

Lord Howe Island (General) Regulation 1994

[1994-428]



New South Wales

Status Information

Currency of version

Repealed version for 23 February 1996 to 31 August 2004 (accessed 18 July 2024 at 3:29)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**
The Regulation was repealed by the [Subordinate Legislation Act 1989 No 146](#), sec 10 (2) with effect from 1.9.2004.
- **Does not include amendments by**
[Veterinary Practice Act 2003 No 87](#) (not commenced)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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Lord Howe Island (General) Regulation 1994



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation may be cited as the *Lord Howe Island (General) Regulation 1994*.

2 Commencement

This Regulation commences on 1 September 1994.

3 Definitions

(1) In this Regulation:

alcohol means ethanol, any liquid containing ethanol and any liquor within the meaning of the *Liquor Act 1982*.

authorised person means:

- (a) the Chairperson of the Board, or
- (b) a person who is for the time being authorised by the Board to exercise the function in relation to which the expression is used.

building includes structure.

exercise of a function includes, where the function is a duty, the performance of the duty.

function includes a power, authority or duty.

Lagoon means the area consisting of:

- (a) the Lord Howe Island Lagoon situated on the western side of Lord Howe Island, and
- (b) the foreshores of that Lagoon, and
- (c) the shores of Blackburn Island, and

(d) any passage through the reefs adjacent to that Lagoon.

mooring apparatus means any structure or device capable of being used to secure a vessel while afloat, but does not include the anchor of a vessel at anchor.

motor vehicle means a vehicle propelled by volatile spirit, steam, gas, oil or electricity and includes:

- (a) an incomplete or partially constructed motor vehicle, or
- (b) the chassis, body, frame or remains of a motor vehicle, or
- (c) a trailer or caravan.

person in charge, in relation to a vehicle or vessel, means:

- (a) the person for the time being having control of the vehicle or vessel, or
- (b) if no person has control of the vehicle or vessel for the time being, the person for the time being entitled to possession of the vehicle or vessel, whether as owner, lessee, licensee or otherwise.

relevant fee, in relation to:

- (a) a matter under Part 2 (Leases), means the fee specified in Schedule 2 for that matter,
- (b) any other matter, means the fee for the time being fixed by the Board under section 15 of the Act for that matter.

the Act means the [Lord Howe Island Act 1953](#).

tourist accommodation means public accommodation that is provided predominantly for tourists to the Island.

vessel does not include a vessel with an overall length of less than 5 metres.

- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

4 Approvals

- (1) The Board may determine an application for an approval referred to in this Regulation.
- (2) The provisions of the [Local Government Act 1993](#) applicable to approvals and the making and determination of applications for approvals apply to an approval, and to the making and determination of an application for an approval, referred to in this Regulation. Those provisions apply as if references in that Act to:
 - (a) a council were references to the Board, and

(b) an approved fee were references to a relevant fee within the meaning of this Regulation, and

(c) a penalty were references to a penalty not exceeding 4 penalty units.

5 Applications

An application under Part 4 of the Act (Land tenure) or under Part 2 of this Regulation (Leases) or for the granting by the Board of licences referred to in Part 4 of this Regulation (Licensing of tourist accommodation and other commercial undertakings) must:

- (a) if no form is otherwise prescribed by this Regulation, be made in a form approved by the Board for the purpose, and
- (b) be lodged with an authorised person, and
- (c) be signed by the applicant, and
- (d) be accompanied by the relevant fee.

Part 2 Leases

Division 1 Applications for leases and forms of leases

6 Applications for leases

- (1) An application for a lease under section 21 of the Act (leases in perpetuity) must be in Form 1.
- (2) An application for a lease under section 22 of the Act (special leases) must be in Form 2.

7 Form of lease in perpetuity

A lease in perpetuity under section 21 of the Act (including a lease arising under section 23 (4B) (a) (i) of the Act) must be in Form 3.

8 Extension of special leases—cost of surveys

- (1) The Board may, by notice in writing served on the applicant, require payment to the Board of the costs, as determined by the Board, of any survey or subdivision required to be carried out in connection with an application for extension of the term of a special lease.
- (2) Any such costs must be paid within 1 month after the notice is served on the applicant.

Division 2 Transfers, subleases and surrenders

9 Application for consent to transfer or sublease

- (1) An application for consent to the transfer of the whole or a part of the land comprised in a lease or to the grant of a sublease must be in Form 4.
- (2) If a written agreement for sale has been entered into, a duly certified copy of the agreement must accompany the application. The application must be lodged within 3 months after the date of execution of the agreement.
- (3) If the application is for consent to transfer part only of the land comprised in a lease, a sketch of the proposed subdivision of the land must accompany the application.

10 Lodgment of transfer of lease

A transfer of the whole or a part of the land comprised in a lease:

- (a) must be lodged with an authorised person, and
- (b) must be in Form 5, and
- (c) must be accompanied by the relevant fee.

11 Execution of transfer

A transfer must be executed by both the transferor and the transferee.

12 Registration of change of name

An application for registration of a change in the name of a lessee must be in writing and be accompanied by evidence as to the change of name.

13 Registration of legal representative

An application for registration of a person as the legal representative of, or in place of, a lessee:

- (a) who has died, or
- (b) who has become a protected person (within the meaning of the [Protected Estates Act 1983](#)), or
- (c) who has become bankrupt,

must be in the approved form and be accompanied by evidence that the person is so entitled to be registered.

14 Refusal to register transfer or application for registration

- (1) A transfer may not be registered unless it is duly executed.

(2) An authorised person may:

(a) return a transfer or application for registration to the parties for the purpose of having it corrected or amended, or

(b) refuse to register the transfer or application if not satisfied of any facts on which its validity appears to depend.

(3) Any payments due in respect of a lease must be paid before a transfer or an application for registration of a person in place of a lessee (other than in a representative capacity) is registered.

15 Transferred lease remains subject to unfulfilled conditions

A lease that is transferred remains subject to all conditions not fulfilled at the time of transfer and to all forfeitures incurred.

16 Surrender of lease

An instrument of surrender of a lease under section 22A of the Act:

(a) must be lodged with an authorised person, and

(b) must be in Form 6, and

(c) must be signed by the lessee.

17 Record of registrations

(1) The Board is to keep a record of any registrations affecting the title to leases under the Act.

(2) The register is to be kept available at the Island office of the Board for inspection by members of the public (on payment of a fee, if any, fixed by the Board under section 15 of the Act).

Division 3 Miscellaneous

18 Appeals or references to Land and Environment Court

An appeal or reference to the Land and Environment Court under section 24 of the Act (in regard to determinations or redeterminations by the Board of rent, fair market value of improvements or sums for goodwill) may be made:

(a) within 28 days after the determination or redetermination, or

(b) within such further period as the Court may allow.

19 Fees

(1) The objects of this clause are:

- (a) to apply certain provisions of the *Crown Lands Act 1989* in relation to the charging of fees, costs and deposits to matters relating to land tenure on the Island, and
 - (b) to prescribe fees in respect of those matters under the provisions so applied.
- (2) By virtue of the authority conferred by section 38 (2) (d) of the Act, the provisions of section 184 (1) (c) of the *Crown Lands Act 1989* (charging of fees, costs or deposits) apply to matters arising under the provisions of Part 4 of the *Lord Howe Island Act 1953* (Land tenure).
- (3) In accordance with the provisions so applied, the fees specified opposite the matters listed in Schedule 2 are payable to the Board in respect of those matters.

Part 3 Buildings

20 Unlawful erection of buildings

A person must not erect, alter or add to a building on the Island or carry out any work in connection with the erection or alteration of, or addition to, such a building, otherwise than in accordance with an approval granted by the Board.

Maximum penalty: 4 penalty units.

21 Use of buildings

The conditions on which an approval to erect, alter or add to a building on the Island is granted may include a condition that the building to which it relates must only be used for the purpose or purposes specified in the approval.

22 Dangerous buildings

- (1) The Board may order the owner of a building to demolish the building or to repair or make structural alterations to the building if the building:
- (a) is or is likely to become a danger to the public, or
 - (b) is so dilapidated or unsightly as to be prejudicial to its occupants or to persons or property in the neighbourhood.
- (2) The provisions of the *Local Government Act 1993* applicable to the making and enforcement by a council of orders of the kind referred to in subclause (1) apply to an order under that subclause. Those provisions apply as if references in that Act to:
- (a) a council were references to the Board, and
 - (b) a penalty were references to a penalty not exceeding 4 penalty units.

Part 4 Licensing of tourist accommodation and other commercial

undertakings

23 Licensing of tourist accommodation and other commercial undertakings

A person must not:

- (a) provide tourist accommodation or carry on any other commercial undertaking on the Island, or
- (b) use premises for the provision of tourist accommodation or for the carrying on of any other commercial undertaking,

otherwise than in accordance with a licence granted by the Board for that purpose.

Maximum penalty: 4 penalty units.

24 Inspection of licensed premises

- (1) The conditions on which a licence is granted may include a condition allowing an authorised person to carry out, at any reasonable time, an inspection of any premises to which the licence relates.
- (2) A person must not hinder or obstruct an authorised person while the authorised person is carrying out such an inspection.

Maximum penalty (subclause (2)): 4 penalty units.

25 Duration of licences

A licence remains in force, unless sooner suspended or cancelled, until 30 June next following the date of its issue.

26 Transfer of licences

A licence is not transferable unless the proposed transferee and the Board have consented in writing to the transfer.

27 Alteration of conditions of licences

- (1) The conditions of a licence may be altered, modified, added to or revoked by the Board at any time during the currency of the licence, either on its own motion or at the request of the licensee.
- (2) This clause does not authorise the Board to alter, modify, add to or revoke, on its own motion, the conditions of a licence granted before the commencement of this Regulation.

28 Cancellation of licences

A licence may be cancelled by the Board for a breach of any condition of the licence.

29 Applications for tourist accommodation licences

- (1) An application for a licence for the provision of tourist accommodation must be accompanied by a plan showing particulars, including the room numbers, of the premises to be licensed.
- (2) The room numbers shown on the application must correspond to numbers permanently affixed on the rooms of the premises to be licensed.
- (3) A plan is not required if the application is for a licence to replace an expiring licence and the particulars of the premises have not changed.

30 Tourist accommodation licences—number of persons to be accommodated

A licence or renewal of a licence for the provision of tourist accommodation may contain a condition specifying the maximum number of persons that may be accommodated at any one time at the premises.

Part 5 Protection of the environment

Division 1 Natural substances

31 Removal or destruction of coral

- (1) A person must not, except in accordance with the approval of the Board, wilfully break off, remove, destroy or damage any coral on the Island.

Maximum penalty: 4 penalty units.

- (2) An approval under this clause may be granted for scientific or aquarium purposes only.

32 Portion of coral reef closed to unauthorised persons

A person must not, without the approval of the Board, enter on that portion of the coral reef which is situated on the western side of Lord Howe Island between the northern side of Erscott's Passage and the southern side of North Passage.

Maximum penalty: 4 penalty units.

33 Removal of stone and other materials

- (1) A person must not, except in accordance with the approval of the Board, remove any stone, rock, shell, earth, sand, clay or gravel on the Island.

Maximum penalty: 4 penalty units.

- (2) This clause does not apply to an act which constitutes an offence under section 32 of the Act (trespass on Crown lands or dedicated lands).

Division 2 Flora and fauna

34 Removal or destruction of flora

- (1) A person must not, except in accordance with the approval of the Board:
 - (a) cut, fell, remove, damage or destroy on the Island, or
 - (b) have in his or her possession on the Island for removal or otherwise, the whole or any part of any tree, shrub, fern, creeper, vine, palm, plant, flower, seed, root, herbage or other vegetative cover which is native to the Island.Maximum penalty: 4 penalty units.
- (2) This clause does not apply to:
 - (a) an act which constitutes an offence under section 32 of the Act (trespass on Crown lands or dedicated lands), or
 - (b) the harvesting of crops grown for human consumption or fodder or for the maintenance of an established garden, lawn or nature strip.

35 Importation of seeds and plants

- (1) A person must not bring onto the Island a palm seed or palm plant or any part of a palm seed or palm plant.
Maximum penalty: 4 penalty units.
- (2) A person must not, except in accordance with the approval of the Board, bring onto the Island any other seed or plant or any part of any other seed or plant.
Maximum penalty: 4 penalty units.
- (3) An approval under this clause may be granted to persons generally or to a particular person.

36 Importation of animals or birds

- (1) A person must not bring a cat onto the Island.
Maximum penalty: 4 penalty units.
- (2) A person must not, except in accordance with the approval of the Board, bring any other animal or bird onto the Island.
Maximum penalty: 4 penalty units.
- (3) An approval under this clause must not be granted in respect of a dog unless it is free of disease and has been desexed or is permanently incapable of reproduction.

- (4) The matters in subclause (3) must be proved by the production of a certificate not more than 1 month old signed by a veterinary surgeon registered under the *Veterinary Surgeons Act 1986*.
- (5) In this clause, **animal** has the same meaning as it has in the *National Parks and Wildlife Act 1974*.

37 Seizure of illegally imported seeds, plants, animals or birds

Any seed, plant, part of a seed or plant, animal or bird that is brought onto the Island in contravention of this Division:

- (a) may be seized by an authorised person, and
- (b) may be destroyed or otherwise disposed of by an authorised person if, by a date specified by the Board, arrangements satisfactory to the Board have not been made for its removal from the Island.

38 Noxious plants

- (1) The plants listed in Schedule 3 are, under section 38 (2) (g) (iv) of the Act, declared to be noxious.
- (2) The Board may take such measures as it considers necessary to control plants declared to be noxious.

39 Keeping of goats

- (1) A person must not, without the approval of the Board, keep a goat on the Island.
- (2) A person who keeps a goat on the Island must not allow the goat to stray.

Maximum penalty: 4 penalty units.

Division 3 Disposal of rubbish

40 Disposal of rubbish

The Board may establish and maintain rubbish disposal depots and provide services for the collection of rubbish.

Part 6 Motor vehicles

41 Approval to import motor vehicles

A person must not, except in accordance with the approval of the Board, bring a motor vehicle onto the Island.

Maximum penalty: 4 penalty units.

42 Applications for approval to relate to one vehicle only

An application for approval to bring a motor vehicle onto the Island must relate to one vehicle only.

43 Seizure of unlawfully imported motor vehicles

(1) An authorised person may direct the person in charge of a motor vehicle which has been brought onto the Island without the Board's approval to remove the vehicle from the Island.

(2) A person to whom such a direction is given must not, without reasonable excuse, fail to comply with the direction.

Maximum penalty: 4 penalty units.

(3) If the person, without reasonable excuse, fails to comply with the direction, an authorised person may seize the motor vehicle and cause it to be removed from the Island.

(4) The Board may recover the cost of removal from the person as a debt in a court of competent jurisdiction.

44 Hire of motor vehicles

(1) A person must not, except in accordance with the approval of the Board, hire or offer for hire a motor vehicle to any other person for use on the Island.

Maximum penalty: 4 penalty units.

(2) This section applies whether or not the person from whom the motor vehicle is or is to be hired, or any servant or agent of that person, is to drive or ride the motor vehicle.

45 Use of motor vehicles

A person must not drive or ride a motor vehicle on the Island unless the Board has given its approval to the use of that vehicle on the Island.

Maximum penalty: 4 penalty units.

46 Production of drivers' licences

(1) An authorised person may at any time direct the driver or rider of a motor vehicle on the Island to produce his or her driver's licence and to state his or her name and residential address.

(2) A person must not fail to comply with such a direction or, in purported compliance with such a direction, furnish a false name or address.

Maximum penalty (subclause (2)): 4 penalty units.

Part 7 Mooring

47 Unlawful construction or removal of moorings

A person must not, except in accordance with the approval of the Board:

- (a) construct any mooring apparatus in the Lagoon, or
- (b) remove any mooring apparatus from the Lagoon.

Maximum penalty: 4 penalty units.

48 Mooring permits

A person must not attach a vessel to a mooring apparatus in the Lagoon otherwise than in accordance with the approval of the Board.

Maximum penalty: 4 penalty units.

49 Anchoring of vessels

- (1) A person must not anchor a vessel in the Lagoon otherwise than in accordance with the approval of the Board.

Maximum penalty: 4 penalty units.

- (2) This clause does not apply to a vessel attached to a mooring apparatus.

50 Removal of unlawfully moored or anchored vessels

- (1) An authorised person may direct the person in charge of a vessel that is unlawfully moored or anchored in the Lagoon to remove the vessel.
- (2) A person to whom such a direction is given must not, without reasonable cause, fail to comply with the direction.

Maximum penalty: 4 penalty units.

- (3) If the person, without reasonable cause, fails to comply with the direction:

- (a) an authorised person may carry out the direction, and
- (b) the Board may recover the cost from the person in a court of competent jurisdiction.

Part 8 Miscellaneous

51 Camping on the Island

A person must not, except in accordance with the approval of the Board, camp on a public reserve or on any vacant Crown land on the Island.

Maximum penalty: 4 penalty units.

52 Discharge of firearms

- (1) A person must not, except in accordance with the approval of the Board, discharge a firearm on the Island.

Maximum penalty: 4 penalty units.

- (2) This clause does not apply to a person in the exercise of his or her functions as a police officer.

53 Sale and consumption of alcohol

- (1) The Board may acquire alcohol and store, sell and distribute alcohol on the Island.
- (2) A person must not, except in accordance with the approval of the Board, sell or distribute alcohol on the Island.
- (3) If the Board displays in a public place conspicuous signs indicating that the drinking of alcohol is prohibited in that place in a zone indicated by the signs, the zone is an alcohol-free zone for the purposes of this clause.
- (4) A person must not drink alcohol in an alcohol-free zone.

Maximum penalty: 4 penalty units.

54 Collection of Kentia palm seeds and sale of Kentia palms

- (1) A person must not, except in accordance with the approval of the Board, collect Kentia palm seeds on the Island.
- (2) A person must not, except in accordance with the approval of the Board, sell Kentia palms grown on the Island.

Maximum penalty: 4 penalty units.

55 Island wharf

A person on the Island wharf or in charge of a vessel at the wharf must comply with any reasonable direction given to the person by an authorised person in relation to the operation of the wharf.

Maximum penalty: 4 penalty units.

56 Registration of dogs

- (1) The provisions of the *Dog Act 1966* and the regulations under that Act (to the extent that they do not already apply) apply, with any necessary adaptations, to and in respect of the Island and the Board in the same way as they apply to and in respect of

a council area and a council of an area.

- (2) In the application of the *Dog Act 1966* and the regulations under that Act to the Island:
 - (a) a reference to a form is taken to be a reference to a form approved by the Board, and
 - (b) a reference to a fee is taken to be a reference to a fee fixed by the Board.
- (3) Despite subclause (1), a dog must not be registered on the Island unless:
 - (a) it is lawfully on the Island, and
 - (b) it has been desexed or is permanently incapable of reproduction.
- (4) The matters in subclause (3) (b) must be proved by the production of a certificate signed by a veterinary surgeon registered under the *Veterinary Surgeons Act 1986* or other evidence acceptable to the Board.

57 Use of underground water

- (1) A person must not take or use, or supply for the use of another person, any water from underground sources unless it has been treated in a manner approved by the New South Wales Department of Health so as to render it fit for human consumption.
Maximum penalty: 4 penalty units.
- (2) This clause does not apply to:
 - (a) water which is piped directly from a roof or similar catchment to an underground tank specially constructed for the storage of rainwater, or
 - (b) water taken for use in septic tanks, for the watering of stock or other domestic animals, for irrigation, for firefighting or for any like purpose.

58 Septic tanks

- (1) The Board may order the owner or occupier of land or premises to repair, maintain or replace a septic tank or similar human waste storage facility on the land or premises if the tank or facility is not in a safe or healthy condition.
- (2) The provisions of the *Local Government Act 1993* applicable to the making and enforcement by a council of an order to do specified things to ensure that land is, or premises are, placed or kept in a safe or healthy condition apply to an order under this clause. Those provisions apply as if references in that Act to:
 - (a) a council were references to the Board, and
 - (b) a penalty were references to a penalty not exceeding 4 penalty units.

59 Power of entry

- (1) For the purpose of enabling the Board to exercise its functions, an authorised person may (subject to the provisions of the *Local Government Act 1993* applied by subclause (2)) enter any premises on the Island.
- (2) Part 2 of Chapter 8 (sections 201–203 excepted) of the *Local Government Act 1993* (Entry on to land and other powers) applies to and in respect of the Board for the purposes of the *Lord Howe Island Act 1953* in the same way as it applies to and in respect of a council for the purposes of the *Local Government Act 1993*.

60 Charge on tourists

- (1) A tourist to the Island must pay to the Board a charge of \$20.
- (2) No such charge is payable in respect of a person under the age of 16 years or a person exempted by the Board.
- (3) The charge must be paid, prior to departure from the Island, at the office of the Board or at another place designated by the Board.

61 Landing cards

Each tourist arriving on the Island must complete and return to the Board a landing card in a form approved by the Board.

Maximum penalty: 0.5 penalty unit.

62 Repeal

- (1) The *Lord Howe Island (General) Regulations 1954* and the *Lord Howe Island (Cats and Dogs) Regulation 1983* are repealed.
- (2) Any act, matter or thing that, immediately before the repeal of an instrument referred to in subclause (1), had effect under that instrument is taken to have effect under this Regulation.
- (3) For the purposes of subclause (2), any consent, permit or other thing under the *Lord Howe Island (General) Regulations 1954* that would have been an approval had this Regulation been in force at the time it was given or granted is taken to be an approval under this Regulation.

Schedule 1 Forms

Form 1

APPLICATION FOR LEASE IN PERPETUITY FOR THE PURPOSE OF RESIDENCE

(Lord Howe Island Act 1953, section 21)

I, (full name) , being an Islander, apply for a lease in perpetuity of the land described below (and shown on the accompanying sketch—required if the land is not a measured portion) for the purpose of residence:

I have made the declaration on the back.

Signed this day of 19 .

(Signature)

(Address)

.....

To the Chairperson,
Lord Howe Island Board.

[NOTE—

The following declaration is to be published on the back of this form]

DECLARATION BY APPLICANT

I, (full name) , of solemnly declare and affirm that I am the applicant for a lease in perpetuity for the purpose of residence of the land described on the front and that the several answers to the questions in the Schedule are true and correct.

SCHEDULE

1. On what grounds do you claim to be an "Islander"?

2. What is the date and place of your birth?

3. Are you single, married, widower or widow? If you have been married, state the age and sex of any children living with you, or dependent on you.

4. Do you or does your spouse or any child mentioned in answer to question 3 hold any land? If so, give area, location, particulars of title and state by whom it is held.

5. Are you already residing on the land the subject of this application? If so, state how long you have been in residence.

6. Are there any improvements on the land the subject of this application? Give brief particulars and estimated values of the improvements.

I make this solemn declaration as to the above matters according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

.....(Signature of Declarant)

Made before me at this day of 19 .

.....(A Justice of the Peace, Commissioner
for Affidavits or Notary Public)

Form 2

(Clause 6 (2))

APPLICATION FOR SPECIAL LEASE

(Lord Howe Island Act 1953, section 22)

I, (full name) apply for a Special Lease for the purpose of of the land described below (and shown on the accompanying sketch—required if the land is not a measured portion):

I have made the declaration on the back.

Signed this day of 19 .

(Signature)

(Address)

.....

To the Chairperson
Lord Howe Island Board.

[NOTE—

The following declaration is to be published on the back of this form]

DECLARATION BY APPLICANT

I, (full name) of solemnly declare and affirm that I am the applicant for a Special Lease of the land described on the front and that the answers to the questions in the Schedule are true and correct.

SCHEDULE

1. Are you the holder of a lease in perpetuity for residence under section 21 of the *Lord Howe Island Act 1953*? (If you are not the holder at present, have you applied for such a lease?)

2. Are you already using the land the subject of this application? If so, for what purpose and for how long?

3. Are there any improvements on the land the subject of this application? Give brief particulars and estimated values of the improvements.

I make this solemn declaration as to the above matters according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

.....(Signature of Declarant)

Made before me at this day of 19 .

.....(A Justice of the Peace, Commissioner
for Affidavits or Notary Public)

Form 3

LEASE IN PERPETUITY FOR THE PURPOSE OF RESIDENCE

(Lord Howe Island Act 1953, section 21)

WHEREAS *(insert appropriate recitals as to title)*

In pursuance of the provisions of the *Lord Howe Island Act 1953* ("the Act") I, the Minister for _____, grant to _____ (who with his or her Executors Administrators and Assigns is hereinafter referred to as the Lessee) a Lease in perpetuity for the purpose of residence of all that piece or parcel of land containing _____ hectares and being measured portion _____ situate on Lord Howe Island but exclusive of all roads within the boundaries of that portion, being Lease in Perpetuity No. _____ (shown in the plan hereon), together with all rights, easements and appurtenances TO HOLD the land in perpetuity subject to the provisions of the Act and the Regulations and to the following conditions:

(Signature)

[State Seal]

Minister for _____ .

NOTICE: Persons dealing with this lease are warned that search should be made in the office of the Lord Howe Island Board in order to ascertain whether the lease is still current or whether it has been forfeited or cancelled.

Form 4

(Clause 9 (1))

APPLICATION FOR CONSENT TO TRANSFER A LEASE OR PART OF A LEASE OR TO SUBLET A LEASE, OR FOR APPROVAL OF ANY AGREEMENT OR CONTRACT FOR SALE OF A LEASE OR PART OF A LEASE

(Lord Howe Island Act 1953, section 23)

IN pursuance of the provisions of section 23 of the *Lord Howe Island Act 1953*,

I, _____ *(full name)* of _____ being the holder of the lease(s) specified in Schedule 1 apply for the consent of the Minister *(and the approval of the Governor)* to transfer such lease(s) or part(s) of such lease(s) by way of *(sale, mortgage)* or sublet such lease(s) *(give particulars of subletting)* to *(proposed transferee or sublessee)* of _____

Declaration marked "A" has been made by me. I enclose a certified copy of the original agreement or contract for the sale of such lease(s) or part(s) of such lease(s) and apply for approval of that agreement or contract. *(Strike out if there is no written agreement or contract)* I also enclose a sketch showing the subdivision line or lines and indicating the part(s) of the lease(s) proposed to be transferred. *(Strike out if it is proposed to transfer whole of lease(s))*

SCHEDULE 1

Class of Lease (Perpetual or Special)	No. of Lease	Area	Portion No.

.....(Signature of person proposing to transfer or sublet)

Address to which notices are to be sent

To the Chairperson,
Lord Howe Island Board.

Declaration "A" by Persons Proposing to Transfer or Sublet

I, (full name) of being the holder of the lease(s) specified in Schedule 1 solemnly declare and affirm that the answers to the questions in Schedule 2 are true and correct in every particular.

SCHEDULE 2

1. What is the date of your birth?

2. What are your reasons for wishing to transfer your lease(s) or part(s) of such lease(s) or sublet your lease(s)? State fully.

3. Are there any improvements on the land proposed to be transferred? Give brief particulars and estimated values of the improvements.

4. What is the amount:
 - (a) of the consideration agreed on (a)
 - (b) of the sum for goodwill included in the consideration? (b)
5. Have you made any agreement or contract for the sale of the lease(s) or part(s) of such lease(s)? If so, a certified copy should be lodged with this application.

6. Is the person to whom you propose to transfer your lease(s) or part(s) of such lease(s) or sublet your lease(s) an "Islander"?

If the person to whom you propose to transfer your lease(s) or part(s) of such lease(s), or sublet your lease(s), as the case may be, is not an "Islander", is there any "Islander" residing on the Island who desires and is in a position to take such transfer or sublease? Indicate the grounds for your answer to this question.

I make this solemn declaration as to the above matters according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

.....(Signature of Declarant)

Made before me at
this day of 19 .

.....(A Justice of the Peace, Commissioner for Affidavits or Notary Public)

Declaration "B" by Proposed Transferee or Sublessee

I, (full name) of do hereby solemnly declare and affirm that I am the person to whom (the proposed transferor) proposes to transfer the lease(s) or part(s) of such lease(s) (or to sublet) the lease(s) particularised in Schedule 1, that the transaction is entered into in good faith, and that Schedule 3 contains a true statement of all lands now held by me, my spouse and my children living with me or dependent on me.

SCHEDULE 3

Class of Holding	No. of Holding	Area	Portion No.	By whom held (husband, wife or child)
(If no land is held write "NIL")				

I do solemnly declare and affirm that my sole object in acquiring the land is in order that I may hold and use it for my own exclusive benefit, and that the answers to the questions in Schedule 4 are true and correct in every particular.

SCHEDULE 4

1. Are you an "Islander"? If so, state the grounds on which you claim to be one.

2. What is the date and place of your birth?

3. Are you single, married, widower or widow? If you have been married, state the age and sex of any children living with you or dependent on you.

4. What is the amount:

(a) of the consideration agreed on (a)

(b) of the sum for goodwill included in the consideration? (b)

5. What are your reasons for wishing to acquire the subject lease(s) or part(s) of such lease(s)? Indicate the use you intend to make of the land.

I make this solemn declaration as to the above matters according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

.....(Signature of Defendant)

Address to which notices are to be sent

Made before me at
this day of 19 .

.....(A Justice of the Peace, Commissioner for Affidavits or Notary Public)

Form 5

(Clause 10)

TRANSFER OF LEASE

(Lord Howe Island Act 1953, section 23)

I, (full name)
of
in consideration of the sum of
(the receipt of which is acknowledged)
TRANSFER BY WAY OF (sale, mortgage)
to
of
all ("my", "its") estate and interest in the land described as follows:

Class of Lease (Perpetual or Special)	No. of Lease (indicate if part only)	Area	Portion No.

Signed at the day of 19 .

Signed in my presence:

.....*Witness

.....*Signature of Transferor

I accept this transfer.

Signed in my presence:

.....*Witness

.....*Signature of Transferee

***Notes—**

(1) The witness must be a barrister, attorney, justice of the peace, notary public, commissioner for affidavits or bank manager.

(2) If executed under seal, the usual attestation clause is also to be inserted. If signed by virtue of a power of attorney, the memorandum of non-revocation on the back of this form is to be signed by the attorney before a witness.

[NOTE—

The following memorandum is to be published on the back of this form]

Memorandum of Non-revocation of Power of Attorney

Memorandum by which the undersigned states that *he or she has—they have*—had no notice of revocation of the Power of Attorney registered No. Miscellaneous Register under the authority of which *he or she has—they have*—just signed the within transfer.

Signed at the day of 19 .

.....
.....

Witness

Special Notes

- (1) All alterations, interlineations, must be initialled in the left margin by the attesting witnesses.
- (2) Transfers, other than those by way of discharge of mortgage to the registered mortgagor or a legal representative or by way of mortgage or sub-mortgage, cannot be accepted for registration unless duly stamped or endorsed “exempt from stamp duty” or bearing other evidence of having been submitted to the Chief Commissioner of Stamp Duties for assessment.
- (3) A transfer involving lands in the name of a deceased person (whether mortgagor or mortgagee) cannot be accepted unless the first transfer involving each such holding has been marked “Registration not opposed” by the Chief Commissioner of Stamp Duties.

Form 6

(Clause 16)

INSTRUMENT OF SURRENDER

(Lord Howe Island Act 1953, section 22A)

I, (full name) of being the holder of the land described below, SURRENDER the land into the hands of Her Majesty the Queen, to the intent that the same may vest in Her Majesty, Her Heirs and Successors, as Crown Land.

(Description of land to be surrendered that will enable it to be identified)

Signed this day of 19 .

Signed in my presence by the said

who is personally known to me:

(A Justice of the Peace)

I, (name of mortgagee if surrender is by mortgagor) the Mortgagee under Mortgage No. JOIN in this surrender.

Signed at this day of 19 .

Signed in my presence by the said

who is personally known to me:

(A Justice of the Peace)

I, (name of mortgagor if surrender is by mortgagee) being the Mortgagor of the abovementioned land JOIN in this surrender.

Signed at this day of 19 .

Signed in my presence by the said

who is personally known to me:

(A Justice of the Peace)

Signed in my presence by The Honourable Minister for who is personally known to me.

} (Signature of Surrenderor)

} (Signature of Mortgagee)

} (Signature of Mortgagor)

} Accepted for and on behalf of Her Majesty the Queen this day of

19 .

Minister.

Schedule 2 Fees

(Clause 19)

\$

- | | | |
|-----|--|-------|
| (1) | On an application being made under section 21 of the Act for a lease in perpetuity | 49.00 |
| (2) | On an application being made under section 22 of the Act for a special lease | 49.00 |
| (3) | On the issue of a lease in perpetuity under section 21 or 23 (4B) (a) (i) of the Act | 2.00 |
| (4) | On an application being made for extension of the term of a special lease | 49.00 |

(5)	On an application being made under section 23 of the Act for consent to transfer or sublet a lease	41.00
(6)	On an application being made under section 23 of the Act for a certificate of the Minister that a person on whom a lease has devolved under a will or intestacy is entitled to hold the lease	41.00
(7)	On an application being made under section 23 of the Act for permission to enter into possession under a mortgage or for consent to foreclose a mortgage	41.00
(8)	On lodgment of a transfer of the whole or part of a lease under clause 10	33.00
	And for each lease or part of a lease after the first included in the transfer	14.00
(9)	If it is necessary to investigate evidence (submitted in support of a transfer) that a person is entitled to transfer a lease or to execute the transfer on behalf of a proposed transferee, an additional	33.00
(10)	On an application being made under clause 12 for registration of a change in the name of a lessee	33.00
(11)	On an application being made under clause 13 for registration of a person as the representative of a lessee	12.00

Schedule 3 Noxious plants

(Clause 38)

Botanical Name	Common Name
<i>Acacia saligna</i>	Golden nettle
<i>Agave spp.</i>	
<i>Alstroenia psittacina</i>	Peruvian lily
<i>Andredera cordifolia</i>	Madeira vine
<i>Araucaria heterophylla</i>	Norfolk Island pine
<i>Arujia hortorum</i>	Mothplant
<i>Asparagus asparagoides</i>	Bridal creeper
<i>Asparagus densiflorus</i>	Asparagus fern
<i>Asparagus setaceus</i>	Climbing asparagus
<i>Aspidistra elarior</i>	
<i>Bambusa spp.</i>	Bamboo
<i>Bougainvillea spp.</i>	
<i>Chlorophytum comosum</i>	Spider plant
<i>Chrysanthamoides monilifera</i>	Bitou bush/Boneseed
<i>Cinnamomum camphora</i>	Camphor laurel

<i>Cortaderia jubata</i>	Pampas grass
<i>Cyperus rotundus</i> L.	Nutgrass
<i>Erythrina xsykesii</i>	Coral tree
<i>Eupatorium adenophorum</i>	Crofton weed
<i>Grevillea robusta</i>	Silky oak
<i>Harpephyllum caffrum</i>	African plum
<i>Hedera helix</i>	English ivy
<i>Ipomoea</i> spp.	Morning glory
<i>Kalanchoe</i> spp.	
<i>Lantana camara</i>	Lantana
<i>Lathyrus latifolius</i>	Sweet pea
<i>Ligustrum sinense</i>	Privet
<i>Lilium formosanum</i>	Tiger lily
<i>Lycium ferociaaium</i>	African boxthorn
<i>Ochna serrulata</i>	Ochna
<i>Olea africana</i>	African olive
<i>Pennisetum purpureum</i>	Elephant grass
<i>Pittosporum undularum</i>	Pittosporum
<i>Psidium cattleianum</i>	Cherry guava
<i>Psidium guajava</i>	Yellow guava
<i>Ricinus communis</i>	Caster oil plant
<i>Salvia coccinea</i>	Texas sage
<i>Sansevieria trifaciara</i>	Mother-in-law's tongue
<i>Schefflera</i>	Umbrella tree
<i>Senecio mikanioides</i>	Capelry
<i>Setaria palmifolia</i>	Palm grass
<i>Solanum mauritianum</i>	Tobacco bush
<i>Sonchus</i> spp.	Thistle
<i>Sporobolus africanus</i>	Parramatta grass
<i>Tetrapanax papyrifer</i>	Aralia
<i>Vinca major</i>	Blue periwinkle

Zebrina pendula

Striped wandering jew