

**CROWN LANDS (MISCELLANEOUS PROVISIONS)  
AMENDMENT ACT, 1982, No. 6**

**New South Wales**



ANNO TRICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 6, 1982.**

**An Act to amend the Crown Lands Consolidation Act, 1913, and the Crown  
Lands (Amendment) Act, 1977. [Assented to, 13th April, 1982.]**

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See also Closer Settlement (Miscellaneous Provisions) Amendment Act, 1982; Public Roads (Delegations) Amendment Act, 1982; Commons Regulation (Delegations) Amendment Act, 1982; Prickly-pear (Delegations) Amendment Act, 1982; Western Lands (Delegations) Amendment Act, 1982.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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**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 (Miscellaneous Provisions) Amendment Act, 1982".

**Commencement.**

**2. (1)** Except as provided in subsections (2)–(4), this Act shall commence on the date of assent to this Act.

**(2)** Subject to section 8, section 5 shall, in its application to a provision of Schedules 1–4, commence on the day on which that provision commences.

**(3)** Subject to section 8, the several provisions of Schedules 1–4 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.

**(4)** Subject to section 8, section 6 and Schedule 5 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Principal Act.**

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

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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**Schedules.**

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO PARTS I AND II OF THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART III<sup>B</sup> OF THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENT TO THE CROWN LANDS (AMENDMENT) ACT, 1977.

SCHEDULE 6.—SAVINGS AND VALIDATION PROVISIONS.

**Amendment of Act No. 7, 1913.**

5. The Principal Act is amended in the manner set forth in Schedules 1–4.

**Amendment of Act No. 97, 1977.**

6. The Crown Lands (Amendment) Act, 1977, is amended in the manner set forth in Schedule 5.

**Savings and validation provisions.**

7. Schedule 6 has effect.

**Repeal of certain provisions of this Act.**

8. (1) Schedule 4 (13) and subsection (2) are repealed with effect on and from the day of publication in the Gazette of a proclamation appointing a day under section 2 (4) in respect of section 6 and Schedule 5.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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(2) Section 6, Schedule 5 and subsection (1) are repealed with effect on and from the day of publication in the Gazette of a proclamation appointing a day under section 2 (3) in respect of Schedule 4 (13).

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SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO PARTS I AND II OF THE PRINCIPAL ACT.

(1) Section 1 (b), matter relating to Division 13 of Part VIII—  
Omit “274B”, insert instead “274c”.

(2) (a) Section 5 (1), definition of “Public purpose”—  
Before “declared”, insert “for the time being”.

(b) Section 5 (4)—

After section 5 (3), insert :—

(4) The Minister may, by notification in the Gazette, revoke or vary a declaration made for the purposes of the definition of “Public purpose” in subsection (1).

(3) (a) Section 14 (1)—

Before “be”, insert “, subject to paragraph (9),”.

(b) Section 14 (5)—

Omit “and to examine”, insert instead “and, subject to paragraph (9), to examine”.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO PARTS I AND II OF THE PRINCIPAL ACT—  
*continued.*

(c) Section 14 (9)—

After section 14 (8), insert :—

- (9) A local land board is not bound by the rules of evidence.

(4) (a) Section 17A (1)—

Omit “prescribed office the exercise or performance of such”, insert instead “office under the Minister’s administration the exercise or performance”.

(b) Section 17A (1)—

Omit “as may be prescribed in relation to the holder of that office”.

(c) Section 17A (2)—

Omit “a prescribed”, insert instead “an”.

(d) Section 17A (3)—

Omit “prescribed”.

(e) Section 17A (4), (5)—

Omit the subsections.

(f) Section 17A (7)—

Omit the subsection.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO PART III B OF THE PRINCIPAL ACT.

(1) (a) Section 37o (4A)—

After section 37o (4), insert :—

(4A) A nominee of a person appointed as a trustee of a reserve (other than a state recreation area) by virtue of his holding a particular office or position—

- (a) may, with the approval of the Minister, attend a meeting of the trustees of that reserve in the place of that trustee; and
- (b) shall, for the purposes of that meeting, be deemed to be a trustee of that reserve appointed under this section.

(b) Section 37o (8), (8A), (8B)—

Omit section 37o (8), insert instead :—

(8) Subject to section 37D, a person appointed or deemed to be appointed to be a trustee of a reserve under this section and holding office on the commencement of Schedule 2 (1) (b) to the Crown Lands (Miscellaneous Provisions) Amendment Act, 1982, shall continue to hold office until, and shall cease to hold office by virtue of that appointment or deemed appointment on—

- (a) the expiration of a period of 2 years commencing from that commencement;
- (b) his reappointment as a trustee of that reserve under subsection (8B); or
- (c) his being deemed to have vacated his office under this Act,

whichever first occurs.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 2—*continued.*

AMENDMENTS TO PART IIIB OF THE PRINCIPAL ACT—*continued.*

(8A) Subject to section 37D, a person appointed or reappointed to be a trustee of a reserve under this section after the commencement of Schedule 2 (1) (b) to the Crown Lands (Miscellaneous Provisions) Amendment Act, 1982, shall, unless he sooner vacates his office, hold office for such term, not exceeding 5 years, as is specified in the notification by which he was appointed or reappointed (as the case may be), but is, subject to this Division, eligible for further appointment as a trustee of that reserve.

(8B) Subject to this Division, the Minister may, by notification published in the Gazette, reappoint as trustee of a reserve a person holding office as trustee of that reserve by virtue of subsection (8).

(2) (a) Section 37Y (b)—

Omit “1912; and”, insert instead “1912;”.

(b) Section 37Y (c)—

Omit “visiting the reserve.”, insert instead “visiting the reserve; and”.

(c) Section 37Y (d)—

After section 37Y (c), insert :—

(d) may, where—

(i) the reserve is not a state recreation area; and

(ii) the approval of the Minister has been obtained,

make, out of trust moneys, donations to a group, organisation or body for any purpose which is, in the opinion of the Minister, of benefit to the reserve or the community generally.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 2—*continued.*

AMENDMENTS TO PART III B OF THE PRINCIPAL ACT—*continued.*

(3) Section 37ZA—

After section 37Z, insert :—

**Certain disabilities not to affect ex-officio trustees.**

37ZA. (1) This section applies to a person who is appointed as a trustee of a reserve by virtue of his holding a particular office or position.

(2) Any duty or disability—

- (a) which would, but for this section, be imposed on a person to whom this section applies (in his capacity as a trustee of a reserve) by a provision of this or any other Act or by a rule of law or equity; and
- (b) which would, but for this section, be so imposed on that person by reason of both his being a trustee of a reserve and holding the office or position by virtue of which he was appointed a trustee of that reserve,

does not affect that person.

(4) Section 37DD—

Omit “Summary Offences Act, 1970”, insert instead “Offences in Public Places Act, 1979”.

(5) Section 37II (4)—

Omit “\$100”, insert instead “\$500”.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) Section 57 (1)—

Omit "1909", insert instead "1909".

(2) (a) Section 74 (1)—

Omit "declared by the Minister by notification published", insert instead "for the time being declared by the Minister by notification".

(b) Section 74 (1A)—

After section 74 (1), insert :—

(1A) The Minister may, by notification in the Gazette, revoke or vary a declaration made under subsection (1).

(3) (a) Section 75 (1)—

Before "declared", insert "for the time being".

(b) Section 75 (1A)—

After section 75 (1), insert :—

(1A) The Minister may, by notification in the Gazette, revoke or vary a declaration made under subsection (1).

(4) Section 75A (3)—

Omit "and shall be accompanied by the fee prescribed".

(5) (a) Section 75B (1)—

Before "declared", insert "for the time being".

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 3—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(b) Section 75B (1A)—

After section 75B (1), insert :—

(1A) The Minister may, by notification in the Gazette, revoke or vary a declaration made under subsection (1).

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SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT.

(1) (a) Section 163—

Omit “Where” where secondly occurring, insert instead “Subject to subsection (2), where”.

(b) Section 163 (2)—

At the end of section 163, insert :—

(2) Land shall not be added under this section to land formerly comprised in a conditional purchase unless an application for that addition was made before the commencement of Schedule 4 (1) to the Crown Lands (Miscellaneous Provisions) Amendment Act, 1982.

(2) (a) Section 164 (1)—

Omit “included under” where firstly and thirdly occurring, insert instead “added to”.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

(b) Section 164 (1)—

Omit “the local land board reports that in its opinion the land in question should not be otherwise disposed of”, insert instead “the local land board recommends that the land be so added”.

(c) Section 164 (1)—

Omit “include such land under”, insert instead “add that land to”.

(d) Section 164 (2)—

Omit “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”, insert instead “Subject to subsection (3), where vacant Crown land is added to a lease”.

(e) Section 164 (3)—

After section 164 (2), insert :—

(3) Subsection (2) does not apply to or in respect of the addition of land to—

(a) a special lease;

(b) a lease the annual rent of which is subject to redetermination under this Act;

(c) a suburban holding—

(i) the annual rent of which is not subject to redetermination under this Act; and

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

- (ii) which is not the whole or part of a block notified by the Minister under section 124 as made available for the purpose of erecting a dwelling thereon;
- (d) a residential lease;
- (e) a lease under section 82A; or
- (f) a lease under section 4 of the Returned Soldiers Settlement Act, 1916, not within an irrigation area.

## (3) Section 188—

Omit the section, insert instead :—

**Conversion of settlement lease or Crown-lease: exempt land.**

188. (1) An application for conversion of a settlement lease or Crown-lease shall not be confirmed in respect of such part of the land comprised therein as is—

- (a) reserved from sale; or
- (b) within a State forest or timber reserve.

(2) If an application for conversion of the whole or part of any land comprised in a settlement lease or Crown-lease cannot be confirmed by reason of the land being reserved from sale, the Minister may refuse the application for conversion without reference to the local land board or may refer the application to the local land board for inquiry and report.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

(4) Section 190 (3)—

Omit “provisional”.

(5) (a) Section 193A (5A) (a)—

Omit “—unless the Minister so approves”.

(b) Section 193A (5A) (b)—

Omit “—unless the Forestry Commission so approves”.

(c) Section 193A (5B)—

After section 193A (5A), insert :—

(5B) If a conversion of the whole or part of the land the subject of the application cannot be allowed under the provisions of subsection (5A) (a), the Minister may refuse the application without reference to the local land board or may refer the application to the local land board for inquiry and report.

(6) Section 195 (2)—

Omit “, and the Crown lands shall not be allotted in exchange until the aforesaid balance of purchase money together with interest has been duly paid”.

(7) Section 197 (1)—

Omit “exchange or purchase or resumption of any land under this section”, insert instead “purchase or resumption of any land under this section and, where an application

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

or proposal for the exchange of any land under this section is referred to it by the Minister, upon that application or proposal”.

## (8) (a) Section 202 (1A)—

After section 202 (1), insert :—

(1A) A local land board may grant permission to enclose a road or watercourse under subsection (1) subject to such conditions as it determines in addition to conditions relating to the payment of rent and the provision of gates or suitable substitutes referred to in that subsection.

## (b) Section 202 (4)—

Omit “such direction as aforesaid”, insert instead “a direction under this section”.

## (c) Section 202 (6)—

After “as provided in subsection (1)”, insert “and to impose conditions as provided in subsection (1A) in the same way as it may give directions or impose conditions in respect of permits under subsection (1)”.

## (d) Section 202 (7A)—

After section 202 (7), insert :—

(7A) Where permission has been granted to enclose a road or watercourse in accordance with this section and the land with which the road or watercourse has been enclosed, or that part of the land

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

which the enclosure traverses or bounds, is subsequently transferred, the transferor shall, in the prescribed manner and within the prescribed time, notify the officer in charge of the land board office for the land board district in which the road or watercourse is situated of the date of the transfer and the name and address of the transferee.

Penalty : \$100.

(e) Section 202 (13)–(20)—

After section 202 (12), insert :—

(13) Where permission has been granted to enclose a road or watercourse in accordance with this section or a determination has been made that constitutes such a permission, the Minister may at any time and from time to time direct that such gates, or suitable substitutes, as he 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.

(14) Notice of a direction given under subsection (13) shall be sent by post to the holder of the permission to enclose the road or watercourse to which the direction relates.

(15) The holder of a permission to enclose a road or watercourse may, within 28 days after service of a notice on him under subsection (14), object in writing to the Minister against the direction.

(16) The Minister shall refer any objection made in accordance with subsection (15) to a local land board for inquiry.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

(17) The Minister and the objector shall be entitled to appear or to be represented at, and to be heard before, an inquiry referred to in subsection (16).

(18) A local land board to which an objection has been referred under subsection (16) may either confirm, vary or revoke the direction in respect of which the objection is made.

(19) A direction under subsection (13) (not being a direction revoked under subsection (18)) shall—

- (a) where an objection has not been made in accordance with subsection (15), take effect as from the expiration of 28 days from the date of service of the notice under subsection (14) in respect of the direction; and
- (b) where an objection has been made in accordance with subsection (15), take effect, or if varied under subsection (18) shall take effect as so varied, as from the date of the local land board's decision under subsection (18).

(20) Where a direction given by the Minister under subsection (13) has taken effect, or has taken effect as varied, as referred to in subsection (19) and that direction conflicts with a direction given by a local land board under subsection (1) or (6), the direction given by the local land board shall, to the extent that it is inconsistent with the Minister's direction or the Minister's direction as so varied, be of no force or effect.



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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

(9) Section 217—

After “inevitable accident.”, insert :—

The holder of a special lease who is paying the rental value of improvements for the use thereof pursuant to this section may, with the consent of the Minister, pay the capital value of those improvements and shall thereupon cease to be liable to pay the rental value.

(10) Section 224 (2)—

Omit “, accompanied by a deposit of \$20 to cover the cost of dealing therewith,”.

(11) Section 235B (4), (5)—

After section 235B (3), insert :—

(4) No title to any Crown lands, including Crown lands lawfully contracted to be sold but not including any land of the Crown referred to in subsection (1) or (2), shall by reason of adverse possession be allowed to be asserted or established as against the Crown.

(5) Nothing in subsection (4) 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 commencement of Schedule 4 (11) to the Crown Lands (Miscellaneous Provisions) Amendment Act, 1982, not to be land of the Crown; or

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

- (c) the title to any land which the Crown is, at the date of commencement of Schedule 4 (11) to the Crown Lands (Miscellaneous Provisions) Amendment Act, 1982, debarred from recovering by reason of the operation of the Limitation Act, 1969.
- (12) (a) Section 239 (1)—  
Omit “or permission to occupy”, insert instead “, permission to occupy or permissive occupancy”.
- (b) Section 239 (2)—  
Omit “or license”, insert instead “, license, permission to occupy or permissive occupancy”.
- (13) Section 250A (1) (a)—  
Omit “but does not include a holding within an irrigation area or a permission to occupy granted under section 136k”, insert instead “, a permission to occupy Crown lands or a permissive occupancy of Crown lands referred to in section 136k (3) and a permission to occupy Crown lands granted under section 136k (1) but does not include a holding within an irrigation area”.
- (14) (a) Section 254 (2) (h)—  
After “with,”, insert “or cause to be cut, dug up, disturbed, displaced, stacked, heaped or in any other way interfered with,”.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*

AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

(b) Section 254 (2)—

After “Penalty:”, insert “In the case of an offence under paragraph (h), \$500 for the first offence and \$1,000 for any subsequent offence, and, in any other case,”.

(15) Section 259 (2)—

After section 259 (1), insert :—

(2) In subsection (1), “lease” includes a permission to occupy and a permissive occupancy.

(16) Section 274c—

After section 274B, insert :—

*Transfer of permissions to occupy and permissive occupancies.*

274c. (1) A permission to occupy Crown lands or a permissive occupancy of Crown lands referred to in section 136k (3) or a permission to occupy Crown lands granted under section 136k (1) may, subject to subsection (2), be transferred.

(2) Any lands referred to in subsection (1) may only be transferred with the consent of the Minister.

(3) Application for the consent of the Minister to a transfer as required by this section shall be made to the Minister in the approved form.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 4—*continued.*AMENDMENTS TO PART VIII OF THE PRINCIPAL  
ACT—*continued.*

(4) No transfer for which the consent of the Minister is required by this section shall be effected, or if effected shall be valid, unless the consent of the Minister has been first obtained.

(5) The Minister may, in his discretion, give or refuse the consent applied for under this section.

(6) Without limiting the generality of subsection (5), the Minister may require, as a condition precedent to the giving of his consent to the transfer of a permission to occupy or permissive occupancy under that subsection, the proposed transferee to lodge with the Minister a security in such amount and such form as the Minister approves to ensure compliance with the conditions applicable to the permission to occupy or permissive occupancy.

(7) Nothing in this section applies to or affects the giving of a mortgage or the discharge of a mortgage.

(8) This section has effect notwithstanding any conditions applicable to the permission to occupy or permissive occupancy concerned.

(9) Any conditions applicable to a permission to occupy or permissive occupancy immediately before its transfer under this section shall bind the transferee.

(10) This section applies to permissions to occupy granted before, as well as after, the date of commencement of Schedule 4 (16) to the Crown Lands (Miscellaneous Provisions) Amendment Act, 1982.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 5.

(Sec. 6.)

AMENDMENT TO THE CROWN LANDS (AMENDMENT) ACT, 1977.

Section 250A of the Principal Act as to be inserted by section 5 of, and Schedule 7 to, the Crown Lands (Amendment) Act, 1977, and as subsequently amended—

From subsection (1) (a), omit “but does not include a holding within an irrigation area or a permission to occupy granted under section 136k”, insert instead “, a permission to occupy Crown lands or a permissive occupancy of Crown lands referred to in section 136k (3) and a permission to occupy Crown lands granted under section 136k (1) but does not include a holding within an irrigation area”.

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SCHEDULE 6.

(Sec. 7.)

SAVINGS AND VALIDATION PROVISIONS.

**Local land board proceedings.**

1. Any proceedings before a local land board commenced but not completed as at the day appointed and notified under section 2 (3) in respect of Schedule 1 (3) shall be continued and completed as if Schedule 1 (3) had not been enacted.

**Delegations.**

2. A delegation—

- (a) made under section 17A of the Principal Act; and
- (b) in force immediately before the day appointed and notified under section 2 (3) in respect of Schedule 1 (4),

shall be deemed to be a delegation made under section 17A of the Principal Act as in force after the day so appointed and notified.

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*Crown Lands (Miscellaneous Provisions) Amendment.*

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SCHEDULE 6—*continued.*SAVINGS AND VALIDATION PROVISIONS—*continued.***Validation—acts of ex-officio trustees.**

3. Any decision made by a trustee or by trustees at any time before the day appointed and notified under section 2 (3) in respect of Schedule 2 (3) which could have been lawfully made had Schedule 2 (3) been in force at that time is validated.

**Certain amendments not to affect applications already made.**

4. An amendment made to a provision of the Principal Act by section 5 and Schedule 4 (2) (b) or (7) does not affect any application made under or for the purposes of that provision as in force before the day appointed and notified under section 2 (3) in respect of that amendment and any such application shall be governed by that provision as if that amendment had not been enacted.

**Increase in penalty not to affect offences already committed.**

5. The amendment made to section 254 (2) of the Principal Act by section 5 and Schedule 4 (14) (b) does not affect any penalty which may be imposed in respect of an offence committed against section 254 (2) (h) of the Principal Act before the day appointed and notified under section 2 (3) in respect of Schedule 4 (14) (b).

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