) It having this day appeared to the Land Appeal Court sitting at that A.B., of , has on the hearing of a certain matter [here state the nature of the proceedings] refused to make oath or declaration in lieu of an oath before the said court (or) to answer a certain question (or) to produce a certain document within his possession or control (or) to sign his examination reduced to writing (or) &c., &c., being lawfully required by the said court so to do, and such refusal being without lawful cause or excuse (or) that A.B., of has obstructed the business of the said court (or) has committed a contempt in face of the said court (or) &c., &c. These are therefore to command you the said Sheriff and all the said officers as aforesaid to apprehend the said A.B., and to detain and convey him to the said gaol, &c., and to deliver him to the said keeper thereof, together with this warrant; and you the said keeper to receive him into your custody in the said gaol, &c., and him there safely to keep until the said A.B. shall have signified to the Land Appeal Court his submission to make the said oath or declaration (or) &c., and the further order of the said court in the premises shall have been made known to you under my hand (or) until the term of days from the date hereof shall have expired (or) until a fine of £ shall have been paid (or) until the said A.B. shall have been otherwise discharged in due course of law.

Given under my hand this day of , 19 , at aforesaid.

C.D., President.

(or) E.F., Acting-President.