

CROWN LANDS (AMENDMENT) ACT, 1977

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 97, 1977.

An Act to amend the Crown Lands Consolidation Act, 1913.
[Assented to, 31st October, 1977.]

BE

Crown Lands (Amendment).

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

Short
title.

1. This Act may be cited as the "Crown Lands (Amendment) Act, 1977".

Commence-
ment.

2. (1) This section, sections 1, 3, 4 and 7 and Schedules 1, 3, 4, 5 and 8, except Schedule 8 (10), shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of a Schedule, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Section 6 shall commence on the day on which Schedule 2 commences.

(4) The several provisions of Schedules 2, 6 and 7 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(5) Schedule 8 (10) (a) shall commence or be deemed to have commenced, as the case may require, on the day on which Schedule 1 (2) to the Closer Settlement (Amendment) Act, 1977, commences.

(6) Schedule 8 (10) (b) shall commence or be deemed to have commenced, as the case may require, on the day on which section 3 of the Returned Soldiers Settlement (Amendment) Act, 1977, commences.

3.

Crown Lands (Amendment).

3. The Crown Lands Consolidation Act, 1913, is referred to in this Act as the Principal Act. Principal Act.

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO GIFTS OF LAND TO THE CROWN.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE COMPETENCY OF MINORS TO ACQUIRE OR HOLD LAND UNDER THAT ACT.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONVERSION OR PURCHASE OF HOLDINGS THAT ARE SUBJECT TO MORTGAGE.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONDITIONS, ETC., APPLICABLE TO HOLDINGS AND GRANTS THEREOF.

SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROTECTION OF RESERVES AGAINST TITLE BY ADVERSE POSSESSION.

SCHEDULE 6.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE LIFTING OF RESTRICTIONS ON TRANSFER BEFORE ISSUE OF GRANT.

SCHEDULE 7.—AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE PAYMENT OF ARREARS BY INCOMING HOLDERS ON TRANSFER OF HOLDINGS.

SCHEDULE 8.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

5. The Principal Act is amended in the manner set forth in Schedules 1–8. Amendment of Act No. 7 1913.

Crown Lands (Amendment).

Savings.

6. (1) In the application of the provisions of the Crown Lands Acts and the regulations made under the Principal Act to—

- (a) an application made or a tender lodged under those Acts or regulations but not finally dealt with as at the commencement of Schedule 2;
- (b) a transfer under those Acts or regulations executed but not registered as at that commencement; and
- (c) the acquisition or the holding of land by virtue of an application or a tender referred to in paragraph (a) or a transfer referred to in paragraph (b),

Schedule 2 shall be deemed not to have been enacted.

(2) Notwithstanding Schedule 2 (5), section 239 (2) of the Principal Act, as in force immediately before the commencement of Schedule 2 (5), shall be, in relation to a person of the age of 16 years or upwards but under the age of 18 years who held a holding under the Crown Lands Acts as at that commencement, deemed to continue in force during the period commencing on that commencement and ending when that person reaches the age of 18 years but only if that person holds that holding continuously during that period.

**Revocation
of reser-
vations under
ss. 195 (3)
and 197 (1).**

7. (1) Any reservation from sale and lease created under or by section 195 (3) of the Principal Act that has not been revoked or has not ceased to have effect before the commencement of Schedule 8 (12) shall be deemed to be revoked.

(2) Any reservation from sale and lease created under or by section 197 (1) of the Principal Act that has not been revoked or has not ceased to have effect before the commencement of Schedule 8 (13) shall be deemed to have been revoked on the day immediately preceding that commencement.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENT TO THE PRINCIPAL ACT RELATING TO GIFTS
OF LAND TO THE CROWN.

Section 23A and short heading—

After section 23, insert :—

Power of Minister to accept gifts of land.

23A. (1) The Minister may acquire any land by gift inter vivos or devise and may agree to the conditions of that gift or devise.

Power of
Minister
to accept
gifts,
etc.

(2) The rule of law against remoteness of vesting shall not apply to any condition referred to in subsection (1) to which the Minister has agreed.

(3) Subject to subsection (5), land acquired under subsection (1) or, where that land is or is to be divided into separate parts, each part of that land shall—

(a) be dedicated under section 24, reserved under section 28 or reserved as a state recreation area under Part IIIA; and

(b) be subject to the provisions of this Act—

(i) applicable to land dedicated under section 24, reserved under section 28 or reserved as a state recreation area, as the case may be; or

(ii) where the dedication or reservation of that land is revoked in pursuance of this Act, applicable to land formerly dedicated under section 24, formerly comprised in a reserve under section 28 or formerly comprised in a state recreation area, as the case may be.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO GIFTS
OF LAND TO THE CROWN—*continued.*

(4) For the purposes of subsection (3) (a), land, or a part of land, acquired under subsection (1) shall be deemed to be Crown lands or prescribed lands, as the case may require.

(5) Notwithstanding anything in this Act, land acquired under this section shall not be dealt with in contravention of any condition referred to in subsection (1) to which the Minister has agreed.

(6) Notwithstanding anything in this Act, where any condition referred to in subsection (1) to which the Minister has agreed so provides—

- (a) any part or parts of land acquired under this section may be used by any person in accordance with that condition to the exclusion, or partial exclusion, as the case may be, of the public; and
- (b) the rights and powers of the Minister or of any other person under this Act shall not be exercised in respect of any land acquired under this section or shall not be exercised in respect of that land to the extent specified in the condition, as the case may be.

(7) Notwithstanding anything in this or any other Act or any rule of law to the contrary—

- (a) the Governor may issue a Crown grant or the Minister may grant a lease, permit, license or easement of or in respect of land

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO GIFTS
OF LAND TO THE CROWN—*continued.*

acquired under subsection (1) to any person in accordance with any condition referred to in subsection (1) to which the Minister has agreed; and

- (b) that Crown grant may be issued or that lease, permit, license or easement may be granted without consideration, if that condition so provides, or for such consideration as is provided for in that condition.

(8) Where the Minister acquires land under subsection (1) and a condition of the gift or devise of that land to which the Minister has agreed so provides, the Minister may pay the cost or part of the cost, as the case may be, of or arising in connection with the transfer of the land to the Minister and of any subsequent dealing with the land, being a dealing authorised by that condition.

(9) A condition referred to in subsection (1) in relation to land given or devised has no effect for the purposes of this section unless it is expressed in writing in the agreement under which or the instrument by which that land is so given or devised.

Crown Lands (Amendment).

Sec. 5.

SCHEDULE 2.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
COMPETENCY OF MINORS TO ACQUIRE OR HOLD LAND
UNDER THAT ACT.

(1) Section 64c (8)—

After section 64c (7), insert :—

(8) Notwithstanding any terms and conditions specified in a notification published under section 63 or 63A, whether so published before or after the commencement of Schedule 2 to the Crown Lands (Amendment) Act, 1977, it shall not be competent for any person under the age of 18 years to acquire from the Crown under section 63, 63A or 64 after that commencement any Crown lands to which that notification relates.

(2) Section 136B (1)—

Omit “of or over the age of twenty-one years”, insert instead “who is not subject to any disqualification in that behalf specified in Part VII”.

(3) Section 136k (1c)—

After section 136k (1B), insert :—

(1c) A permission under subsection (1) shall not be granted to a person who is under the age of 18 years.

(4) Section 155—

Omit the section, insert instead :—

155. Any person who is under the age of 18 years shall not be competent to apply for, or acquire from the Crown, any purchase, homestead selection, lease or license under this Act.

Minimum
age of
applicants.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
COMPETENCY OF MINORS TO ACQUIRE OR HOLD LAND
UNDER THAT ACT—*continued.*

(5) Section 239—

Omit the section, insert instead :—

239. (1) Any person who is under the age of 18 years shall not be competent to hold a purchase, homestead selection, lease, license or permission to occupy under the Crown Lands Acts. ^{Competency of minors to hold land.}

(2) Nothing in this section shall be taken to prevent the devolution or holding of a purchase, homestead selection, lease or license under the Crown Lands Acts devolving under the will or intestacy of a deceased holder.

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONVERSION OR PURCHASE OF HOLDINGS THAT ARE
SUBJECT TO MORTGAGE.

(1) Section 57 (1) (a2)—

After section 57 (1) (a1), insert :—

(a2) If the conditional lease is subject to mortgage, the mortgagee shall join in the application.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONVERSION OR PURCHASE OF HOLDINGS THAT ARE
SUBJECT TO MORTGAGE—*continued.*

(2) Section 81 (1A)—

After section 81 (1), insert :—

(1A) If the residential lease is subject to mortgage,
the mortgagee shall join in the application.

(3) Section 82A (j)—

After “purchased.”, insert “If the lease is subject to
mortgage, the mortgagee shall join in the application.”.

(4) Section 129B (1A)—

Omit the subsection, insert instead :—

(1A) Section 261A, in its application to the
purchase of a suburban holding, shall be deemed to
have commenced on the date of commencement of the
Crown Lands (Amendment) Act, 1917, and the
reference in that section to the date of assent to the
Crown Lands (Amendment) Act, 1977, shall, for
the purposes of that application, be deemed to be a
reference to that date of commencement.

(5) Section 136H—

After “purchased.”, insert “If the week-end lease is
subject to mortgage, the mortgagee shall join in the
application.”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONVERSION OR PURCHASE OF HOLDINGS THAT ARE
SUBJECT TO MORTGAGE—*continued.*

(6) Section 190 (3A)—

After section 190 (3), insert :—

(3A) If the lease is subject to mortgage, the mortgagee shall join in the application.

(7) Section 193A (3A)—

After section 193A (3), insert :—

(3A) If the lease is subject to mortgage, the mortgagee shall join in the application.

(8) Section 261A and short heading—

After section 261, insert :—

Retention of rights of mortgagees on conversion or purchase of holdings.

261A. (1) Where an application—

(a) for conversion or reconversion of a holding (other than a holding within an irrigation area); or

(b) to purchase the land comprised in or held under a holding,

Retention of rights of mortgagees on conversion or purchase.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONVERSION OR PURCHASE OF HOLDINGS THAT ARE
SUBJECT TO MORTGAGE—*continued.*

made after the date of assent to the Crown Lands (Amendment) Act, 1977, is confirmed, approved or granted under this Act—

- (c) that holding, as in force immediately before the date that that conversion, reconversion or purchase took effect or is deemed to have taken effect, is referred to in this section as the converted holding; and
- (d) that holding, as in force after the date referred to in paragraph (c) in relation to that holding, is referred to in this section as the new holding.

(2) In this section—

“mortgage” includes a charge or other security;
“mortgagee” means a person holding or entitled to the benefit of a mortgage.

(3) If, on the confirmation, approval or granting of an application referred to in subsection (1), the converted holding is subject to a mortgage—

- (a) the mortgagee shall be deemed—
 - (i) to retain the rights, powers and remedies which are expressly or impliedly given to him against the mortgagor by the mortgage; and
 - (ii) to have, in respect of the new holding to the extent that those rights, powers and remedies are relevant to the new holding, the

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONVERSION OR PURCHASE OF HOLDINGS THAT ARE
SUBJECT TO MORTGAGE—*continued.*

same rights, powers and remedies
which are so expressly or impliedly
given as he had or would have had
in respect of the converted holding
if the conversion, reconversion or
purchase had not been effected;

(b) the covenants, conditions, stipulations and
provisions of the mortgage—

(i) shall be deemed to apply to the new
holding; and

(ii) shall be capable of being enforced
as if that mortgage had been given
or executed in respect of the new
holding; and

(c) if the mortgage is constituted, wholly or in
part, by a transfer registered or recorded
pursuant to the Crown Lands Acts or the
regulations, that transfer shall be deemed to
extend to the new holding in the same
manner as it applied to the converted
holding.

(9) Section 266, short heading—

Omit "*eight*".

Crown Lands (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONVERSION OR PURCHASE OF HOLDINGS THAT ARE
SUBJECT TO MORTGAGE—*continued.*

(10) Section 307 (1) (a2)—

After section 307 (1) (a1), insert :—

- (a2) If the lease is subject to mortgage, the mortgagee shall join in the application.
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SCHEDULE 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONDITIONS, ETC., APPLICABLE TO HOLDINGS AND
GRANTS THEREOF.

(1) Section 56A (1)—

Omit “the conditions attaching to such conditional lease”, insert instead “such of the conditions attaching to the conditional lease as the Minister may determine”.

(2) Section 57 (3A)—

Omit “are applicable”, insert instead “the Minister may determine”.

(3) Section 75D (1)—

Omit “the conditions reservations and provisions annexed to the special lease as are applicable”, insert instead “such of the conditions, reservations and provisions annexed to the special lease as the Minister may determine”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONDITIONS, ETC., APPLICABLE TO HOLDINGS AND
GRANTS THEREOF—*continued.*

(4) Section 82A (ja)—

Omit “are applicable”, insert instead “the Minister may determine”.

(5) Section 82B (1)—

Omit “the provisions conditions and covenants attaching to such lease as are applicable”, insert instead “such of the provisions, conditions and covenants attaching to the lease as the Minister may determine”.

(6) Section 103A (1)—

Omit “the conditions covenants and provisions attaching to such settlement lease”, insert instead “such of the conditions, covenants and provisions attaching to the settlement lease as the Minister may determine”.

(7) Section 108A (1)—

Omit “the conditions terms and provisions attaching to such conditional purchase lease”, insert instead “such of the conditions, terms and provisions attaching to the conditional purchase lease as the Minister may determine”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONDITIONS, ETC., APPLICABLE TO HOLDINGS AND
GRANTS THEREOF—*continued.*

(8) Section 123 (2)—

Omit “the conditions attaching to such farm”, insert instead “such of the conditions attaching to the homestead farm as the Minister may determine”.

(9) Section 128 (2)—

Omit “the conditions attaching to such suburban holding”, insert instead “such of the conditions attaching to the suburban holding as the Minister may determine”.

(10) Section 134B (1)—

Omit “the conditions attaching to such Crown-lease”, insert instead “such of the conditions attaching to the Crown-lease as the Minister may determine”.

(11) Section 136F (2)—

Omit “the conditions attaching to such week-end lease”, insert instead “such of the conditions attaching to the week-end lease as the Minister may determine”.

(12) (a) Section 182 (1)—

Omit “lessee” wherever occurring, insert instead “holder”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONDITIONS, ETC., APPLICABLE TO HOLDINGS AND
GRANTS THEREOF—*continued.*

(b) Section 182 (1)—

Omit “special lease, snow lease, residential lease, settlement lease, Crown-lease or conditional purchase lease or the purpose of a special lease may on the recommendation of the local land board,” insert instead “homestead selection or lease or the purpose of a special lease may”.

(c) Section 182 (2)—

Omit “any lease specified in subsection one hereof both before and after the issue of a”, insert instead “a homestead selection or lease both before and after the issue of a homestead grant or”.

(13) Section 190 (6A)—

Omit “are applicable”, insert instead “the Minister may determine”.

(14) Section 193A (6)—

Omit “are applicable”, insert instead “the Minister may determine”.

(15) Section 307 (3A)—

Omit “are applicable”, insert instead “the Minister may determine”.

Crown Lands (Amendment).

Sec. 5.**SCHEDULE 5.****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROTECTION OF RESERVES AGAINST TITLE BY ADVERSE POSSESSION.****(1) Section 235B—**

Omit “Nothing in this section shall affect the operation of section thirteen of the Real Property (Amendment) Act, 1921”, insert instead “Nothing in this subsection shall affect the operation of section 46B of the Real Property Act, 1900”.

(2) Section 235B (2), (3)—

At the end of section 235B, insert :—

(2) No title to any land of the Crown reserved under the Crown Lands Acts or any other Act for a public purpose, not being any land referred to in subsection (1), shall by reason of adverse possession be allowed to be asserted or established as against the Crown or any persons holding that land in trust for that public purpose.

(3) Nothing in subsection (2) affects—

- (a) the operation of section 46B of the Real Property Act, 1900;
- (b) the title to any land which has in any proceedings to which the Crown has been a party been adjudged before the date of assent to the Crown Lands (Amendment) Act, 1977, not to be land of the Crown; or

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROTECTION OF RESERVES AGAINST TITLE BY ADVERSE POSSESSION—*continued.*

- (c) the title to any land which the Crown is, at the date of assent to the Crown Lands (Amendment) Act, 1977, debarred from recovering by reason of the operation of the Limitation Act, 1969.

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE LIFTING OF RESTRICTIONS ON TRANSFER BEFORE ISSUE OF GRANT.

- (1) (a) Section 129B (1) (k) (iii)—

Omit “ : Provided that such amount shall not in any case be less than ten dollars.”, insert instead “; or”.

- (b) Section 129B (1) (k)—

After section 129B (1) (k) (iii), insert :—

- (iv) a purchase of the whole or part of a suburban holding (not being a purchase referred to in subparagraph (i)) where—
- (a) the local land board has certified, under paragraph (i), that the conditions attaching to that purchase, other than the payment of the purchase money, have been complied with;

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIFTING OF RESTRICTIONS ON TRANSFER BEFORE ISSUE
OF GRANT—*continued.*

- (b) the money referred to in paragraph (i) in respect of that purchase has been paid; and
- (c) the Minister, upon application being made as prescribed and payment of an amount equivalent to 5 per centum or, where some other percentage is prescribed, that other percentage of the unimproved value of the land purchased, certifies in the prescribed form that that purchase may be transferred without his consent.

Where the amount payable under subparagraph (iii) or (iv) (c) is less than \$10, the amount so payable shall be increased to \$10.

(c) Section 129B (1) (k)—

After “like particulars.”, insert :—

Where a certificate is issued under subparagraph (iv) (c) in respect of a purchase, the Minister shall—

- (i) cause to be endorsed on the principal record that is kept in the Department of Lands in relation to that purchase (before issue of the Crown grant in respect thereof) such particulars relating to the issue of that certificate as may be prescribed; and

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIFTING OF RESTRICTIONS ON TRANSFER BEFORE ISSUE
OF GRANT—*continued.*

(ii) before issue of the Crown grant in respect of that purchase, cause those particulars to be endorsed on that grant in a form approved by the Registrar-General.

(2) Section 173A (1)—

Omit “subparagraph (iii) of paragraph (k) of subsection one of section 129B or subsection (6A) of section two hundred and seventy-two”, insert instead “section 129B (1) (k) (iii) or (iv) or section 272 (6A) or (6B) (d)”.

(3) Section 257—

Omit “or week-end lease”, insert instead “, week-end lease or week-end lease purchase”.

(4) Section 258—

Omit “or suburban holding purchase” wherever occurring, insert instead “, suburban holding purchase or week-end lease purchase”.

(5) (a) Section 272 (6)—

Omit “subsection (6A)”, insert instead “subsections (6A) to 6F) inclusive”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIFTING OF RESTRICTIONS ON TRANSFER BEFORE ISSUE
OF GRANT—*continued.*

(b) Section 272 (6B), (6C), (6D), (6E), (6F)—

After section 272 (6A), insert :—

(6B) Notwithstanding the provisions of subsection (6A), the provisions of this section shall not apply to the transfer of any such original or additional conditional purchase (not being a conditional purchase specified in subsection (8)) where—

- (a) the grant in respect of that conditional purchase has not issued;
- (b) the certificate referred to in section 56 (a) has issued in respect of that conditional purchase;
- (c) the money referred to in section 56 (b) and (c) in respect of that conditional purchase has been paid; and
- (d) the Minister, upon application being made as prescribed and payment of an amount equivalent to 5 per centum or, where some other percentage is prescribed, that other percentage of the unimproved value of the land purchased, certifies in the prescribed form that the provisions of this section shall not apply to the transfer of that conditional purchase.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIFTING OF RESTRICTIONS ON TRANSFER BEFORE ISSUE
OF GRANT—*continued.*

(6C) Where the amount payable under subsection (6B) (d) is less than \$10, the amount so payable shall be increased to \$10.

(6D) For the purposes of subsection (6B) (d), the expression “unimproved value of the land” means the unimproved value of the land as defined or determined in accordance with the provisions of Division 2A of Part VIII.

(6E) Upon the issue of any certificate under subsection (6B) (d) the land to which that certificate relates may be transferred or otherwise dealt with without recourse to this section.

(6F) Where a certificate is issued under subsection (6B) (d) in respect of a conditional purchase, the Minister shall—

- (a) cause to be endorsed on the principal record that is kept in the Department of Lands in relation to that conditional purchase (before issue of the Crown grant in respect thereof) such particulars relating to the issue of that certificate as may be prescribed; and
- (b) before issue of the Crown grant in respect of that conditional purchase, cause those particulars to be endorsed on that grant in a form approved by the Registrar-General.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
LIFTING OF RESTRICTIONS ON TRANSFER BEFORE ISSUE
OF GRANT—*continued.*

(6) (a) Section 274A, short heading—

After “leases”, insert “and week-end lease purchases”.

(b) Section 274A (2)—

At the end of section 274A, insert :—

(2) Where an application to purchase land comprised in a week-end lease has been granted under section 136H, that land may be transferred under this Act at any time before issue of the grant in fee simple.

Sec. 5.

SCHEDULE 7.

AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE
PAYMENT OF ARREARS BY INCOMING HOLDERS ON
TRANSFER OF HOLDINGS.

Sections 250A, 250B, short heading to section 250A—

After section 250, insert :—

Liability of incoming holder to pay arrears.

Liability
of incoming
holder to
pay
arrears.

250A. (1) For the purposes of this section and section 250B—

(a) “holding” includes a homestead selection after grant and a lease in respect of which a perpetual lease grant has issued but does

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 7—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE
PAYMENT OF ARREARS BY INCOMING HOLDERS ON
TRANSFER OF HOLDINGS—*continued.*

not include a holding within an irrigation area or a permission to occupy granted under section 136K;

- (b) “holder”, in relation to a holding, does not include a mortgagee of that holding;
- (c) the amount or amounts due for payment in respect of a holding shall be deemed to include any amount or amounts that would, but for a deferment, postponement or funding granted or directed under the Crown Lands Acts, the Crown Lands (Amendment) Act, 1932, or the Closer Settlement Acts, be due for payment in respect of that holding; and
- (d) where a deferment or postponement of payment of an amount, or the funding of an amount, is so granted or directed in respect of a holding, the due date for payment of that amount shall be determined as if that deferment, postponement or funding had not been granted or directed.

(2) Notwithstanding the provisions of the Crown Lands Acts, the Crown Lands (Amendment) Act, 1932, or the Closer Settlement Acts, the regulations under those Acts or any condition attaching to a holding, the holder of a holding is liable to pay in respect of that holding any amount—

- (a) due for payment under those Acts, those regulations or any condition attaching to the holding; and

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 7—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE
PAYMENT OF ARREARS BY INCOMING HOLDERS ON
TRANSFER OF HOLDINGS—*continued.*

(b) unpaid as at the date when he became the holder.

(3) Where a holder pays, in respect of his holding, any amount (other than an amount that is attributable to rent or to interest charged under section 278) that became, on a date prior to the date when he became the holder of that holding, due for payment under the Crown Lands Acts, the Crown Lands (Amendment) Act, 1932, or the Closer Settlement Acts, the regulations under those Acts or any condition attaching to the holding, that holder may recover that amount from the person who was the holder of that holding at the time when that amount became due.

(4) Where a holder pays, in respect of his holding, any amount—

- (a) that is attributable to rent or to interest charged under section 278; and
- (b) that became, on a date prior to the date when he became the holder of that holding, due for payment under the Crown Lands Acts, the Crown Lands (Amendment) Act, 1932, or the Closer Settlement Acts, the regulations under those Acts or any condition attaching to the holding,

that holder may recover an amount determined in accordance with subsection (5) from any person who was the holder of that holding during the period in respect of which that amount was due.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 7—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE
PAYMENT OF ARREARS BY INCOMING HOLDERS ON
TRANSFER OF HOLDINGS—*continued.*

(5) The amount that a holder may recover from any person under subsection (4) is the amount that is equal to the amount of the rent or interest paid as referred to in subsection (4), less any part of that amount that would, if that amount was calculated on a daily basis, be attributable to a period when that person was not the holder of that holding.

(6) Without limiting subsections (3), (4) and (5), a person shall, for the purposes of those subsections, be deemed—

- (a) subject to paragraph (b), to be the holder of a holding during any period commencing on the date when that person would, but for any requirement to be registered or recorded as the holder of that holding under the Crown Lands Acts or the regulations, have become entitled to an estate or interest in that holding (being an estate or interest that gave him the right to be so registered or recorded) and ending on the date when he was so registered or recorded; and
- (b) not to be the holder of a holding during any period commencing on the date when that person would, but for any requirement for the person who becomes entitled to his estate or interest in that holding to be registered or recorded as the holder of that holding under the Crown Lands Acts or the regulations, have ceased to be entitled to an estate or interest in that holding (being an estate or interest that gives another

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 7—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE
PAYMENT OF ARREARS BY INCOMING HOLDERS ON
TRANSFER OF HOLDINGS—*continued.*

person the right to be so registered or recorded) and ending on the date when that other person was so registered or recorded.

(7) Nothing in this section affects any agreement or any rule of law or equity with respect to the ultimate liability for payment of any amount due in respect of a holding.

Certificate
as to amount
due.

250B. (1) The Minister shall, upon application by any person in the manner prescribed and upon payment of a fee as prescribed, issue to that person in respect of a holding—

- (a) a certificate as to the amount or amounts due for payment under the Crown Lands Acts, the Crown Lands (Amendment) Act, 1932, or the Closer Settlement Acts, the regulations under those Acts or any condition attaching to that holding; or
- (b) where there is no amount so due for payment, a certificate to that effect.

(2) A certificate referred to in subsection (1) (a) shall give particulars of the amount or amounts due, including the due date for payment in respect of the amount or each of the amounts, as the case may be.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 7—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO THE
PAYMENT OF ARREARS BY INCOMING HOLDERS ON
TRANSFER OF HOLDINGS—*continued.*

(3) Production of a certificate under this section shall for all purposes be deemed conclusive proof in favour of a person who, on or subsequent to the date of the certificate, becomes the holder of the holding referred to in the certificate that, at the date of the certificate, no amount, other than an amount stated in the certificate, was due for payment in respect of that holding.

SCHEDULE 8.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 14 (4)—

Omit “and to cause his examination to be reduced to writing and signed by him,”.

(b) Section 14 (4)—

Omit “examination when reduced to writing”, insert instead “deposition when required to do so”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(c) Section 14 (4A), (4B)—

After section 14 (4), insert :—

- (4A) The chairman may cause the depositions of witnesses to be taken down in writing or recorded by means of shorthand, stenotype machine or sound-recording apparatus or by such other means as may be prescribed.
- (4B) Where the deposition of a witness is taken down in writing the chairman may require the witness to sign the deposition.

(2) Section 25A (4)—

Omit the subsection, insert instead :—

- (4) In this section, “public authority” means—
 - (a) the Water Resources Commission;
 - (b) a council as defined in section 4 of the Local Government Act, 1919;
 - (c) a pastures protection board constituted or continued by or under the Pastures Protection Act, 1934; or
 - (d) any other public body declared by the Minister, by order published in the Gazette after the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974, to be a public authority for the purposes of this section.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(3) (a) Section 37 (1)—

Omit “prescribing”, insert instead “, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to”.

(b) Section 37 (1) (a)—

After “for”, insert “or in respect of”.

(c) Section 37 (2), (3), (4)—

Omit section 37 (2), insert instead :—

(2) A regulation may impose a penalty not exceeding \$100 for any breach thereof.

(3) For the purpose of carrying into effect such provisions of the Code of 1884–1912 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 that Code.

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(4) (a) Section 37A, definition of “Coal Mining Act”—
Omit the definition.

(b) Section 37A, definition of “public authority”—

Omit the definition, insert instead :—

“public authority” means—

- (a) a council as defined in section 4 of the Local Government Act, 1919;
- (b) a pastures protection board constituted or continued by or under the Pastures Protection Act, 1934; or
- (c) any other public body declared by the Minister, by order published in the Gazette after the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974, to be a public authority for the purposes of this Part;

(5) (a) Section 37E (1)—

Omit the subsection, insert instead :—

(1) In this section, “existing interest” means any authority, authorisation, permit, lease, licence or occupancy.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) Section 37E (4)—

Omit the subsection, insert instead :—

(4) The provisions of subsection (3) do not apply to any authority, authorisation, lease or licence under the Mining Act, 1973, the Coal Mining Act, 1973, the Fisheries and Oyster Farms Act, 1935, or the Petroleum Act, 1955, or to any permit or licence under the Petroleum (Submerged Lands) Act, 1967.

(6) (a) Section 37G (1)—

Omit the subsection, insert instead :—

(1) In this section, “mining interest” means—

- (a) any authority (other than an exploration licence) under the Mining Act, 1973;
- (b) any authorisation under the Coal Mining Act, 1973 (other than an authorisation under section 20 of that Act) or any coal lease under that Act;
or
- (c) any lease under the Petroleum Act, 1955.

(b) Section 37G (2)—

Omit “the Mining Act, 1906.”.

SCHEDULE

Crown Lands (Amendment).

 SCHEDULE 8—*continued.*

 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
 ACT—*continued.*

- (c) Section 37G (2)—
 Omit “a Coal Mining Act”, insert instead “the Coal Mining Act, 1973,”.
- (d) Section 37G (4)—
 Omit “the Mining Act, 1906, the Petroleum Act, 1955, the Mining Act, 1973, or a Coal Mining Act”, insert instead “the Mining Act, 1973, the Coal Mining Act, 1973, or the Petroleum Act, 1955,”.
- (e) Section 37G (6)—
 Omit the subsection, insert instead :—
 (6) A claim shall not be registered under Part IV of the Mining Act, 1973, over any lands within a state recreation area.
- (f) Section 37G (7)—
 Omit “a Coal Mining Act”, insert instead “the Coal Mining Act, 1973,”.
- (g) Section 37G (8), (9), (10), (11)—
 Omit the subsections.
- (7) (a) Section 161 (3)—
 After “that”, insert “a survey fee or”.
- (b) Section 161 (3)—
 Omit “so much of such cost as he considers to be excessive”, insert instead “the whole or any part of that fee or cost”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(c) Section 161 (4)—

Omit the subsection.

(8) (a) Section 164—

Omit “section” wherever occurring, insert instead
“subsection”.

(b) Section 164—

Omit “the capital value of, and”.

(c) Section 164 (2)—

At the end of section 164, insert :—

(2) Where the addition is to a lease, not being a special lease or a lease other than a special lease the annual rent of which is subject to redetermination, the local land board shall determine the capital value of the added land and that capital value shall be the price at which the part of the lease comprised in that added land may be converted into a conditional purchase or be purchased.

(9) Section 164A—

After section 164, insert :—

164A. (1) Subject to this section, any land that the Minister may lease under section 74 may be added, under section 164, to a lease under section 74, 75, 75B or 76. Addition to special lease of land below water.

SCHEDULE

Crown Lands (Amendment).

 SCHEDULE 8—*continued.*

 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
 ACT—*continued.*

(2) Land shall not be added to a lease in pursuance of subsection (1) if—

- (a) the purpose for which that land is to be used is not a purpose for which a lease may be granted under section 74;
- (b) where that land fronts any land held in fee-simple (not being land held by the holder of that lease), the consent of the proprietor thereof has not been obtained; or
- (c) the use of that land for the purpose for which it is to be used would interfere with navigation or the rights of adjoining proprietors.

(3) Not less than 4 weeks before land is added to a lease in pursuance of subsection (1), the intention to do so shall be notified in the Gazette and in a newspaper, if any, circulating in the locality in which the land is situated.

(4) At any time before the expiration of the 4 weeks mentioned in subsection (3), any person feeling aggrieved may lodge a complaint setting forth objections against the addition of land to a lease under this section, and those objections shall be duly heard and determined before the land is added to the lease.

(10) (a) Section 173A (1)—

Omit “subsection four of section thirty-one of the Closer Settlement Act, 1904”, insert instead “section 31 (4) or (5) (d) of the Closer Settlement Act, 1904”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) Section 173A (1)—

Omit “subsection five of section ten of the Returned Soldiers Settlement Act, 1916”, insert instead “section 10 (5) or (6) (e) of the Returned Soldiers Settlement Act, 1916”.

(11) Section 185—

Omit “regulations under this Act, and to any special conditions which attached to the settlement lease or Crown-lease, also to the general provisions of this Act”, insert instead “the general provisions of this Act and the regulations”.

(12) (a) Section 195 (3)—

Omit the subsection, insert instead :—

(3) A proposal for a surrender and exchange under this section shall be notified in the Gazette and in a newspaper, if any, published and circulating in the locality in which the lands are situated.

(b) Section 195 (5)—

Omit “ : 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”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(13) (a) Section 197 (1)—

Omit “be deemed to be reserved from sale and lease, and may on revocation of the reserve”, insert instead “become vested in Her Majesty and may”.

(b) Section 197 (1)—

Omit “; and thereupon it shall become vested in His Majesty, and be deemed to be Crown lands for the purposes of this Act; but reserved from sale or lease until otherwise notified by the Minister”, insert instead “and thereupon it shall become vested in Her Majesty”.

(14) Section 234A (2), (3)—

At the end of section 234A, insert :—

(2) Where, in any homestead grant, there is a reference to quit rent, that reference shall be deemed to be amended by omitting the word “quit”, with effect on and from the date of issue of the grant.

(3) A reference in subsection (1) to quit-rent does not include, and shall be deemed never to have included, a reference to quit rent purporting to have been payable in respect of a homestead grant.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(15) (a) Section 254A (1A)—

After section 254A (1), insert :—

(1A) For the purposes of this section, a structure is on public lands without lawful authority if it is—

(a) a structure the erection of which was not, at the time of its erection, authorised by or under the provisions of this or any other Act (other than Part XI or XIIA of the Local Government Act, 1919), not being a structure referred to in paragraph (b); or

(b) a structure—

(i) the erection or use of which was authorised by or under the provisions of this or any other Act (other than Part XI or XIIA of the Local Government Act, 1919);

(ii) that is required, by or under those provisions, to be removed at or within a specified time; and

(iii) that has not been so removed.

(b) Section 254A (2)—

Omit “erected without lawful authority on public lands”, insert instead “that is on public lands without lawful authority”.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(c) Section 254A (4) (a)—

Omit the paragraph, insert instead :—

- (a) where the structure or part thereof was erected without lawful authority—erected the structure or caused it to be erected;

(d) Section 254A (4) (b)—

Omit “has made use of the structure after”, insert instead “whether the structure or part thereof was erected with or without lawful authority—has made use of the structure after”.

(e) Section 254A (4) (b) (ii)—

Omit “so displayed,”, insert instead “so displayed; or”.

(f) Section 254A (4) (c)—

After section 254A (4) (b), insert :—

- (c) where the structure is a structure referred to in subsection (1A) (b)—was required, by or under the provisions referred to in subsection (1A) (b), to remove that structure.

SCHEDULE

Crown Lands (Amendment).

SCHEDULE 8—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(g) Section 254A (4)—

After “or both”, insert “the persons referred to in paragraphs (a) and (b) or both the persons referred to in paragraphs (b) and (c), in each case where those paragraphs are applicable”.
