

1990 – No. 223

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

(Crown Lands (Continued Tenures) Regulation 1990)

NEW SOUTH WALES



[Published in Gazette No. 51 of 20 April 1990]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Crown Lands (Continued Tenures) Act 1989, has been pleased to make the Regulation set forth hereunder. (HO89 A173)

I. R. CAUSLEY
Minister for Natural Resources.

Citation

1. This Regulation may be cited as the Crown Lands (Continued Tenures) Regulation 1990.

Commencement

2. This Regulation commences on 1 May 1990.

Definitions

3. (1) In this Regulation:

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

"**Lands Office**" has the same meaning it has in the Principal Regulation;

"**Registrar of Local Land Boards**" means the Registrar of Local Land Boards appointed under the Principal Regulation;

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

"**the Principal Regulation**" means the Crown Lands Regulation 1990.

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

Fees and deposits

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

Application of provisions relating to local land boards

5. Clauses 14–21 of the Principal Regulation apply to matters arising under this Regulation in the same way as they apply to matters arising under the Principal Regulation.

Lodgment of applications etc.

6. (1) In this clause:

"**document**" includes application, appeal, instrument, transfer and notice;

"**lodge**" includes made and given.

(2) If any document is, under the Act or this Regulation, required to be lodged with the Minister, the Ministerial Corporation, the Department, the Western Lands Commissioner or a Lands Office, it is sufficient compliance with the requirement if the document is lodged with

(a) in the case of land in the Eastern and Central Division or in an irrigation area in the Western Division – any Lands Office or the office of the Department at Sydney, or

(b) in the case of land (not being land in an irrigation area) in the Western Division – the office of the Western Lands Commissioner at Sydney.

(3) If the person with whom any such document is required to be lodged notifies in the Gazette a different place at which the document

is to be lodged, the document is required to be lodged with the person at that place.

(4) If the Regional Manager for any Lands Office at which any such document is required to be lodged notifies in the Gazette a different place at which the document is required to be lodged, the document is required to be lodged at that place.

(5) If any document is, under the Act or this Regulation, required to be lodged with the Registrar of Local Land Boards and the document relates to land in more than one land district, it is sufficient compliance with the requirement if the document is lodged with the Registrar of Local Land Boards for any one of those land districts.

Applications for redesign of holdings

7. For the purposes of section 16 of the Act, an application for the redesign of a holding or holdings in an irrigation area:

- (a) is to be in or to the effect of the approved form; and
- (b) is to be lodged with the Lands Office together with the fee specified in Schedule 1.

Supplementary provisions applicable to payments on land in irrigation areas

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

Interest on arrears

9. For the purposes of clause 5 (4) of Part 1 of Schedule 2 to the Act, the prescribed rate of interest is 18 per cent per annum.

Addition of land to perpetual leases

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

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

(2) If the deposit:

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

Termination of yearly lease – unpaid rent

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

Minister's consent to transfer

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

- (a) is to be in or to the effect of the approved form; and
- (b) is to be lodged with the Lands Office, together with:
 - (i) a certified copy of the agreement or contract entered into; and
 - (ii) the fee specified in Schedule 1.

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

Transfers of yearly leases

13. For the purposes of clause 3 (2) of Part 4 of Schedule 2 to the Act, a transfer of a yearly lease is effected by lodging a transfer in or to the effect of the approved form with the Lands Office together with the fee specified in Schedule 1.

Conditions – yearly leases

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

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

15. (1) For the purposes of clause 3 (5) of Part 5 of Schedule 2 (special lease) or clause 4 (3) of Part 6 of Schedule 2 (permissive

occupancy) to the Act, an appeal against the Minister's determination of a matter under a condition of a special lease or permissive occupancy may be made by lodging a notice of appeal in the approved form with the Registrar of Local Land Boards for the land district in which the lease or occupancy is situated within 28 days of service on the holder of the Minister's determination together with the fee specified in Schedule 1.

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

Restrictions on exercise of mortgagee's powers

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

- (a) is to be in or to the effect of the approved form; and
- (b) is to be lodged with the Lands Office, together with the fee specified in Schedule 1.

Devolution under a will or an intestacy

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

- (a) is to be in or to the effect of the approved form; and
- (b) is to be lodged with the Lands Office, together with the fee specified in Schedule 1.

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

Removal of transfer restrictions

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

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

Fee for valuation of land

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

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

Subdivision of holdings

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

- (a) is to be in or to the effect of the approved form; and
- (b) is to be lodged with the Lands Office, together with the deposit specified in Schedule 1 towards the costs of dealing with the application.

(2) If the deposit:

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

Redetermination of rent of certain leases

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

- (a) is to be in or to the effect of the approved form; and
- (b) is to be lodged with the Lands Office, together with the fee specified in Schedule 1.

Objections to, and appeals against, determinations or redeterminations

22. (1) For the purposes of clause 11 (1) of Schedule 5, clause 10 (2) of Part 1 and clause 10 (2) of Part 2 of Schedule 7 to the Act, an

objection to the Minister's redetermination of the rent of a lease or determination of the purchase price for land comprised in a lease:

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

(2) For the purposes of clause 11 (3) of Schedule 5 (redetermination of the rent of a lease), clause 3 (3) of Part 1 of Schedule 7 (exclusion for roadways, etc. on purchase of land under lease), clause 10 (4) of Part 1 of Schedule 7 (determination of purchase price of land under lease not in an irrigation area) and clause 10 (4) of Part 2 of Schedule 7 (determination of purchase price of land under lease in an irrigation area) to the Act, notice of an appeal to the local land board or the Land and Environment Court:

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

(3) The Registrar of Local Land Boards must, as soon as practicable after the receipt of the notice of appeal:

- (a) give notice of the appeal to all persons directly affected by the Minister's decision on the objection; and
- (b) if the appeal is to the Land and Environment Court, forward the notice of appeal and the relevant papers to the Registrar of that Court.

Purchase of land held under lease

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

- (a) is to be in or to the effect of the approved form; and
- (b) is to be lodged with the Lands Office, together with the fee specified in Schedule 1.

Survey fee

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

SCHEDULE 1

(C1.4)

Fees and deposits

	\$
1. Application for the redesign of a holding or holdings in an irrigation area (clause 7)	500
Plus, if the scheme involves:	
(a) the addition of holdings or parts of holdings to other holdings:	
(i) where apportionment of purchase price or annual rent is not involved	500 for each holding
(ii) where apportionment of purchase price or annual rent is involved	750 for each holding
(b) the subdivision of the land	500 for each holding
(c) the transfer of holdings or parts of holdings	500 for each holding
(d) the declaration of 2 or more holdings or parts of holdings as a single farm unit	100 for each holding or part thereof in excess of 2

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2. Application for the addition of land to a perpetual lease (clause 10)	265
3. Application for, the Minister's consent to transfer (clause 12 (1))	120
4. Inspection fee in respect of land involved in item 3 (clause 12 (2))	330
5. Transfer of yearly lease (clause 13)	44
6. Appeal to local land board against Minister's determination under condition of special lease or permissive occupancy (clause 15) ...	50
7. Application by mortgagee to enter into possession of mortgaged land or to obtain an order for foreclosure (clause 16)	120
8. Application by person on whom land has devolved under a will or on intestacy to hold land (clause 17 (1))	120
9. Inspection fee in respect of land involved in item 8 (clause 17 (2))	330
10. Application for issue of certificate that land may be transferred or otherwise dealt with without Minister's consent, except where the application is made for a certificate under clause 8 (3) of Part 1 of Schedule 3 to the Act (clause 18)	120
11. Fee payable to Valuer-General for determination of land value (clause 19):	
(a) where the determined land value is equal to or less than \$200,000	150

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(b) where the determined land value exceeds \$200,000	150 plus 75 cents for each \$1,000 or part thereof by which the land value exceeds \$200,000.
12. Application for the Minister's approval to a subdivision of a holding (clause 20 (1))	265
13. Application for redetermination of rent of lease (clause 21)	180
14. Notice of appeal to local land board or Land and Environment Court (clause 22 (2))	50
15. Application by holder to purchase land comprised in a lease (clause 23)	315
16. Survey fee in respect of purchase of a conditional lease (not being a conditional lease created from the subdivision of such a lease) applied for before 1 December 1889 (clause 24)	400

SCHEDULE 2

(C1.12)

Conditions applicable to yearly leases

1. The holder of the lease must:
 - (a) comply with the requirements of any law relating to the use or management of the land leased; and
 - (b) comply with any condition attaching to a Minister's consent given in respect of the land; and
 - (c) indemnify (and keep indemnified) the Crown against all actions, suits, claims and demands, and all costs, charges and

expenses, in respect of any accident or injury to any person or property which may arise out of the construction or maintenance of works authorised under the lease notwithstanding that:

- (i) the conditions of the lease have in all respects been observed by the lessee; or
- (ii) any such accident or injury arises from any act or thing which the holder may be licensed or compelled to do.

2. The holder of a lease must not:

- (a) degrade the land leased; or
- (b) without the Minister's consent, extract any material in or on the land (not being material required by the holder for building or other purposes on the land or on contiguous land leased from the Crown by the holder); or
- (c) without the Minister's consent, take any timber on the land, other than:
 - (i) timber taken under the authority of a clearing licence issued under the Forestry Act 1916; or
 - (ii) timber required by the holder for building or other purposes on the land or on contiguous land leased from the Crown by the holder; or
- (d) interfere with or obstruct any person authorised by law to cut timber on or remove timber or materials from the land or prevent such a person from using any gate or means of access provided by the person.

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

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

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SCHEDULE 1

SCHEDULE 2

EXPLANATORY NOTE

The object of this Regulation is to prescribe the matters necessary to give effect to the Crown Lands (Continued Tenures) Act 1989. In particular, the Regulation prescribes the forms of various applications etc. under the Act, the manner of their lodgment and the fees payable.
