

# CROWN LANDS ACT, 1929-1975

## SUMMARY OF PROVISIONS

### PART I

#### PRELIMINARY

Section	
1	Short title.
2	Arrangement of Act.
3	Acts consolidated and repealed.
4	Interpretation.
4a	Adjacent lands.

### PART II

#### POWERS OF THE GOVERNOR

5	Governor's powers.
6	Form of grants, leases, etc.
6a	Form of grants.
6b	Effect of conveyance of Crown land to Commonwealth.
7	Power to exchange lands granted after dedication.
7a, 8	(Repealed.)
8a	Director of Lands and Assistant Director of Lands.

### PART III

#### POWERS OF THE MINISTER

9	Special powers of the Minister.
---	---------------------------------

### PART IV

#### THE LAND BOARD

##### DIVISION I—CONSTITUTION

10	Continuance of the Land Board.
11	Constitution of the board.
12	Appointment of members.
13	Term of office.
14	Appointment of chairman and deputy chairman by Minister.
15	Quorum.
16	Meetings of board.
17	Member of board not to be interested in application.

##### DIVISION II—POWERS OF BOARD IN ADDITION TO ALL OTHER POWERS

18	General powers of the board.
19	Access to land, etc.
19a	Access to documents in possession of public authorities.
20	Valuation made by chairman or member to be effectual when confirmed by the board.
21	Powers of board to require evidence to be on oath.
21a	Valuation for Ministers, etc.

### PART V

#### PERPETUAL LEASES AND AGREEMENTS

##### DIVISION I—THE OFFERING OF CROWN LANDS

22	Offering of Crown lands on perpetual leases, or agreements.
22a	Allotment of marginal lands.
22b	Allotment of land less than living area.

SUMMARY OF PROVISIONS—*continued*

## DIVISION II—CLASSIFICATION OF LANDS, AND APPLICATIONS

## Section

- 23 Notice of land being open.
- 23a, 23b (Repealed.)
- 24 Applications.
- 25 (Repealed.)
- 26 Reference of all applications to the board.
- 27 Simultaneous applications.
- 28 (Repealed.)
- 29 Board to report and successful applicants to be gazetted.
- 30 Power of Minister to offer lands not taken up on reduced terms.
- 31 (Repealed.)
- 32 Power of corporations and district councils to apply.

## DIVISION III—PERPETUAL LEASES

- 33 Rent under perpetual leases.
- 34 (Repealed.)
- 35 Form and effect of perpetual lease.
- 36 Power of Minister to determine whether covenant to clear complied with.
- 37 Liability to land tax of perpetual leases not subject to revaluation.
- 38 Fixing of subsequent rent.
- 39 Improvements not to be considered on revaluation.
- 40 Notice of revaluation to be given.
- 41 Lessee not accepting revaluation to forfeit at expiry of then current fourteen years of his lease.

## DIVISION IIIa—PERPETUAL LEASES OF TOWN LANDS

- 41a Offering of Whyalla land on perpetual lease.
- 41b Applications and allotments.
- 41c Form and conditions of leases.
- 41d Purchase of fee simple of Whyalla town lands.
- 41e Application of other provisions to leases of town lands.
- 41f Application of ss. 41a-41e to Leigh Creek.

## DIVISION IV—AGREEMENTS (UNDER THIS PART)

- 42 Agreement to contain covenant to purchase by instalments.
- 43, 44 (Repealed.)
- 45 Minister to determine whether covenant to clear complied with.
- 46 Agreement liable to forfeiture for breach of covenant.

## PART VI

## PROVISIONS APPLICABLE TO LEASES AND AGREEMENTS

- 47 Minimum rent or instalment.
- 48 Rates of instalments and rent under agreements and leases, where Minister directs that this section shall apply.
- 49 Power in certain cases to surrender existing agreement or lease for agreement or lease under section 48.
- 50 Power to reduce purchase-money or rent under certain agreements and leases.
- 50a Power to extend agreement.
- 50b Power to reduce money payable under leases and agreements.
- 51 Lands suitable for pastoral purposes only.
- 52 Preparation and execution of lease or agreement.
- 53 Power to resume land for roads, tramways, railways, mining, or public purposes.
- 54-56 (Repealed.)
- 57 Subletting.
- 58 Interest on amounts owing under lease or agreement.
- 59 Crown lease or agreement may be forfeited if rent or instalment in arrear for six months, or covenant broken.
- 60 Instead of forfeiture, a penalty may be imposed.
- 61 Defaulting purchaser's or lessee's interest in land may be sold by auction.
- 62 Liability of purchaser for future defaults.

SUMMARY OF PROVISIONS—*continued*

## Section

- 63 Power to execute transfer of interests sold.
- 64 Service of notices.
- 65 Duty of lessees and purchasers not to impound in certain cases.
- 66 Statute of limitation no bar to action.
- 66a Power to add small areas to leases and agreements.
- 66b Power to sell for cash parcel of land valued at less than \$4 000 to adjacent registered proprietor and to consolidate certificates of title in respect thereto.

## PART VIA

## SPECIAL DEVELOPMENT LANDS

- 66c Definition of lease.
- 66d Special Development Lands.
- 66e Leases of Special Development Lands.
- 66f Excluded areas.
- 66g Powers of board in connection with leases.
- 66h Application of the Act.

## PART VII

## LEASES OTHER THAN PERPETUAL

## DIVISION I

67-73a (Repealed.)

## DIVISION II—MISCELLANEOUS LEASES

- 74 Leases to discoverers.
- 75 Power of Minister to resume place where water found, and contiguous land.
- 76 Leases of resumed lands.
- 77 Miscellaneous leases.
- 78 Allotment of land, covenants and provisions in leases granted under s. 77.
- 78a Power to reduce rent under miscellaneous lease.

## DIVISION III—VARIOUS

- 79 Education lands to be dealt with by board.
- 80, 81 (Repealed.)

## PART VIII

## THE LYRUP VILLAGE SETTLEMENT

## DIVISION I—INTERPRETATION AND APPLICATION

- 82 Interpretation.
- 83 This Part to apply so far as repealed Acts not exhausted.
- 84 Passing of this Act not to affect operation of Irrigation Act.

DIVISION II—CONSTITUTION OF THE LYRUP VILLAGE  
ASSOCIATION

- 85 Continuance of Lyrup Village Association.
- 86 Companies Act not to apply.
- 87 Lands to be set apart and subdivided.
- 88 District of association.
- 88a Horticultural blocks.
- 89 Determination of district and leases.

## DIVISION III—VALUATIONS

- 90 Valuations.
- 91 Basis of valuation.
- 92 Excess of debts over valuations to be written off.
- 93 Sums so written off to be provided in estimates.

SUMMARY OF PROVISIONS—*continued*

## DIVISION IV—LEASES

- Section  
94 Determination of occupation.  
95 Power to transfer leases of commonage lands.  
96 Rent of horticultural and commonage lands.  
97 Payment of value of improvements on each horticultural block, and interest thereon.  
98 Payment of value of irrigation works and of improvements on commonage lands and interest.  
99 Covenants, etc. in leases of horticultural and commonage lands.  
100 Execution of leases.  
101 Power to forfeit lessee's interest.

## DIVISION V—IRRIGATION WORKS

- 102 Vesting of irrigation works in Minister.  
103 Vesting of water in irrigation works in association.  
104 Duty of association to manage irrigation works subject to Minister.

## DIVISION VI—MANAGEMENT OF THE ASSOCIATION

- 105 Management.  
106 Powers of Minister.  
107 Restriction of further advance to association.  
107a Advances to association.  
108 Duties of lessees not to remove, destroy, or injure improvements while moneys owing.  
109 Appointment of inspector.  
110 Control of commonage lands.  
111 Commonage lands accounts.  
112 Arbitration.  
113 Service of proceedings on association.  
114 Annual instalments of charge and irrigation expenses recoverable by distress.  
115 Power of association, with Minister's consent, to dispose of goods, etc., notwithstanding charge thereon.  
116 Public inspection of documents furnished to Minister.

## PART IX

## HOMESTEAD BLOCKS

## DIVISION I—ACQUIREMENT AND RE-OFFERING OF LANDS

- 117 (Repealed.)  
118 Transfer of homestead blocks.  
119-121 (Repealed.)

## DIVISION II—LEASES AND AGREEMENTS

- 122 Lease or agreement may be granted of more than one block.  
123 Receipts for rent or instalments to constitute holding title.

## DIVISION III—PROTECTED HOMESTEAD BLOCKS

- 124 (Repealed.)  
125 Effect of endorsement.

## DIVISION IV—SPECIAL PROVISIONS

- 126-128 (Repealed.)  
129 When block-holder may assign or sublet.

## DIVISION V—AGREEMENT OR LEASE ON SURRENDER

- 130 Homestead lease may be surrendered for agreement or perpetual lease.

## DIVISION VI

- 131-143 (Repealed.)

SUMMARY OF PROVISIONS—*continued*

## PART X

## CLOSER SETTLEMENT

## DIVISION I—POWER TO ACQUIRE LANDS

- Section  
 144 Acquisition of land by repurchase.  
 145 Acquisition of land compulsorily.  
 146 Registrar-General to make necessary entries and cancel certificates of title.

## DIVISION II—COMPULSORY ACQUISITION OF LANDS

- 147 Interpretation.  
 148 What lands to be deemed to be adjoining lands.  
 149 Division to apply notwithstanding Real Property Act, 1886.  
 150 Incorporation of the Compulsory Acquisition of Land Act, 1925.  
 151 Power to acquire lands (other than large estates) which are subject to Crown leases.  
 152 Acquisition of large estates and lands adjacent to River Murray.  
 153 Acquisition of lands required for working lands adjacent to River Murray.  
 154 Land irrigable by waters from the River Murray.  
 155 Land requiring drainage.  
 156 Preliminary notice of intention to inspect.  
 157 Power to enter land for inspection.  
 158 Notice of intention to acquire.  
 159 Duties of Registrar-General to note in register-book.  
 160 Effect of notice to bind all persons interested.  
 161 Rights of owner to reserve land not exceeding forty thousand dollars in value.  
 162 Rights of owner to require whole estate to be taken.  
 163 Mode of acquiring the land.  
 164 Copy of proclamation to be furnished to Registrar-General.  
 165 Price to be determined by arbitration failing agreement.  
 166 Price.  
 167 Award of arbitrators and right of appeal to Supreme Court.  
 168 Service of notices.  
 169 This Division not to apply to town lands.

## DIVISION III—PURCHASE OF LAND BY ARRANGEMENT

- 170 Purchase of land by arrangement with intending settlers.  
 170a Purchase of land for allotment to one settler.  
 170b Loans for schemes of closer settlement.

## DIVISION IV—HOW ACQUIRED LANDS TO BE DEALT WITH

- 171 Land acquired, how dealt with.  
 172 Power to postpone allotment of closer settlement lands.  
 173 Occupation or lease of lands acquired pending execution of drainage or other improvements.

## DIVISION V—AGREEMENTS FOR SALE AND PURCHASE

- 174 Covenants to be contained in the agreement.  
 174a Provision in case of undeveloped land.  
 175 Terms and covenants in certain cases.  
 175a Extension of period for payment of certain limited instalments.  
 176 Power to extend existing agreements to term not exceeding sixty-four years on recommendation of board.  
 176a Power of board to capitalize arrears of interest on agreement.  
 177 (Repealed.)  
 178 Form of agreement.  
 179 Execution of agreement.  
 180-181. (Repealed.)  
 182 Lands unallotted may be let.  
 183 Power of lessees of certain perpetual leases to surrender for agreement under this Act.  
 184 Power to surrender miscellaneous lease.  
 185 Power to surrender agreement as to lands purchased after 18th December, 1902.  
 186 Power of holder of existing agreement to pay part of purchase-money in advance.  
 187 Reservations as to growing timber.  
 188 Application of payments.  
 189 Statement to be laid before Parliament.  
 190 Power to fix annual rate of interest on closer settlement lands.

SUMMARY OF PROVISIONS—*continued*

## DIVISION VI—THE COLLECTION AND RECOVERY OF RENTS

## Section

- 191 Receiver of rents.
- 192 Action may be maintained in the name of the receiver.
- 193 Extension of time for payment.
- 194 Power of Minister to extend time for payment for improvements in certain cases.
- 195 Forfeiture.
- 196 Power to cancel lease or agreement liable to forfeiture.
- 197 Returns of cancellations to be placed before Parliament.

DIVISION VII—SPECIAL PROVISIONS WITH REGARD TO CLOSER  
SETTLEMENT LANDS

- 198 (Repealed.)
- 199 Surrender of agreement for perpetual lease.
- 200 Reduction of purchase-money under agreement instead of surrendering for perpetual lease.
- 201 Power to grant privileges under sections 199 and 200 may be granted though rent or instalments in arrear.
- 202 Option of other relief where that provided by section 199 or 200 not obtainable.
- 202a Power to re-sell or let surrendered lands.
- 203-204a (Repealed.)

## PART XI

## SURRENDERS

- 204b Acceptance of surrenders.
- 205 Power of lessee to surrender his lease.
- 206 Surrender for new lease.
- 207 Power to surrender agreement.
- 207a Power to deal with surrendered lands.
- 208 Surrender of agreement for new agreement.
- 208aa Provisions on surrender.
- 208a Rights of surrender of mortgages, etc.
- 209 Lands under any tenure may be surrendered.
- 209a Surrender of lease or agreement for marginal land lease.
- 210 Power of lessee to surrender for perpetual lease or agreement.
- 211 Mode of obtaining perpetual lease or agreement.
- 211a (Repealed.)
- 212 Power for lessee to purchase leased land.
- 213 Annual statement of surrenders disallowed.
- 214 (Repealed.)
- 215 Conditions of agreement or lease obtained in lieu of homestead lease.
- 216 (Repealed.)
- 217 Powers of trustees and executors.
- 218 Appeal from first decision of board.
- 219 Power of lessee to apply to surrender from time to time.
- 220 (Repealed.)
- 221 Surrender of agreement for lease.
- 222 Surrender of agreement or lease of a small estate of a deceased person.
- 223 Surrender of several leases or agreements for one lease or agreement of the same class.
- 224 Saving of estates and interests in surrendered lands.

## PART XII

## TRANSFERS

- 225 In what circumstances transfers may be allowed.
- 226 Non-validity of certain agreements.
- 227 Prohibition against transferring or subletting without consent to extend to every form of alienation without consent.
- 227a Mortgage of lease or agreement not to be alienation for purpose of Part XII.

SUMMARY OF PROVISIONS—*continued*

## PART XIII

SALES OF LANDS, EXCHANGE OF LANDS, GRANTING OF  
SITES FOR BUILDINGS

## DIVISION I—SALES OF LANDS

Section	
228	What lands may be sold.
228a	Sale of lands, etc., by auction on agreement for sale and purchase.
228b	Power to grant Crown lands to certain bodies.
228c	Fee simple may be granted to licensee in certain cases.
229	Power of Minister to fix upset and reserve prices.
230	Lands to be gazetted before auction.
231	Purchase-money of lands sold for cash, how payable.
232	Unselected or unsold Crown lands within hundreds to remain open.
232a	Town lands at Whyalla.
232b	Application and payment.
232c	Reference of applications to the board.
232d	Simultaneous applications.
232e	Gazettal of successful applicants.
232f	Board may re-offer land not taken up.
232g	Sales by auction of blocks not allotted.
232h	Conditions.
232i	Allotment of blocks to employers for employees' dwellings.
232j	Application of other sections of this Act.
233	(Repealed.)
234	Town land may be sold subject to condition against alienation for six years.
234a	Building conditions in town blocks.
234b	Refunded purchase moneys.
235	Limitation of number of town allotments that may be purchased.
236	Agreement preventing fair competition at auction to be void.
237	(Repealed.)

## DIVISION II—EXCHANGE OF LANDS

238	Powers of the Government to make exchange of land.
239	Lands given in exchange may be sold or let by Minister.
240	Lands acquired by the Government to be dedicated for same purposes (if any) as lands alienated.

## DIVISION III—GRANTING OF SITES

241	Power to grant sites for public and charitable purposes.
242	Purchase-money for site to be paid on application.
243	Lease or agreement to be read as excepting the granted land.

## PART XIV

## LICENCES

244	Licences may be granted.
244a	Conditions in licences.
245	Minister may limit licences.
246	Term and conditions of licence.

## PART XV

SPECIAL PROVISIONS AS TO LANDS OUTSIDE GOYDER'S  
LINE OF RAINFALL

247	Transfer of leases outside Goyder's line.
248	Allotment in case of holdings outside Goyder's line.

## PART XVI

## MISCELLANEOUS

249	Powers of forfeiture, acceptance of surrender, and resumption of agreements and leases to be exercised by Minister.
249a	(Repealed.)
249b	Leases, etc., containing condition of personal residence deemed not to contain such condition.
250	Minister to have care and control of reserved and dedicated lands.

SUMMARY OF PROVISIONS—*continued*

Section	
251	Right of commonage.
252	Disability of persons under eighteen to hold agreement, lease, or licence.
252a	Liability of executors and trustees under leases and agreements.
253	Duties of Crown lands ranger.
254	Powers of district council rangers.
255	Crown lands ranger may make claim or entry.
256	Power to impound cattle trespassing and to destroy pigs.
257	Unbranded wild cattle belong to the Crown.
258	Exemption of agreements from stamp duty.
259	Annual payment of rent.
260	Power of Minister to acquire lands for towns.
261	Power of Minister to resume land set apart as site for town.
261a	Duty of Registrar-General.
262	Provision of moneys for purposes of sections 260 and 261.
262a	Power to dispose of surplus lands.
262aa	Power to dispose of lands formerly dedicated or reserved which have been resumed by Crown.
262b	Power to dispose of material, plant and equipment.
263	Provision for preservation of timber.
263a	Provision for soil conservation reserves.
263b	Overstocking.
263c	Covenant for insurance.
264	Completion of purchase under lease with right of purchase or agreement obtained on surrender.
265	Right of purchase not exercisable until conditions have been complied with or equivalent improvements made.
265a	Cancellation of lease or agreement where holder abandons land.
265b	Power of Minister to manage blocks.
266	Repeated notice of breach not necessary before forfeiture.
267	Land grant to be noted as subject to interest.
268	Cancellation of muniments of title when grant cancelled or land reverts to Crown.
269	Registrar-General to make necessary entries in registers.
270	(Repealed.)
271	Proclamation valid for all purposes.
271a	Powers of Minister as to reverted lands.
271b	Description of land in documents.
271c	Gifts of land for the benefit of soldiers.
271d	Transfer of land to Minister.

## PART XVII

## OFFENCES AND PENALTIES

272	Unauthorised occupation or use of Crown and other property.
273	Delaying with travelling stock.
274	Depasturing cattle, etc.
275	Injuring or removing timber, metals, etc., without licence.
276	Injuring or removing land marks.
277	Injuring monuments, records, etc., on Crown lands.
278	Obstructing roads and ways.
279	Leaving gates open.
280	Obstructing authorized persons from carrying out powers.
281	Any money or reward received under any illegal agreement to be forfeited, and recoverable by anyone suing for the same.
282	Making illegal agreement.
283	Offering to enter into void agreements, etc.
284	False statement as to commonage.
285	Forgery and uttering a felony.
286	Perjury.
287	Fraud or false representation.

## PART XVIII

## REGULATIONS

288	Regulations.
-----	--------------



SUMMARY OF PROVISIONS—*continued*

## PART XIX

## ARBITRATION, EVIDENCE, LEGAL PROCEDURE, ETC.

## Section

- 289 Valuation for compensation to be determined by the Land and Valuation Court.
- 290 Declarations, how to be made.
- 291 Parties compellable to give evidence, but not to be prosecuted in certain cases.
- 292 *Gazette* evidence of facts stated therein.
- 293 Burden of proof.
- 294 Who may lay complaint, and hearing of same.
- 294a Actions for trespass in local court.
- 295 Penalties.
- 295a Appropriation of payments.
- 296 Treasurer may provide for costs of officers.
- 297 Protection to persons acting in execution of this Act.

## SCHEDULES

## CROWN LANDS ACT, 1929-1975

being

Crown Lands Act, 1929, No. 1923 of 1929 [Assented to 4th December, 1929];

as amended by

Crown Lands (Administration) Act, 1930, No. 1990 of 1930 [Assented to 20th November, 1930];  
 Crown Lands Amendment Act, 1931, No. 2060 of 1931 [Assented to 9th December, 1931];  
 Crown Lands Act Amendment Act, 1933, No. 2120 of 1933 [Assented to 2nd November, 1933];  
 Statute Law Revision Act, 1935, No. 2246 of 1935 [Assented to 19th December, 1935];  
 Crown Lands Act Amendment Act, 1935, No. 2256 of 1935 [Assented to 21st December, 1935];  
 Statute Law Revision Act, 1936, No. 2293 of 1936 [Assented to 8th October, 1936];  
 Crown Lands Act Amendment Act, 1936, No. 2299 of 1936 [Assented to 5th November, 1936];  
 Crown Lands Act Amendment Act, 1937, No. 2363 of 1937 [Assented to 1st December, 1937];  
 Crown Lands Act Amendment Act, 1938, No. 2408 of 1938 [Assented to 1st December, 1938];  
 Crown Lands Act Amendment Act, 1939, No. 3 of 1939 [Assented to 7th September, 1939];  
 Crown Lands Act Amendment Act (No. 2), 1939, No. 40 of 1939 [Assented to 21st December, 1939];  
 Crown Lands Act Amendment Act, 1940, No. 23 of 1940 [Assented to 7th November, 1940];  
 Crown Lands Act Amendment Act, 1941, No. 25 of 1941 [Assented to 3rd December, 1941];  
 Crown Lands Act Amendment Act, 1944, No. 26 of 1944 [Assented to 14th December, 1944];  
 Soil Conservation Act Amendment Act, 1945, No. 44 of 1945 [Assented to 24th January, 1946];  
 Statute Law Revision Act, 1952, No. 42 of 1952 [Assented to 4th December, 1952];  
 Crown Lands Act Amendment Act, 1957, No. 27 of 1957 [Assented to 31st October, 1957];  
 Crown Lands Act Amendment Act, 1960, No. 46 of 1960 [Assented to 24th November, 1960];  
 Crown Lands Act Amendment Act, 1965, No. 27 of 1965 [Assented to 25th November, 1965];  
 Decimal Currency Act, 1965, No. 60 of 1965 [Royal Assent proclaimed 4th February, 1966]<sup>1</sup>;  
 Crown Lands Act Amendment Act, 1966, No. 50 of 1966 [Assented to 28th October, 1966];  
 Crown Lands Act Amendment Act, 1967, No. 4 of 1967 [Assented to 30th March, 1967];  
 Crown Lands Act Amendment Act (No. 2), 1967, No. 50 of 1967 [Assented to 26th October, 1967];  
 Crown Lands Act Amendment Act, 1968, No. 45 of 1968 [Assented to 19th December, 1968]<sup>2</sup>;  
 Crown Lands Act Amendment Act, 1969, No. 52 of 1969 [Assented to 4th December, 1969]<sup>3</sup>;  
 Crown Lands Act Amendment Act (No. 2), 1969, No. 98 of 1969 [Assented to 18th December, 1969];  
 Age of Majority (Reduction) Act, 1970-1971, No. 15 of 1971 [Assented to 8th April, 1971]<sup>4</sup>;  
 Mining Act, 1971, No. 109 of 1971 [Assented to 9th December, 1971]<sup>5</sup>;  
 Crown Lands Act Amendment Act, 1972, No. 110 of 1972 [Assented to 23rd November, 1972]<sup>6</sup>;  
 Crown Lands Act Amendment Act, 1973, No. 17 of 1973 [Assented to 13th September, 1973];  
 Crown Lands Act Amendment Act, 1974, No. 25 of 1974 [Assented to 11th April, 1974]<sup>7</sup>, as amended by  
 Statute Law Revision Act (No. 2), 1974, No. 84 of 1974 [Assented to 21st November, 1974];  
 Statute Law Revision Act, 1974, No. 42 of 1974 [Assented to 11th April, 1974];  
 Crown Lands Act Amendment Act, 1975, No. 13 of 1975 [Assented to 20th March, 1975]<sup>8</sup>;

and

Statute Law Revision Act (No. 3), 1975, No. 88 of 1975 [Assented to 20th November, 1975].

### An Act to consolidate certain Acts relating to Crown lands.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

<sup>1</sup> For commencement of Decimal Currency Act, 1965, see s. 2 of that Act, as amended by Act No. 1 of 1966, s. 3.

<sup>2</sup> Came into operation 30th January, 1969: *Gaz.* 30th January, 1969, p. 338.

<sup>3</sup> Came into operation 21st May, 1970: *Gaz.* 21st May, 1970, p. 1842.

<sup>4</sup> Came into operation 15th April, 1971: *Gaz.* 15th April, 1971, p. 1598.

<sup>5</sup> Came into operation 3rd July, 1972: *Gaz.* 29th June, 1972, p. 2689.

<sup>6</sup> Came into operation 7th December, 1972: *Gaz.* 7th December, 1972, p. 2534.

<sup>7</sup> Came into operation 26th April, 1974: *Gaz.* 26th April, 1974, p. 1457.

<sup>8</sup> Came into operation 24th April, 1975: *Gaz.* 24th April, 1975, p. 1626; being the day on which the Real Property Act Amendment Act, 1975, came into operation: See s. 2 of Act No. 13 of 1975.

## PART I

## PART I

## PRELIMINARY

Short title.  
Citation  
amended by 88,  
1975, s. 3 (1)  
(2nd Sched.).

1. This Act may be cited as the "Crown Lands Act, 1929-1975".

Arrangement of  
Act.  
S. 2 amended by  
2060, 1931, s. 2;  
2246, 1935, s. 4  
(2nd Sched.);  
27, 1965, s. 3;  
50, 1967, s. 3  
(a), (b); 45,  
1968, s. 3 (a),  
(b), (c), (d), (e);  
98, 1969,  
s. 2 (a).

2. The provisions of this Act are arranged as follows:—

PART I—Preliminary (Sections 1-4a).

PART II—Powers of the Governor (Sections 5-8a).

PART III—Powers of the Minister (Section 9).

PART IV—The Land Board (Sections 10-21)<sup>1</sup>—

DIVISION I—Constitution:

DIVISION II—Powers in addition to all other powers.

PART V—Perpetual Leases and Agreements (Sections 22-46)—

DIVISION I—The Offering of Crown Lands:

DIVISION II—Classification of Lands, and Applications:

DIVISION III—Perpetual Leases:

DIVISION IIIA—Perpetual Leases of Town Lands:

DIVISION IV—Agreements (under this Part).

PART VI—Provisions applicable to Leases and Agreements (Sections 47-66b).

PART VIA—Special Development Lands (Sections 66c-66h).

PART VII—Leases other than Perpetual (Sections 67-81)—

Struck out by  
27, 1965, s. 3.

\* \* \* \* \*

DIVISION II—Miscellaneous:

DIVISION III—Various.

PART VIII—The Lyrup Village Settlement (Sections 82-116)—

DIVISION I—Interpretation and Application:

DIVISION II—Constitution of the Lyrup Village Association:

DIVISION III—Valuations:

DIVISION IV—Leases:

DIVISION V—Irrigation Works:

DIVISION VI—Management of the Association.

PART IX—Homestead Blocks (Sections 117-143)—

DIVISION I—Acquirement and Re-offering of Lands:

DIVISION II—Leases and Agreements:

DIVISION III—Protected Homestead Blocks:

DIVISION IV—Special Provisions:

DIVISION V—Agreement or Lease on Surrender:

<sup>1</sup> Part IV consists of ss. 10-21a.

- \* \* \* \* \*
- PART X—Closer Settlement (Sections 144-204a)—
- DIVISION I—Power to Acquire Lands:
- DIVISION II—Compulsory Acquisition of Lands:
- DIVISION III—Purchase of Land by Arrangement:
- DIVISION IV—How Acquired Lands to be Dealt with:
- DIVISION V—Agreements for Sale and Purchase:
- DIVISION VI—The Collection and Recovery of Rents:
- DIVISION VII—Special Provisions with Regard to Closer Settlement Lands.
- PART XI—Surrenders (Sections 204b-224).
- PART XII—Transfers (Sections 225-227a).
- PART XIII—Sales of Lands—Exchange of Lands—Granting of Sites for Buildings (Sections 228-243)—
- DIVISION I—Sales of Lands:
- DIVISION II—Exchange of Lands:
- DIVISION III—Granting of Sites for Buildings.
- PART XIV—Licences (Sections 244-246).
- PART XV—Special Provisions as to Lands Outside Goyder's Line of Rainfall (Sections 247-248).
- PART XVI—Miscellaneous (Sections 249-271d).
- PART XVII—Offences and Penalties (Sections 272-287).
- PART XVIII—Regulations (Section 288).
- PART XIX—Arbitration—Evidence—Legal Procedure, Etc. (Sections 289-297).

Struck out by  
45, 1968,  
s. 3 (c).

3. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed to the extent therein mentioned.

Acts  
consolidated  
and repealed.

4. In this Act, except where the subject matter or context or some other provision requires a different construction—

Interpretation.  
1199, 1915, s. 4.  
1405, 1919, s. 6.

“agreement” means an agreement containing a covenant to purchase land made since the fourteenth day of November, 1902<sup>1</sup>, but does not include any lease with a right of purchase:

“block” or “block of land” includes two or more pieces of land contiguous to each other, or separated from each other only by a road or roads:

“blockholder” includes the transferee, devisee, or personal representatives of the lessee to whom a perpetual lease, or a lease with right of purchase, of a homestead block has been granted pursuant to Part VII of the Crown Lands Act, 1888, and the Acts incorporated therewith, or of the lessee or purchaser to whom a lease or agreement has been granted under Part IX of the Crown Lands Act, 1903, or under Part IX of the Crown Lands Act, 1915, or of the

<sup>1</sup> Reference to the year nineteen hundred and two altered to 1902 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

lessee or purchaser to whom a lease or agreement is granted under Part IX of this Act, as well as the lessee or purchaser:

“board” means the Land Board:

“cattle” means camels, horses, geldings, mares, asses, mules, bulls, bullocks, and cows, and foals and calves over six months old:

Def. of  
“Comms-  
sioner” struck  
out by 45, 1968,  
s. 4 (a).

\* \* \* \* \*

Def. amended  
by 25, 1974,  
s. 3 (a), (b), (c).

“Crown lands” means all lands in the State, except—

(a) lands reserved for or dedicated to any public purpose:

(b) lands lawfully granted, or contracted to be granted, in fee simple by or on behalf of the Crown:

(c) lands subject to any agreement, lease or licence lawfully granted by or on behalf of the Crown (except a lease or licence granted in pursuance of the Mining Act, 1971, as amended)<sup>1</sup>;

Para. (c)  
substituted by  
25, 1974,  
s. 3 (a).

and includes all lands which, having been granted or held under agreement, lease or licence, have been or are surrendered, or, having been reserved or dedicated, have been or are lawfully resumed by proclamation, and all lands which, having been lawfully held by any person for any estate or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted or revert to, or have been or are acquired by, the Crown (but does not include lands that have been forfeited, or have reverted to the Crown, or have been resumed or acquired by the Crown where the lands are comprised in a certificate grant or other muniment of title that has not been cancelled in pursuance of this Act):

“Crown Lands Acts” means this Act and all the repealed Acts:

“dedicated lands” means all lands dedicated for any purpose by proclamation under any of the Crown Lands Acts:

Def. inserted by  
50, 1967,  
s. 4 (a).

“excluded area” means an area delineated on a map published in accordance with section 66f of this Act as varied from time to time in accordance with a map forwarded in accordance with subsection (2) of that section:

“fixed rate” means the annual rate of interest fixed by the Treasurer under section 190 which is in force at the time when the block in question is offered for sale:

Def. inserted by  
45, 1968,  
s. 4 (b).

“homestead block” means any land (the subject of a lease or an agreement)—

(a) offered pursuant to section 126 of The Crown Lands Act, 1888, and the Acts incorporated with that Act;

or

(b) offered as a homestead block pursuant to section 117 of this Act as in force before the commencement of the Crown Lands Act Amendment Act, 1968, or pursuant to any corresponding previous enactment:

<sup>1</sup> Now Mining Act, 1971-1975.

"lease" includes any credit agreement granted before the eighth day of December, 1888<sup>1</sup>:

"lessee" includes the assignee or transferee of a lease from the Crown, and the devisee or personal representatives of the original lessee or of such assignee or transferee, as well as the original lessee:

"park lands" means lands adjacent to a town and reserved or dedicated for the use, benefit, or recreation of the inhabitants of that town:

"public map" means a map—

Def. substituted  
by 25, 1974,  
s. 3 (d).

(a) prepared under the direction of, and officially certified by, the Surveyor-General or Deputy Surveyor-General;

(b) delineating any of the lands of the Crown;

and

(c) deposited in the Department of Lands at Adelaide:

"purchaser" includes the person entitled to or holding lands under an agreement:

"receiver" means the Receiver of Rents under Part X:

"repealed Act" means any Act repealed by this Act or by any Act heretofore repealed, which dealt with Crown lands or with closer settlement:

"repurchased lands" means lands acquired by the Crown under Part X of this Act or under the corresponding provisions of any repealed Act, and whether acquired pursuant to agreement or compulsorily:

"reserved lands" means all lands reserved for any purpose by proclamation under any of the Crown Lands Acts:

"sheep" means rams, goats, wethers, and ewes, and lambs over six months old:

"special development lands" means lands for the time being declared by proclamation under section 66d of this Act to be special development lands: Def. inserted by 50, 1967, s. 4 (b).

"suburban lands" means all Crown lands surveyed in sections of not greater area than 10 hectares each situated within 4 kilometres of any town lands or park lands, or any lands set apart under paragraph (h) of section 5: Def. amended by 25, 1974, s. 3 (e).

"swamp lands" means all lands which, in the opinion of the Minister, are liable to be wholly or partially flooded by overflow of a river or otherwise: Def. amended by 98, 1969, s. 2 (a).

"the Land and Valuation Court" means the Land and Valuation Court constituted under the Supreme Court Act, 1935-1969<sup>2</sup>: Def. inserted by 52, 1969, s. 3.

"the Minister" means the Minister of Lands:

Def. inserted by  
45, 1968,  
s. 4 (c).

"town lands" means all Crown lands set apart, surveyed, or laid out in lots as the site for a town:

"unimproved value" means the actual value of any land less the amount of the value of all improvements (if any) on the land:

<sup>1</sup> Reference to the year eighteen hundred and eighty-eight altered to 1888 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

<sup>2</sup> Now Supreme Court Act, 1935-1975.

## PART I

Def. amended  
by 45, 1968,  
s. 4 (d);  
substituted by  
25, 1974, s. 3 (f).

"vermin" means rabbits, wild dogs, foxes and any other animals declared by proclamation to be vermin for the purposes of this Act:

Adjacent lands.  
S. 4a enacted by  
50, 1967, s. 5.

4a. For the purposes of this Act, land shall be deemed to be adjacent to other land if it—

(a) abuts on that other land;

or

(b) is separated from that other land only by a road or a travelling stock route.

## PART II

## PART II

## POWERS OF THE GOVERNOR

Governor's  
powers.

1199, 1915, s. 5.  
1882, 1928, s. 3.

5. The Governor may, subject to the provisions of this Act, from time to time—

(a) in the name and on behalf of the Crown, grant, lease, or otherwise alienate any Crown lands:

(b) for the public use or benefit—

I. exchange any Crown lands for any other lands in the state:

II. accept the surrender of or resume any lands granted after dedication for any public purpose:

III. authorize the exchange of any lands granted after dedication for other lands so granted:

(c) lease to any aboriginal native, or the descendant of any aboriginal native, any Crown lands not exceeding 65 hectares in area, for any term of years, upon such terms and conditions as he thinks fit:

(d) by proclamation dedicate any Crown lands for any of the following purposes:—

I. for the preservation of water supply:

II. for public roads or other internal communications, whether by land or water. The delineation of any public road in a public map shall be in itself a dedication of that road to the public use:

III. for quays, wharves, or landing-places:

IV. for public reservoirs, aqueducts, or water-courses:

V. for hospitals, asylums, or cemeteries:

VI. for market places or abattoirs:

VII. for institutions for public instruction or amusement:

VIII. for public buildings and schools not intended for ecclesiastical or denominational purposes:

IX. for park lands or places for the recreation and amusement of the inhabitants of any city, town, or place:

X. for any purpose of public safety, convenience, health, or enjoyment:

Para. (c)  
amended by 25,  
1974, s. 4.

XI. for any other public purpose that he may think fit, whether similar to any of those above mentioned or not;

and may, at any time after dedication, grant the fee-simple of any such lands (except foreshores and the lands mentioned in subdivision III of this paragraph, which are hereby declared to be inalienable in fee-simple from the Crown) to secure the use thereof for the purpose for which the same were dedicated, and may, at any time before the grant of the fee-simple of any such lands, resume the same wholly or in part by proclamation:

(e) by proclamation resume and, where required, cancel the grant of any dedicated lands used, held, or dealt with for other than the purpose for which the same were dedicated, or which are not used or required for the dedicated purpose: Para. (e) amended by 27, 1965, s. 4 (a).

(e1) by proclamation published in the *Gazette* free from the trusts and, where required, cancel the grant of any lands set apart for a particular purpose (other than lands which have been dedicated by proclamation) where such lands are used, held, or dealt with for any purpose other than the purpose for which the same were set apart and granted, or which are not used or required for such purpose: Para. (e1) inserted by 27, 1965, s. 4 (b).

(f) by proclamation reserve any Crown lands for any of the following purposes:—

I. for the use and benefit of the aboriginal inhabitants of the State:

II. for the purposes of military defence:

III. for forest reserves:

IV. for travelling stock reserves:

V. for places for the recreation or amusement of the public:

VI. for tramways, railways, or railway stations. For the purposes of this paragraph such a proclamation shall thereby vest such lands as are proclaimed for railways or railway stations in the South Australian Railways Commissioner<sup>1</sup> or other legally appointed head of the Railway Department in the State:

VIa. for aviation stations or landing grounds established or to be established by any municipal or district council: Subpara. VIa inserted by 2363, 1937, s. 2.

VII. for park lands:

VIII. for any other purpose that he may think fit;

and may by proclamation resume the whole or any portion of the lands so reserved. A statement setting forth the reasons for any such resumption shall be laid before Parliament within thirty days after the proclamation, if Parliament is then sitting, and, if Parliament is not then sitting, then within thirty days after the next sitting of Parliament:

(f1) by proclamation declare that any dedicated lands or reserved lands shall be under the care, control, and management of any Minister, Para. (f1) inserted by 26, 1944, s. 3.

<sup>1</sup> For interpretation of references in Acts to the South Australian Railways Commissioner see now s. 6 (4) and (5) of Railways Act, 1936-1975.



municipal or district council, or any association, corporate or unincorporate:

Para. (f2)  
Inserted by 26,  
1944, s. 3.

(f2) by proclamation revoke or vary any proclamation made under paragraph (f1) of this section:

(g) by proclamation—

I. constitute and define the boundaries of new counties, hundreds, and towns, and distinguish each by a name:

II. declare that any county, hundred, or town shall cease to exist as such, and that all or any of the roads in any town so ceasing to exist shall be closed:

III. extend or diminish the area of any county, hundred, or town and declare that all or any of the roads in any land by which the area of a town is so diminished shall be closed:

IV. alter the boundaries, or name of any county, hundred, or town:

Subpara. IVa  
Inserted by  
2246, 1935, s. 4,  
(2nd Sched.).

IVa. distinguish by a name or alter the name of any place, whether a county, hundred, or town, or any other place whatsoever:

V. add the area taken away from one county or hundred to any adjacent county or hundred:

VI. divide any county or hundred into two or more counties or hundreds, and give each a distinguishing name:

Every such proclamation shall state the day from which the same is to take effect, and no proclamation constituting any new counties or hundreds shall be published unless a list and plans of the counties or hundreds intended to be constituted have been laid before Parliament for thirty days:

(h) by proclamation set apart any Crown lands as town lands or suburban lands:

Para. (hh)  
Inserted by 40,  
1939, s. 3 (a).

(hh) by proclamation declare that any lands which have been set apart as town lands or suburban lands and which have not been alienated from the Crown or which have reverted to the Crown, or any allotments of any such lands shall cease to be town lands or suburban lands:

(i) by proclamation except any suburban lands from being dealt with by the board, either altogether or for such period as he determines:

Para. (ii)  
Inserted by 40,  
1939, s. 3 (b).

(ii) by proclamation declare that any suburban lands which have been excepted from being dealt with by the board and have either not been alienated from the Crown or have reverted to the Crown, or any allotments of any such lands may be dealt with by the board:

(j) by proclamation, divide the State into land districts and alter or vary the boundaries of any land districts, whether defined before or after the passing of this Act. Every such proclamation shall define the boundaries of every land district thereby constituted, and give a distinguishing name thereto.

Para. (jl)  
Inserted by 50,  
1966, s. 3;  
struck out by 45,  
1968, s. 5.

\* \* \* \* \*

6. All grants, leases, and other alienations, and all reservations and dedications under this Act, shall be made in such form as the Governor thinks fit.

Form of grants, leases, etc.  
1199, 1915, s. 6.

6a. (1) Land grants, issued before the commencement of the Crown Lands Act Amendment Act, 1968, shall be valid if signed by the Governor, the Minister, and the Registrar-General and also, if any monetary consideration is paid prior to the issue of the grant, by the Treasurer or the Under-Treasurer and land grants issued after such commencement, whether or not any monetary consideration is paid prior to the issue, shall be valid if signed by the Governor, the Minister and the Registrar-General.

Form of grants.  
Cf. 19, 1858,  
ss. 1, 3.  
S. 6a enacted by  
2246, 1935, s. 4  
(2nd Sched.);  
Subsec. (1)  
amended by 45,  
1968, s. 6 (a),  
(b); 98, 1969,  
s. 2 (a).

(2) The seal of the State shall be affixed to every land grant but any land grant issued before the first day of January, 1935<sup>1</sup>, shall be valid notwithstanding that the seal of the State is not affixed thereto.

6b. (1) Where an agreement is entered into by or on behalf of the Commonwealth and by or on behalf of the Crown in right of the State for the acquisition by the Commonwealth of Crown land or any estate or interest therein (including minerals), a land grant, lease or other instrument or assurance executed by the Governor for the purpose of carrying out that agreement shall, notwithstanding anything contained in this Act be valid and effectual to vest the land or any estate or interest therein (including minerals) in the Commonwealth according to the tenor of such land grant, lease or other instrument or assurance.

Effect of conveyance of Crown land to Commonwealth.  
S. 6b enacted by  
27, 1965, s. 5.

(2) In subsection (1) of this section the Commonwealth shall be deemed to include any corporate body or instrumentality of the Commonwealth created by any Act or law of the Commonwealth.

7. Any lands granted in fee-simple for any public purpose after dedication may, with the consent of the Governor, be exchanged for other lands granted for any such purpose, or may be surrendered to the Crown freed from any trust, express or implied, or subject to such trusts as the Governor approves.

Power to exchange lands granted after dedication.  
1199, 1915, s. 7.

\* \* \* \* \*

S. 7a enacted by  
2293, 1936, s. 4;  
repealed by 109,  
1971, s. 3 (2)  
(Sched.).

\* \* \* \* \*

S. 8 amended by  
2293, 1936, s. 4;  
repealed by 109,  
1971, s. 3 (2)  
(Sched.).

8a. (1) The Governor may appoint a Director of Lands and an Assistant Director of Lands.

Director of Lands and Assistant Director of Lands.

(2) Every person appointed as aforesaid shall be appointed under and be subject to the provisions of any Act relating to the public service.

S. 8a enacted by  
1990, 1930, s. 2;  
amended by  
2246, 1935, s. 4  
(2nd Sched.).

<sup>1</sup> Reference to the year nineteen hundred and thirty-five altered to 1935 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

## PART III

## PART III

Heading  
amended by 98,  
1969, s. 2 (a).

Special powers  
of the Minister.  
1199, 1915, s. 9.  
1882, 1928, s. 4.  
S. 9 amended by  
98, 1969,  
s. 2 (a); and as  
hereinafter  
indicated.

Para. (c)  
amended by 25,  
1974, s. 5.

Para. (f)  
amended by 45,  
1968, s. 7;  
98, 1969, s. 3.

## POWERS OF THE MINISTER

9. The Minister, in addition to, but without limiting, any other right, power, or authority vested in him under this Act, may—

- (a) cause auctions to be held at such times and places as he thinks fit, and appoint persons to preside over and regulate the same, after notifying in the *Government Gazette* the times and places and the lands to be offered thereat:
- (b) authorize any person to conduct any sale without that person having an auctioneer's licence, or incurring any liability in connection therewith:
- (c) withdraw from sale or lease any Crown lands, and re-offer any such lands for sale or lease after advertisement in the *Government Gazette* notifying such re-offer for sale or lease:
- (d) decline, notwithstanding anything contained in this Act, any application for the purchase or lease of lands containing or supposed to contain minerals, or which he deems it desirable to reserve for public purposes:
- (e) receive, except where otherwise provided in this Act, any purchase-money, rent, instalment, or interest, or any notice after the time appointed for the payment or receiving of the same, and, where moneys are paid or notice is given as herein provided, the same shall be deemed to have been paid or given in due time:
- (f) wholly or partially remit, except where otherwise provided, all or any of the covenants, agreements, or conditions contained in any lease or agreement, where, owing to special circumstances, compliance therewith would be impossible or would inflict great hardship upon the purchaser or lessee. A return of all such remissions with the reasons therefor, shall be annually laid before Parliament within one month after the opening of Parliament for the dispatch of business:
- (g) extend, except as otherwise provided, the time to the purchaser or lessee for performing the conditions contained in any agreement or lease liable to revocation for such period, and upon such terms and conditions, as he thinks fit; and the period, terms, and conditions so extended shall be deemed to be inserted in the agreement or lease, and shall be binding upon the purchaser or lessee and all transferees, mortgagees, assignees, and other persons claiming through or under him:
- (h) levy or recover any amounts due under any leases or agreements, except leases or agreements of re-purchased lands, in like manner as any rent or fine is leviable or recoverable by law, and his written order shall be a sufficient authority to distrain where such rent is levied by distress:
- (i) by himself, or any person authorized by him, enter leased lands to search for water, sink wells, construct dams, reservoirs, and embankments, and to do all acts necessary to search for and conserve water:

- (j) authorize charges to be made for water supplied to any person or animal by the lessee of lands resumed by the Governor whereon water has been found or conserved:
- (k) do all acts necessary to reclaim swamp lands and to construct public watering places thereon for cattle and sheep:
- (l) cause any reclaimed land to be surveyed in such blocks and offered on lease on such terms and conditions as he determines, subject to the rent being fixed and the allotment being decided by the board:
- (m) authorize any person to take possession of lands, messuages, or tenements belonging to the Crown whereon any person is in unauthorized possession or occupation, and to forcibly eject every person therefrom:
- (n) give permission to any person to erect or construct and maintain gates, grids, and ramps or any of them on any road or way, not being a main road or way, vested in His Majesty, and not being within any municipality or district council district; and may let the right of depasturing thereon: Para. (n) amended by 26, 1944, s. 4 (a).
- (n1) impose conditions on the grant of any permission under paragraph (n) of this section, and revoke any permission upon breach of any condition thereof: Para. (n1) inserted by 26, 1944, s. 4 (b).
- (o) consent to a mortgage, transfer, or subletting of lands now or hereafter held under any Crown Lands Act:
- (p) correct, at the cost of the lessee, any clerical error, name wrongly spelt, or any incorrect or defective plan attached to any lease; and may attach a corrected plan to any such lease having his signature thereon, and, in every such case, the description of the parcels in the lease shall be taken to refer to the corrected plan, which shall form part of the lease:
- (q) charge any person the fees prescribed under this Act, or if no fees are prescribed in relation to any matter under this Act, such fees as he fixes for that matter:
- (r) appoint a sufficient number of persons to be Crown lands inspectors and rangers:
- (s) forfeit any agreement, lease, or licence obtained by any false declaration or statement:
- (t) notwithstanding the forfeiture of any agreement or lease under any of the Crown Lands Acts, or the Educational Lands Act, 1881<sup>1</sup>, rescind or annul any such forfeiture, upon such terms as he thinks fit:
- (u) lease aboriginal reserves on such terms and conditions as he deems advisable:
- (v) by himself or any person authorized by him enter upon any lands leased or held under any agreement, or any reserved or dedicated lands. Para. (v) inserted by 27, 1965, s. 6.

---

<sup>1</sup> The Educational Lands Act, 1881, was repealed by the Statute Law Revision Act, 1936.

## PART IV

## PART IV

## THE LAND BOARD

## DIVISION I

## DIVISION I—CONSTITUTION

Continuance of  
the Land Board.  
1199, 1915,  
s. 10.

10. The Land Board constituted under the repealed Acts and existing at the passing of this Act is hereby continued, under the name of "The Land Board", subject to the provisions of this Act; and the members of the said board in office at the said passing are hereby continued in office, subject as aforesaid.

Constitution of  
the board.  
1199, 1915,  
s. 11.  
S. 11 amended  
by 2299, 1936,  
s. 2;  
26, 1944, s. 5.

11. The board shall consist of not less than three and not more than six members: Provided that the Governor may appoint any member or members of the Pastoral Board constituted under the Pastoral Act, 1936<sup>1</sup>, to be an additional member or additional members of the board for any period during which he may be a member of the Pastoral Board, and the person or persons so appointed shall, whilst holding office under that appointment, have all the powers, duties and functions of ordinary members of the board.

Appointment of  
members.  
1199, 1915,  
s. 12.

12. The Governor may from time to time appoint members of the board.

Term of office  
1199, 1915,  
s. 13.  
S. 13 amended  
by 2299, 1936,  
s. 3.

13. Every member shall hold office for not exceeding five years from the date of his appointment, and shall be eligible for re-appointment.

Appointment of  
chairman and  
deputy  
chairman by  
Minister.  
S. 14 substituted  
by 27, 1965,  
s. 7;  
amended by 50,  
1967, s. 6.

14. The Minister shall nominate a chairman and a deputy chairman of the board. The chairman or in his absence the deputy chairman shall preside at all meetings of the board at which he is present. In the absence of both the chairman and the deputy chairman, the board shall elect one of their number to be chairman for any meeting.

Quorum.  
1199, 1915,  
s. 15.  
S. 15 amended  
by 27, 1965,  
s. 8.

15. Any two members shall form a quorum, and may exercise all the powers and authorities vested in the board.

Meetings of  
board.  
1199, 1915,  
s. 16.  
S. 16 amended  
by 98, 1969,  
s. 2 (a).

16. The board shall meet whenever required by the Minister.

Member of  
board not to be  
interested in  
application.  
1199, 1915,  
s. 17.

17. (1) No person whilst a member of the board shall be eligible as an applicant, or be interested in any application, for a lease or agreement.

(2) No member of the board shall hear or deal with any application in which any partner or relative of that member is interested.

Subsec. (3)  
amended by 60,  
1965, s. 6 (2).

(3) If any member of the board acts contrary to any provision of this section he shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred dollars.

(4) Any allotment of land made or application granted contrary to any provision of this section shall be absolutely void, except as against any purchaser who is not a partner or relative of the member offending against the

<sup>1</sup> In a previous reprint of this Act the expression "Pastoral Acts, 1904 to 1935," had been altered to "Pastoral Act, 1936," (now Pastoral Act, 1936-1974) pursuant to the Acts Republication Act, 1934.

said provision, and who has purchased *bona fide* for value without notice of the offence having been committed.

## DIVISION II—POWERS OF BOARD IN ADDITION TO ALL OTHER POWERS

## DIVISION II

18. (1) The board, in addition to and without prejudice to any other powers vested in it, shall—

General powers of the board. . .  
1199, 1915,  
s. 18.  
1882, 1928, s. 5.

(a) decide, except in the case of town lands, upon the area to be included in each separate block and the area to be held by any one person, and the area of land included in each separate block which is to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof:

(b) fix the price or annual rent under any agreement or lease:

(c) consider, decide, and, if necessary, accept or reject applications, and thereupon report its decision to the Minister:

Para. (c)  
amended by 98,  
1969, s. 2 (a).

(d) require the personal attendance of and, when necessary, examine all applicants, objectors, and necessary witnesses:

(e) subdivide or alter the boundaries of any block where there is one or more than one applicant, and adjust the rentals or purchase-money:

(f) deal with all other matters referred to it by the Minister.

Para. (f)  
amended by 98,  
1969, s. 2 (a).

(2) Every such decision of the board, except when made pursuant to paragraph (c) or paragraph (d) of subsection (1) hereof, shall be subject to the approval of the Minister.

Subsec. (2)  
amended by 98,  
1969, s. 2 (a).

19. (1) The board, or a person authorized in writing by the board, may—

Access to land,  
etc.

(a) after giving reasonable notice to the occupier of any land, enter upon the land and make any inspection, measurement or survey necessary or expedient for the purposes of this Act;

S. 19 substituted  
by 25, 1974,  
s. 6.

or

(b) put to the owner or occupier of the land, or any person thereupon, any questions necessary to obtain information in relation to the land required for the administration of this Act.

(2) A person shall not hinder or obstruct the board, or a person authorized in writing by the board, in the exercise of the powers conferred by subsection (1) of this section, or refuse or fail truthfully to answer a question lawfully put to him under that subsection.

Penalty: Fifty dollars.

19a. (1) The board, and any person authorized in writing by the board, shall have full and free access to all maps, plans, documents and books that are relevant to the determination of the value of any land, in the possession or power of any Department of Government or any council within the State.

Access to  
documents in  
possession of  
public  
authorities.  
S. 19a enacted  
by 25, 1974,  
s. 6.

(2) A person shall not prevent or attempt to prevent the board, or a person authorized in writing by the board, from having access to any such maps, plans, documents or books.

Penalty: Fifty dollars.

## PART IV

## DIVISION II

Valuation made by chairman or member to be effectual when confirmed by the board.  
1199, 1915, s. 20.

**20.** Any valuation made by the chairman of the board or by any member thereof authorized by the board shall, when confirmed by the board, be deemed to be a valuation by the board.

Powers of board to require evidence to be on oath.  
1199, 1915, s. 21.

**21.** (1) The board may require evidence given before it to be on oath or affirmation.

(2) Notwithstanding the provisions of any Act to the contrary, the chairman of the board, or any member or members thereof nominated by the board, are hereby authorized and empowered when obtaining evidence preliminary to the allotment or transfer of any lands to administer the prescribed oath or affirmation to any person.

(3) The evidence given by any such person shall be taken down in writing, and shall be signed by him, and be countersigned by the chairman or member taking the same.

(4) The oath may be in the following form:—"The evidence which you shall give before this board shall be the truth, the whole truth, and nothing but the truth—so help you God."

(5) Where any witness conscientiously objects to take an oath he may make the following affirmation:—"I, A.B., do declare and affirm that I will state the truth, the whole truth, and nothing but the truth to all questions that may be asked me." And the same shall be of the same effect as an oath taken in the form hereinbefore provided.

Valuation for Ministers, etc.  
S. 21a enacted by 25, 1974, s. 7.

**21a.** The Minister administering any Act, or Department of Government, may request the board to value any land for the purposes of that Act or Department and the board, upon receipt of that request, shall value the land or cause it to be valued as soon as practicable.

## PART V

## PART V

## PERPETUAL LEASES AND AGREEMENTS

## DIVISION I

## DIVISION I—THE OFFERING OF CROWN LANDS

Offering of Crown lands on perpetual leases, or agreements.  
1199, 1915, s. 22.  
S. 22 amended by 45, 1968, s. 8 (a); redesignated s. 22 (1) by 45, 1968, s. 8 (b).

**22.** (1) All Crown lands may be offered on perpetual lease or agreement, provided—

I. the said lands have been previously surveyed; or

II. the boundaries of the said lands have been delineated in the public maps.

Subsec. (2) inserted by 45, 1968, s. 8 (b).

(2) Where, before any Crown lands are offered pursuant to subsection (1) of this section, those lands have been occupied by any person under licence from the Crown or the Minister and permanent improvements have been carried out by the person or he satisfies the Minister that it is his intention to carry out permanent improvements immediately on the grant of a perpetual lease or agreement to him and such person desires the grant of the Crown lands to him under perpetual lease or agreement a grant of those Crown lands by way of perpetual lease or agreement may, with the approval of the Minister, be offered to such person at a rent or purchase price fixed by the board.

**22a.** Notwithstanding the other provisions of this Act, where the board is of opinion that any Crown lands are marginal lands within the meaning of the Marginal Lands Act, 1940<sup>1</sup>, or are so situated that they can conveniently be worked in conjunction with any marginal lands as so defined, those Crown lands may be allotted in accordance with section 4 of the Marginal Lands Act, 1940<sup>1</sup>, as if they were lands purchased by the Minister for purposes of that Act, and the said section 4 shall be deemed to extend and apply to such lands accordingly.

Allotment of marginal lands.  
S. 22a enacted by 25, 1941, s. 3; amended by 98, 1969, s. 2 (a).

**22b.** (1) Notwithstanding any other provision of this Act, if the board is of the opinion that any parcel of Crown Land is not sufficient to provide a living area, but can conveniently be worked by a lessee or purchaser in conjunction with the land comprised in his lease or agreement, the Minister, on the application of that lessee or purchaser and the recommendation of the board, may direct that a lease or agreement of the parcel of land shall be granted to the lessee or purchaser.

Allotment of land less than living area.  
S. 22b enacted by 26, 1944, s. 6.  
Subsec. (1) amended by 98, 1969, s. 2 (a).

(2) If such a direction is given it shall not be necessary to invite applications for the land whether by notice in the *Gazette* or otherwise.

(3) The rent or price payable for any such parcel shall be determined by the Minister on the recommendation of the board.

Subsec. (3) amended by 98, 1969, s. 2 (a).

#### DIVISION II—CLASSIFICATION OF LANDS, AND APPLICATIONS

#### DIVISION II

**23.** The Minister, after approving the area, price, and rent recommended by the board of any Crown lands, may, by notice in the *Government Gazette*, specifying—

Notice of land being open.  
1199, 1915, s. 23.  
1882, 1928, s. 6.  
S. 23 amended by 98, 1969, s. 2 (a).

(a) the land;

(b) the area thereof which is to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof; and

(c) the payments to be made,

declare that the said lands may be applied for on perpetual lease or agreement.

\* \* \* \* \*

S. 23a enacted by 2408, 1938, s. 3; repealed by 27, 1965, s. 9.

\* \* \* \* \*

S. 23b enacted by 2408, 1938, s. 3; repealed by 27, 1965, s. 9.

**24.** Every application for any such land shall be made to the Minister in writing, giving the name, address, and occupation of the applicant, and specifying the land applied for.

Applications 1199, 1915, s. 24.  
S. 24 amended by 98, 1969, s. 2 (a).

\* \* \* \* \*

S. 25 repealed by 27, 1965, s. 10.

**26.** All applications shall forthwith be referred by the Minister to the board, unless the land is withdrawn from leasing or sale.

Reference of all applications to the board.  
1199, 1915, s. 26.  
S. 26 amended by 98, 1969, s. 2 (a).

<sup>1</sup> Now Marginal Lands Act, 1940-1974.



## PART V

## DIVISION II

Simultaneous  
applications.  
1199, 1915,  
s. 27.

27. (1) All applications for the same land received up to and on the date named for receiving the same shall be dealt with as simultaneous applications. After that date all applications received on one and the same day for land not before applied for shall be considered and dealt with in like manner.

(2) Simultaneous applications may be decided by lot by the chairman of the board where any difficulty arises in deciding the successful applicant.

Subsec. (3)  
amended by 25,  
1974, s. 8.

(3) Whenever the number of simultaneous applications for the same lands is not more than three, or is reduced by the board to not more than three, and the qualifications and claims of the applicants are in the opinion of the board equal, then the applications shall be publicly decided by the chairman of the board by lot.

S. 28 repealed  
by 98, 1969,  
s. 4.

\* \* \* \* \*

Board to report  
and successful  
applicants to be  
gazetted.  
1199, 1915,  
s. 29.

29. The Minister, upon receipt thereof, shall cause to be published in the *Government Gazette* the names of the successful applicants, the particulars of the lands allotted to them, and the rent or price payable in each case.

S. 29 amended  
by 98, 1969,  
s. 2 (a).

Power of  
Minister to offer  
lands not taken  
up on reduced  
terms.  
1199, 1915,  
s. 30.  
S. 30 amended  
by 98, 1969,  
s. 2 (a).

30. If no application is made within three months from the date on and after which any lands were last declared to be open under this Part, or if all applications received before the lands are again offered on lease or agreement as herein provided are rejected or refused, the Minister may offer the lands at such reduced rent or purchase-money as he, with the advice of the board, deems proper.

S. 31 amended  
by 2363, 1937,  
s. 3;  
50, 1966,  
s. 4 (a), (b);  
4, 1967, s. 3 (a),  
(b);  
repealed by 45,  
1968, s. 9.

\* \* \* \* \*

Power of  
corporations  
and district  
councils to  
apply.  
1199, 1915,  
s. 32.

32. Any municipal corporation or district council may apply for and obtain lands under lease or agreement under this Part.

## DIVISION III

## DIVISION III—PERPETUAL LEASES

Rent under  
perpetual  
leases.  
1199, 1915,  
s. 33.  
S. 33 amended  
by 98, 1969,  
s. 2 (a).

33. The board, in fixing the rents to be paid under any perpetual lease except—

- I. a lease to which the Minister directs that section 48 shall apply; or
- II. a lease granted by virtue of section 199; or
- III. a lease granted under any provision of Part XI; or
- IV. in any case where the Minister directs to the contrary,

shall, as nearly as practicable and subject to section 47, fix the same for the first three years according to the following scale:—

For the first year, one-fifth of the amount which but for this section would be payable annually;

for the second year, one-third of the said amount; and

for the third year, two-thirds of the said amount.

\* \* \* \* \*

S. 34 repealed  
by 40, 1939,  
s. 4.

35. (1) A perpetual lease shall vest the land leased in the lessee in perpetuity, and shall contain the provisions for rent and the reservations, covenants, and conditions set forth in the third schedule, subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act, or as the Governor thinks fit, and shall also contain such other provisions as the Governor thinks fit, together with a right of re-entry, and shall be read and construed as if any reservations, covenants, and conditions in the form in the third schedule had been expressed in the extended form in the fourth schedule, and the lessee and all persons entitled to any benefit of the lease shall be bound thereby.

Form and effect  
of perpetual  
lease.  
1199, 1915,  
s. 35.  
S. 35  
redesignated  
s. 35 (1) by 25,  
1974, s. 9.

(2) Without limiting the generality of subsection (1) of this section, where the Governor proposes to grant a perpetual lease to—

Subsec. (2)  
inserted by 25,  
1974, s. 9.

(a) a charitable or religious body;

(b) a body formed to promote sport or any other social or community activity;

or

(c) a body formed to promote any other public purpose,

the Governor may, in the exercise of the powers conferred by subsection (1) of this section, make a modification in the terms of the lease providing for a more limited right to compensation in the event of resumption of land comprised in the lease than is prescribed in the third schedule.

36. (1) The Minister shall determine whether the covenant to clear land contained in a lease, as the meaning of that covenant is set forth in the fourth schedule, has been complied with in any case, and if his decision is disputed by the lessee the matter shall be determined by arbitration in manner provided by section 289.

Power of  
Minister to  
determine  
whether  
covenant to  
clear complied  
with.  
1199, 1915,  
s. 36.  
1882, 1928, s. 9.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (a).

(2) Land shall be deemed to have been cleared for cultivation or so as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

37. All perpetual leases not subject to revaluation of rent shall be liable to the land tax, and the rent originally reserved shall be payable during the whole of the term.

Liability to land  
tax of perpetual  
leases not  
subject to  
re-valuation.  
1199, 1915,  
s. 37.

38. The rent for each period of fourteen years (except the first such period) of a perpetual lease, subject to revaluation, shall be fixed by the board at least twelve months before the expiration of the next preceding period of fourteen years thereof.

Fixing of  
subsequent  
rent.  
1199, 1915,  
s. 38.

39. In revaluations of rent under perpetual leases the value of the improvements made by the lessee shall not be considered.

Improvements  
not to be  
considered on  
revaluation.  
1199, 1915,  
s. 39.

## PART V

DIVISION III

Notice of revaluation to be given.  
1199, 1915,  
s. 40.  
S. 40 amended  
by 98, 1969,  
s. 2 (a).

40. Notice of the amount of revaluation shall forthwith be given by the Minister to the lessee.

Lessee not accepting revaluation to forfeit at expiry of then current fourteen years of his lease.  
1199, 1915,  
s. 41.  
Subsec. (1) amended by 98, 1969, s. 2 (a).

41. (1) In case the lessee does not, within the period of six months after notice of any revaluation, signify to the Minister his willingness to pay the same, his lease shall determine at the expiration of the then current period of fourteen years of his lease, subject however to the provisions of subsections (3), (4), and (5) hereof.

Subsec. (2) amended by 98, 1969, s. 2 (a).

(2) In case the lease is to determine under subsection (1) hereof, then after the expiration of the said period of six months the land comprised in the lease shall be offered in one or more blocks under this Part at the rental fixed by the board; and the improvements made by the outgoing lessee shall be paid for by the incoming tenant to the Minister at a price to be fixed by the board; and the amount so paid shall be paid by the Minister to the outgoing lessee, less any amount that may be due by him under the determined lease.

Subsec. (3) amended by 98, 1969, s. 2 (a).

(3) If the land comprised in the lease, or any part of that land, has not been taken on perpetual lease or agreement when offered pursuant to subsection (2) hereof, the Minister may receive the lessee's signification of his willingness to pay the rent fixed under section 38 at any time not being later than two months from the determination of the lease.

Subsec. (4) amended by 98, 1969, s. 2 (a).

(4) Any lease in respect of which the Minister exercises the power conferred by subsection (3) hereof shall, notwithstanding its previous determination, be deemed to have continued without interruption of the term thereof.

(5) Where part of the land has been taken when offered as mentioned in subsection (3) hereof, subsections (3) and (4) hereof shall apply only in respect of the part not so taken.

DIVISION IIIA

## DIVISION IIIA—PERPETUAL LEASES OF TOWN LANDS

Heading inserted by 3, 1939, s. 3; amended by 26, 1944, s. 7.

Offering of Whyalla land on perpetual lease.  
S. 41a enacted by 3, 1939, s. 3.  
Subsec. (1) amended by 98, 1969, s. 2 (a).

41a. (1) The Minister may, by notice in the *Gazette*, offer any specified blocks of town land in the town of Whyalla on perpetual lease.

Subsec. (2) amended by 98, 1969, s. 2 (a).

(2) The Minister shall not give notice as aforesaid in respect of any blocks unless the board recommends that it is desirable that those blocks should be used as sites for dwelling-houses.

(3) The notice shall set forth—

(a) the blocks to be leased:

(b) the rent of each block as fixed by the board, which rent shall not be subject to revaluation:

(c) any obligations, duties, or restrictions to be imposed on the lessee in relation to the use of the land, the erection of buildings or carrying out of other improvements thereon, or personal residence on the land by the lessee:

- (d) a day, not earlier than one month after the publication of the notice in the *Government Gazette* before which applications for the blocks mentioned in the notice must be made.

**41b.** The provisions of sections 24 to 30 inclusive of this Act shall apply to applications for and the allotment of town lands under this Division.

Applications and allotments.  
S. 41b enacted by 3, 1939, s. 3.

**41c.** (1) Subject to this section every perpetual lease of town land in the town of Whyalla shall be in such form and contain such terms, covenants, and conditions as the Minister approves on the recommendation of the board.

Form and conditions of leases.  
S. 41c enacted by 3, 1939, s. 3.  
Subsec. (1) amended by 98, 1969, s. 2 (a).

(2) Without restricting the generality of subsection (1) of this section, it is declared that such covenants and conditions may provide—

\* \* \* \* \*

Para. (a) struck out by 98, 1969, s. 5.

- (b) that the lessee shall, within such time as is specified in the lease, erect a dwelling-house on the said land in accordance with plans and specifications to be approved by the Minister, and that the lessee will not without the consent in writing of the Minister erect on the said land any other premises:

Para. (b) amended by 98, 1969, s. 2 (a).

- (c) that the lessee shall not transfer, mortgage, sublet, or otherwise dispose of the said land except in accordance with such conditions as are set out in the lease.

(3) The Minister may, on the recommendation of the board, and if he thinks that special circumstances exist which justify him in so doing, exempt a lessee from the obligation to comply with any such covenant as mentioned in subsection (2).

Subsec. (3) amended by 98, 1969, s. 2 (a).

**41d.** (1) Any lessee holding town land in the town of Whyalla under perpetual lease may apply to the Minister for the right to surrender to the Crown the whole or any part of that land and to purchase the fee simple of the land so surrendered.

Purchase of fee simple of Whyalla town lands.  
S. 41d enacted by 3, 1939, s. 3.  
Subsec. (1) amended by 98, 1969, s. 2 (a).

(2) If the Minister is satisfied that the covenants and conditions of the lease have been complied with, or that, although the covenants and conditions have not been complied with it is expedient to absolve the lessee from compliance therewith, either upon conditions or otherwise, the Minister shall refer the application to the board.

Subsec. (2) amended by 98, 1969, s. 2 (a).

(3) If the board considers that the application should be granted it shall fix the price at which the fee simple of the land may be purchased; and the lessee may thereupon surrender the land and purchase the fee simple thereof at the price fixed by the board.

(4) The Governor shall, upon payment of the said price, issue to the purchaser a grant of the fee simple of the surrendered land.

(5) A land grant of the fee simple of land surrendered under this section may contain all or any of the following conditions, namely:—

Subsec. (5) inserted by 26, 1944, s. 8.

\* \* \* \* \*

Para. (a) struck out by 25, 1974, s. 10 (a).

- (b) that the grantee or his successor in title shall within such time as is specified in the condition erect on the land such premises as are specified in the condition;

Para. (b) substituted by 25, 1974, s. 10 (b).

DIVISION IIIA

Para. (d)  
amended by 98,  
1969, s. 2 (a).

(c) a condition regulating or restricting in such manner as is specified in the condition the purposes for which the land may be used;

(d) that the land shall not be transferred, mortgaged, or otherwise dealt with within a period specified in the condition, but not exceeding six years from the date of the land grant, without the consent in writing of the Minister.

If the land grant contains any such conditions, subsections (2) to (8) inclusive of section 232h of this Act shall apply to every such condition in the same way as they apply to conditions under that section.

This subsection shall be deemed to have come into force on the seventh day of September, 1939<sup>1</sup>.

Application of  
other provisions  
to leases of  
town lands.  
S. 41e enacted  
by 3, 1939, s. 3;  
amended by 27,  
1965, s. 11.

**41e.** The following sections of this Act shall apply *mutatis mutandis* to perpetual leases of town lands in the town of Whyalla in the same way as they apply to perpetual leases of other lands, namely, sections 32, 37, 47, 52, 53, 54 to 64 inclusive, 66, 204b, 205, 206, 208a, 217, 218, 219, 222, 223, 224.

Application of  
ss. 41a-41e to  
Leigh Creek.  
S. 41f enacted  
by 26, 1944,  
s. 9.

**41f.** Sections 41a to 41e (inclusive) of this Act shall apply in relation to any town constituted after the thirtieth day of September, 1944<sup>2</sup> on the Leigh Creek coalfield, in the same way as they apply in relation to the town of Whyalla, and the said sections shall be construed as if every reference therein to the town of Whyalla were also a reference to any town constituted as aforesaid.

DIVISION IV

## DIVISION IV—AGREEMENTS (UNDER THIS PART)

Agreement to  
contain  
covenant to  
purchase by  
instalments.  
1199, 1915,  
s. 42.  
1882, 1928,  
s. 10.

**42. (1)** In every agreement under this Part the purchaser shall covenant—

(a) to purchase his block at the price fixed by the board; and

Para. (b)  
amended by 27,  
1965, s. 12 (a),  
(b);  
98, 1969,  
s. 2 (a).

(b) except in a case where section 48 applies, to pay the purchase-money and interest for land and improvements, if any, at not less than the rate of two dollars per centum per annum<sup>3</sup> by not more than sixty equal half-yearly instalments, which instalments shall be paid in advance: Provided that if the Minister on the recommendation of the board so approves, the covenant for payment of purchase-money and interest may be as follows:—

(i) For the first four years the purchaser shall pay in advance half-yearly instalments of interest only on the purchase-money, but no instalments of principal, and that interest shall be at the following rates:—

For the first year at one-fifth of the full rate of interest provided for in the agreement:

For the second year at one-third of the said full rate:

<sup>1</sup> Reference to the year nineteen hundred and thirty-nine altered to 1939 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

<sup>2</sup> Reference to the year nineteen hundred and forty-four altered to 1944 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

<sup>3</sup> Pursuant to s. 8 (2) of the Acts Republication Act, 1967, as amended, the reference to the percentage expressed in decimal currency has been substituted for the reference to the percentage expressed in the old currency.

For the third year at two-thirds of the said full rate:

For the fourth year at the said full rate.

- (ii) For the balance of the term of the agreement the purchaser shall pay the purchase-money with interest thereon at the full annual rate provided for in the agreement in equal half-yearly instalments of principal and interest, and the instalments shall be payable in advance.

Subpara. (ii) amended by 27, 1965, s. 12 (b).

(2) Notwithstanding subsection (1) hereof or anything contained in the agreement, the purchaser, having complied with the terms and conditions of his agreement, shall have the option of completing the purchase of his block at any time after the expiration of six years or the term of the agreement, whichever period is the lesser, on paying the balance of the purchase-money and all interest due up to the time of purchase.

Subsec. (2) amended by 45, 1968, s. 10.

\* \* \* \* \*

S. 43 repealed by 98, 1969, s. 6.

44. (1) The agreement shall contain all the conditions, covenants, and provisions set forth in the fifth schedule, subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act or as the Governor thinks fit and shall also contain such other provisions as the Governor thinks fit, together with a right of re-entry. Provided that where an agreement is granted upon the surrender of a perpetual lease, any condition, covenant or provision of the agreement restricting the right of the purchaser to complete purchase, or binding the purchaser to erect any fence or carry out any other work, may differ from the condition, covenant or provision prescribed by the fifth schedule in relation to the same matter, in such manner as the Minister deems just, having regard to the length of time during which the purchaser held the land under the surrendered lease or any previous lease or agreement, and the obligations which that lease or agreement imposed upon him and the extent to which those obligations were fulfilled.

Form of agreement. 1199, 1915, s. 44.

1882, 1928, s. 11.

Subsec. (1) amended by 23, 1940, s. 3; 50, 1967, s. 7; 98, 1969, s. 2 (a).

(2) In filling up the blank spaces in the form of covenant to clear land in the fifth schedule, the following directions shall be followed:—

Subsec. (2) substituted by 25, 1974, s. 11.

In the first and second spaces there shall be inserted an area equal to twenty per centum of the area which is to be cleared, as specified in the notice in the *Government Gazette* declaring that the lands in question may be applied for on agreement.

In the third space there shall be inserted an area equal to ten per centum of the area so specified.

In the fourth space there shall be inserted an area equal to the total area so specified.

45. (1) The Minister shall determine whether the covenant to clear land contained in an agreement has been complied with in any case, and if his decision is disputed by the purchaser, the matter shall be determined by arbitration in manner provided by section 289.

Minister to determine whether covenant to clear complied with. 1199, 1915, s. 45.

1882, 1928, s. 12.

Subsec. (1) amended by 98, 1969, s. 2 (a).

(2) Land shall be deemed to have been cleared for cultivation or so as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

## PART V

## DIVISION IV

Agreement  
liable to  
forfeiture for  
breach of  
covenant.  
1199, 1915,  
s. 46.

Subsec. (2)  
amended by 98,  
1969, s. 2 (a).

46. (1) An agreement shall be liable to forfeiture if any instalment thereunder is in arrear for six months, the purchaser having had at least three months previous notice in writing demanding its payment, or if any breach is made of the terms and conditions of the agreement.

(2) Upon any such forfeiture the right, interest, or claim, either at law or in equity, of the purchaser in and to the lands included in the forfeited agreement, and to any moneys paid on account of his purchase, shall be absolutely determined, and the lands may be dealt with as the Minister may determine.

## PART VI

## PART VI

Heading  
amended by 23,  
1940, s. 4.

## PROVISIONS APPLICABLE TO LEASES AND AGREEMENTS

Minimum rent  
or instalment.  
S. 47 substituted  
by 25, 1974,  
s. 12.

47. Notwithstanding any other provision of this Act—

(a) the annual rent under a lease granted on or after the first day of July, 1974;

or

(b) an instalment under an agreement entered into on or after the first day of July, 1974,

shall in no case be less than five dollars.

Rates of  
instalments and  
rent under  
agreements and  
leases, where  
Minister directs  
that this section  
shall apply.  
1199, 1915,  
s. 49.  
1405, 1919, s. 3.  
1882, 1928,  
s. 14.  
Subsec. (1)  
amended by 60,  
1965, s. 6 (1)  
(Sched.);  
98, 1969,  
s. 2 (a).

48. (1) The following provisions shall apply to every agreement (except an agreement under Part X) and perpetual lease to which the Minister directs that this section shall apply, namely:—

I. No instalment or rent shall be payable for the first four years of the term:

II. From the end of the fourth to the end of the tenth year of the term, instalments or rents shall be paid, and the said instalments or rents shall be at the rate of two per centum per annum on the value of the land as stated in the advertisement in the *Government Gazette* declaring the land open for application. In the case of an agreement the instalments paid for the years mentioned in this subdivision shall be regarded as interest only, and not as part of the purchase-money:

III. From the end of the tenth year of the term, the interest included in the instalments, or the rent (as the case may be), shall be at the rate of four per centum per annum on the value stated as mentioned in subdivision II hereof:

IV. The agreement shall be for a term of forty years, and the purchase-money shall be paid by sixty half-yearly instalments payable during the last thirty years thereof; so that from the end of the tenth year of the term the instalments shall include purchase-money in addition to interest as provided by subdivision III of this subsection:

v. All instalments or rents shall be payable in advance:

Para. IV  
amended by 60,  
1965, s. 6 (1)  
(Sched.).

VI. The purchaser under the agreement, having complied with the terms and conditions of his agreement, shall have the option of completing the purchase at any time after the expiration of the first six years of the term, on payment of the purchase-money, or the balance thereof, with interest, at the rate or rates charged by the agreement, on the purchase-money or on the balances thereof from time to time remaining unpaid, from the commencement of the term to the date of payment:

VII. Notwithstanding anything in this section, if the purchaser or lessee transfers his agreement or lease before the end of the tenth year of the term, instalments or rent shall, if the Minister on the recommendation of the board so directs, be paid as from the time of the allotment of the land or any subsequent time not later than the time when the transfer takes effect; and, in the case of an agreement, the instalments shall be at the rate of four per centum per annum on the value stated as mentioned in subdivision II hereof until the end of the said tenth year, and, in the case of a lease, the rent shall be as provided by subdivision III hereof.

Para. VII  
amended by 98,  
1969, s. 2 (a).

(2) In the case of any agreement or perpetual lease to which the Minister has directed that this section shall apply, where, in the opinion of the Minister, the enforcement of the provisions of the agreement or lease as to payment of instalments or rent would inflict great hardship upon the holder of the agreement or lease, the Minister may, by notice given to the holder, extend the period during which, under the agreement or lease, no instalment or rent is to be payable, for such further period, not exceeding four years, as he thinks fit.

Subsec. (2)  
amended by 98,  
1969, s. 2 (a).

(3) Upon the giving of any notice of extension, as mentioned in subsection (2) hereof, the said period shall be extended in accordance with the said notice, and all dates and periods mentioned in the agreement or lease shall be postponed and, in the case of an agreement, the term shall be extended, according to the period of the extension. The agreement or lease shall be construed so as to give effect to this subsection, and shall be binding on the parties as so construed.

49. (1) Subject to subsection (6) hereof, in the case of any agreement (except an agreement under Part X of the Crown Lands Act, 1903) or perpetual lease, entered into or granted before the nineteenth day of November, 1914<sup>1</sup>, to which the Minister, on the recommendation of the Surveyor-General, directs that this section shall apply, the board shall revalue the land comprised in the agreement or lease, and fix the purchase-money or annual rent for the purposes of an agreement or lease to be entered into or granted pursuant to this section.

Power in  
certain cases to  
surrender  
existing  
agreement or  
lease for  
agreement or  
lease under  
section 48.  
1199, 1915,  
s. 51.

(2) When the board has fixed the purchase-money or annual rent pursuant to subsection (1) hereof, the purchaser or lessee may surrender his agreement or lease in exchange for an agreement or perpetual lease to be entered into or granted in accordance with the provisions of section 48 of this Act at the purchase price or annual rent fixed as aforesaid: Provided that—

Subsec. (1)  
amended by 98,  
1969, s. 2 (a).

I. the surrender shall have no effect unless or until accepted by the Minister, who may, in his discretion, accept or reject the surrender in the name and on behalf of His Majesty:

Para. I amended  
by 98, 1969,  
s. 2 (a).

II. only an agreement may be obtained in exchange for a surrendered agreement, and only a lease may be obtained in exchange for a surrendered lease.

<sup>1</sup> Reference to the year nineteen hundred and fourteen altered to 1914 pursuant to s. 7 (1) of the Acts Replication Act, 1967, as amended.



(3) The term of the new agreement or the new lease shall commence on the date of the commencement of the term of the surrendered agreement or lease.

(4) When an agreement or lease has been obtained pursuant to this section, the amount of the instalments or rents (as the case may be) theretofore paid under the surrendered agreement or lease shall be credited against the instalments or rents (as the case may be) which have already fallen due in accordance with the new agreement or lease; and if there is any surplus, it shall be credited against the future instalments or rents.

(5) If the agreement or lease to be surrendered is subject to a mortgage, the provisions of section 224 shall apply.

Subsec. (6)  
amended by 98,  
1969, s. 2 (a).

(6) This section shall not apply to any agreement or lease of land situate within any of the following hundreds, namely, the Hundreds of Pygery, McLachlan, Wannamana, Wudinna, and Yaninee, and such other hundreds as the Minister directs.

Power to  
reduce  
purchase-money  
or rent under  
certain  
agreements and  
leases.  
1199, 1915,  
s. 53.  
1311, 1917, s. 3.  
1882, 1928,  
s. 15.  
Subsec. (1)  
amended by 45,  
1968, s. 11;  
98, 1969,  
s. 2 (a).

50. (1) In the case of any agreement (except an agreement under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act) or perpetual lease, the Minister may, if he is satisfied that the purchase-money or rent (as the case may be) is too high, make such (if any) reduction thereof as, after reference by the Minister to the board, is recommended by the board.

Subsec. (2)  
amended by 98,  
1969, s. 2 (a).

(2) Every reduction of purchase-money or rent under this section shall take effect from such date as the Minister in each case determines and every reduction of rent may be for such period as the Minister in each case determines.

Subsec. (3)  
amended by 98,  
1969, s. 2 (a).

(3) The Minister may also in his discretion and for such period as he thinks fit reduce the interest payable under any agreement (except an agreement under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act).

Subsec. (4)  
amended by 98,  
1969, s. 2 (a).

(4) Notice in writing of any such reduction shall be given to the purchaser or lessee who may, within two months after the giving of the notice, appeal in writing to the Minister for a further reduction; whereupon the Minister may make such (if any) further reduction as is recommended by the board.

Subsec. (5)  
amended by 98,  
1969, s. 2 (a).

(5) Notice in writing of the Minister's decision on the said appeal shall be given to the purchaser or lessee.

(6) If no appeal is made in the manner and within the time prescribed by subsection (4) hereof, then from the expiration of the said time, or if any appeal is so made, then from the day whereon the notice required by subsection (5) hereof is given—

(a) the agreement or lease shall be construed so as to give effect to the reduction, or further reduction (as the case may be) made as aforesaid, and shall be binding on the parties accordingly; and

Para. (b)  
amended by 25,  
1974, s. 13.

(b) the instalments or rents fixed by the agreement or lease shall be adjusted as may be necessary to give effect to the reduction, or further reduction (as the case may be) and any amounts shown, as the result of the adjustment, to have been overpaid shall be credited against the liability to future payments or, if the Minister so directs shall be refunded.

(7) The powers of the Minister under this section may, in the case of any such agreement or lease as is hereinbefore referred to, be exercised from time to time as the Minister thinks fit, notwithstanding that one or more reductions have already been made by the Minister in respect of the same agreement or lease and notwithstanding that no appeal for a further reduction has been made to him.

Subsec. (7)  
amended by 98,  
1969, s. 2 (a).

**50a.** (1) In any case of an agreement (except an agreement under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act) the Minister may direct the board to consider whether an extension of the term of the agreement should or should not be granted under this section.

Power to  
extend  
agreement.  
S. 50a enacted  
by 2120, 1933,  
s. 2.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (a).

(2) The board shall thereupon consider the matter, and—

- (a) may recommend that the term be extended for such period (if any) as the board thinks fit, but not so as to extend it beyond sixty-five years from the commencement thereof as fixed by the agreement;
- (b) for the purpose of fixing the amounts of the instalments under paragraph (c) hereof may capitalize, and add to the purchase-money, the whole or any part of such amounts of any instalments then in arrear as represent interest:
- (c) if the board recommends an extension, shall fix the instalments of purchase-money to be paid during the remainder of the term (as so extended) and for such purpose may fix the instalments so that the balance of the purchase-money and any arrears of interest capitalized as aforesaid, together with interest thereon, shall be paid in equal instalments throughout the balance of the said term so extended, or may fix the instalments at such amount as would be necessary to pay the purchase-money and interest thereon in equal instalments if the instalments were spread over the whole term of the agreement as so extended from the time when instalments of principal were first payable.

(3) If the Minister approves of the recommendations of the board he may grant the extension on the terms recommended, and from the time when notice in writing stating the period of the said extension and the terms on which it is granted is given to the purchaser, the agreement shall be construed so as to give effect to the said extension and terms, and shall be binding on the parties as so construed.

Subsec. (3)  
amended by 98,  
1969, s. 2 (a).

(4) Except so far as may be necessary to give effect to this section, the agreement shall not be affected by anything in or done under this section; and the terms, covenants, conditions, and provisions thereof shall continue in force subject to any variations which may be necessary to give effect to this section.

**50b.** (1) Notwithstanding any other provision of this Act, the Minister may, on the recommendation of the board—

Power to  
reduce money  
payable under  
leases and  
agreements.  
S. 50b enacted  
by 26, 1944,  
s. 10.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (a).

- (a) reduce the amount fixed in any lease as the price at which the fee simple of the land comprised in the lease may be purchased;
- (b) reduce any amount payable under any lease as the price of improvements, or any instalments thereof;
- (c) reduce any other amount payable under any lease, not being rent;
- (d) reduce the rate of interest payable on any such amount as is mentioned in paragraph (b) or (c) of this section;

(e) remit or accept payment by instalments of the whole or any part of any arrears of any kind owing under a lease or agreement;

(f) impose conditions on the grant of any concession under this section and revoke the concession upon breach of any condition so imposed.

(2) Where the liabilities of a lessee or purchaser are altered under this section, the lease or agreement shall be deemed to be varied so as to provide for the altered liabilities; and the same rights and remedies shall be available for enforcing the altered liabilities as were available for enforcing the liabilities of the lessee or purchaser before the alteration.

(3) This section shall apply to amounts payable either before or after the enactment of this section.

Lands suitable for pastoral purposes only. 1199, 1915, s. 54.

51. In respect of any lands which, on account of deficiency of rainfall, are, in the opinion of the board, only suitable for pastoral purposes, the rent shall be fixed at pastoral rates; and, in fixing the said rents, the board shall have regard to the rates of rental of pastoral lands under similar conditions of soil and climate.

Preparation and execution of lease or agreement. S. 52 substituted by 40, 1939, s. 5. Subsec. (1) amended by 98, 1969, s. 2 (a).

52. (1) As soon as conveniently may be after land offered on lease or agreement is allotted to any person under any provision of this Act, or any other Act incorporated with this Act, or any person becomes entitled to a lease or agreement pursuant to any surrender which has been accepted, the Minister shall cause a lease or agreement, as the case may be, to be prepared in triplicate, and shall forward it to that person or his agent.

Subsec. (2) amended by 98, 1969, s. 2 (a).

(2) The said person shall within twenty-eight days after receipt of the lease or agreement or within such further time as the Minister allows, execute the lease or agreement and return it to the Minister, together with the first year's rent or instalment (if any), and the prescribed fees or the unpaid balances thereof.

Subsec. (3) amended by 98, 1969, s. 2 (a).

(3) If any person fails to comply with subsection (2) of this section, the Minister may by notice in writing, served on him personally or by post, declare that he has forfeited all moneys paid by him and his right to a lease or agreement, and the Minister may thereafter re-offer or deal with the land comprised in the lease or agreement as unallotted Crown lands.

Power to resume land for roads, tramways, railways, mining, or public purposes. 1199, 1915, s. 56.

Subsec. (1) amended by 98, 1969, s. 2 (a).

53. (1) The Minister, on giving three months notice to any lessee or purchaser, may resume lands included in the lease or agreement for roads, railways, tramways, sites for towns, park lands, mining purposes, or for any public purpose whatsoever. *Stu*

Subsec. (2) amended by 52, 1969, s. 4 (a).

(2) The lessee or purchaser shall be entitled to compensation for any loss sustained by the said resumption.

Subsec. (2a) inserted by 52, 1969, s. 4 (b).

(2a) Where the amount of compensation is disputed, the Minister shall refer the matter to the Land and Valuation Court for determination.

Subsec. (2b) inserted by 52, 1969, s. 4 (b).

(2b) The practice and procedure relating to the hearing and determination of a matter so referred shall be as prescribed by the appropriate rules of the Supreme Court.

Subsec. (2c) inserted by 25, 1974, s. 14.

(2c) In assessing compensation under this section, the Land and Valuation Court shall give effect to any provisions of the lease relating to compensation.

(3) Nothing in this section shall affect or apply to the exercise of any power given to the Governor by the Mining Act, 1930<sup>1</sup>.

Subsec. (3) amended by 2246, 1935, s. 4 (2nd Sched.).

(4) In this section "lease" means perpetual lease and "lessee" means lessee holding land under perpetual lease.

Subsec. (4) inserted by 23, 1940, s. 5.

\* \* \* \* \*

S. 54 amended by 2293, 1936, s. 4 (2nd Sched.); repealed by 25, 1974, s. 15.

\* \* \* \* \*

S. 55 amended by 98, 1969, s. 2 (a); repealed by 25, 1974, s. 16.

\* \* \* \* \*

S. 56 amended by 60, 1965, s. 6; 98, 1969, s. 2 (a); repealed by 109, 1971, s. 3 (2) (Sched.).

57. Any person who has a lease or agreement, may, with the consent of the Minister, at the end of six years from the date of his lease or agreement, sublet the whole or any part of the land included in his lease or agreement for a period not exceeding three years, and on such terms as he may think fit, within the terms of the lease or agreement.

Subletting. 1199, 1915, s. 61.  
S. 57 amended by 98, 1969, s. 2 (a).

58. (1) Notwithstanding anything contained in any lease or agreement, if any rent, principal or interest payable under any lease or agreement before the commencement of the Crown Lands Act Amendment Act, 1968, is not paid within thirty days after the day appointed for payment thereof, interest at the rate of five per centum per annum shall be added to the said rent, principal, or interest and if any such rent, principal or interest so payable after such commencement is not paid within thirty days after the day so appointed, interest at the rate of ten per centum per annum shall be added to such rent, principal or interest: Provided that this subsection shall not authorize the charging of interest on interest added pursuant to the foregoing provision of this subsection.

Interest on amounts owing under lease or agreement.  
S. 58 substituted by 25, 1941, s. 4.  
Subsec. (1) amended by 45, 1968, s. 12 (a), (b).

(2) The interest added under this section shall be calculated from the day appointed for payment of the arrears on which the interest is charged, and shall be payable on the balance of such arrears owing from time to time until such arrears are paid.

(3) The Minister, without prejudice to his right to recover in any other way, may, by action brought in any court of competent jurisdiction in the name of the Minister of Lands, sue for any such rent, principal or interest, together with the interest thereon added pursuant to this section.

Subsec. (3) amended by 98, 1969, s. 2 (b), (c).

(4) In any case of hardship, the Minister or any officer authorized by him, may remit the whole or any part of—

Subsec. (4) amended by 98, 1969, s. 2 (b).

(a) any penalty added, before the enactment of this section, to any rent, principal or interest for default in payment thereof:

(b) any interest added to rent, principal or interest pursuant to this section.

(5) This section applies to all leases and agreements granted or made under any of the Crown Lands Acts or any Act incorporated with any such Act, except leases and agreements granted under Part X of this Act.

<sup>1</sup> The Mining Act, 1930 has been repealed and superseded by the Mining Act, 1971 (now Mining Act, 1971-1975).

Crown lease or agreement may be forfeited if rent or instalment in arrear for six months, or covenant broken.  
1199, 1915, s. 63.  
Subsec. (1) amended by 98, 1969, s. 2 (d).

59. (1) Where the rent of any lands or any money due under any agreement or loan agreement is in arrear for six months after the same is due, the lessee or purchaser (as the case may be) having had at least three months previous notice in writing demanding its payment, or where there has been a breach of any of the covenants or conditions contained in or implied by any such lease or agreement, the Minister may cancel the lease or agreement, and may thereupon insert a notice in the *Government Gazette* declaring the lease or agreement to be forfeited.

(2) Every such notice shall be taken to be *prima facie* evidence that the lease or agreement therein mentioned was legally cancelled and forfeited.

(3) The land comprised in any such lease or agreement may be dealt with in all respects as if the lease or agreement had never been granted.

Instead of forfeiture, a penalty may be imposed.  
1199, 1915, s. 64.  
Subsec. (1) amended by 98, 1969, s. 2 (d).

60. (1) In any case in which the Minister has power, under section 59, to cancel a lease or agreement, he may, instead of exercising that power, by notice in writing to the lessee or purchaser, impose a penalty of such sum as is fixed by the board in the particular case.

(2) Any penalty imposed under this section shall be recoverable in the same manner as rents or instalments under the lease or agreement (as the case may be) are recoverable when in arrear.

Defaulting purchaser's or lessee's interest in land may be sold by auction.  
1199, 1915, s. 65.  
1405, 1919, s. 5.  
Subsec. (1) amended by 98, 1969, s. 2 (d).

61. (1) In lieu of the forfeiture under section 59 of any agreement or lease, the Minister may, after two weeks' notice in the *Government Gazette*, offer the defaulting purchaser's or lessee's interest in the agreement or lease for sale by auction.

(2) If at the said offering the said interest is not sold, then the agreement or lease (as the case may be) may at any time thereafter be transferred by the Minister to any applicant at the upset price or rental fixed at the sale; and if there are more applicants than one, the transferee shall be decided by lot.

(3) Out of any premium paid at the sale, or for the transfer (as the case may be), after deducting therefrom all expenses attending the sale or offering, and all moneys then due by the defaulting purchaser or lessee to the Crown, the defaulting purchaser or lessee may be paid the value of any substantial improvements, consisting of buildings, fencing, dams, tanks, wells, clearing, cultivating, and planting, made by him on the land, which permanently increase the capital value thereof, and also all purchase-money paid by him, apart from interest, excepting thereout the first instalment.

Subsec. (4) amended by 98, 1969, s. 2 (d).

(4) After notice has been given under subsection (1) hereof, the defaulting purchaser's or lessee's interest shall not be withdrawn from sale unless the said purchaser or lessee has paid to the Minister such penalty as is imposed by the Minister, in addition to the upset price at which his said interest was, or was to be, offered.

Subsec. (5) amended by 98, 1969, s. 2 (d).

(5) The Minister may, in exercising the power to sell or transfer a defaulting purchaser's or lessee's interest in any agreement or lease conferred by this section, exercise any such power with respect to the whole or, from time to time, with respect to any part or parts of the land comprised in the agreement or lease, as he thinks fit.

(6) All the provisions of this Act with respect to the sale or transfer of the defaulting purchaser's or lessee's interest in the agreement or lease shall, *mutatis mutandis*, apply to the sale or transfer of his interest in part only of the land comprised in the agreement or lease.

(7) In case of the sale or transfer of the defaulting purchaser's or lessee's interest in part only of the land comprised in the agreement or lease, the Minister may cancel the agreement or lease as to the whole of the said land or as to any part thereof so sold, and may prepare and issue to the purchaser of such part a new agreement or lease therefor, and the new agreement or lease shall be effectual for all purposes as a transfer to the purchaser of the right, title, and interest of the defaulting purchaser or lessee in the part of the said land comprised in the new agreement or lease.

Subsec. (7)  
amended by 98,  
1969, s. 2 (d).

62. When a defaulting purchaser's or lessee's interest in an agreement or lease, or any part thereof, has been sold under section 61, the purchaser at the sale shall be liable for the payment of all instalments or rents (as the case may be) and other (if any) moneys falling due under the agreement or lease after the date of the sale in respect of the whole or of the part thereof sold (as the case may require), and from that date shall be bound by and subject to all the terms, covenants, conditions, and provisions of the agreement or lease.

Liability of  
purchaser for  
future defaults.  
1199, 1915,  
s. 66.

63. (1) When the sale of any interest under an agreement or lease has been effected by the Minister, he may transfer all the right, title, and interest of the defaulting purchaser or lessee to the purchaser at the sale; and the Registrar-General shall, when requested and on payment of the necessary fees, register the transfer, whereupon the same shall be effectual for all purposes as if the purchaser or lessee to whom the transfer is made were the original purchaser or lessee of the lands described and comprised in the agreement or lease.

Power to  
execute transfer  
of interests  
sold.  
1199, 1915,  
s. 67.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (d).

(2) If the agreement or lease cannot be obtained by the Minister, he may cancel the same and prepare a new agreement or lease in lieu thereof for the purchaser at the sale.

Subsec. (2)  
amended by 98,  
1969, s. 2 (d).

64. Any notice to be given to any lessee, licensee, or purchaser shall be deemed to have been duly given if the same has been sent through the post office enclosed in an envelope addressed to the lessee, licensee, or purchaser at—

Service of  
notices.  
1199, 1915,  
s. 68.  
S. 64 amended  
by 25, 1974,  
s. 17 (a), (b), (c).

(a) any address stated in any recent application, letter, or document received from the lessee, licensee, or purchaser;

Para. (a)  
amended by 25,  
1974, s. 17 (b).

(b) the lessee's, licensee's, or purchaser's usual or last known place of abode in the State; or

Para. (b)  
amended by 25,  
1974, s. 17 (c).

(c) the care of any solicitor, attorney, or agent acting in the lessee's, licensee's, or purchaser's behalf in the particular matter in respect whereof the notice is given,

Para. (c)  
amended by 25,  
1974, s. 17 (c).

and notice as aforesaid shall be deemed to have been given on, and time shall run from, the day of the posting thereof.

65. No lessee or purchaser shall be entitled to impound any cattle or sheep trespassing on leased land or land under agreement forming portion of or adjoining a travelling stock reserve unless the said land is enclosed with a fence which is sufficiently substantial and close to ordinarily resist the trespass of cattle or sheep, as the case may be.

Duty of lessees  
and purchasers  
not to impound  
in certain cases.  
1199, 1915,  
s. 69.

66. No statute of limitation shall bar or affect any action or remedy for the recovery of any principal, rent, interest, or instalments due under any lease or agreement.

Statute of  
limitation no bar  
to action.  
1199, 1915,  
s. 70.

## PART VI

Power to add small areas to leases and agreements.  
S. 66a enacted by 25, 1941, s. 5.

Subsec. (1) amended by 27, 1965, s. 14; 60, 1965, s. 6 (2); 45, 1968, s. 13; 98, 1969, s. 2 (d); 25, 1974, s. 18.

**66a.** (1) Where any parcel of Crown land, the value of which as fixed by the board does not exceed four thousand dollars, is adjacent to the land comprised in any lease or agreement, the Minister, on the recommendation of the board, may—

- (a) allot the said parcel of land to the lessee or purchaser of the adjacent land on such terms as are recommended by the board and accepted by the lessee or purchaser;

and

- (b) by a certificate of alteration alter the lease or agreement so as to include the said parcel of land therein, and make any consequential alteration of or addition to the terms, covenants and conditions thereof.

(2) It shall not be necessary by notice in the *Gazette* or otherwise, to invite applications for any such parcel of land.

Subsec. (3) amended by 98, 1969, s. 2 (d).

(3) Every certificate of alteration under this section shall be signed by the Minister.

Subsec. (4) amended by 98, 1969, s. 2 (e), (f).

(4) The Minister shall forward the certificate of alteration, together with the Land Office copy of the lease or agreement and the lessee's or purchaser's copy (if produced to the Minister) to the Registrar-General of Deeds.

The Registrar-General of Deeds shall register the certificate of alteration in the Lands Titles Office and assign a number thereto, and shall enter a memorial thereof on the copy of the lease or agreement in the Register of Crown Leases, and on the other copies forwarded to him, and shall return those other copies to the Minister of Lands.

Subsec. (5) amended by 98, 1969, s. 2 (d).

(5) The land included in a lease or agreement pursuant to a certificate of alteration shall be subject to the mortgages, encumbrances, subleases or other interests to which the other land comprised in the lease or agreement is subject, unless the certificate otherwise provides. The Minister shall, upon the request of the lessee or purchaser, include in the certificate, a statement that the land to which it relates is not subject to any mortgage, encumbrance, sublease, or other interest specified in the certificate.

Subsec. (6) struck out by 50, 1967, s. 9.

\* \* \* \* \*

Power to sell for cash parcel of land valued at less than \$4,000 to adjacent registered proprietor and to consolidate certificates of title in respect thereto.

S. 66b enacted by 27, 1965, s. 15.

Subsec. (1) amended by 60, 1965, s. 6 (2); 45, 1968, s. 14; 25, 1974, s. 19 (a).

**66b.** (1) Where any parcel of Crown land, the value of which as fixed by the board does not exceed four thousand dollars, is adjacent to land comprised in any land grant or certificate of title, the Minister, on the recommendation of the board, may sell for cash the said parcel of land to the registered proprietor of the adjacent land at such price as is recommended by the board and accepted by the registered proprietor.

(2) Where a sale has been effected pursuant to the power conferred by subsection (1) of this section and where pursuant to the provisions of this Act, (apart from this subsection) a land grant for the said parcel of land would be

issued to the said registered proprietor then, unless the Minister otherwise directs, the following provisions shall apply:—

- (i) The Minister shall give a certificate to the Registrar-General that the said parcel of land is to be vested in the said registered proprietor and if the said land is to be subject to any easement or reservation the certificate shall describe the easement or reservation.
- (ii) In lieu of a land grant being issued for any parcel of land sold under this section, a certificate of title shall on payment of the prescribed fee be issued by the Registrar-General comprising the said parcel of land and the adjacent land comprised in the land grant or certificate of title of the registered proprietor.
- (iii) Every certificate of title so issued shall be expressed to be subject and the land therein described shall be subject to such encumbrances, liens, interests, reservations, easements and trusts as were shown by the certificate of title for the adjacent land immediately prior to its consolidation and by the certificate given by the Minister as aforesaid.

(3) For the purpose of giving effect to subsection (2) of this section the Registrar-General may make such alterations in the Register Book as are necessary.

Alteration of  
Register Book.

(4) For the purposes of the public records of the State, where any consolidation is effected under subsection (2) of this section, any parcel of land so consolidated shall, if the Minister so determines, be deemed to be merged with and have the same identity as the adjacent land comprising the land grant or certificate of title of the registered proprietor with which it is consolidated. If any consolidation would affect land in any plan deposited in the General Registry Office or the Lands Titles Registration Office, the Registrar-General may call for any survey and may describe the land in the consolidated certificate of title in such manner as he deems advisable.

Subsec. (4)  
amended by 25,  
1974, s. 19 (b).

\* \* \* \* \*

Subsec. (5)  
struck out by 50,  
1967, s. 10.

## PART VIA

### SPECIAL DEVELOPMENT LANDS

## PART VIA

Part VIA and  
heading enacted  
by 50, 1967,  
s. 11.

**66c.** In this Part, "lease" means a perpetual (special development) lease granted under this Act.

Definition of  
lease.  
S. 66c enacted  
by 50, 1967,  
s. 11.

**66d.** (1) Where the board is of the opinion that the unrestricted use of any Crown lands, by reason of—

Special  
Development  
Lands.  
S. 66d enacted  
by 50, 1967,  
s. 11.

(a) the nature of the soil or topography of those lands;

or

(b) the situation of those lands in an area of doubtful rainfall,

would be likely to result in a hazard to the stability or productivity of those lands or of any lands, whether Crown lands or not, adjacent to those lands, then the board may recommend to the Minister that those lands be declared special development lands.



(2) Where a recommendation made in accordance with subsection (1) of this section has been approved by the Minister, the Governor may by proclamation declare the lands specified in the proclamation to be special development lands and may, after a like recommendation and approval, by proclamation amend, vary or revoke that proclamation.

Leases of  
Special  
Development  
Lands.  
S. 66e enacted  
by 50, 1967,  
s. 11.

**66e.** (1) Notwithstanding anything in this Act, special development lands shall not be offered except on lease and in accordance with this Part.

(2) A lease under this Part shall be designated a perpetual (special development) lease and shall, subject to this Act, vest the land comprised in it in the lessee in perpetuity.

(3) A lease shall contain the provisions for rent and the reservations, covenants and conditions set forth in the twelfth schedule, subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act, or as the Governor thinks fit and shall also contain such other provisions as the Governor thinks fit, together with a right of re-entry, and shall be read and construed as if any reservations, covenants and conditions in the form of the twelfth schedule had been expressed in the extended form set forth in the thirteenth schedule and the lessee and all persons entitled to any benefit of the lease shall be bound thereby.

Excluded areas.  
S. 66f enacted  
by 50, 1967,  
s. 11.

**66f.** (1) In a notice under section 23 of this Act relating to special development lands the Minister shall cause to be delineated on a map as excluded areas any areas of land comprised in the proposed lease which, on the advice of the board, he considers should not be cleared, cultivated or used for grazing.

(2) The Minister may at any time after the grant of a lease, on the advice of the board, vary the boundaries of the areas delineated in accordance with subsection (1) of this section by causing a map showing those variations to be forwarded to any lessee affected thereby.

(3) In advising the Minister for the purposes of this section the board shall consult with and act on the advice of the person for the time being holding or acting in the office of Soil Conservator under the Soil Conservation Act, 1939-1960<sup>1</sup>.

Powers of  
board in  
connection with  
leases.  
S. 66g enacted  
by 50, 1967,  
s. 11.

**66g.** (1) Subject to subsection (2) of this section, the board shall not accept an application for the grant of a lease or recommend the granting of an application under subsection (1) of section 225 of this Act, unless it is satisfied that the intended lessee, transferee or sublessee, as the case may be—

(a) is not the holder of or otherwise interested in a lease;

(b) has the capacity to develop and manage the land in connection with which the application is made;

and

(c) possesses the financial or other resources necessary to develop and manage that land.

(2) Where the board is satisfied as to the matters referred to in paragraphs (b) and (c) of that subsection it may recommend the transfer of all or portion of a lease to a person who is the holder of a lease if the board is satisfied that the lease or portion of a lease intended to be transferred will be amalgamated with the lease held by that person.

<sup>1</sup> Now Soil Conservation Act, 1939-1975.

## PART VIA

66h. (1) Sections 35, 57, 61, 210 and 212 of this Act shall not apply to or in relation to special development lands or leases as the case may be.

Application of the Act.  
S. 66h enacted by 50, 1967, s. 11.  
Subsec. (1) amended by 98, 1969, s. 7 (a), (b).

(2) This Act other than the sections and subsections referred to in subsection (1) of this section shall, subject to this Part, apply to and in relation to—

(a) Crown lands being special development lands;

and

(b) leases as if those leases were perpetual leases offered otherwise than as perpetual (special development) leases,

as the case may be.

## PART VII

## PART VII

## LEASES OTHER THAN PERPETUAL

\* \* \* \* \*

Div. I and ss. 67-73a repealed by 27, 1965, s. 16.

## DIVISION II—MISCELLANEOUS LEASES

## DIVISION II

74. (1) Leases, on such terms and conditions as the Governor thinks fit, or as are prescribed, may be granted to any *bona fide* discoverer of any guano or other valuable substance or deposit (not being a metal, or metalliferous ore, or coal, or petroleum, or other mineral oil) of any Crown lands or other lands belonging to or vested in the Crown on which the discovery has been made.

Leases to discoverers. 1199, 1915, s. 80.

(2) No person shall hold under such leases at one and the same time more than 250 hectares.

Subsec. (2) amended by 25, 1974, s. 20.

75. (1) The Minister may resume possession of any well or other place where water has been found or conserved, and also of not more than 250 hectares of land contiguous thereto, without prejudice to any other power of resumption. Where water so found or conserved is artesian the area resumed may be 1 250 hectares or less. The lessee of the land previous to resumption shall have a preferential right to any proposed lease of the said land.

Power of Minister to resume place where water found, and contiguous land. 1199, 1915, s. 81.

Subsec. (1) amended by 98, 1969, s. 2 (g); 25, 1974, s. 21 (a), (b).

(2) Compensation for resumption shall be payable as provided by subsection (2) of section 53, except in respect of any well or other improvement made by the Minister.

Subsec. (2) amended by 98, 1969, s. 2 (g).

76. (1) The Governor may offer a lease of any such land by private contract or by public auction.

Leases of resumed lands. 1199, 1915, s. 82.

(2) Every such lease shall contain the conditions, on the part of the lessee, set forth in the sixth schedule, and such other covenants, terms, and conditions as the Governor thinks fit.

## PART VII

## DIVISION II

Miscellaneous  
leases.

1199, 1915,  
s. 83.  
1882, 1928,  
s. 16.

Subsec. (1)  
amended by 40,  
1939, s. 6;  
45, 1968,  
s. 15 (a), (b);  
98, 1969,  
s. 2 (g).

Para. III  
amended by 98,  
1969, s. 2 (g).

Para. IX  
amended by 45,  
1968, s. 15 (a).

Para. X  
amended by 98,  
1969, s. 2 (g).

Subsec. (2)  
inserted by 40,  
1939, s. 6.

Allotment of  
land, covenants  
and provisions  
in leases  
granted under  
s. 77.

1199, 1915,  
s. 84.

S. 78 amended  
by 45, 1968,  
s. 16 (a), (b).

Para. (a)  
substituted by  
45, 1968,  
s. 16 (a).

Power to  
reduce rent  
under  
miscellaneous  
lease.

S. 78a inserted  
by 2060, 1931,  
s. 4.

Subsec. (1)  
amended by 98,  
1969, s. 2 (g).

Subsec. (2)  
amended by 98,  
1969, s. 2 (g).

Subsec. (3)  
amended by 98,  
1969, s. 2 (g).

77. (1) Leases may be granted of any Government buildings not required for Government purposes, or of any Crown lands, or other lands belonging to or vested in the Crown, for any term not exceeding twenty-one years from the date thereof, at such rent, and upon such terms and conditions as the Minister thinks fit, for any of the following purposes, that is to say—

- I. For obtaining and removing therefrom guano or other manure:
- II. For obtaining and removing therefrom stone and clay, or other earth:
- III. For sites for inns, stores, smithies, bakeries, or other buildings for business purposes which the Minister approves in thinly-populated districts:
- IV. For sites for bathing-houses, bathing-places, mail stations, toll or punt houses:
- V. For sites for tanneries, factories, sawmills, or papermills:
- VI. For sites for wharves, quays, jetties, or landing places, and for sites for the depositing of materials or produce:
- VII. For sites for ship or boat building, or repairing:
- VIII. For any purposes for which licences may be granted under this Act:
- IX. For grazing and cultivation, or for grazing only:
- X. For any other purpose approved by the Minister, whether similar to any of the above-mentioned purposes or not.

(2) Any lease granted under this section may provide that the rent thereunder shall be payable either quarterly or half-yearly or annually.

78. Every lease granted under section 77 shall—

- (a) be allotted in the discretion of the board:
- (b) contain, in addition to other covenants, a covenant by the lessee to use the land *bona fide* solely for the purpose for which it is leased:
- (c) contain a provision for forfeiture upon breach of any covenant.

78a. (1) The Minister, if he is satisfied that the rent payable under any miscellaneous lease is too high, may make such (if any) reduction thereof as, after reference by the Minister to the board, is recommended by the board.

(2) Every reduction of rent under this section shall take effect from such date as the Minister in every case determines and every reduction of rent may be for such period as the Minister in every case determines.

(3) The powers of the Minister under this section may, in the case of any such lease, be exercised from time to time as the Minister thinks fit, notwithstanding that one or more reductions have already been made by the Minister in respect of the same lease.

PART VII

## DIVISION III—VARIOUS

DIVISION III

79. All leases of lands vested in the Commissioner of Educational Lands from and after the eighth day of December, 1888<sup>1</sup>, shall continue to be perpetual leases or agreements. All such lands which have not heretofore been dealt with shall hereafter be dealt with by the board under Part V.

Education lands to be dealt with by board.  
1199, 1915,  
s. 85.

\* \* \* \* \*

S. 80 repealed by 27, 1965, s. 17.

\* \* \* \* \*

S. 81 repealed by 45, 1968, s. 17.

PART VIIIPART VIII

## THE LYRUP VILLAGE SETTLEMENT

## DIVISION I—INTERPRETATION AND APPLICATION

DIVISION I

82. In this Part, except where the subject matter or context, or some other provision requires a different construction—

Interpretation.  
1199, 1915,  
s. 88.

“association” means the Lyrup Village Association mentioned in Division II of this Part:

“district” means district of the association:

“improvements” means substantial and permanent improvements, consisting of buildings, fencing, dams, tanks, wells, drainage and irrigation works, clearing, grading, cultivating, planting with fruit trees, vines, grasses, or cereals:

“inspector” means the Inspector of Village Settlements:

“irrigation works” means all channels, watercourses, machinery, and other property and improvements constructed or erected in the district of the association for irrigation purposes, and belonging to the association:

“reserved lands” means the land reserved for or occupied by the association or by the members thereof:

“rules” means the rules prescribed for the management of the association:

“trustees” means the trustees for the time being of the association.

83. The provisions of this Part shall apply, in and with respect to the district, only to the extent to which the operation of the corresponding provisions of the repealed Acts has not been exhausted, with respect to the district, before the passing of this Act.

This Part to apply so far as repealed Acts not exhausted.  
1199, 1915,  
s. 89.

84. In case any of the provisions of this Part are inconsistent with anything lawfully done before the passing of this Act, or with the power to do anything after the said passing, in or with respect to the district or any lands in the district, under the Irrigation Act, 1930<sup>2</sup>, the Irrigation Act, 1922, or any Act thereby repealed, the passing of this Act shall not be held to affect the validity of any such thing or to affect any such power.

Passing of this Act not to affect operation of Irrigation Act.  
1199, 1915,  
s. 90.  
S. 84 amended by 2246, 1935, s. 4 (2nd Sched.).

<sup>1</sup> Reference to the year eighteen hundred and eighty-eight altered to 1888 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

<sup>2</sup> Now Irrigation Act, 1930-1975.

## PART VIII

## DIVISION II

## DIVISION II—CONSTITUTION OF THE LYRUP VILLAGE ASSOCIATION

Continuance of  
Lyrup Village  
Association.  
1199, 1915,  
s. 91.

85. The constitution and registration of The Lyrup Village Association are hereby further confirmed, and the association shall continue a body corporate, having perpetual succession and a common seal (of which the corporate name of the association shall form part) and the right and liability to sue and be sued, and shall have and be subject to the rights, authorities, duties, and liabilities hereinafter appearing.

Companies Act  
not to apply.  
1199, 1915,  
s. 92.  
S. 86 amended  
by 2246, 1935,  
s. 4 (2nd  
Sched.);  
45, 1968, s. 18.

86. The Companies Act, 1962, as amended<sup>1</sup>, shall not apply to the association.

Lands to be set  
apart and  
subdivided.  
1199, 1915,  
s. 93.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (g).

87. (1) Out of the reserved lands the Minister shall set apart for the purposes of this Part—

- (a) such land as he considers fit for horticultural purposes, hereinafter termed "horticultural lands";
- (b) such land as he considers fit for agricultural purposes, hereinafter termed "commonage lands"; and
- (c) land whereon any irrigation works are situated.

Subsec. (2)  
amended by 98,  
1969, s. 2 (g);  
25, 1974, s. 22.

(2) The Minister shall cause the lands so set apart to be subdivided as follows:—

Para. I amended  
by 25, 1974,  
s. 22.

- I. The horticultural lands into blocks of as nearly as practicable equal unimproved value, and of about 5 hectares in extent; and
- II. The commonage lands into one or more blocks of such area as he determines.

District of  
association.  
1199, 1915,  
s. 94.

88. The lands set apart shall form the district of the association.

Horticultural  
blocks.  
1488, 1921,  
ss. 4, 5, 14, 16.  
1934, 1929, s. 4.  
2120, 1933,  
s. 13.  
S. 88a enacted  
by 2246, 1935,  
s. 4 (2nd  
Sched.).

88a. (1) The land described in the tenth schedule is hereby declared to be added to the district of the association.

Subsec. (2)  
amended by 98,  
1969, s. 2 (g).

(2) Out of the said land the Minister shall set apart for the purposes of this Part—

- (a) such land as he thinks fit for horticultural purposes; and
- (b) such land as he thinks fit for the purpose of the construction of irrigation works.

Subsec. (3)  
amended by 98,  
1969, s. 2 (g).

(3) The Minister shall cause the lands so set apart to be subdivided into nine blocks (hereinafter in this section referred to as "horticultural blocks") of as nearly as practicable equal unimproved value.

Subsec. (4)  
amended by 98,  
1969, s. 2 (g).

(4) The Minister may lease any horticultural block set apart under this section to any person who is eligible for membership of the association, and thereupon that person shall be deemed for all purposes to become a member of the association.

<sup>1</sup> Now Companies Act, 1962-1974.

(5) Notice shall be given in the *Government Gazette* that any unleased blocks are open to application. The notice shall contain such particulars as the Minister thinks proper.

Subsec. (5)  
amended by 98,  
1969, s. 2 (g).

(6) The blocks shall be allotted by the board.

(7) The provisions of subsection (6) of section 94 shall not apply to any such block.

(8) The Minister may, on granting a lease, obtain from the lessee such premium (if any), not exceeding the sum of twenty dollars, as he thinks fit, and such premium shall be the property of the association.

Subsec. (8)  
amended by 60,  
1965, s. 6 (2);  
98, 1969,  
s. 2 (g).

(9) All unleased horticultural blocks shall be under the control of the association, and the association shall keep all improvements thereon in good repair.

(10) All the provisions of this Part shall, *mutatis mutandis*, so far as they are not inconsistent with this section, apply to and in respect of the land referred to in this section as if the said land had formed part of the reserved lands referred to in this Part.

89. The Governor may, by proclamation, rescind the proclamation of the district, and determine any lease granted under this Part, under the Lyrup Village Association (District Extension) Act, 1921, under Part VIII of the Crown Lands Act, 1915, or under Part VIII of the Crown Lands Act, 1903, if the conditions of the lease are not well and faithfully observed and performed to the satisfaction of the Minister.

Determination  
of district and  
leases.  
1199, 1915,  
s. 95.  
S. 89 amended  
by 2246, 1935,  
s. 4 (2nd  
Sched.);  
98, 1969,  
s. 2 (g).

## DIVISION III—VALUATIONS

## DIVISION III

90. (1) Upon a subdivision under Division II of this Part, separate valuations shall be made of—

Valuations.  
1199, 1915,  
s. 96.

(a) the irrigation works in the district;

(b) the improvements (if any) on each of the horticultural blocks in the district;

(c) the improvements (if any) on each of the blocks of the commonage land in the district;

(d) all the personal estate belonging to the association.

(2) If the Minister and the association do not forthwith after such a subdivision agree as to valuation, the amount thereof shall be decided by arbitration, pursuant to the Arbitration Act, 1891<sup>1</sup>; one arbitrator being appointed by the Minister and the other by the trustees, or, if no unanimous nomination is made then by a majority of the trustees.

Subsec. (2)  
amended by 98,  
1969, s. 2 (g).

91. No improvement shall be valued at a sum in excess of the value thereof considered solely in connection with its worth to the association or to the members thereof at the time of valuation.

Basis of  
valuation.  
1199, 1915,  
s. 97.

92. The amount of the valuations in respect of the district of the association determined as aforesaid shall be deemed to be the total indebtedness of the association to the Minister, and the excess (if any) over the valuation due by the association to the Minister shall be deemed to be written off.

Excess of debts  
over valuations  
to be written  
off.  
1199, 1915,  
s. 98.  
S. 92 amended  
by 98, 1969,  
s. 2 (g).

<sup>1</sup> Now Arbitration Act, 1891-1974.

## PART VIII

## DIVISION III

Sums so written off to be provided in estimates. 1199, 1915, s. 99.

93. The aggregate amount of the sums written off, and also the total indebtedness of any settlement which is closed, shall be provided for in seven equal parts by the Treasurer on the Estimates during the seven years next following the year in which the decision of the arbitrators or umpire is given.

## DIVISION IV

## DIVISION IV—LEASES

Determination of occupation. 1199, 1915, s. 100.

94. (1) When the valuation in the district is agreed or fixed, the Governor may, by proclamation, determine the occupancy by any person or the association of the reserved land in the district, and the said land shall thereupon revert to the Crown free from encumbrance.

Subsec. (2) amended by 98, 1969, s. 2 (g).

(2) The Minister shall forthwith lease such of the horticultural blocks in the district of the association whose occupation has been so determined as he thinks fit, to individual members of the association on perpetual lease, subject as hereinafter appears.

Subsec. (3) amended by 98, 1969, s. 2 (g).

(3) The Minister may lease any of such blocks to a person not a member of the association, and thereupon that person shall be deemed for all purposes to become a member of the association.

Subsec. (4) amended by 98, 1969, s. 2 (g).

(4) Notice shall be given in the *Government Gazette* that any unleased blocks are open to application, and the notice shall contain such particulars as the Minister thinks proper.

(5) The blocks shall be allotted by the board.

(6) No person shall hold more than two blocks, and every lessee shall hold his block for his individual use and enjoyment.

Subsec. (7) amended by 98, 1969, s. 2 (g).

(7) The Minister may, on granting a lease, obtain from the lessee such premium (if any) as he may think fit, and the said premium shall be the property of the association.

(8) Commonage lands shall be leased to and held by the association on perpetual lease, subject as hereinafter appears.

Subsec. (9) amended by 98, 1969, s. 2 (g).

(9) All unleased horticultural blocks shall be under the control of the association, and the association shall keep all improvements thereon in good repair, and shall pay to the Minister interest at the rate of five per centum per annum on the amount of the agreed valuation.

Power to transfer leases of commonage lands. 1803, 1927, s. 3. S. 95 amended by 98, 1969, s. 2 (g).

95. The association may, subject to the consent of the Minister, transfer the whole or any part of any commonage lands held on lease as mentioned in section 94.

Rent of horticultural and commonage lands. 1199, 1915, s. 101. S. 96 amended by 98, 1969, s. 2 (g).

96. The annual rent to be reserved by any lease, whether of horticultural blocks or commonage lands, shall be fixed by the board, and shall commence at a date to be fixed by the Minister.

PART VIII  
DIVISION IV

97. The amount of the valuation of the improvements, which shall be valued separately on each horticultural block, together with interest on that amount at the rate of four and one half dollars per centum per annum<sup>1</sup> (all hereinafter included in the term "the members' debt") shall be a first charge upon the blocks, and shall be deemed a debt due by the lessee thereof for the time being, and shall be paid to the Minister by the lessee by forty-two annual instalments, the first of such payments to be made at the expiration of twelve months from the date of commencement of the lease: Provided that the lessee may pay the whole or any portion of the balance due at any time.

Payment of value of improvements on each horticultural block, and interest thereon. 1199, 1915, s. 102.  
S. 97 amended by 60, 1965, s. 6 (1) (Sched.); 98, 1969, s. 2 (g).

98. (1) The amount of the valuation of the irrigation works, the improvements on the commonage lands, and the personal estate as aforesaid of or in the district of the association, together with interest on the said amount at the rate of four and one half dollars per centum per annum<sup>1</sup> (all hereinafter included in the term "the association's debt") shall be a first charge upon all the property of and shall be deemed a debt due by the association; and the said amount and interest shall be paid to the Minister by the association by forty-two annual payments; the first payment to be made at the expiration of twelve months from the date of commencement of the lease.

Payment of value of irrigation works and of improvements on commonage lands and interest. 1199, 1915, s. 103.  
Subsec. (1) amended by 60, 1965, s. 6 (2); 45, 1968, s. 19; 98, 1969, s. 2 (g).

(2) If and so often as the association fails to duly make the said annual payment, the same shall be recoverable from the members of the association, every member being liable to pay a proportion thereof, such proportion to be ascertained by dividing the amount of such annual payment (or the unpaid balance thereof) by the number of members of the association at the time when the default occurred; and the said proportion shall also be a charge upon the block of every such member, subject only to the charge created by section 97: Provided that the lessee may pay the whole or any portion of the said moneys at any earlier times than specified herein.

99. Every lease of a horticultural block and of commonage lands shall be prepared by the Minister, and shall contain such covenants, conditions, and reservations as the Minister determines; and every lease of horticultural land shall contain the right to assign or sublet the same with the consent of the Minister.

Covenants, etc. in leases of horticultural and commonage lands. 1199, 1915, s. 104.  
S. 99 amended by 98, 1969, s. 2 (g).

100. The leases shall be executed within the time and in the manner prescribed, and in the case of—

Execution of leases. 1199, 1915, s. 105.  
1803, 1927, s. 4.

- I. horticultural land, by the lessee:
- II. commonage land, by the association,

or where the commonage land has been transferred, by the transferee thereof.

101. If the lessee fails to comply in any respect with the provisions of this Act or of his lease, the Minister may forfeit the interest of the lessee in the block, and cause that interest to be sold by auction or disposed of to any person qualified to become a member of the association, on such terms as he thinks fit. Any person so acquiring any such block shall be deemed to stand in the position of the original lessee, and, if not already a member, shall be deemed to be one.

Power to forfeit lessee's interest. 1199, 1915, s. 106.  
S. 101 amended by 98, 1969, s. 2 (g).

<sup>1</sup> Pursuant to s. 8 (2) of the Acts Republication Act, 1967, as amended, the reference to the percentage expressed in decimal currency has been substituted for the reference to the percentage expressed in the old currency.



## PART VIII

## DIVISION V

## DIVISION V—IRRIGATION WORKS

Vesting of  
irrigation works  
in Minister.  
1199, 1915,  
s. 107.

Subsec. (1)  
amended by 98,  
1969, s. 2 (g).

Subsec. (2)  
amended by 98,  
1969, s. 2 (g).

Subsec. (3)  
inserted by 25,  
1974, s. 23.

Vesting of  
water in  
irrigation works  
in association.  
1199, 1915,  
s. 108.

Duty of  
association to  
manage  
irrigation works  
subject to  
Minister.  
1199, 1915,  
s. 109.

Subsec. (1)  
amended by 98,  
1969, s. 2 (g).

Subsec. (2)  
amended by 98,  
1969, s. 2 (g).

Subsec. (3)  
amended by 98,  
1969, s. 2 (g).

102. (1) The property in all irrigation works is vested in the Minister for the purposes of this Act.

(2) When the charges imposed by sections 97 and 98 have been satisfied in respect of all the land in the district the Governor shall, by proclamation, vest in the association the irrigation works therein for the purposes of this Act, and the said irrigation works and the association shall no longer be subject to control by the Minister.

(3) The irrigation works shall be exempt from any rate, tax or impost declared or imposed by statute.

103. All water in the said irrigation works shall be the property of the association, and shall be used by the association for the purposes of this Act.

104. (1) The control of the irrigation works, including all alterations and additions thereto, and the collection and distribution of the water, shall belong to the association, but subject to the direction of the Minister, who may assume the control thereof, to the exclusion of the association.

(2) The association shall keep the irrigation works within its district in thorough repair and maintain and renew the same as occasion requires, to the satisfaction of the Minister.

(3) The expenses incurred by the association or by the Minister in such control, management, maintenance, renewal, and repair (hereinafter termed the "irrigation expenses") shall be payable by the members of the association equally, as and when the Minister determines. In the event of dispute, the decision of the Minister as to the proportion of expenses to be paid by each member shall be final.

## DIVISION VI

## DIVISION VI—MANAGEMENT OF THE ASSOCIATION

Management.  
1199, 1915,  
s. 110.  
S. 105 amended  
by 98, 1969,  
s. 2 (g).

Powers of  
Minister.  
1199, 1915,  
s. 111.  
S. 106 amended  
by 98, 1969,  
s. 2 (g).

Para. 1 amended  
by 98, 1969,  
s. 2 (g).

105. The business and affairs of the association shall, subject in all things to the approval of the Minister and to this Act and to rules, be managed by a board to be appointed in manner prescribed.

106. The Minister shall have the following powers with respect to the association whilst the whole or any part of the debts or amounts referred to in sections 97 and 98 remains unpaid:—

1. He may expel any member from the association, and may summarily eject and remove any such member from the district of the association: Provided that this power shall only be exercised in cases where notice has been given by the Minister to the trustees requiring the expulsion of the member under the rules, and default has been made in such expulsion for at least fourteen days after the giving of the said notice. If the association appeals against the decision of the Minister it shall be entitled to nominate an arbitrator, who, with one to be appointed by the Minister, shall

have power to reconsider and may reverse the decision of the Minister. If they fail to agree, the arbitrators shall nominate an umpire, whose decision shall be final:

- II. He may control and direct the expenditure of any moneys by the association:
- III. He may call upon any trustee of the association to retire from office in any case where he deems it desirable for the welfare of the association that the trustee should so retire, and the trustee shall retire accordingly:
- IV. He may require the association to increase the number of members, and if the said requisition is not complied with within six calendar months after the date of service of the requisition upon the association, may cancel the lease to the association:
- V. He may make, amend, and repeal rules for the management of the association, and for the regulation, maintenance, and control of the irrigation works, and for the supply of water for irrigation and other purposes, and for the payment of all expenses incident thereto, and generally for the better carrying out of the purposes of this Part.

107. Except as is provided by section 107a of this Act, no advances or allowances shall hereafter be made by the Minister to the association.

Restriction of further advance to association.  
1199, 1915, s. 114.  
S. 107 amended by 98, 1969, s. 2 (g); 110, 1972, s. 3.

107a. (1) The purposes of this section are the construction, installation and rehabilitation of irrigation and drainage headworks and ancillary works associated therewith by or on behalf of the association in accordance with plans and specifications from time to time approved by the Minister.

Advances to association.  
S. 107a enacted by 110, 1972, s. 4.

(2) Subject to this section, the Treasurer may pay to the association from time to time such amount or amounts, together with any amount or amounts paid pursuant to this subsection before the commencement of the Crown Lands Act Amendment Act, 1973, not exceeding in total the sum of two hundred and fifteen thousand dollars by way of grant or by way of loan as shall be required by the association for the purposes of this section.

Subsec. (2) amended by 17, 1973, s. 2 (a), (b).

(3) The total sum paid to the association by way of grant pursuant to subsection (2) of this section, together with any sum so paid before the commencement of the Crown Lands Act Amendment Act, 1973, shall not exceed the sum of ninety-five thousand dollars.

Subsec. (3) amended by 17, 1973, s. 2 (c), (d).

(4) The amount paid to the association by way of loan pursuant to subsection (2) of this section shall be repaid by the association to the Treasurer with interest at the rate of five per centum per annum, computed from the thirtieth day of June, 1974, by forty equal annual payments to be made on the first day of July in each year commencing on and including the first day of July, 1975.

(5) This Act, without further appropriation, shall be sufficient authority for making any payment mentioned in subsection (2) of this section.

## PART VIII

## DIVISION VI

Duties of lessees not to remove, destroy, or injure improvements while moneys owing.  
1199, 1915, s. 115.  
Subsec. (1) amended by 98, 1969, s. 2 (g).

108. (1) While the debts or amounts referred to in sections 97 and 98, or any part thereof, remain unpaid the lessee of any horticultural block shall not—

- (a) pull down or remove from the land whereon the same are; or
- (b) knowingly suffer to be pulled down or removed; or
- (c) wilfully or knowingly destroy, damage, or injure, or suffer to be destroyed, damaged, or injured,

any permanent building, erection, or irrigation work erected or made upon the land in the district of the association, without first obtaining the written consent of the Minister.

(2) Any person offending against any provision of this section shall forfeit his lease, and shall be guilty of a misdemeanour, and be punishable, on conviction, by imprisonment for any term not exceeding two years.

Appointment of inspector.  
1199, 1915, s. 116.  
S. 109 amended by 98, 1969, s. 2 (g).

109. The Governor may appoint an officer, to be styled "The Inspector of Village Settlements", to assist the Minister in the execution of this Act.

Control of commonage lands.  
1199, 1915, s. 117, 1740, 1926, s. 38, 1803, 1927, s. 5.  
Subsec. (1) amended by 98, 1969, s. 2 (g).

110. (1) The commonage lands to be leased to the association shall be under the control of the association, but subject to the direction of the Minister, and shall be worked by the association for the common good and benefit of the members thereof upon the principles of co-operation and equitable division, and the said lands may be sublet or transferred by the association in whole or in part: Provided that the consent of the Minister to the subletting or transferring shall be obtained in accordance with section 225 of this Act.

Subsec. (2) amended by 98, 1969, s. 2 (g).

(2) Every member of the association shall provide or contribute, towards the maintenance and working of the irrigation works and the care and cultivation of the commonage lands of the association whereof he is a member, such labour (not being less than thirty-six days during every successive period of six months while he is a member) as the Minister requires, or such sum in cash as the Minister considers the equivalent of such labour; and every such member shall be entitled to credit in the books of the association for the value of the said work as the said value is assessed by the Minister, or for the said cash, as the case may be: Provided that the Minister may by notice in writing to the association—

- (a) suspend the operation of this subsection either for a definite period fixed by the notice, or until the giving of a further notice removing the suspension; or
- (b) postpone the time for making any payment under this section for such period as is fixed by the notice.

A notice given under this proviso may suspend the operation of this subsection as regards all or any of the members of the association according to the tenor thereof.

Commonage lands accounts.  
1199, 1915, s. 118.  
Subsec. (1) amended by 98, 1969, s. 2 (g).

111. (1) The association shall cause an account to be prepared once in every year of the working of the commonage lands, showing therein all expenditure and income in connection therewith, including the amount of the assessed value of the members' labour, and after making provision to the satisfaction of the Minister for rent, working expenses of the commonage lands (including a proportion of the irrigation expenses), and for depreciation and

PART VIII  
DIVISION VI

renewal of the plant, tools, and live stock of, and the irrigation works in the district of the association, the surplus (if any), after deducting twenty-five per centum therefrom for a sinking fund for renewal of plant, *et cetera*, may be divided amongst those persons who are then members of the association, in proportion to the amount of their respective credits in the books of the association for earnings since the thirty-first day of December, 1903<sup>1</sup>.

(2) A copy of every account, certified by the trustees, shall be forwarded to the Minister.

Subsec. (2) amended by 98, 1969, s. 2 (g).

112. All disputes of a civil nature between members arising out of the affairs of the association shall be settled by arbitration and umpirage of any three or more members, not parties to the disputes, in manner provided by the rules, and the parties thereto shall not be entitled to maintain any action in respect of the disputes except for the amounts determined by the award. The decision of a majority of such members shall be valid and effectual.

Arbitration. 1199, 1915, s. 119.

113. Any process or document served upon a trustee of the association shall be deemed to have been served upon the association.

Service of proceedings on association. 1199, 1915, s. 120.

114. The proportion of irrigation expenses, and the annual instalments of the association's debts and of the members' debts payable by the association or by any member of the association, shall, amongst other ways, be recoverable by distress and sale of the goods and chattels of the association or person in default, together with such charges as are prescribed.

Annual instalments of charge and irrigation expenses recoverable by distress. 1199, 1915, s. 121.

115. Notwithstanding the charges imposed by sections 97 and 98, the association, with the prior consent, in writing, of the Minister (which he is hereby authorized to give on such terms as he thinks fit), may, in the ordinary course of business, sell or dispose of any of the goods, chattels, and effects of the association free from the said charges.

Power of association with Minister's consent, to dispose of goods, etc., notwithstanding charge thereon. 1199, 1915, s. 122.  
S. 115 amended by 98, 1969, s. 2 (g).

116. A copy of the rules of the association, and all the accounts of the association rendered to the Minister, shall be open to public inspection on payment of the sum of twenty cents for every such inspection.

Public inspection of documents furnished to Minister. 1199, 1915, s. 123.  
S. 116 amended by 60, 1965, s. 6 (2); 98, 1969, s. 2 (g).

PART IX

PART IX

HOMESTEAD BLOCKS

DIVISION I—ACQUIREMENT AND RE-OFFERING OF LANDS

DIVISION I

\* \* \* \* \*

S. 117 repealed by 45, 1968, s. 20.

<sup>1</sup> Reference to the year nineteen hundred and three altered to 1903 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

## PART IX

## DIVISION I

Transfer of  
homestead  
blocks.

1199, 1915,  
s. 125, 1882,  
1928, s. 17.

S. 118 amended  
by 45, 1968,  
s. 21.

118. Homestead blocks may be transferred, and held in any area.

S. 119 repealed  
by 45, 1968,  
s. 22.

\* \* \* \* \*

S. 120 repealed  
by 98, 1969,  
s. 8.

\* \* \* \* \*

S. 121 repealed  
by 45, 1968,  
s. 24.

\* \* \* \* \*

## DIVISION II

## DIVISION II—LEASES AND AGREEMENTS

Lease or  
agreement may  
be granted of  
more than one  
block.

1199, 1915,  
s. 129, 1882,  
1928, s. 18.

122. A lease or agreement may include one or more block or blocks of land.

Receipts for  
rent or  
instalments to  
constitute  
holding title.  
1199, 1915,  
s. 130.

123. The receipts for current rent or instalments shall be a sufficient holding title so long as the lessee or purchaser continues to reside on his land, but in case of transfer or mortgage a lease or agreement shall be taken out.

## DIVISION III

## DIVISION III—PROTECTED HOMESTEAD BLOCKS

S. 124 repealed  
by 45, 1968,  
s. 25.

\* \* \* \* \*

Effect of  
endorsement.

1199, 1915,  
s. 132, 1311,  
1917, s. 4, 1882,  
1928, s. 19.

S. 125 amended  
by 45, 1968,  
s. 26; 98, 1969,  
s. 2 (g).

125. The effect of any endorsement made pursuant to section 124 of this Act as in force before the commencement of the Crown Lands Act Amendment Act, 1968, or made under any corresponding previous enactment and, in either case, not having been cancelled pursuant to this section or any corresponding previous enactment shall be—

- (a) that no subsequent encumbrance by the blockholder of the land or his estate or interest therein, or of any part thereof respectively, except the loan agreement provided for in Division VI of this Part shall have any validity;
- (b) that the land, or any part thereof, or the estate or interest of the blockholder therein, or any part thereof, shall not be liable to be seized or taken in execution for debt under process of any court, except for the payment of rates and taxes; and shall not vest in the trustee of his estate, in case of the blockholder's insolvency, or unless otherwise expressly provided by the will of the blockholder, become, on his death, assets for the payment of debts: Provided that this subdivision shall not apply to the recovery of any such debt incurred by the blockholder prior to the date of endorsement, or to any legal proceedings that may be taken in respect thereof.

And the land, and the blockholder's interest or estate therein, shall, notwithstanding subsequent transfer, continue to be so protected unless before registration of the transfer the transferee subscribes upon the transfer a request that the protection may be removed, or unless the blockholder forwards to the

Minister a request in writing that the protection may be removed; in either of which cases the Minister shall cancel the endorsement before the lease, agreement, land grant, or certificate of title, as the case may be, is issued or returned to the transferee or blockholder, and the protection shall cease to operate accordingly as from the date of the cancellation.

DIVISION IV—SPECIAL PROVISIONSDIVISION IV

\* \* \* \* \*

Ss. 126, 127  
repealed by 45,  
1968, s. 27.

\* \* \* \* \*

S. 128 repealed  
by 98, 1969,  
s. 9.

129. When the Minister is satisfied that the blockholder is unable to continue in occupation of his block, he may allow him to assign or sublet his block, together with the improvements thereon.

When  
blockholder  
may assign or  
sublet.  
1199, 1915,  
s. 136.  
S. 129 amended  
by 98, 1969,  
s. 2 (g).

DIVISION V—AGREEMENT OR LEASE ON SURRENDERDIVISION V

130. The lessee of any homestead lease, having complied with the provisions contained in his lease, and repaid all moneys due under his loan agreement, may make written application to surrender the lease under Part XI, and to obtain in lieu thereof an agreement or perpetual lease.

Homestead  
lease may be  
surrendered for  
agreement or  
perpetual lease.  
1199, 1915,  
s. 137.

\* \* \* \* \*

Division VI,  
heading and  
ss. 131-143  
repealed by 45,  
1968, s. 28.

PART XPART XCLOSER SETTLEMENTDIVISION I—POWER TO ACQUIRE LANDSDIVISION I

144. The Minister may, by repurchase, acquire land for the purposes of this Part at a cost not exceeding twelve hundred thousand dollars in any period of two financial years (reckoning the first of such periods to have commenced on the first day of July, 1910<sup>1</sup>), subject to the following conditions, namely:—

Acquisition of  
land by  
repurchase.  
1199, 1915,  
s. 153.  
S. 144 amended  
by 26, 1944,  
s. 11; 60, 1965,  
s. 6 (2); 98,  
1969, s. 2 (g).

- I. That the repurchase is recommended and the improvements are valued by the board:
- II. That within thirty days after any repurchase, if Parliament is then in session, or if Parliament is not then in session, then within thirty days after the commencement of the next session, there shall be laid before both Houses copies of all recommendations and valuations pursuant to which the purchase has been made, and full particulars of—

Para. I amended  
by 26, 1944,  
s. 11.

- (a) the locality, area, and quality of the land repurchased, and of the improvements thereon;

<sup>1</sup> Reference to the year nineteen hundred and ten altered to 1910 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

## PART X

## DIVISION I

(b) the names of the vendors and of all persons interested in the sale; and

(c) the price paid and the land tax assessment.

Acquisition of land compulsorily.  
1199, 1915,  
s. 154, 1231,  
1915, s. 3, 1546,  
1922, s. 123.  
S. 145 amended  
by 1990, 1930,  
s. 3; 26, 1944,  
s. 12; 98, 1969,  
s. 2 (g).

145. The Minister may also acquire land for the purposes of this Part, as provided by Division II of this Part.

The provisions of section 144, *mutatis mutandis*, shall apply in respect of the land so acquired, and the cost limited by that section shall include the cost of that land.

Registrar-General to make necessary entries and cancel certificates of title.  
1199, 1915,  
s. 155.  
Subsec. (1)  
amended by  
2246, 1935, s. 4  
(2nd Sched.);  
98, 1969,  
s. 2 (g).

146. (1) Upon the transfer or conveyance of any land acquired under this Part pursuant to agreement being lodged with the Registrar-General, or upon the Minister furnishing the Registrar-General with a copy of the proclamation under section 163 as to any land, the Registrar-General shall make any entry in the register-book or other book at the Lands Titles Registration Office or General Registry Office necessary or proper to evidence the vesting of the land in His Majesty.

(2) If any of such land is under the provisions of The Real Property Act, 1886<sup>1</sup>, the Registrar-General shall, upon the lodging of the transfer with him, or receiving the said copy of the proclamation (as the case may be), make an entry on the folium relating thereto in the register-book as follows:—  
“Cancelled, the land (*or* part of the land) having been acquired by the Crown”, and shall sign the entry. Thereafter the land referred to in this subsection shall, for the purposes of The Real Property Act, 1886<sup>1</sup>, and until again alienated from the Crown, be dealt with and regarded in all respects as if it had never been alienated from the Crown.

(3) Upon receiving the grant, certificate of title, or other muniment or muniments of title of the land referred to in the next preceding subsection the Registrar-General shall cancel the same by endorsing thereon the words—  
“Cancelled, the within land (*or* part of the within land) having been acquired by the Crown”, and shall sign the endorsement.

## DIVISION II

## DIVISION II—COMPULSORY ACQUISITION OF LANDS

Interpretation.  
1199, 1915,  
s. 156, 1231,  
1915, s. 4.

147. In this Division—

“Crown lease” means—

(a) any agreement under any of the Crown Lands Acts containing a covenant to purchase; and

(b) any lease or agreement for a lease, and any licence, permit, right to occupy or use, or similar right or interest, or agreement thereof, whether the same is in perpetuity or for a term of years or otherwise, and whether containing or not containing a right to purchase, and under whatever Act or other authority the same may have been granted or made,

before or after the passing of this Act granted or made by or on behalf of the Crown, or by or on behalf of any person or authority holding lands belonging to the Crown, or in whom or which lands belonging to the Crown were or are vested:

Def. amended  
by 60, 1965,  
s. 6 (2).

“large estate” means the whole or any part or parts of the land, not being situated within the boundaries of any city, town, or township,

<sup>1</sup> Now Real Property Act, 1886-1975.

owned in fee simple by the same owner or owners in a case in which the unimproved value of the aggregate of all the land so owned by the said owner or owners exceeds forty thousand dollars, and of which land the owner is not at the time of the preliminary notice under section 156, according to the certificate of the Surveyor-General, cultivating annually at least one-third of the arable land:

“owner”, when used with reference to—

(a) a large estate, means the owner of a freehold estate in possession:

(b) other land, means the owner of a freehold estate in possession, except where the land is comprised in a Crown lease, in which case it means the lessee thereof:

“purchase-money” or “price” includes compensation for the resumption of a Crown lease or consideration to be paid for the surrender thereof:

“River Murray” includes every tributary, affluent, effluent, creek, ana-branch, or extension of, and every lake or lagoon connected with, the River Murray:

“sale” includes surrender of a Crown lease:

“transfer” includes surrender of a Crown lease.

148. Subject to subsection (5) of section 153, in administering this Division lands shall not be deemed not to adjoin other lands merely because they are separated therefrom by a public or other road or by a stream or water-course.

What lands to be deemed to be adjoining lands.  
1199, 1915,  
s. 157.

149. The provisions of this Division shall apply notwithstanding anything contained in The Real Property Act, 1886<sup>1</sup>.

Division to apply notwithstanding Real Property Act, 1886.  
1199, 1915,  
s. 158.

150. The provisions of sections 10, 35, 36, 37, 40, 41, 55 to 63, both inclusive, 78, and subsection (11) of section 29 of the Compulsory Acquisition of Land Act, 1925<sup>2</sup>, so far as applicable and not inconsistent with the provisions of this Division, are incorporated with and shall form part of this Division, and, for the purposes of this Division, the following expressions when used in the said Act shall have the following meanings, namely:—“promoters” shall mean the Minister of Lands; and “special Act” shall mean this Division.

Incorporation of the Compulsory Acquisition of Land Act, 1925.  
1199, 1915,  
s. 159.  
S. 150 amended by 98, 1969,  
s. 2 (h).

151. (1) When any land—

(a) is comprised in a Crown lease; and

(b) might, if it were held for a freehold estate, be acquired under the provisions of this Division otherwise than as being a large estate,

the said land may be acquired by the Minister under the provisions of this Division; and for the purpose of carrying out the acquisition thereof the Governor may accept the surrender of the said lease or resume the land comprised therein.

Power to acquire lands (other than large estates) which are subject to Crown leases.  
1199, 1915,  
s. 160.  
Subsec. (1) amended by 98, 1969, s. 2 (b).

(2) Every reference in this Division to the acquiring or acquisition of land, other than a large estate, shall be read as including a reference to the

<sup>1</sup> Now Real Property Act, 1886-1975.

<sup>2</sup> The Compulsory Acquisition of Land Act, 1925, and its amendments have been repealed by the Land Acquisition Act, 1969 (now Land Acquisition Act, 1969-1972).



acceptance on surrender of a Crown lease, or the resumption of the land comprised therein; and, for the purposes of anything to be done under this Division, in a case where the land is comprised in a Crown lease, the provisions of this Division shall be read as varied in such a manner as may be appropriate for dealing with land comprised in a Crown lease.

(3) For the purposes of sections 159, 160, and 162, land comprised in a Crown lease shall be regarded as land under The Real Property Act, 1886<sup>1</sup>.

Acquisition of large estates and lands adjacent to River Murray.  
1199, 1915, s. 161, 1311, 1917, s. 5 (1), 1546, 1922, s. 123.  
Subsec. (1) amended by 98, 1969, s. 2 (i).

**152.** (1) Large estates may be acquired by the Minister for the purposes of extension of agriculture and closer settlement in manner prescribed by this Division; and large estates and any lands adjacent to the River Murray suitable for reclamation or irrigation may be acquired by the Minister for the purposes of extension of agriculture and closer settlement in manner prescribed by this Division.

Subsec. (2) amended by 1990, 1930, s. 3; 26, 1944, s. 13 (a).

(2) A certificate signed by the Surveyor-General stating that any land therein specified is adjacent to the River Murray, and a certificate given by the board stating that any land therein specified is suitable for reclamation or irrigation, shall be conclusive as to the matters so stated.

Subsec. (3) amended by 1990, 1930, s. 3; 26, 1944, s. 13 (b).

(3) No land shall be acquired under this Division, as being land adjacent to the River Murray suitable for reclamation or irrigation, except on the written recommendation of the board: Provided that this subsection shall not apply to the acquisition of any land as being a large estate or part thereof.

Acquisition of lands required for working lands adjacent to River Murray.  
1199, 1915, s. 162, 1311, 1917, s. 5 (2), 1546, 1922, s. 123.  
Subsec. (1) amended by 98, 1969, s. 2 (i).

**153.** (1) Subject to subsection (2) of this section, any land of any kind which adjoins land adjacent to the River Murray and suitable for reclamation or irrigation, may be acquired by the Minister under the provisions of this Division.

Subsec. (2) amended by 1990, 1930, s. 3; 26, 1944, s. 14 (a), (b), (c), (d); 98, 1969, s. 2 (i).

(2) No land shall be so acquired by virtue of the power conferred by this section unless—

(a) the land which it adjoins as aforesaid is at the same time or has previously been so acquired, or is otherwise vested in His Majesty the King or in some person on behalf of His Majesty;

Para. (b) amended by 1990, 1930, s. 3; 26, 1944, s. 14 (a).

(b) the Surveyor-General has signed a certificate stating that the land adjoins lands adjacent to the River Murray and the board has given a certificate stating that the lands are suitable for reclamation or irrigation;

Para. (c) amended by 1990, 1930, s. 3; struck out by 26, 1944, s. 14 (b).

\* \* \* \* \*

Para. (d) amended by 1990, 1930, s. 3; 26, 1944, s. 14 (c).

(d) the board has recommended in writing that the land be so acquired; and

Para. (e) amended by 98, 1969, s. 2 (i).

(e) the Minister has offered the occupier of the land the right to select a block of swamp or reclaimed or irrigable land and an area of other land in conjunction therewith.

<sup>1</sup> Now Real Property Act, 1886-1975.

(3) Any such certificate of the Surveyor-General or the board shall be conclusive as to the matters stated therein.

Subsec. (3)  
amended by  
1990, 1930, s. 3;  
26, 1944,  
s. 14 (d).

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to land to be acquired, or land which has been acquired, by virtue of the power conferred by this section.

(5) Notwithstanding anything in this Division contained, no land shall, for the purposes of this section, be deemed to adjoin land from which it is separated by the main stream of the River Murray, and not merely by a creek, affluent, effluent, ana-branch, or extension of, or lagoon connected with, the said river.

154. (1) Subject to subsection (2) of this section, any land which, by means of irrigation with water from the River Murray, is capable of being rendered suitable for closer settlement may be acquired by the Minister in manner prescribed by this Division, for the purposes of extension of agriculture and closer settlement, notwithstanding that the said land is neither adjacent to the River Murray nor adjoining land adjacent to that river, as mentioned in sections 152 and 153.

Land irrigable  
by waters from  
the River  
Murray.  
1231, 1915, s. 5  
(part).  
1546, 1922,  
s. 123.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

(2) No land shall be so acquired by virtue of the power conferred by this section, unless the board has certified that, by means of irrigation with water from the River Murray, the land is capable of being rendered suitable for closer settlement, and the board has recommended in writing that the land be so acquired.

Subsec. (2)  
amended by  
1990, 1930, s. 3;  
26, 1944,  
s. 15 (a), (b).

(3) The certificate of the board shall, for the purposes of this Division, be conclusive as to the matters stated therein.

Subsec. (3)  
amended by  
1990, 1930, s. 3;  
26, 1944,  
s. 15 (c).

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to the land to be acquired or acquired by virtue of the powers conferred by this section.

155. (1) Subject to subsection (2) of this section, any land which, by means of drainage works, is capable of being rendered suitable for closer settlement may be acquired by the Minister in manner prescribed by this Division, for the purposes of extension of agriculture and closer settlement.

Land requiring  
drainage.  
1231, 1915, s. 5  
(part).  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

(2) No land shall be so acquired by virtue of the power conferred by this section unless the board after obtaining a report from the Engineer-in-Chief as to the possibility of draining the land has certified in writing that, by means of drainage works, the land is capable of being rendered suitable for closer settlement, and has recommended in writing that the land be so acquired.

Subsec. (2)  
amended by 26,  
1944, s. 16 (a),  
(b).

(3) The certificate of the board shall, for the purposes of this Division, be conclusive as to the matters stated therein.

Subsec. (3)  
amended by 26,  
1944, s. 16 (c).

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to land to be acquired or acquired by virtue of the power conferred by this section.

156. (1) When the Minister considers it advisable to acquire any large estate or other land under this Division he may direct an inspection thereof to be made; and he shall, not less than four weeks prior to the date of the proposed inspection of the land, give a preliminary notice in writing to the owner thereof of his intention to inspect and of the date when an inspection of the land will be made.

Preliminary  
notice of  
intention to  
inspect.  
1199, 1915,  
s. 163.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

## PART X

## DIVISION II

Subsec. (2)  
amended by 98,  
1969, s. 2 (i);  
25, 1974, s. 24.

(2) The notice shall specify the area, description, and boundaries of the land so far as the same are known to the Minister.

Power to enter  
land for  
inspection.  
1199, 1915,  
s. 164.  
S. 157 amended  
by 98, 1969,  
s. 2 (i).

157. After notice under section 156 has been given as to any large estate or other land, the Minister or any person authorized by him may enter at any time or times upon the large estate or other land and inspect the same and the improvements thereon, and may remain thereon for any reasonable time to acquire all necessary information for the purpose of making an inspection of the land and improvements.

Notice of  
intention to  
acquire.  
1199, 1915,  
s. 165.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

158. (1) When the Minister intends to acquire any large estate as to which a preliminary notice has been given under section 156, he shall send to the owner a further notice, stating that at the expiration of two years from the date of the last-mentioned notice it is the Minister's intention to acquire the land, and what price he is prepared to give for it.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

(2) When the Minister intends to acquire any land adjacent to the River Murray, as to which land a preliminary notice has been given under section 156, he shall send to the owner a further notice, stating that at the expiration of one year from the date of the last-mentioned notice it is the Minister's intention to acquire the land and what price he is prepared to pay for it.

Duties of  
Registrar-  
General to note  
in register-book.  
1199, 1915,  
s. 166.  
S. 159 amended  
by 2246, 1935,  
s. 4 (2nd  
Sched.); 98,  
1969, s. 2 (i).

159. After notice under section 158 as to any land has been given, the Minister may send a copy of the notice to the Registrar-General, at the Lands Titles Registration Office, and the Registrar-General shall thereupon note the same in the register-book if the land is under The Real Property Act, 1886<sup>1</sup> and if the land is not under The Real Property Act, 1886<sup>1</sup>, the Registrar-General shall register a memorial of the said notice in the General Registry Office for Deeds.

Effect of notice  
to bind all  
persons  
interested.  
1199, 1915,  
s. 167.  
S. 160 amended  
by 98, 1969,  
s. 2 (i).

160. As regards land under The Real Property Act, 1886<sup>1</sup>, when a notice under section 158 has been noted as provided by section 159, and as regards land not under that Act, when a memorial of a notice given under section 158 has been registered as provided by section 159, the said notice shall be deemed to have been duly given to all persons—

(a) at the time of the noting or registration, as the case may be; or

(b) after the said time and within a period of two years, as regards a large estate, or one year as regards other land, after the giving of the preliminary notice under section 156,

having any right, estate, or interest in the land; and the Minister may, at any time within six months after the expiration of the said period of two years or one year, as the case may be, acquire the land under this Division, notwithstanding any disposition of the land or any part thereof, or of any right, estate, or interest in or over the land or any part thereof, or any other dealing with or in any way affecting the land or any part thereof, and notwithstanding the noting in the register-book or registration in the General Registry Office for Deeds of any such disposition or dealing.

<sup>1</sup> Now Real Property Act, 1886-1975.

161. (1) At any time before the expiration of the notice given under section 158 as to any large estate, the owner thereof, unless he has in the meantime agreed in writing with the Minister for the sale thereof, shall have the right, by notice in writing given to the Minister, to select and retain out of the large estate, for the purpose of his residence or business, or both, land in one block where possible, and if land of the value of forty thousand dollars cannot be retained in one block, then in not more than two blocks specified in the notice: Provided that in no case shall the value of the lands selected and retained, exclusive of the value of the improvements thereon, exceed in the aggregate forty thousand dollars.

(2) When a notice in accordance with subsection (1) of this section has been given, the land properly comprised in the notice shall cease to be affected by the notice given under section 158.

(3) This section shall not apply to any land on or adjacent to the River Murray suitable for reclamation, whether the land is or is not a large estate or part thereof.

162. (1) At any time before the expiration of the notice given under section 158 as to any large estate or other land, the owner thereof, unless he has in the meantime agreed in writing with the Minister for the sale thereof, may, by notice in writing given to the Minister, require him to take all lands specified in the last-mentioned notice of which he is the owner, and which adjoin and are occupied together with the land comprised in the said notice under section 158.

(2) After a notice in accordance with subsection (1) of this section has been given, the land comprised in the said notice under section 158 shall not, without the consent in writing of the owner thereof, be acquired under this Act, unless the land properly comprised in the said notice under subsection (1) of this section is also acquired, nor shall the last-mentioned land be so acquired without the said consent, unless the land comprised in the said notice under section 158 is also so acquired.

(3) When a notice under subsection (1) of this section has been given as to any land the Minister shall, except for the purposes of section 161, be deemed to have duly given a notice under section 158 of his intention to acquire that land. The Minister may send to the Registrar-General a notice in writing of his intention to acquire that land, and the said notice shall be noted in the register-book if the land is under The Real Property Act, 1886<sup>1</sup>. Upon such noting, if the land is under the said Act, or upon the giving of the notice by the owner to the Minister, if the land is not under the said Act, the provisions of section 160 shall apply to the said land.

163. (1) Subject to sections 161 and 162, at any time within six months after the expiration of the period of two years, as regards a large estate, or one year as regards other land, from the giving of the preliminary notice under section 156 if—

- (a) the amount of the purchase-money to be paid therefor has been agreed between the Minister and the owner or has been ascertained by arbitration as mentioned in section 165; and
- (b) the amount of the said purchase-money has been paid or tendered; and

Rights of owner to reserve land not exceeding forty thousand dollars in value.

1199, 1915, s. 168, 1231, 1915, s. 6.  
Subsec. (1) amended by 60, 1965, s. 6 (2); 98, 1969, s. 2 (i).

Rights of owner to require whole estate to be taken.

1199, 1915, s. 169.  
Subsec. (1) amended by 98, 1969, s. 2 (i).

Subsec. (3) amended by 98, 1969, s. 2 (i).

Mode of acquiring the land.  
1199, 1915, s. 170.  
1231, 1915, s. 7.  
1311, 1917, s. 6.

Para. (a) amended by 98, 1969, s. 2 (i).

<sup>1</sup> Now Real Property Act, 1886-1975.

DIVISION II

(c) the owner of the large estate or other land, as the case may be, has refused or failed to sign a conveyance or transfer thereof to His Majesty the King,

it shall be lawful for the Governor, by proclamation published in the *Government Gazette*, to declare that the provisions of this Division shall apply to the land comprised in the notice, and that the same is thereby compulsorily taken and acquired.

(2) On and after the date of the publication of the proclamation in the *Government Gazette* the land therein specified shall, without further or other authority than this Act, become and be absolutely vested in His Majesty the King, free and discharged from all leases, licences, contracts, trusts, obligations, estates, interests, charges, rates, and easements, whatsoever.

Subsec. (3)  
amended by  
1990, 1930, s. 3.

(3) For the purposes of this section, the tender of an order on the Treasurer of the State, signed by the Director of Lands, the Assistant Director of Lands, or the Surveyor-General for the amount of the purchase-money to be paid for a large estate or other land, shall be deemed to be a tender of the amount of the said purchase-money.

Copy of  
proclamation to  
be furnished to  
Registrar-  
General.  
1199, 1915,  
s. 171.  
S. 164 amended  
by 98, 1969,  
s. 2 (i).

**164.** When a proclamation has been made under section 163 as to any land the Minister shall furnish the Registrar-General with a copy of the proclamation.

Price to be  
determined by  
arbitration  
failing  
agreement.  
1199, 1915,  
s. 172.  
S. 165 amended  
by 98, 1969,  
s. 2 (i).

**165.** Where any land is acquired under this Division, the price to be paid for the same and the improvements thereon shall, failing agreement between the Minister and the owner within one month after notice in writing given by one party to the other of the price which he is willing to pay or accept in settlement, be determined by the arbitration of three arbitrators, one of whom shall be a Judge of the Supreme Court, who shall act as president and umpire, and one of whom shall be appointed by the Minister and one by the owner: Provided that if either party fails to appoint an arbitrator within one month after notice in writing by the other of the appointment of his arbitrator, the matter shall be determined by the Judge and the arbitrator already appointed.

Price.  
1199, 1915,  
s. 173.

**166.** (1) The price to be paid for any land and improvements acquired by proclamation under this Division, if the price is fixed by arbitration, shall not, where the owner acquired the land by purchase for a money consideration, be less than that money consideration.

(2) Subject to subsection (1) hereof, where money has, prior to the twelfth day of January, 1911<sup>1</sup>, been *bona fide* lent on the sole security by way of mortgage or other encumbrance of land acquired under this Division, no less sum shall, without the consent of the mortgagee or encumbrancee, be paid as the price of the land than the amount of the money so lent and unpaid at the time of so acquiring the land, together with any interest thereon due and unpaid at the time of the said acquisition.

Award of  
arbitrators and  
right of appeal  
to Supreme  
Court.  
1199, 1915,  
s. 174.

**167.** (1) Either party to the arbitration shall have the right to appeal to the Supreme Court, but only on a question of law, and the said court may, on any such appeal, make such order as it deems proper, and the arbitrators shall give effect to the order; but otherwise the decision of the arbitrators shall be final and not subject to any appeal.

<sup>1</sup> Reference to the year nineteen hundred and eleven altered to 1911 pursuant to s. 7 (1) of the Acts Replication Act, 1967, as amended.

(2) Where an arbitrator has misconducted himself he may be removed by the Supreme Court or a Judge thereof.

(3) Where an award has been improperly procured the said court or a Judge thereof may set the award aside.

(4) The award may be made an order of the Supreme Court on the application of the Minister or the owner, and may thereafter be enforced accordingly. Subsec. (4) amended by 98, 1969, s. 2 (i).

(5) The arbitrators or, on appeal, the Supreme Court, may make such award and directions as to the costs of any parties concerned in the arbitration as he or they deem just.

168. All notices required to be given under this Division to any owner shall be deemed to be duly given when posted to or left at his usual or last known place of abode or business. Service of notices. 1199, 1915, s. 175.

169. This Division shall not apply to any land within the boundaries of any city, town, or township. This Division not to apply to town lands. 1199, 1915, s. 176.

### DIVISION III—PURCHASE OF LAND BY ARRANGEMENT

### DIVISION III

170. (1) If—

(a) the owner of any land suitable for subdivision into two or more blocks makes an offer in writing to the Minister offering to sell the said land to the Minister at a price named in the offer; and

(b) two or more persons (according to the number of blocks into which the land is suitable for subdivision) in writing request the Minister to purchase the land for the purpose of subdividing it into blocks for allotment to the said persons under agreement for sale and purchase, containing such terms and conditions as agreements under Division V of this part contain and submit to the Minister a scheme for subdividing and allotting the land in blocks,

the Minister may cause the said land to be valued by the board with a view to purchasing the same as hereinafter mentioned.

(2) If—

(a) the value placed on the land by the board is equal to or greater than the price required by the owner of the land and the applicants are willing to pay to the Minister a sum equal to one-tenth of the said price; or

(b) the value placed upon the land by the board is less than the price required by the owner of the land, but the applicants are willing to pay to the Minister a sum equal to one-tenth of the said value and also the difference between the said value and the said price, and the Minister consents thereto; and

\* \* \* \* \*

(d) the board is satisfied that the applicants are eligible and suitable persons to hold the said land; and

Purchase of land by arrangement with intending settlers.

1900, 1929, s. 2. Subsec. (1) amended by 26, 1944, s. 17 (a); 98, 1969, s. 2 (i).

Subsec. (2) amended by 26, 1944, s. 17 (b) to (g); 45, 1968, s. 29; 98, 1969, s. 2 (i).

Para. (a) amended by 26, 1944, s. 17 (b), (c); 98, 1969, s. 2 (i).

Para. (b) substituted by 26, 1944, s. 17 (d); 98, 1969, s. 2 (i).

Para. (c) amended by 26, 1944, s. 17 (e); struck out by 45, 1968, s. 29.

## PART X

## DIVISION III

Para. (e)  
amended by 26,  
1944, s. 17 (f);  
98, 1969, s. 2 (l).

(e) the Minister, on the recommendation of the board, approves of the scheme for subdividing and allotting the land; and

Para. (f)  
amended by 26,  
1944, s. 17 (g);  
98, 1969, s. 2 (l).

(f) the applicants pay in any case where the said value is equal to or greater than the price required by the owner, a sum equal to one-tenth of the said price and in any case where the said value is less than the said price, one-tenth of the said value and also the difference between the said value and the said price, and make a deposit of the prescribed amount and severally agree—

Subpara. I  
amended by 98,  
1969, s. 2 (l).

I. to pay to the Minister each his due proportion of the cost of inspecting, surveying, and subdividing the land; and

Subpara. II  
amended by 98,  
1969, s. 2 (l).

II. to purchase the land from the Minister in blocks according to the scheme submitted, and comply with any conditions prescribed or imposed by the Minister,

the Minister may purchase the said land and, when purchased, the land shall be allotted to the applicants in accordance with the scheme, without any notice being published in the *Gazette*, as required by section 171.

The provisions of Divisions V and VI of this Part shall, with the necessary modifications, apply to land allotted and agreements issued under this section.

Subsec. (3)  
inserted by 40,  
1939, s. 7.

(3) In this section "land" includes land held for any estate of freehold, or under a Crown lease or agreement; and "owner" includes the lessee under a Crown lease or the purchaser under an agreement.

Purchase of  
land for  
allotment to one  
settler.  
S. 170a enacted  
by 40, 1939,  
s. 8.  
Subsec. (1)  
amended by 23,  
1940, s. 6; 98,  
1969, s. 2 (l).

**170a.** (1) Subject to this section, where any person holds under lease or agreement any land which is not a living area, the Minister may out of moneys provided by Parliament, purchase other land for allotment to that person under agreement for the purpose of increasing his holding to a living area: Provided that no land shall be purchased under this section unless—

Para. (a)  
amended by 98,  
1969, s. 2 (l).

(a) it forms part of an existing holding which in the opinion of the Minister is more than a living area; or

Para. (b)  
amended by 98,  
1969, s. 2 (l).

(b) it forms the whole of an existing holding which in the opinion of the Minister is less than a living area.

Subsec. (2)  
amended by 98,  
1969, s. 2 (l).

(2) The person desiring land to be purchased for allotment to him under this section shall submit to the Minister the following particulars:—

(a) a description of the land to be purchased and, if that land is part of an existing holding, of the balance of the holding from which it will be severed:

(b) the price at which the owner of the land offers to sell it:

(c) the area of the other land intended to be worked as one holding in conjunction with the land to be purchased:

(d) the estimated value of the land to be purchased and, if that land is part of an existing holding, of the balance of the holding from which it will be severed.

Subsec. (3)  
amended by 26,  
1944, s. 18 (a);  
98, 1969, s. 2 (l).

(3) The Minister may, if he thinks fit, cause the land sought to be purchased to be valued by the board.

(4) No land shall be purchased—

Para. (a)  
amended by 26,  
1944, s. 18 (b).

(a) at a price in excess of the value placed upon it by the board.

\* \* \* \* \*

Para. (b) struck out by 26, 1944, s. 18 (c).

(5) No land shall be allotted to any applicant unless—

(a) the board is satisfied that he is a suitable person to hold a block:

(b) he has first paid to the Minister one-tenth of the price paid by the Minister for the land in addition to any moneys payable on or in respect of the granting of the agreement.

Para. (b) amended by 98, 1969, s. 2 (i).

\* \* \* \* \*

Subsec. (6) struck out by 45, 1968, s. 30.

(7) The provisions of Divisions V and VI of this Part shall, with necessary modifications, apply to land allotted, and agreements issued under this section.

(8) In this section the expression “living area” means an area which in the Minister’s opinion is sufficiently large to provide a reasonable living for one family.

Subsec. (8) amended by 98, 1969, s. 2 (i).

**170b.** (1) Subject to this section, the Minister may out of moneys provided by Parliament, make loans for the purpose of—

Loans for schemes of closer settlement.  
S. 170b enacted by 40, 1939, s. 8.  
Subsec. (1) amended by 98, 1969, s. 2 (i).

(a) enabling any two or more intending settlers to buy any existing holding which in the Minister’s opinion is capable of being subdivided so as to provide a living area for each settler; or

Para. (a) amended by 98, 1969, s. 2 (i).

(b) enabling any settler whose holding is less than a living area to purchase for the purpose of increasing his holding to a living area, any land which—

(i) forms part of an existing holding which, in the opinion of the Minister, is more than a living area; or

Subpara. (i) amended by 98, 1969, s. 2 (i).

(ii) forms the whole of an existing holding which, in the opinion of the Minister is less than a living area.

Subpara. (ii) amended by 98, 1969, s. 2 (i).

(2) The person or persons desiring such a loan shall submit to the Minister the following particulars:—

Subsec. (2) amended by 98, 1969, s. 2 (i).

(a) the price at which the owner of the land intended to be purchased offers to sell it:

(b) where any land is to be purchased for subdivision the proposed mode of subdivision and the persons who will hold the blocks into which the land is to be subdivided and the estimated value of each block:

(c) where part of an existing holding is being purchased, the estimated value of the remainder of the holding:

(d) particulars of any other land held by the person or persons desiring the loan.

(3) The Minister may, if he thinks fit, cause any land sought to be purchased to be valued by the board.

Subsec. (3) amended by 26, 1944, s. 19 (a); 98, 1969, s. 2 (i).

(4) No loan made in respect of any block shall exceed—

(a) nine-tenths of the value placed upon that block by the board.

Para. (a) amended by 26, 1944, s. 19 (b).



## PART X

DIVISION III

Para. (b) struck out by 26, 1944, s. 19 (c).

\* \* \* \* \*

(5) No loan shall be made to any applicant unless—

(a) the board is satisfied that he is a suitable person to hold a block:

Para. (b) amended by 98, 1969, s. 2 (i).

(b) the applicant executes a first mortgage of his block to the Minister, such mortgage to be in such form and containing such terms, covenants and conditions as the Minister approves, and gives the Minister such other security (if any) for the loan as the Minister requires.

Subsec. (6) amended by 60, 1965, s. 6 (2); struck out by 45, 1968, s. 31.

\* \* \* \* \*

Subsec. (7) amended by 98, 1969, s. 2 (i).

(7) The Minister may under this section make loans upon the security of land held for any estate of freehold or under a perpetual lease from the Crown or an agreement granted by the Crown.

(8) No stamp duty shall be payable on any transfer or mortgage executed to carry out any transaction under this section.

Subsec. (9) amended by 98, 1969, s. 2 (i).

(9) In this section the expression "living area" means an area which in the Minister's opinion is sufficiently large to provide a reasonable living for one family.

DIVISION IV

## DIVISION IV—HOW ACQUIRED LANDS TO BE DEALT WITH

Land acquired, how dealt with, 1199, 1915, s. 177, 1231, 1915, s. 8 (2), 1882, 1928, s. 20, 1900, 1929, s. 3.

171. Subject to sections 170, 172 and 173, all land acquired under this Part, or under the provisions of any repealed Act dealing with closer settlement, shall be dealt with as follows:—

I. Town lands may be sold by auction for cash, and reserves may be dedicated by proclamation in like manner as Crown lands are dedicated:

Para. Ia inserted by 40, 1939, s. 9.

ia. Any town lands offered for sale by auction and not sold by auction may, on the recommendation of the board, be sold by private contract for cash at any price not less than the upset price at which the lands were last offered at auction:

Para. II amended by 60, 1965, s. 6 (2); 45, 1968, s. 32 (a).

II. The land, except such portions as may be required for town lands or for dedication or reservation for public purposes, shall be cut up into blocks:

Para. III amended by 60, 1965, s. 6 (2); struck out by 45, 1968, s. 32 (b).

\* \* \* \* \*

iv. When the board considers there are more improvements on any block than are required for working the block, then only the value of such improvements shall be added to the price of the block as, in the opinion of the board, are reasonable, having regard to the size and situation of the block; and the balance of the value of the said improvements shall be added to the price which has been paid for the whole estate of which the said block forms a part:

Para. V amended by 98, 1969, s. 2 (i).

v. Before the blocks are offered the board, subject to the approval of the Minister, shall fix the value of every block and of the improvements thereon, including the reasonable cost of any work effected by the Government: Provided that the price so fixed shall

not in the aggregate be less than the amount paid for the land, together with the cost of necessary accommodation works, and of offering the same for sale:

- VI. Notice shall be given in the *Government Gazette* that the blocks are open to be purchased, and the notice shall contain particulars of the area of every block and the value of the improvements thereon, the area to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof, the annual instalments of principal and interest to be paid in respect of the purchase-money of the block and improvements, and such other particulars as the Minister thinks proper:

Para. VI  
amended by 98,  
1969, s. 2 (i).

- VII. The blocks shall be allotted by the board.

172. (1) Any lands acquired for the purposes of closer settlement, as to which a resolution of both Houses of Parliament has been passed, whether before or after the acquisition thereof, to the effect that this section shall apply, may, until such time as the Governor by proclamation declares that they shall be used for closer settlement, be dealt with as provided by subsection (2) hereof as if they were Crown lands not acquired for the purposes of closer settlement.

Power to  
postpone  
allotment of  
closer  
settlement  
lands.  
1199, 1915,  
s. 178.  
S. 172 amended  
by 98, 1969,  
s. 2 (i).

(2) Any such land may be let on miscellaneous lease for any term not exceeding twenty-one years, subject, however, to a condition that after the publication in the *Government Gazette* of a proclamation under this section as to the said land, or as to the said land and any other land, the term of the said lease shall be determinable by the Minister by not less than six months' notice in writing to the lessee.

173. (1) When any land has been acquired for the purposes of closer settlement, but it is necessary or desirable for drainage, irrigation, or other works or improvements to be carried out, in order to render the land suitable or more suitable for closer settlement, the Minister may permit the person who, prior to the acquisition of the land, was the owner thereof, to remain in occupation thereof for such time, and, upon such terms and conditions as are agreed between the parties.

Occupation or  
lease of lands  
acquired,  
pending  
execution of  
drainage or  
other  
improvements.  
1231, 1915,  
s. 8 (1), 1311,  
1917, s. 7.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

(2) If in such a case as mentioned in subsection (1) of this section the person therein referred to does not, within one month after the land is acquired, apply in writing to the Minister to be allowed to continue in occupation, or, if in any case no arrangement is made under the said subsection within two months after the land is acquired, the land may be let in one block or in such blocks as the Minister thinks proper, to such persons and for such terms and on such terms and conditions as the Minister thinks proper.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

#### DIVISION V—AGREEMENTS FOR SALE AND PURCHASE

#### DIVISION V

174. (1) The blocks shall be offered for sale, and, subject to section 175, the purchaser shall enter into an agreement for the term of thirty-five years for sale and purchase (hereinafter called the "agreement") as follows:—

Covenants to be  
contained in the  
agreement.  
1199, 1915,  
s. 179, 1405,  
1919, s. 8, 1882,  
1928, ss. 21, 22.

- I. To purchase his block and the improvements (if any) thereon at the price fixed by the board, and to pay the purchase-money and interest thereon by the following half-yearly instalments, to be paid in advance, namely:— The first ten half-yearly instalments shall be equal and shall be calculated at the fixed rate on the price fixed as aforesaid, and each of the subsequent sixty half-yearly instalments shall be equal and shall be calculated at a rate

sufficient to repay during the said term of thirty-five years the price fixed as aforesaid together with interest at the fixed rate on the balance thereof from time to time remaining unpaid: Provided that the purchaser—

(a) shall have the option of completing the purchase of his block at any time after the expiration of six years from the date of the agreement on paying the balance of the purchase-money under the agreement and all interest due at the time of the completion of his purchase, and complying with all the terms, covenants, conditions, and provisions of the agreement:

Para. (b)  
amended by 60,  
1965, s. 6 (2).

(b) may, on the date appointed by the agreement for the payment of any of the half-yearly instalments, pay in advance any part (being the sum of one hundred dollars or a multiple thereof) of the purchase-money under the agreement, whereupon interest on the amount so paid shall cease, and the amounts of the instalments subsequently falling due shall be decreased ratably to the amount so paid:

(c) may pay the whole or any part of the purchase-money for improvements at any time:

Para. II  
amended by 60,  
1965, s. 6 (2).

II. To spend on his block during every year of the first five years a sum equal to six dollars for every two hundred dollars of his purchase-money in substantial improvements, consisting of buildings, fencing, or water improvements: Provided that—

(a) the amount so spent by the purchaser in excess of the amount required to be expended in any one year shall be set off against the expenditure required in the next or following years; and

(b) so much of any amount of the purchase-money paid by him as was paid on account of improvements may be deducted from the amount to be expended under this section:

III. To clear so as to render available for cultivation or so as to improve the grazing capacity thereof, the area specified in that behalf in the notice in the *Government Gazette* declaring that the blocks are open to be purchased. Any money spent on clearing land under this paragraph shall be deemed to be money spent on substantial improvements within the meaning of the last preceding paragraph.

(2) The provisions of section 47 apply to an agreement under this Part.

Subsec. (3)  
amended by 25,  
1974, s. 25.

(3) In filling up the blank spaces in the form of the covenant in the ninth schedule which binds the purchaser to clear land so as to render the same available for cultivation or so as to improve the grazing capacity thereof, the following directions shall be followed:—In the first and second spaces there shall be inserted an area equal to twenty per centum of the area so specified in the notice in the *Government Gazette* and in the third space an area equal to ten per centum of the area so specified and in the fourth space an area equal to the full area so specified.

Subsec. (4)  
amended by 98,  
1969, s. 2 (i).

(4) The Minister shall determine whether the said covenant to clear has been complied with in any case, and if his decision is disputed by the purchaser the matter shall be determined by arbitration in manner provided by section 289. Land shall be deemed to have been cleared for cultivation or so

as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

**174a.** (1) In any case where the Minister is of opinion that, by reason of the undeveloped condition of any block, this section should apply to the agreement in respect of the block, the Minister may direct that this section shall apply. In any such case the term of the agreement shall be for fifty-nine years and the purchase-money and the interest thereon shall be payable by the following instalments, namely:—

Provision in case of undeveloped land.  
S. 174a enacted by 2363, 1937, s. 4.  
Subsec. (1) amended by 98, 1969, s. 2 (i).

- I. Five per centum of the purchase-money shall be paid at the time of the application to purchase:
- II. For the first four years of the term of the agreement no instalments of principal or interest shall be payable:
- III. During the next five years of the said term no portion of the purchase-money shall be payable, and interest only at the fixed rate on the balance of the purchase-money shall be payable in half-yearly instalments:
- v. Thereafter the balance of the purchase-money and interest thereon at the fixed rate (including the amount of interest accruing during the first four years of the said term) over the whole term of the agreement shall be payable in such equal half-yearly instalments as will pay the full amount of the balance of the purchase-money and interest as aforesaid during the said term.

(2) Except as provided by paragraph i of subsection (1), every instalment shall be paid at the end of the period in respect of which it is payable, and not in advance.

\* \* \* \* \*

Subsec. (3) struck out by 45, 1968, s. 33.

(4) If any application is made to the Minister for the transfer of any such agreement the Minister may, before giving his consent to the transfer, require the applicant to pay the whole or any part of the interest which has accrued during the first four years of the term of the agreement. If any such amount is paid, the amount of the half-yearly instalments subsequently falling due shall be decreased ratably to the amount so paid.

Subsec. (4) amended by 98, 1969, s. 2 (i).

(5) In a case in which this section applies, the agreement shall contain the terms, covenants, conditions, and provisions provided for by section 174: Provided that the purchaser shall have the option of completing the purchase at any time after the expiration of six years from the date of the agreement, on paying the purchase-money, or the balance thereof, with interest at the fixed rate on the purchase-money, or on the balances thereof, from time to time remaining unpaid, from the date of the agreement to the date of completion, and complying with all the terms, covenants, conditions, and provisions of the agreement.

**175.** (1) In the case of an agreement to which the Minister directs that this section shall apply, the term shall be either fifty-five years or sixty-four years, as the Minister directs, and the purchase-money and the interest thereon shall be payable by the following half-yearly instalments, namely:—

Terms and covenants in certain cases.  
1199, 1915, s. 180, 1405, 1919, s. 9, 1900, 1929, s. 4.  
Subsec. (1) amended by 98, 1969, s. 2 (i).

- I. During the first two and one-half years of the term of the agreement no portion of the purchase-money shall be payable, and only one-half of the interest at the fixed rate on the purchase-money shall be payable:

II. During the next two and one-half years of the said term no portion of the purchase-money shall be payable, and interest only at the fixed rate shall be payable:

III. Thereafter the purchase-money and interest thereon at the fixed rate (including the amounts of interest accruing during the first two and one-half years of the said term) over the whole of the term of the agreement shall be payable in such equal half-yearly instalments as will pay the full amount of the purchase-money and interest as aforesaid during the said term.

Subsec. (2)  
amended by 45,  
1968, s. 34.

(2) The first of the said instalments shall be paid at the time of the application to purchase, and every subsequent instalment shall be paid at the close of the period in respect of which it is payable, and not in advance.

(3) In a case in which this section applies, the agreement shall contain the terms, covenants, conditions, and provisions provided for by section 174: Provided that the purchaser shall have the option of completing the purchase at any time after the expiration of six years from the date of the agreement, on paying the purchase-money, or the balance thereof, with interest at the fixed rate on the purchase-money or on the balances thereof from time to time remaining unpaid, from the date of the agreement to the date of completion, and complying with all the terms, covenants, conditions, and provisions of the agreement.

Extension of  
period for  
payment of  
certain limited  
instalments.  
S. 175a enacted  
by 2060, 1931,  
s. 5.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

**175a.** (1) In the case of any agreement to which section 180 of the Crown Lands Act, 1915 (as enacted before the passing of the Crown Lands Act Amendment Act, 1929) applies, the Minister may direct that the number of instalments payable at the rate specified in paragraph 1 of subsection (1) of the said section shall be increased from sixteen to such number, not exceeding twenty-six, as the Minister thinks fit.

(2) If the number of any such instalments payable as aforesaid is increased, the subsequent instalments payable under the agreement shall be re-calculated so as to provide that each of the subsequent instalments shall be equal and calculated at a rate sufficient to repay during the term of sixty-four years the price fixed by the board, together with interest on the balance thereof at the fixed rate for the whole of the said term.

Power to  
extend existing  
agreements to  
term not  
exceeding  
sixty-four years  
on  
recommenda-  
tion of board.  
1199, 1915,  
s. 181. 1900,  
1929, s. 5.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

**176.** (1) In the case of an agreement under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act, the Minister may direct the board to consider whether an extension of the term of the agreement should or should not be granted under this section.

(2) The board shall thereupon consider the matter, and—

(a) may recommend that the term be extended for such period (if any) as they think fit, but not so as to extend it beyond sixty-four years from the commencement thereof, as fixed by the agreement:

(b) if the board recommends an extension, shall fix the amount of the instalments of purchase-money to be paid during the remainder of the term (as so extended), and may, if the board thinks proper, recommend that the said term be subdivided into periods of any lengths respectively, fixing for the several periods different amounts of instalments of purchase-money, and, if the board thinks proper, different rates of interest to be included in the instalments:

Para. (c)  
amended by  
2120, 1933, s. 3.

(c) for the purpose of fixing the amounts of the instalments, may, in any case it thinks fit, assume that the provisions of subsection (1) of

section 175 applied to the agreement at the time of the making thereof, and that the instalments payable during the first five years of the term of the agreement were as provided in the said subsection; and in any case to which this paragraph applies the amounts of the instalments fixed pursuant to this section shall be fixed accordingly:

- (d) for the purpose of fixing the amounts of the instalments, may capitalize, and add to the purchase-money, the whole or any part of such amounts of any instalments then in arrear as represent interest.

(3) If the Minister approves of the recommendations of the board he may grant the extension on the terms recommended, and, from the time when notice in writing stating the period of the said extension and the terms on which it is granted is given to the purchaser, the agreement shall be construed so as to give effect to the said extension and terms, and shall be binding on the parties as so construed.

Subsec. (3)  
amended by 98,  
1969, s. 2 (i).

(4) Except so far as may be necessary to give effect to this section, the agreement shall not be affected by anything in or done under this section; and the terms, covenants, conditions, and provisions thereof shall continue in force subject to any variations which may be necessary to give effect to this section.

176a. (1) In the case of any agreement under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act, the board may capitalize the whole or any part of such amounts of any instalments then in arrear as represent interest.

Power of board  
to capitalize  
arrears of  
interest on  
agreement.  
S. 176a enacted  
by 2060, 1931,  
s. 6.

(2) Any amount so capitalized shall be added to the purchase-money, and shall be payable at the times the instalments of the said purchase-money are payable. Each of such payments thereof shall be equal, and shall be calculated to repay during the period the said instalments are payable, the said capitalized amount together with interest at the fixed rate on the balance thereof from time to time remaining unpaid.

\* \* \* \* \*

S. 177 repealed  
by 98, 1969,  
s. 10.

178. Every agreement shall contain the terms, provisions, and conditions stated in the ninth schedule (subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act), which terms, provisions, and conditions shall be in the form set forth in the said schedule, or in a form to the like effect: Provided that where an agreement is granted upon the surrender of a perpetual lease, any condition, covenant or provision of the agreement restricting the right of the purchaser to complete purchase, or binding the purchaser to erect any fence or carry out any other work, may differ from the condition, covenant or provision prescribed by the ninth schedule in relation to the same matter, in such manner as the Minister deems just, having regard to the length of time during which the purchaser held the land under the surrendered lease or any previous lease or agreement and the obligations which that lease or agreement imposed upon him, and the extent to which those obligations were fulfilled.

Form of  
agreement.  
1199, 1915,  
s. 183.  
S. 178 amended  
by 23, 1940,  
s. 7; 98, 1969,  
s. 2 (i).

179. Every agreement shall be forwarded and executed in manner provided by section 52.

Execution of  
agreement.  
1199, 1915,  
s. 184.

\* \* \* \* \*

S. 180 repealed  
by 27, 1965,  
s. 18.

## PART X

## DIVISION V

S. 181 amended by 25, 1941, s. 6; 46, 1960, s. 3; repealed by 45, 1968, s. 35.

\* \* \* \* \*

Lands unallotted may be let.  
1199, 1915, s. 187. 1405, 1919, s. 10. 1740, 1926, s. 4.  
S. 182 redesignated s. 182 (1) by 40, 1939, s. 10.  
Subsec. (1) amended by 98, 1969, s. 2 (i).

**182.** (1) When any block or blocks remain unallotted for one year after being first offered, as mentioned in section 174, the same may be let on miscellaneous lease at a rental and on terms to be fixed by the board, subject to the approval of the Minister; or if the board so recommends, the land may, with the approval of the Minister, be sold by public auction, a reserve price being fixed by the board, on the following terms, namely:—Twenty-five per centum of the purchase-money in cash, and the balance in five yearly instalments, bearing interest at the fixed rate on the amount paid for the land; or, with the like recommendation and approval, the land may be offered for sale under section 174 at a reduced price fixed by the board.

Subsec. (2) inserted by 40, 1939, s. 10.

(2) Any such land so offered for sale by auction and not sold at auction may, on the recommendation of the board, be sold by private contract at any price not less than the upset price at which the land was last offered for sale by auction and on the other terms and conditions on which it was so offered.

Power of lessees of certain perpetual leases to surrender for agreement under this Act.  
1199, 1915, s. 188.

**183.** (1) The lessee of any perpetual lease of repurchased land granted under the provisions of any repealed Act, passed before the Crown Lands Act, 1903, dealing with closer settlement may, having fulfilled all the covenants and conditions contained in his lease, and given three months notice of his intention so to do, surrender the said lease, and obtain in lieu thereof an agreement under this Act.

Subsec. (2) amended by 98, 1969, s. 2 (i).

(2) The purchase-money to be paid under any such agreement shall be the value of the block and improvements as fixed by the *Government Gazette* notice when the block was last allotted, after deducting therefrom all moneys paid on account of improvements thereon up to the date of the surrender of the lease; or, if the *Gazette* notice contains no value, then at a price to be fixed by the board, and approved by the Minister, but so that the price fixed shall not be less than the original price paid for the land and the cost of offering.

Power to surrender miscellaneous lease.  
1882, 1928, s. 23.  
Subsec. (1) amended by 2256, 1935, s. 3; 26, 1944, s. 20; 98, 1969, s. 2 (i).

**184.** (1) The lessee of any lease of repurchased land granted under the provisions of this Act or the Crown Lands Act, 1903, or any repealed Act passed after the latter Act, and the lessee of any miscellaneous lease of repurchased land may, having fulfilled all the covenants and conditions contained in his lease, apply in writing to surrender the lease and obtain in lieu thereof an agreement or lease under this Part at a price or rent to be fixed by the board, and approved by the Minister.

(2) The provisions of section 211, *mutatis mutandis*, shall apply to and in respect of the said application and surrender.

Power to surrender agreement as to lands purchased after 18th December, 1902.  
1199, 1915, s. 189.

**185.** (1) The holder under agreement of any lands purchased by the Crown since the eighteenth day of December, 1902<sup>1</sup>, may surrender his agreement for an agreement in terms of section 174, and the new agreement when executed shall be dated as and from the date of the surrendered agreement.

(2) The moneys (if any) remaining to the credit of the holder under the surrendered agreement shall, after deducting therefrom all interest, charges, and costs due in respect of the said land by the holder, be applied towards payment for the lands held by him under the new agreement: Provided that all

<sup>1</sup> Reference to the year nineteen hundred and two altered to 1902 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

moneys paid for improvements under the surrendered agreement shall be accepted as payment on account of those improvements under the new agreement.

186. Notwithstanding anything in any of the Crown Lands Acts, the provisions of proviso (b) to subdivision 1 of subsection (1) of section 174 shall also apply to agreements which have been made under Part X of the Crown Lands Act, 1903.

Power of holder of existing agreement to pay part of purchase-money in advance.  
1199, 1915, s. 190.

187. No growing timber shall be cut or otherwise injured or destroyed during the first five years of the term of any agreement under this Part or under the corresponding provision of any repealed Act, except for the purposes of improvement on the land or for cultivation, and then only with the written consent of the Minister: Provided that this section shall not apply as regards cutting, injuring, or destroying any growing timber in accordance with any covenant which is contained in an agreement and requires the purchaser to clear any land.

Reservations as to growing timber.  
1199, 1915, s. 191, 1882, 1928, s. 24.  
S. 187 amended by 98, 1969, s. 2 (i).

188. All moneys received by the Minister from either lessees or purchasers of any repurchased lands shall be dealt with as follows:—

Application of payments.  
1199, 1915, s. 192.  
S. 188 amended by 98, 1969, s. 2 (i).

- I. Moneys repaid on account of principal, whether for land or improvements, shall be paid to the credit of the Land Repurchase Loan Fund, and shall be used for the redemption of stock, or for the purchase of land under this Act:
- II. Moneys paid as interest or rent, whether on the price of improvements or on the price of land, shall be paid into the general revenue.

189. The Director of Lands shall, in the month of July in every year, prepare a statement containing the following particulars in connection with repurchased lands for the financial year ending on the thirtieth day of June immediately preceding the said month:—

Statement to be laid before Parliament.  
1199, 1915, s. 193, 1311, 1917, s. 8.  
S. 189 amended by 1990, 1930, s. 3.

- I. The amount advanced from the loan fund and the amount of interest paid thereon:
- II. The amount received as principal and interest from purchasers holding land under agreement:
- III. The amount of arrears of principal and interest, if any.

Every such statement shall be laid before both Houses of Parliament, if Parliament is then sitting, and if Parliament is not then sitting, then within thirty days after the beginning of the next session of Parliament.

190. (1) The Treasurer may, from time to time, by notice published in the *Government Gazette*, fix the annual rate of interest to be paid on the purchase price of blocks offered for sale under this Part, and may, in the same manner, annul any rate so fixed.

Power to fix annual rate of interest on closer settlement lands.  
1405, 1919, s. 7.

(2) Any rate so fixed shall come into force on the fourteenth day after the date of the *Government Gazette* in which the same is published, and shall continue in force until the fourteenth day after the date of the *Government Gazette* in which the notice annulling the same is published.



## DIVISION VI

## DIVISION VI—THE COLLECTION AND RECOVERY OF RENTS

Receiver of  
rents.  
1199, 1915,  
s. 194.

**191.** The collection of rents, instalments, and interest payable under the provisions of this Part, or under the provisions of any repealed Act dealing with closer settlement, shall be under the control, direction, and management of an officer employed in the Department of Lands<sup>1</sup>, appointed by the Governor, and to be styled the "Receiver of Rents".

Action may be  
maintained in  
the name of the  
receiver.  
1199, 1915,  
s. 195.  
Subsec. (1)  
amended by 45,  
1968, s. 36.

**192.** (1) If any rent, instalment, or interest is in arrear the receiver, without prejudice to his right to recover in any other way, may sue for the same, together with interest at the rate of—

(a) five per centum per annum, on the amount of any such rent, instalment or interest which was in arrear before the commencement of the Crown Lands Act Amendment Act, 1968;

and

(b) ten per centum per annum, on the amount of any such rent, instalment or interest which shall be in arrear after such commencement,

and the costs attendant thereon, in any court of competent jurisdiction as a debt due to the receiver.

(2) Any such action may be maintained in the name of the receiver without specifying the name of the person holding the office, and shall not be liable to be abated by any vacancy or change in the office of the receiver or otherwise.

Extension of  
time for  
payment.  
1199, 1915,  
s. 196.  
S. 193 amended  
by 2120, 1933,  
s. 4; 45, 1968,  
s. 37 (a), (b).

**193.** The receiver may extend the time for payment of any amounts due under an agreement: Provided that on all such extensions, granted before the commencement of the Crown Lands Act Amendment Act, 1968, interest shall be charged on the said amounts at the rate of five per centum per annum and on all such extensions granted after such commencement, interest shall be charged on those amounts at the rate of ten per centum per annum: Provided, further, that in any case of hardship the receiver may remit the whole or any part of such interest, whether chargeable before or after the passing of the Crown Lands Act Amendment Act, 1933.

Power of  
Minister to  
extend time for  
payment for  
improvements  
in certain cases.  
1199, 1915,  
s. 197.  
S. 194 amended  
by 98, 1969,  
s. 2 (i).

**194.** Where the board certifies that the improvements on any block allotted under the Closer Settlement Act, 1897<sup>2</sup>, are greater than are required for working the block, or that the instalments payable for improvements under the said Act are in the opinion of the board too high, the Minister may extend the time allowed by the said Act for payment for the said improvements for any period not longer than ten years, and the yearly instalments payable by the allottee shall be readjusted accordingly.

Forfeiture.  
1199, 1915,  
s. 198.

**195.** (1) An agreement shall be liable to forfeiture if any instalment thereunder is in arrear for six months, the purchaser having had at least three months previous notice in writing demanding its payment.

(2) Upon any such forfeiture all moneys paid to the State by the intending purchaser shall immediately and absolutely be the property of the State Government.

<sup>1</sup> In a previous reprint of this Act, the expression "Crown Lands Department" was altered to "Department of Lands" pursuant to s. 7 (1) (c) of the Acts Republication Act, 1967, as amended.

<sup>2</sup> See Act No. 805 of 1902, s. 2 and Act No. 830 of 1903, ss. 4, 5.

## PART X

## DIVISION VI

## 196. (1) Where—

- (a) any lease or agreement is liable to forfeiture; or
- (b) any instalment under any agreement is in arrear as mentioned in section 195; or
- (c) there has been a breach of any of the covenants or conditions contained in or implied by any lease or agreement,

the Minister may, on the recommendation of the receiver, by notice in the *Government Gazette*, cancel the lease or agreement.

(2) The Registrar-General, at the request of the receiver, shall make the necessary entries in the register book for giving effect to the cancellation.

(3) Upon any such cancellation the purchaser shall have no further interest or title, either at law or in equity, in the land included in the lease or agreement, or in or to any money which may have been paid thereunder.

(4) The land included in the cancelled lease or agreement shall thereafter be dealt with as if it were a block newly offered under this Part: Provided that the Minister may, at the request of the receiver, offer the interest of any defaulting purchaser or lessee in the land held by him for sale, in manner provided by section 61, and execute a transfer as provided by section 63: Provided further that the Minister may in any case in which, on the recommendation of the board, he thinks fit, dispose of the land or any part thereof included in the cancelled lease or agreement in any manner provided in section 182 notwithstanding that the land has not remained unallotted for one year after being first offered.

(5) The Minister may, in exercising the power to sell or transfer a defaulting purchaser's or lessee's interest in any agreement or lease conferred by this section exercise any such power with respect to the whole or, from time to time, with respect to any part or parts of the land comprised in the agreement or lease, as he thinks fit.

(6) All the provisions of this Act with respect to the sale or transfer of the defaulting purchaser's or lessee's interest in the agreement or lease shall, *mutatis mutandis*, apply to the sale or transfer of his interest in part only of the land comprised in the agreement or lease.

(7) In case of the sale or transfer of the defaulting purchaser's or lessee's interest in part only of the land comprised in the agreement or lease, the Minister may cancel the agreement or lease as to the whole of the said land or as to any part thereof so sold, and may prepare and issue to the purchaser of that part a new agreement or lease therefor, and the new agreement or lease shall be effectual for all purposes as a transfer to the purchaser of the right, title, and interest of the defaulting purchaser or lessee in the part of the said land comprised in the new agreement or lease.

197. The receiver shall cause a return of all cancellations, setting forth the reasons therefor, to be annually placed before Parliament before the first day of September.

Power to cancel lease or agreement liable to forfeiture.  
1199, 1915, s. 199, 1405, 1919, s. 5.  
Subsec. (1) amended by 98, 1969, s. 2 (l).

Subsec. (4) amended by 2120, 1933, s. 5; 98, 1969, s. 2 (l).

Subsec. (5) amended by 98, 1969, s. 2 (l).

Subsec. (7) amended by 98, 1969, s. 2 (l).

Returns of cancellations to be placed before Parliament.  
1199, 1915, s. 200.

## DIVISION VII—SPECIAL PROVISIONS WITH REGARD TO CLOSER SETTLEMENT LANDS

## DIVISION VII

Heading amended by 2060, 1931, s. 7.

\* \* \* \* \*

S. 198 repealed by 2060, 1931, s. 8.

## PART X

## DIVISION VII

Surrender of agreement for perpetual lease. 1199, 1915, s. 202.

Subsec. (1) amended by 2060, 1931, s. 9; 98, 1969, s. 2 (i).

Subsec. (2) amended by 2120, 1933, s. 6 (a); substituted by 2256, 1935, s. 4; amended by 26, 1944, s. 21 (1); 45, 1968, s. 38; 98, 1969, s. 2 (i).

Para. (c) inserted by 26, 1944, s. 21 (1).

199. (1) The holder of any block under an agreement entered into under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act, may, with the consent of the Minister, surrender the agreement for a perpetual lease of the said block.

(2) Upon an application being made under this section the board, subject to the approval of the Minister, shall fix—

- (a) the annual rent at which the lease may be obtained in perpetuity;
- (b) the annual rent at which the lease may be obtained for the first ten years after which the rent shall be fixed in perpetuity as hereinafter provided;
- (c) the provisions (if any) to be inserted in the perpetual lease for the purpose of binding the applicant to pay for all or any of the improvements on the land<sup>1</sup>.

In fixing the rents pursuant to this section the board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

Subsec. (3) substituted by 2256, 1935, s. 4; amended by 98, 1969, s. 2 (i).

(3) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (a) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (b) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the board, subject to the approval of the Minister.

Subsec. (3a) inserted by 2256, 1935, s. 4.

(3a) The rent to be fixed under any such lease shall in no case exceed an amount equal to interest on the price at which the applicant could have completed purchase at the time of the surrender of the agreement, calculated for one year at the rate of interest provided for in the agreement.

Subsec. (3b) inserted by 2256, 1935, s. 4; amended by 98, 1969, s. 2 (i).

(3b) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the board subject to the approval of the Minister. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

Subsec. (4) substituted by 2293, 1936, s. 4 (2nd Sched.).

(4) The provisions of subsections (2), (3), and (4) of section 211, *mutatis mutandis*, shall apply to and in respect of any such application and surrender.

Subsec. (5) inserted by 2120, 1933, s. 6 (b); amended by 40, 1939, s. 11; 23, 1940, s. 8.

(5) The holder of the block surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the block. In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease, at the price at which the lessee could have completed purchase at the time of the surrender, but so that such right may be exercised not earlier than six years after the surrendered agreement came into force, and not later than the expiration of the term of the surrendered agreement.

<sup>1</sup> For commencement of paragraph (c) of subsec. (2) of s. 199 see 26, 1944, s. 21 (2).

## PART X

## DIVISION VII

200. (1) The holder of any block under an agreement entered into under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act may, instead of applying under section 199, apply to the Minister for a reduction of the purchase-money payable under his agreement.

Reduction of purchase-money under agreement instead of surrendering for perpetual lease.  
1199, 1915, s. 203, 1311, 1917, s. 9.  
Subsec. (1) amended by 2060, 1931, s. 10; 98, 1969, s. 2 (i).

(2) Any such application shall be referred by the Minister to the board for inquiry and report and to recommend what (if any) reduction of purchase-money should be made.

Subsec. (2) amended by 26, 1944, s. 22 (a); 98, 1969, s. 2 (i).

(3) If the board report that it is proved to its satisfaction—

Subsec. (3) amended by 2256, 1935, s. 5; 26, 1944, s. 22 (b), (c), (d); 98, 1969, s. 2 (i).

(a) that the purchase-money payable under the agreement is too high; and

(b) that the enforcement of the agreement would inflict hardship upon the holder,

the Minister may grant a reduction of the purchase-money, not exceeding the reduction recommended by the board. Every such reduction shall take effect from such date as the Minister in each case determines.

(4) In any case where a reduction is granted under this section the Minister shall adjust the amounts of the instalments of purchase-money and interest payable under the agreement so as to give effect to the reduction; and the adjustment so made shall be binding on the holder, and the agreement shall be read so as to give effect thereto.

Subsec. (4) amended by 98, 1969, s. 2 (i).

(5) If any holder of an agreement, the interest under which has been reduced under section 7 of the Crown Lands Act Amendment Act, 1910, obtains a reduction under this section, the reduction under the said section 7 and the adjustments consequent thereon shall cease as from the date when the reduction made under this section begins to run.

201. (1) An application under section 199 to surrender an agreement for a perpetual lease, or under section 200 for a reduction of the purchase-money payable under an agreement, may be granted, notwithstanding that instalments payable under the agreement are in arrear.

Power to grant privileges under sections 199 and 200 may be granted though rent or instalments in arrear.  
1199, 1915, s. 204.

(2) When in any such case an application is made, the Minister, on the recommendation of the board, shall determine to what extent, if any, and at what times or in what circumstances, and subject to what other terms and conditions as to interest or otherwise, the arrears of interest under the agreement shall be paid by the applicant. The application shall not be granted unless the applicant accepts the terms and conditions determined by the Minister.

Subsec. (2) amended by 2120, 1933, s. 7; substituted by 25, 1941, s. 7; amended by 26, 1944, s. 23 (1) (a), (b); 98, 1969, s. 2 (i).

If the application is granted, a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Minister shall, in the case of the surrender of an agreement for a perpetual lease, be inserted in the lease issued in place of the surrendered agreement, and in the case of

## PART X

## DIVISION VII

the reduction of the purchase-money payable under the agreement, shall be deemed to be included in the agreement.

Subsec. (3) amended by 2060, 1931, s. 11; 2120, 1933, s. 14; struck out by 26, 1944, s. 23 (2).

\* \* \* \* \*

Option of other relief where that provided by section 199 or 200 not obtainable. 1199, 1915, s. 205.

Subsec. (1) amended by 2060, 1931, s. 12 (a); 98, 1969, s. 2 (i).

**202.** (1) In any case of an agreement entered into under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act, the Minister may, if he is satisfied that the strict enforcement of the agreement would inflict hardship upon the holder, refer the matter to the board to make such (if any) recommendation as they deem proper under this section.

Subsec. (2) amended by 2060, 1931, s. 12 (b); 45, 1968, s. 39.

(2) The board may recommend—

(a) such (if any) temporary reduction of the interest payable under the agreement as they think reasonable, and the period during which, in their opinion, the reduction should operate.

Para. (b) struck out by 2060, 1931, s. 12 (b).

\* \* \* \* \*

Subsec. (3) amended by 98, 1969, s. 2 (i).

(3) The Minister may cause notice in writing of the recommendation (if any) of the board to be given to the applicant.

Subsec. (4) amended by 98, 1969, s. 2 (i).

(4) If the applicant, within one month after the giving of the said notice, gives the Minister notice in writing of his desire to accept the recommendation, the Minister shall cause an adjustment to be made in the amounts of the instalments, and, in case of postponement as aforesaid, of the times of payment thereof, so as to give effect to the recommendation.

(5) Notice in writing of the terms of the adjustment shall be given to the applicant, and the same shall thereafter be binding upon the holder of the agreement, which shall be construed so as to give effect to the adjustment.

Power to re-sell or let surrendered lands. S. 202a enacted by 40, 1939, s. 12.

**202a.** (1) When any lease or agreement issued under this Part has been absolutely surrendered to the Crown the land included therein may, according as the board recommends—

(a) be offered for sale under section 174 at a price fixed by the board;  
or

Para. (b) amended by 98, 1969, s. 2 (i).

(b) be let on miscellaneous lease at a rental and on terms to be fixed by the board with the approval of the Minister; or

(c) be sold by public auction, a reserve price being fixed by the board, on the following terms, namely:—

Twenty-five per centum of the purchase-money to be paid in cash and the balance of the purchase-money together with interest at the fixed rate on the amount for the time being outstanding, to be paid in five equal yearly instalments.

(2) Any such land so offered for sale by auction and not sold at auction may, on the recommendation of the board, be sold by private contract at any price not less than the upset price at which the land was last offered for sale by auction, and on the other terms and conditions on which it was so offered.

\* \* \* \* \*

S. 203 amended by 26, 1944, s. 24; repealed by 45, 1968, s. 40.

\* \* \* \* \*

S. 204 repealed by 46, 1960, s. 4.

\* \* \* \* \*

S. 204a enacted by 2060, 1931, s. 14; amended by 46, 1960, s. 5; repealed by 45, 1968, s. 40.

## PART XI

## PART XI

## SURRENDERS

**204b.** (1) No surrender under this Part of any lease or agreement shall be of any effect unless and until accepted by the Minister.

Acceptance of surrenders.  
S. 204b enacted by 2120, 1933, s. 8.  
Subsec. (1) amended by 98, 1969, s. 2 (i).

(2) The Minister is hereby authorized to accept any such surrender in the name and on behalf of His Majesty.

Subsec. (2) amended by 98, 1969, s. 2 (i).

(3) Any surrender shall be in the prescribed form and be made and executed in the prescribed manner.

**205.** (1) Any lessee may surrender his lease.

Power of lessee to surrender his lease.  
Subsec. (1) amended by 2120, 1933, s. 9.

\* \* \* \* \*

Subsecs. (2), (3) struck out by 2120, 1933, s. 9.

**206.** (1) A lessee may surrender his lease or any part or parts thereof and the Governor may grant a lease or leases of the land so surrendered to such person or persons as are nominated in that behalf by the lessee surrendering.

Surrender for new lease.  
1199, 1915, s. 209.

The lessee surrendering may nominate himself or any other person, or any persons (of whom the said lessee may be one) as the person or persons to whom a lease or leases of the whole or any part or parts of the surrendered land may be granted: Provided that a lease shall not be granted to a person other than the lessee surrendering unless the transfer to that person has been approved in the usual manner.

Subsec. (1) amended by 2256, 1935, s. 6; 26, 1944, s. 25.

(2) Subject to this section, every such new lease shall be granted for the unexpired period of the term of, and for the same purposes, terms, and conditions as the lease so surrendered.

Subsec. (2) amended by 50, 1967, s. 12 (a).

(2a) Where the surrendered lease was originally granted before the commencement of this Act, the covenants and conditions of the new lease shall (except in regard to the term of the lease and the rent payable under the lease) be in accordance with the provisions of this Act.

Subsec. (2a) inserted by 25, 1974, s. 26.

(3) Where it is intended the new lease shall be for a purpose other than the purpose, if any, expressed or implied by the lease or part or parts thereof surrendered the Governor may vary the term of and the purposes, terms and conditions of that new lease.

Subsec. (3) inserted by 50, 1967, s. 12 (b).

## PART XI

Subsec. (4)  
inserted by 50,  
1967, s. 12 (b).

(4) Notwithstanding anything in this section the rent for a new lease granted under this section shall be not less than rent prescribed by section 47 of this Act.

Power to  
surrender  
agreement.  
1882, 1928, s. 25  
(part).  
S. 207 amended  
by 26, 1944,  
s. 26.

207. The purchaser under any agreement may surrender his agreement.

Power to deal  
with  
surrendered  
lands.  
S. 207a enacted  
by 40, 1939,  
s. 13.

207a. The land comprised in any lease or agreement (not being a lease or agreement issued under Part X of this Act) which has been absolutely surrendered may be dealt with in all respects as if the lease or agreement had never been granted.

Surrender of  
agreement for  
new agreement.  
Subsec. (1)  
substituted by  
2256, 1935, s. 7;  
amended by 26,  
1944, s. 27; 98,  
1969, s. 2 (i).

208. (1) The purchaser under an agreement may surrender his agreement, or any part or parts thereof, and the Minister may grant an agreement or agreements of the land so surrendered to the person or persons nominated in that behalf by the purchaser surrendering. The purchaser surrendering may nominate himself, or any other person, or any persons (of whom the said purchaser may be one) as the person or persons to whom an agreement or agreements of the whole or any part or parts of the surrendered land may be granted: Provided that an agreement shall not be granted to a person other than the purchaser surrendering unless a transfer to that person has been approved in the usual manner.

(2) If the agreement is wholly surrendered, and only one new agreement is granted in lieu of the surrendered agreement, it shall be granted for the unexpired period of the term of the surrendered agreement and for the balance unpaid of the purchase-money thereof, but in other respects shall be subject to the same terms and conditions as the agreement surrendered.

Subsec. (3)  
amended by 98,  
1969, s. 2 (i).

(3) If the agreement is partially surrendered or if the agreement is surrendered in whole and two or more agreements are granted in lieu thereof each new agreement granted in lieu of the surrendered agreement or part thereof shall be granted for the unexpired period of the term of the surrendered agreement, and the balance unpaid of the purchase-money mentioned in the original agreement shall be apportioned between each of the new agreements and the balance not surrendered, if any, by the Minister on the recommendation of the board. In other respects each such agreement shall be subject to the same terms and conditions as the agreement surrendered or partially surrendered.

Provisions on  
surrender.  
S. 208aa enacted  
by 2256, 1935,  
s. 7.  
Subsec. (1)  
amended by 26,  
1944, s. 28; 98,  
1969, s. 2 (i).

208aa. (1) Any surrender under section 206 or 208 may be accepted, notwithstanding that any rent payable under the lease or any instalment or part thereof payable under the agreement is in arrear. In any case where the lease or agreement is partially surrendered or where the lease or agreement is surrendered in whole and two or more leases or agreements are granted in lieu thereof, the amount of the said arrears shall be apportioned between each of the new leases or agreements, as the case may be, and the balance not surrendered, if any, by the Minister on the recommendation of the board. If the lease or agreement is wholly surrendered and only one lease or agreement is granted in lieu thereof, the whole of the amount of the arrears shall be payable in respect of the new lease or agreement. The amount of the said arrears or, as the case may be, the amount of arrears apportioned as aforesaid, together with interest thereon at such rate of interest not exceeding five dollars

per centum per annum<sup>1</sup> as is fixed by the board, subject to the approval of the Minister, shall be paid in such instalments, and at such times and within such period as is fixed by the board, subject to approval of the Minister and shall be payable and recoverable in the same manner as the said rent or instalments to become due. The payment of the said instalments of arrears shall be deemed to be a covenant implied in the leases or agreements issued in place of the surrendered or partially surrendered lease or agreement and in the leases or agreements, if any, partially surrendered.

(2) If any such surrender comprises part only of any such lease or agreement, the lease or agreement shall upon registration of the surrender be deemed to be cancelled so far as regards the land comprised in the surrendered part, and the preceding sections of this Part so far as they relate to the term and conditions of the lease or agreement so partially cancelled, and to the fixing of the rent or purchase price thereunder shall, *mutatis mutandis*, be deemed to apply to the lease or agreements so partially cancelled.

**208a.** (1) Any mortgagee or encumbrancee under any mortgage or encumbrance registered under The Real Property Act, 1886<sup>2</sup>, of any lease or agreement who in the exercise of any power under the mortgage or encumbrance or the said Act, sells the lease or agreement or any part thereof may, for the purpose of giving effect to any such sale, exercise all the powers of surrender under the preceding sections in this Part which the mortgagor or encumbrancer could exercise or could have exercised.

Rights of  
surrender of  
mortgages, etc.  
S. 208a enacted  
by 2120, 1933,  
s. 10.

(2) Notwithstanding the provisions of The Real Property Act, 1886<sup>2</sup>, or section 224 of this Act, upon the registration, under The Real Property Act, 1886<sup>2</sup>, of any surrender aforesaid, the estate or interest of the mortgagor or encumbrancer therein described shall pass to and vest in the person nominated in the surrender, freed and discharged from any liability in respect of the mortgage or encumbrance or of any mortgage or encumbrance registered subsequent thereto. Any lease or agreement issued consequent upon such surrender shall be issued free of the said mortgage or encumbrance and of any mortgage or encumbrance registered subsequent thereto but shall be issued and be subject to any mortgage or encumbrance registered prior to the said mortgage or encumbrance, and such prior mortgage or encumbrance shall be noted on the lease or agreement so issued and shall be of the same force and effect and be construed as if it were a mortgage or encumbrance of the lease or agreement so issued.

(3) If any such surrender comprises part only of any such lease or agreement, the lease or agreement comprised in the mortgage shall, upon registration of the surrender as aforesaid, be deemed to be cancelled so far as regards the land comprised in the surrendered part, and the preceding sections of this Part so far as they relate to the term and conditions of the lease or agreement so partially cancelled, and to the fixing of the rent or purchase-price thereunder shall, *mutatis mutandis*, be deemed to apply to the lease or agreements so partially cancelled.

(4) Nothing in this section shall be deemed to authorize any mortgagee or encumbrancee to sell or transfer any lease or agreement or any part thereof except subject to the provisions of this Act.

<sup>1</sup> Pursuant to s. 8 (2) of the Acts Republication Act, 1967, as amended, the reference to the percentage expressed in decimal currency has been substituted for the reference to the percentage expressed in the old currency.

<sup>2</sup> Now Real Property Act, 1886-1975.



## PART XI

Lands under any tenure may be surrendered.  
1199, 1915, s. 210.  
S. 209 amended by 2293, 1936, s. 4 (2nd Sched.); 98, 1969, s. 2 (l).

Surrender of lease or agreement for marginal land lease.  
S. 209a enacted by 26, 1944, s. 29.  
Subsec. (1) amended by 98, 1969, s. 2 (l).

Subsec. (3) amended by 98, 1969, s. 2 (l).

Power of lessee to surrender for perpetual lease or agreement.  
1199, 1915, s. 212.  
S. 210 amended by 23, 1940, s. 9; 98, 1969, s. 2 (l).

Para. (b) amended by 98, 1969, s. 2 (l).

Mode of obtaining perpetual lease or agreement.  
1199, 1915, s. 213.  
1882, 1928, s. 26.  
Subsec. (1) amended by 45, 1968, s. 41; 98, 1969, s. 2 (l).

Para. II struck out by 45, 1968, s. 41.

Subsec. (1a) inserted by 2120, 1933, s. 11; amended by 2246, 1935, s. 4 (2nd Sched.); 25, 1941, s. 8; 98, 1969, s. 2 (l).

**209.** Any person holding land under any tenure may surrender any portion of the said land on such terms as the board recommends subject to the consent of the Minister.

**209a.** (1) Where a person holds any marginal land on lease or agreement the Minister on the recommendation of the board may—

- (a) permit him to surrender that lease or agreement as to the whole or any part of the land comprised therein;
- (b) on any such surrender grant him a lease under the Marginal Lands Act, 1940<sup>1</sup>, of the land surrendered;
- (c) if more than one such lease or agreement is surrendered by the same person, grant him one lease under the Marginal Lands Act, 1940<sup>1</sup>, comprising all the land surrendered.

(2) Section 4 of the Marginal Lands Act, 1940<sup>1</sup>, shall apply to any lease so granted.

(3) In this section "marginal land" means land which has been used principally for wheat growing, but which in the Minister's opinion, because of inadequate rainfall, with or without other causes, is unsuitable for wheat growing as the principal operation carried on thereon.

**210.** Any lessee under any Crown lease granted under any of the Crown Lands Acts, may apply in writing to surrender his lease for a perpetual lease or an agreement under Part V: Provided that this section shall apply only to any lease which—

- (a) is solely used for pastoral or agricultural purposes, or both; or
- (b) in the opinion of the Minister may not be required for subdivision or for public purposes.

**211.** (1) Upon an application being made under section 210, the board, subject to the approval of the Minister, shall fix the annual rent or purchase-money at which the perpetual lease or agreement may be obtained: Provided that—

- i. the price fixed for repurchased lands under an agreement shall not be less than the cost of the same to the State, together with the cost of offering the same:

\* \* \* \* \*

(1a) Any application as aforesaid may be granted notwithstanding that any rent payable under the lease is in arrear. When in any such case an application is made, the Minister, on the recommendation of the board, shall determine to what extent, if any, and at what times or in what circumstances and subject to what other terms and conditions, whether as to interest on the arrears or otherwise, the arrears of rent shall be paid. The application shall not be granted unless the applicant accepts the terms and conditions so determined by the Minister.

If the application is granted, a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Minister shall

<sup>1</sup> Now Marginal Lands Act, 1940-1974.

be inserted in the perpetual lease or agreement issued in place of the surrendered lease.

(2) Upon the annual rent or purchase-money being so fixed, notice in writing of the amount thereof shall be given to the applicant, and the applicant, upon surrendering the lease, may, subject to the approval of the Minister and subject to subsection (3) hereof, obtain a perpetual lease or agreement at the said rent or purchase-money.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

(3) The applicant shall, within three months after the giving of notice under subsection (2) hereof, accept or refuse the terms offered; and in the event of his agreeing to purchase, he shall forward with the notification of his acceptance an amount equal to the first half-yearly instalment of purchase-money.

(4) The Minister shall forthwith cancel the lease surrendered as aforesaid, so far as regards the land for which a perpetual lease or agreement has been granted, and the applicant shall, within the time and in manner prescribed, execute a new lease or agreement pursuant to Part V.

Subsec. (4)  
amended by  
2256, 1935,  
s. 8 (a);  
98, 1969, s. 2 (i).

\* \* \* \* \*

Subsec. (5)  
inserted by  
2256, 1935,  
s. 8 (b);  
amended by 40,  
1939, s. 14;  
struck out by 27,  
1965, s. 19.

\* \* \* \* \*

S. 211a enacted  
by 23, 1940,  
s. 10;  
amended by 26,  
1944, s. 30; 42,  
1952, s. 3 (2nd  
Sched.);  
repealed by 27,  
1965, s. 20.

212. (1) The lessee under any Crown lease granted under any of the Crown Lands Acts may apply in writing to surrender his lease and purchase the fee simple thereof: Provided that this section shall apply only to any lease of land which—

Power for  
lessee to  
purchase leased  
land.  
1882, 1928,  
s. 27.

(a) is solely used for pastoral or agricultural purposes, or both; or

Subsec. (1)  
amended by 23,  
1940, s. 11;  
98, 1969, s. 2 (i).

(b) in the opinion of the Minister will not be required for subdivision or for public purposes.

Para. (b)  
amended by 98,  
1969, s. 2 (i).

(2) Upon an application being made under this section the board shall, subject to the approval of the Minister, fix the sum at which the fee simple of the land may be purchased and shall give notice thereof in writing to the applicant.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

(3) The applicant shall, within three months after the giving of the notice under subsection (2) of this section, notify the Minister whether he accepts or refuses the terms offered. If he accepts, and if within one month after the Minister receives notice of his acceptance he surrenders his lease and pays the purchase-money and all proper fees he shall be entitled to receive a land grant for the land: Provided that the Minister may extend the time for surrender and payment.

Subsec. (3)  
amended by 98,  
1969, s. 2 (i).

(4) No lessee shall be entitled to purchase any land under this section until after the expiration of six years from the time when that land was originally leased to him or to his predecessor in title, nor unless the Minister is satisfied either that all the conditions of the lease have been fulfilled, or that the lessee

Subsec. (4)  
amended by 98,  
1969, s. 2 (i).

has made such permanent improvements on the land that strict compliance with the conditions of the lease should be dispensed with.

Subsec. (5)  
struck out by 45,  
1968, s. 42.

\* \* \* \* \*

Annual  
statement of  
surrenders  
disallowed.  
1199, 1915,  
s. 214.  
S. 213 amended  
by 98, 1969,  
s. 2 (l).

213. The Minister shall once in every year lay before Parliament a statement of all cases in which he has declined to allow a surrender under sections 210, 211, or 212, stating in every case the reasons for the refusal.

S. 214 repealed  
by 23, 1940,  
s. 12.

\* \* \* \* \*

Conditions of  
agreement or  
lease obtained  
in lieu of  
homestead  
lease.  
1199, 1915,  
s. 216.

215. Where any lessee of a homestead lease heretofore has surrendered the same pursuant to section 174 of the Crown Lands Act, 1903, or section 212 of the Crown Lands Act, 1915, or hereafter surrenders the same pursuant to section 210 of this Act, and has obtained or obtains a perpetual lease or agreement in lieu thereof, the said perpetual lease or agreement shall, notwithstanding, be and remain subject to all the conditions relating to homestead leases, and the lessee or purchaser shall be and remain bound by all the covenants and provisions relating to those leases.

S. 216 repealed  
by 23, 1940,  
s. 13.

\* \* \* \* \*

Powers of  
trustees and  
executors.  
1199, 1915,  
s. 218.  
S. 217 amended  
by 2293, 1936,  
s. 4 (2nd  
Sched.).

217. If any person having a right to surrender a lease in exchange for a lease or agreement dies, or is adjudicated bankrupt, or executes a statutory deed of assignment for the benefit of his creditors, his executors or administrators, or the trustee or other person in whom the lease or agreement vests under his will, or by virtue of the bankruptcy or assignment, may exercise all powers of surrender and exchange, and powers incidental thereto, which the said person could have exercised.

Appeal from  
first decision of  
board.  
1199, 1915,  
s. 219.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (l).

218. (1) Any person surrendering his lease for a lease or agreement under this Act shall have a right of appeal to the Minister against the decision of the board fixing the amount of rent and purchase-money, or either, as the case may be.

(2) The appeal shall be made within three months from the notification to the intending lessee or purchaser of the amount of the rent or purchase-money.

Subsec. (3)  
amended by 98,  
1969, s. 2 (l).

(3) The Minister shall refer the appeal to the board for reconsideration and a report thereon, and may, after receiving the report from the board, reduce the rent and purchase-money, or either: Provided that the purchase-money of any repurchased lands shall not be less than the cost of the same to the State, together with the costs of offering the same.

Subsec. (4)  
amended by 98,  
1969, s. 2 (l).

(4) The appellant shall, within three months after the decision of the appeal, accept or refuse the payment of the rent or purchase-money as fixed by the Minister in deciding the appeal.

Power of lessee  
to apply to  
surrender from  
time to time.  
1199, 1915,  
s. 220.

219. If a lessee does not accept, or if he refuses, the terms offered, or the payment of the rent or purchase-money, as provided by subsection (3) of section 211, or subsection (4) of section 218 (according to the nature of the case), the said lessee may make a fresh application under section 210, and may, in similar circumstances, if he so desires, make fresh applications under that section from time to time.

\* \* \* \* \*

S. 220 amended by 2363, 1937, s. 5; 46, 1960, s. 6; 50, 1966, s. 5; repealed by 45, 1968, s. 43.

221. (1) The purchaser under any agreement (except an agreement under Part X of the Crown Lands Act, 1903, Part X of the Crown Lands Act, 1915, or Part X of this Act) may apply in writing to surrender his agreement for a perpetual lease of the land comprised therein.

Surrender of agreement for lease.

1199, 1915, s. 222, 1882, 1928, s. 28.

(2) Upon an application being made under this section the board, subject to the approval of the Minister, shall fix—

Subsec. (2) substituted by 2256, 1935, s. 9; amended by 26, 1944, s. 31 (1); 98, 1969, s. 2 (l).

(a) the annual rent at which the lease may be obtained in perpetuity; and

(b) the annual rent at which the lease may be obtained for the first ten years after which the rent shall be fixed in perpetuity as hereinafter provided; and

(c) the provisions (if any) to be inserted in the perpetual lease for the purpose of binding the applicant to pay for all or any of the improvements on the land.

Para. (c) inserted by 26, 1944, s. 31 (1)<sup>1</sup>.

In fixing the rents pursuant to this section the board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

(2aa) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (a) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (b) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the board, subject to the approval of the Minister.

Subsec. (2aa) inserted by 2256, 1935, s. 9; amended by 98, 1969, s. 2 (l).

\* \* \* \* \*

Subsec. (2ab) inserted by 2256, 1935, s. 9; struck out by 45, 1968, s. 44.

(2ac) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the board subject to the approval of the Minister. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

Subsec. (2ac) inserted by 2256, 1935, s. 9; amended by 98, 1969, s. 2 (l).

(2a) Any application under this section may be granted notwithstanding that the instalments payable under the agreement are in arrear. When in any such case an application is made, the Minister on the recommendation of the board, shall determine to what extent, if any, and at what times or in what circumstances and subject to what other terms and conditions, whether as to interest on the arrears or otherwise, the arrears of interest under the surrendered agreement shall be paid. The application shall not be granted unless the applicant accepts the terms and conditions so determined by the Minister.

Subsec. (2a) inserted by 2120, 1933, s. 12 (a); amended by 25, 1941, s. 9; 98, 1969, s. 2 (l).

<sup>1</sup> For commencement of para. (c) of subsec. (2) of s. 221, see 26, 1944, s. 31 (2).

If the application is granted a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Minister shall be inserted in the lease issued in place of the surrendered agreement.

(3) The provisions of subsections (2), (3), and (4) of section 211, *mutatis mutandis*, shall apply to and in respect of any such application and surrender.

Subsec. (4)  
inserted by  
2120, 1933,  
s. 12 (b);  
amended by 40,  
1939, s. 15;  
23, 1940, s. 14.

(4) The purchaser under any agreement surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the land. In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease, at the price at which the lessee could have completed purchase at the time of the surrender, but so that such right may be exercised not earlier than six years after the surrendered agreement came into force, and not later than the expiration of the term of the surrendered agreement.

Surrender of  
agreement or  
lease of a small  
estate of a  
deceased  
person.  
1199, 1915,  
s. 223.

Subsec. (1)  
amended by 60,  
1965, s. 6 (2);  
98, 1969, s. 2 (1).

222. (1) The Minister may, upon the application—

(a) of the executor of any deceased lessee or purchaser under any Crown lease or agreement, who has left a will, or of any person entitled to obtain letters of administration of the estate of such deceased lessee or purchaser or of any part of such estate left unadministered; or

(b) of the widow, widower, or next of kin of any deceased lessee or purchaser under any Crown lease or agreement, who has died intestate,

permit the surrender of the lease or agreement by the said executor, person, widow, widower, or next of kin, in the name of the deceased lessee or purchaser without probate of his will or letters of administration of his estate or of any part thereof left unadministered having been granted, if the Minister is satisfied that—

I. the applicant is the person entitled to prove the will of the deceased, or to obtain letters of administration of his estate, or of the part thereof left unadministered;

Para. II  
amended by 60,  
1965, s. 6 (2).

II. the whole of the estate of the deceased does not exceed in value the sum of four hundred dollars;

III. all the lawful debts and funeral expenses of the deceased have been paid;

IV. all succession duties (if any) have been paid in respect of the deceased's estate; and

v. the will (if any) of the deceased has been filed in the Supreme Court;

and the Minister may accept the surrender, and the Governor may issue a new lease or agreement, of the same kind and subject to the same terms and conditions as the surrendered lease or agreement, to the applicant or to any person named by him: Provided that no such application shall be allowed until after notice thereof has been published for two weeks in the *Government Gazette*, nor until after the expiration of two months from the time of the death of the deceased.

Subsec. (1a)  
inserted by 23,  
1940, s. 15.

(1a) An application may also be made under subsection (1) of this section where rent or instalments payable under the lease or agreement are in arrear,

if all the other lawful debts and funeral expenses of the deceased have been paid. When in any such case the application is granted—

(a) the full amount of the said arrears of rent or instalments, together with interest thereon at such rate of interest not exceeding five dollars per centum per annum<sup>1</sup> as is fixed by the board, subject to the approval of the Minister, shall be paid in such instalments, and at such times, as are fixed by the board, subject to the approval of the Minister; and

Para. (a)  
amended by 98,  
1969, s. 2 (i).

(b) the lease or agreement issued in place of the surrendered lease or agreement shall contain covenants for the payment of the instalments so fixed; and

(c) those instalments shall be recoverable in the same manner as the rent or purchase-money under lease or agreement so issued.

(2) The Registrar-General shall register every such surrender without the production of any probate, or letters of administration, or requiring any transmission to any executor or administrator.

(3) Every such new lease or agreement shall be held, but so as not to affect the indefeasibility of a Real Property Act title, subject to the dispositions of the will or rights arising on intestacy as if probate or letters of administration, as the case may be, had been granted.

223. (1) When a lessee or purchaser holds land under one lease or agreement, and also holds land under one or more other leases or agreements, and—

Surrender of  
several leases or  
agreements for  
one lease or  
agreement of  
the same class.  
1199, 1915,  
s. 224.

(a) the said leases or agreements are all of the same class, and all contain substantially the same covenants, conditions, and reservations; and

(b) the terms of the said leases and agreements all end on the same date, or within one period of twelve months,

the lessee or purchaser may apply in writing for leave to surrender the leases or agreements for one lease or agreement comprising the whole of the said lands.

(2) If the Minister approves of the application, the lessee or purchaser may tender a surrender of the leases or agreements in the prescribed form and executed in the prescribed manner; and the Minister may, if he thinks proper, accept the surrender in the name and on behalf of His Majesty.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

(3) If the surrender is accepted, one lease or agreement shall be issued to the lessee or purchaser; and that lease or agreement shall—

(a) be of the same class as;

(b) comprise the whole of the lands comprised in; and

(c) contain substantially the same covenants, conditions, and reservations as are contained in,

the surrendered leases or agreements, and shall be for a term ending on the same date as the terms of those leases or agreements, or as such of those terms as ends on the latest date.

(4) For the purposes of this section the terms of all perpetual leases shall be deemed to end on the same date.

Subsec. (4)  
inserted by 23,  
1940, s. 16.

<sup>1</sup> Pursuant to s. 8 (2) of the Acts Republishing Act, 1967, as amended, the reference to the percentage expressed in decimal currency has been substituted for the reference to the percentage expressed in the old currency.

## PART XI

Saving of estates and interests in surrendered lands.  
S. 224 substituted by 40, 1939, s. 16.

Subsec. (2) amended by 98, 1969, s. 2 (i).

Subsec. (3) amended by 98, 1969, s. 2 (i).

224. (1) No lease or agreement which is subject to any estate, interest, or caveat registered or noted on such lease or agreement shall be surrendered, as regards either the whole or any part of the land therein comprised, unless the person entitled to that estate or interest or, as the case may be, the person who lodged the caveat has consented in writing to the proposed surrender.

(2) Unless the person entitled to any such estate or interest or, as the case may be, the person who lodged the caveat, otherwise directs by notice to the Minister, any new lease or agreement of the surrendered land or any part thereof shall be subject to the said estate, interest, or caveat, and that estate, interest, or caveat shall be registered or noted on the new lease or agreement and shall be of the same force and effect and be construed as if the new lease or agreement were subject to such estate, interest, or caveat.

(3) Where the surrender of a lease or agreement, whether as regards the whole or any part of the land comprised therein, is expressed to be an absolute surrender, and a person who is entitled to any estate or interest registered or noted on the lease or agreement or who has lodged a caveat so noted, consents to the surrender by writing endorsed thereon, that person shall be deemed to have directed by notice to the Minister that any new lease or agreement of the surrendered land or any part thereof shall not be subject to his estate, interest or caveat and that such estate, interest or caveat need not be noted on the new lease or agreement.

## PART XII

## PART XII

## TRANSFERS

In what circumstances transfers may be allowed.  
1199, 1915, s. 227.  
1882, 1928, s. 30.

Subsec. (1) amended by 46, 1960, s. 7 (a); 50, 1967, s. 13 (a); 98, 1969, s. 2 (i); 25, 1974, s. 27.

Para. I amended by 98, 1969, s. 2 (i).

Para. II amended by 25, 1974, s. 27<sup>1</sup>.

Para. III amended by 98, 1969, s. 2 (i).

Para. IV amended by 98, 1969, s. 2 (i).

225. (1) Subject to the provisions of subsections (7) and (8) of this section, no transfer of any lease or of any agreement, and no subletting of any land comprised in any lease or agreement, shall have any effect unless the consent of the Minister has been previously obtained in the following manner:—

- I. Application for the transfer or subletting shall be made in writing to the Minister:
- II. Except in the case of transfers by executors or administrators to devisees under the wills under which they act, or transfers by the trustees of a settlement to the *cestuis que trustent* thereunder the consent shall not be granted before the expiration of one week from the date of publication of notice of the application in the *Government Gazette*:
- III. The application shall be referred by the Minister to the board:
- IV. If any person places before the Minister or the board any objection to the granting of the application, the board shall give the objector an opportunity of attending personally before the board to substantiate his objection. The board shall not uphold any such objection unless it has first given the applicant and the intended

<sup>1</sup> The amendment made by s. 27 of Act No. 25 of 1974 has been incorporated upon the assumption that the passage struck out from s. 225 (1) II had been correctly quoted.

transferee or sublessee an opportunity of answering the objection either in writing or by appearing personally before the board:

- v. If the board recommends the granting of the application, but not otherwise, the Minister may, if he thinks proper, by writing signed by him, consent to the transfer or subletting.

Para. V  
amended by 98,  
1969, s. 2 (i).

*	*	*	*	*	*	*	*	*	*	*	Subsec. (2) substituted by 46, 1960, s. 7 (b); amended by 60, 1965, s. 6 (2); 50, 1966, s. 6 (a); struck out by 45, 1968, s. 45.
*	*	*	*	*	*	*	*	*	*	*	Subsec. (2aa) inserted by 50, 1966, s. 6 (b); struck out by 45, 1968, s. 45.
*	*	*	*	*	*	*	*	*	*	*	Subsec. (2a) inserted by 46, 1960, s. 7 (b); amended by 50, 1966, s. 6 (c); struck out by 45, 1968, s. 45.
*	*	*	*	*	*	*	*	*	*	*	Subsec. (3) struck out by 45, 1968, s. 45.
*	*	*	*	*	*	*	*	*	*	*	Subsec. (4) amended by 50, 1966, s. 6 (d); struck out by 45, 1968, s. 45.
*	*	*	*	*	*	*	*	*	*	*	Subsec. (4a) inserted by 25, 1941, s. 10 (1); struck out by 45, 1968, s. 45.

(5) Notwithstanding anything in this section the board may recommend and the Minister may consent to the transfer or subletting of any land if owing to special circumstances it is in the opinion of the board and the Minister just and reasonable that the transfer or subletting should be permitted.

Subsec. (5)  
amended by 98,  
1969, s. 2 (i).

(6) Consent shall not be given to a transfer or subletting to take effect within the period of five years from the date of the lease or agreement, which period shall, in case the lease or agreement has been obtained on the surrender of another lease or agreement, be computed from the date of the original lease or agreement: Provided that this subsection shall not—

I. apply to transfers by executors or administrators to devisees under the wills under which they act:

II. prevent consent being given in any case where it is proved to the satisfaction of the Minister that the refusal thereof would inflict great hardship upon the person proposing to transfer or sublet.

Para. II  
amended by 98,  
1969, s. 2 (i).

(7) The provisions of this section shall not apply to—

(a) the transfer of, or the subletting of land comprised in any existing lease granted under any Act which was repealed by the Crown Lands Act, 1903, or granted under any earlier Crown Lands Act, provided that the said Act contained express provision contrary to the provisions of this section and applicable to the said lease:

(b) any subletting with the consent of the Minister pursuant to section 57.

Para. (b)  
amended by 98,  
1969, s. 2 (i).



## PART XII

Subsec. (8)  
amended by 25,  
1941, s. 10 (2);  
struck out by 46,  
1960, s. 7 (c);  
substituted by  
50, 1967,  
s. 13 (b).

(8) When an intended subletting under this section is for the purpose of creating an easement in favour of the Crown, a Government Department or an instrumentality of the Crown, it shall be good and sufficient compliance with the provisions of subsection (1) of this section if the Minister consents to that intended subletting and the requirements of paragraphs I and IV of that subsection are complied with unless the board upholds an objection under paragraph IV in which case the Minister shall not consent to that intended subletting.

Subsec. (9)  
amended by 98,  
1969, s. 2 (i).

(9) The Minister shall not capriciously withhold his consent to any proposed transfer or subletting.

Non-validity of  
certain  
agreements.  
1199, 1915,  
s. 228.  
S. 226 amended  
by 98, 1969,  
s. 2 (i).

**226.** Except in any cases as to which it is otherwise expressly provided by this Act no agreement, whether verbal or in writing, for the sale, transfer or subletting of—

- (a) any perpetual lease;
- (b) any lease with right of purchase;
- (c) any other lease, where the agreement cannot be given effect to without the Minister's consent;
- (d) any agreement for sale;
- (e) any interest in any such lease or agreement as hereinbefore mentioned; or
- (f) the land or any interest in the land comprised in any such lease or agreement as hereinbefore mentioned,

shall be of any validity or have any force or effect after the expiration of one year from the making of the agreement, unless before the said expiration the consent in writing of the Minister to the proposed dealing has been obtained: Provided that this section shall not apply to any agreement which was in existence on the seventh day of December, 1910<sup>1</sup>, nor to any agreement thereafter made in pursuance of any agreement which was in existence on that day and for the purpose of giving effect to that agreement.

Prohibition  
against  
transferring or  
subletting  
without consent  
to extend to  
every form of  
alienation  
without  
consent.  
1311, 1917,  
s. 12.

**227.** (1) Notwithstanding any law or usage to the contrary it is hereby declared that any prohibition, express or implied, contained in this Act, or in any lease or agreement issued under this Act or any repealed Act, against the transferring, assignment, or subletting of land comprised in any such lease or agreement without the consent of the Minister first had in each case, shall be construed to extend to and to include the prohibition of—

- (a) every form of alienation, or attempted alienation, without such consent as aforesaid, of the land comprised in the lease or agreement; and
- (b) the mere parting, before such consent is actually obtained, with the possession of the land, or any part thereof, in pursuance of any agreement for the alienation thereof, whether the said agreement is executory or otherwise and whether the same is or is not enforceable in law, and whether or not the said alienation is thereby agreed to be made subject to such consent,

and upon any breach of any such prohibition as hereby extended the Minister shall have the same powers of re-entry and forfeiture as in the case of a breach of any such prohibition as hereinbefore first mentioned.

Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

<sup>1</sup> Reference to the year nineteen hundred and ten altered to 1910 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

PART XII

(2) Any person who gives or takes possession of any land, or any part of any land, comprised in any such lease or agreement contrary to such prohibition as aforesaid as hereby extended shall be liable to a penalty not exceeding one hundred dollars, and in addition the lease or agreement comprising the land or part shall be liable to be absolutely forfeited without any compensation being payable to the holder thereof.

Subsec. (2) amended by 60, 1965, s. 6 (2).

(3) In the case of any person transferring, assigning, or subletting contrary to such prohibition as hereby extended without such consent as aforesaid, any deed, written instrument, or other agreement whereby the transfer, sublease, or assignment is made, or for the occupation of any land so transferred, assigned, or sublet, shall be wholly null and void for all purposes whatsoever.

227a. (1) For the purposes of this Part a mortgage of a lease or agreement shall not be deemed to be an alienation or attempted alienation of the land comprised in the lease or agreement.

Mortgage of lease or agreement not alienation.  
S. 227a enacted by 23, 1940, s. 17.

(2) In this section "mortgage" includes any legal or equitable mortgage whether under the Real Property Act, 1886-1939<sup>1</sup> or not.

---

PART XIIIPART XIII

## SALES OF LANDS, EXCHANGE OF LANDS, GRANTING OF SITES FOR BUILDINGS

## DIVISION I—SALES OF LANDS

DIVISION I

228. The following lands may be sold by auction for cash:—

What lands may be sold.  
1199, 1915, s. 229.

I. Special blocks: Any single section of Crown lands which is surrounded by lands sold or contracted to be sold under any of the Crown Lands Acts; also any section or block of land belonging to or vested in the Crown (not exceeding 40 hectares in area) which may be required for the establishment of any industry, trade, or business, or for any other purpose approved by the Governor:

Para. I amended by 27, 1965, s. 21 (a); 25, 1974, s. 28 (a).

II. Crown lands within hundreds which have been offered for lease under Part V of the Crown Lands Act, 1903, Part V of the Crown Lands Act, 1915, or Part V of this Act, and have not been taken up within two years from the day when they were first open to be taken up:

III. Town lands:

IV. Suburban lands which the Governor, by proclamation, excepts from being dealt with by the board:

v. Any lands the value of which does not exceed four thousand dollars.

Para. V inserted by 27, 1965, s. 21 (b); amended by 60, 1965, s. 6 (2); 25, 1974, s. 28 (b).

---

<sup>1</sup> Now Real Property Act, 1886-1975.

Sale of lands, etc., by auction on agreement for sale and purchase.

S. 228a enacted by 23, 1940, s. 18.

Subsec. (1) amended by 98, 1969, s. 2 (i); 25, 1974, s. 29.

**228a.** (1) Any lands that may be sold by auction in pursuance of this Part may, if the Minister so determines, be offered at auction on terms that the buyer may at his option purchase the lands for cash or on agreement for sale and purchase.

(2) A statement setting out the options offered to the purchaser and short particulars of the terms, covenants, and conditions to be included in the agreement shall be included in the statement published in the *Government Gazette* pursuant to section 230 of this Act.

Subsec. (3) amended by 98, 1969, s. 2 (i).

(3) The terms, covenants, and conditions to be included in any such agreement shall be such as the Minister determines, and such agreement shall not be subject to the other provisions of this Act relating to agreements.

Power to grant Crown lands to certain bodies.

S. 228b enacted by 27, 1965, s. 22;

amended by 45, 1968, s. 46; 25, 1974, s. 30.

**228b.** Notwithstanding any other provision of this Division the Governor may, on payment of such sum as is fixed by the board, grant the fee simple of any Crown lands to any of the following bodies corporate, namely, the War Service Homes Commission, the Savings Bank of South Australia, the State Bank of South Australia, the South Australian Housing Trust, the State Planning Authority, the Monarto Development Commission, or any municipal council or district council or any body corporate which is, by virtue of any Act, deemed to be, or vested with the powers of, a municipal council or district council.

Fee simple may be granted to licensee in certain cases.

S. 228c enacted by 25, 1974, s. 31.

**228c.** Where a person holds a licence over lands under Part XIV of this Act and permanent improvements have been made to the satisfaction of the Minister, or the licensee satisfies the Minister that it is his intention to proceed forthwith to carry out such improvements to the land, the Governor may on payment of such sum as is recommended by the board and approved by the Minister, grant the fee simple in that land to the licensee.

Power of Minister to fix upset and reserve prices.

S. 229 substituted by 98, 1969, s. 11.

**229.** (1) The Minister may fix an upset price at which any lands referred to in section 228 of this Act may be offered at auction, and may raise or lower any such upset price.

(2) The Minister may fix a reserve price at which any such lands may be sold at auction and, where a reserve price is so fixed for any sale of any such lands by auction and such price is not reached at the auction, the Minister may sell the land by private contract at a price that is less than the reserve price so fixed.

Lands to be gazetted before auction.

1199, 1915, s. 231.

S. 230 amended by 25, 1974, s. 32.

**230.** A statement setting forth the lands, the upset price, and the time and place of auction shall, prior to any sale, be published in the *Government Gazette*.

Purchase-money of lands sold for cash, how payable.

1199, 1915, s. 232.

S. 231 amended by 98, 1969, s. 2 (i).

**231.** No Crown lands shall be sold for cash at public auction unless on condition that the purchaser shall, at the sale, pay in ready cash a deposit of at least twenty per centum of the purchase-money, and shall pay the residue within one month thereafter, or within such extended time as the Minister may allow.

Unselected or unsold Crown lands within hundreds to remain open.

1199, 1915, s. 233.

**232.** (1) All Crown lands, except town or suburban lands, proposed to be offered for sale may nevertheless be taken up on lease or agreement not less than thirty days prior to the auction; and lands so offered and not sold shall remain open for leasing or sale under agreement or may be sold by private contract for cash at the upset price at which the same were last offered.

(2) Town and suburban lands offered for sale and not sold may be sold by private contract for cash at any price not less than the upset price at which the same were last offered.

Subsec. (2)  
inserted by  
2060, 1931,  
s. 15.

(3) Town lands offered at auction on agreement for sale and purchase and not sold may be sold by private contract on agreement for sale and purchase at any price not less than the upset price at which they were last offered. Every agreement for sale and purchase under this subsection shall contain such terms, covenants, and conditions as the Minister determines, and shall not be subject to the other provisions of this Act relating to agreements.

Subsec. (3)  
inserted by 23,  
1940, s. 19;  
amended by 98,  
1969, s. 2 (l).

**232a.** (1) The Minister, by notice in the *Government Gazette*—

Town lands at  
Whyalla.

(a) may declare that estates in fee simple in any specified blocks of town land in the town of Whyalla may be applied for in writing:

S. 232a enacted  
by 3, 1939, s. 4.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (l).

(b) shall declare the price of every such block in accordance with the recommendation of the board made in that behalf:

(c) shall set out the terms of payment of the purchase-money and any conditions to which any blocks will be subject, pursuant to section 232h, 234, or 235, of this Act, and any other conditions or stipulations binding on the purchaser:

(d) shall fix a day, not earlier than one month after the publication of the notice in the *Government Gazette* before which applications for the blocks mentioned in the notice must be made.

(2) The Minister shall not give any notice as aforesaid in respect of any blocks unless the board recommends that it is desirable that the blocks should be used as sites for dwelling-houses.

Subsec. (2)  
amended by 98,  
1969, s. 2 (l).

**232b.** (1) Every application made pursuant to the last preceding section shall be made to the Minister in writing, giving the name, address and occupation of the applicant, and specifying the land applied for.

Application and  
payment.  
S. 232b enacted  
by 3, 1939, s. 4.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (l).

\* \* \* \* \*

Subsec. (2)  
struck out by 27,  
1965, s. 23 (a).

(3) The successful applicant for any land offered under the last preceding section shall pay the purchase-money within one month after notice of the allotment of the land to him is published in the *Government Gazette*, or within such extended time as the Minister may allow.

Subsec. (3)  
amended by 27,  
1965, s. 23 (b);  
98, 1969, s. 2 (l).

\* \* \* \* \*

Subsec. (4)  
struck out by 27,  
1965, s. 23 (c).

**232c.** All applications pursuant to section 232a of this Act shall forthwith after the receipt thereof be referred by the Minister to the board unless the land is withdrawn from sale; and the board shall consider all the applications and allot the land in such manner as it deems just and expedient.

Reference of  
applications to  
the board.  
S. 232c enacted  
by 3, 1939, s. 4;  
amended by 98,  
1969, s. 2 (l).

**232d.** (1) All applications made pursuant to section 232a of this Act and received prior to or on the day specified in the *Government Gazette* as the last day for receiving such applications, shall be dealt with as simultaneous applications.

Simultaneous  
applications.  
S. 232d enacted  
by 3, 1939, s. 4.

(2) Simultaneous applications may be decided by lot by the chairman of the board where any difficulty arises in deciding the successful applicant.

Gazetted of  
successful  
applicants.

S. 232e enacted  
by 3, 1939, s. 4;  
amended by 98,  
1969, s. 2 (l).

**232e.** The Minister, upon being informed by the board of the names of the successful applicants for town land within the town of Whyalla shall cause those names to be published in the *Government Gazette*, with the particulars of the lands allotted to them and the price payable.

Board may  
re-offer land not  
taken up.

S. 232f enacted  
by 3, 1939, s. 4;  
amended by 98,  
1969, s. 2 (l).

**232f.** If no application for a block offered by notice under section 232a of this Act is made within the time fixed by that notice, the Minister may again offer that block in accordance with the last five preceding sections at such reduced price as the board recommends.

Sales by  
auction of  
blocks not  
allotted.

S. 232g enacted  
by 3, 1939, s. 4.

**232g.** Any block not allotted after being offered by notice under section 232a of this Act may be sold by auction as if it had never been so offered.

Conditions.

S. 232h enacted  
by 3, 1939, s. 4.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (l),  
and as indicated  
hereinafter.

**232h.** (1) Whenever any town land in the town of Whyalla is sold under any provision of this Part that land may, if the Minister so directs, be sold subject to all or any of the following conditions, namely:—

Para. (a) struck  
out by 98, 1969,  
s. 12.

\* \* \* \* \*

Para. (b)  
amended by 98,  
1969, s. 2 (l); 25,  
1974, s. 33; 88,  
1975, s. 3 (1)  
(2nd Sched.).

(b) that the purchaser or his successor in title shall, within such time as is specified in the condition, erect on the land such premises, being either a dwelling-house, business premises, or other premises, as are mentioned in the condition, and that the purchaser and his successor in title shall not, without the consent in writing of the Minister, erect on the land any other premises:

(c) conditions regulating or restricting, in such manner as is specified in the conditions, the purposes for which the land may be used.

(2) Any such condition, if imposed, shall be expressed in the receipt for the purchase-money and in the land grant.

(3) When a certificate of title is issued in respect of any land comprised in any land grant in which any such condition is expressed the Registrar-General shall cause a statement to be inserted in or endorsed on the certificate to the effect that the land is subject to the said condition, and setting forth terms of the condition.

(4) Upon any breach of the said condition in respect of any land the Governor may, by notice published in the *Government Gazette*, cancel the sale of the said land; whereupon the said sale shall become absolutely void, and the said land shall be forfeited to the Crown.

Subsec. (5)  
amended by 98,  
1969, s. 2 (l).

(5) Upon the filing in the Lands Titles Registration Office by the Minister of a copy of the *Government Gazette* containing any such notice, the Registrar-General shall make and sign an endorsement on the receipt for the purchase-money of the land, if it has been filed in his office, or on any land grant or certificate of title which has been issued in respect of the land, or any part thereof, to the effect that the said receipt, land grant, or certificate is cancelled to the extent that it applies to such land or such part, the same having been forfeited to the Crown. The receipt, land grant, or certificate shall thereupon be cancelled to the said extent, and the said land shall thereafter, for the purposes of this Act and The Real Property Act, 1886-1936<sup>1</sup>, be dealt with and regarded as if it had never been alienated from the Crown. The

<sup>1</sup> Now Real Property Act, 1886-1975.

Registrar-General shall also call in and endorse in the same manner the duplicate of the land grant or certificate, which shall thereupon be cancelled to the said extent.

(6) The Minister may, on the recommendation of the Land Board, and if he thinks that special circumstances exist, which justify him in so doing, exempt any person from the obligation to comply with any such condition as mentioned in subsection (1) of this section.

Subsec. (6)  
amended by 98,  
1969, s. 2 (b).

(6a) The Minister may on the recommendation of the board and if he thinks that special circumstances exist which justify him in so doing, wholly or partially remit or vary any of the conditions mentioned in subsection (1) of this section and in particular but without prejudice to the generality of the foregoing may extend the time specified in the condition in paragraph (b) of subsection (1) of this section in which the purchaser or his successor in title shall erect any premises on the land. Any extension of time allowed by the Minister under this subsection shall in no way prejudice the right of the Governor to cancel the sale of the land under subsection (4) of this section.

Subsec. (6a)  
inserted by 27,  
1965, s. 24 (a);  
amended by 50,  
1967, s. 14.

(7) If a condition to which any land is subject under this section has been complied with to the satisfaction of the Minister, or has been waived, or has been wholly or partially remitted or varied or time allowed to comply therewith, by the Minister, he may give a certificate to the owner of the land or any other person having any estate or interest therein, stating that the said condition has been complied with or waived, or has been wholly or partially remitted or varied or time allowed to comply therewith, as the case may be. The Registrar-General, upon production to him of the said certificate, shall endorse on the relevant receipt, land grant, or certificate of title a note of the certificate and upon such endorsement being made, the land and all persons having any estate or interest therein shall be discharged from the condition.

Subsec. (7)  
amended by 27,  
1965, s. 24 (b),  
(c); 98, 1969,  
s. 2 (b).

(8) The provisions of this section shall take effect notwithstanding anything in The Real Property Act, 1886-1936<sup>1</sup>, or any other Act or law to the contrary.

232i. (1) Notwithstanding any other provision of this Part, when the Minister has by notice in the *Gazette* declared that estates in fee simple in any blocks of town land in the town of Whyalla may be applied for, any employer may apply for any of those blocks which he requires for the purpose of providing dwelling-houses for his employees.

Allotment of  
blocks to  
employers for  
employees'  
dwellings.  
S. 232i enacted  
by 3, 1939, s. 4.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (b).

(2) If the board is satisfied that the employer intends in good faith to erect dwelling-houses on the blocks applied for, and to sell, lease or let those houses to his employees, or to grant to his employees the right to use and occupy them, and that if any such house is sold by the employer to any employee, the price will not exceed the cost to the employer of that house and the site thereof, the board may allot to the employer such of the blocks applied for as the board deems proper.

(3) Section 235 of this Act shall not apply in relation to any blocks allotted under this section.

232j. Nothing in sections 232a to 232i inclusive, shall affect the application to land within the town of Whyalla of any other provision of this Act, except to the extent that such other provision is inconsistent with the said sections.

Application of  
other sections  
of this Act.  
S. 232j enacted  
by 3, 1939, s. 4.

\* \* \* \* \*

S. 233 repealed  
by 27, 1965,  
s. 25.

<sup>1</sup> Now Real Property Act, 1886-1975.

## PART XIII

## DIVISION I

Town land may be sold subject to condition against alienation for six years.  
1199, 1915, s. 235.

Subsec. (1) amended by 98, 1969, s. 2 (i).

**234.** (1) Whenever any town land is sold under any of the provisions of this Act, that land may, if the Minister so directs, be sold subject to the condition that it is not to be transferred, mortgaged, or otherwise dealt with, within six years from the date of the sale thereof without the consent in writing of the Minister, and that upon any breach of the said condition the sale may be cancelled; and in such case the said condition, including the date when the same is to terminate, shall be expressed in the receipt for the purchase-money and in the land grant.

(2) When a certificate of title is issued in respect of any land comprised in any land grant in which the said condition is expressed, the Registrar-General shall cause a statement to be inserted in or endorsed on the certificate to the effect that the land is subject to the said condition, and setting forth the terms of the condition and the date when it will terminate.

(3) Upon any breach of the said condition in respect of any land the Governor may, by notice published in the *Government Gazette*, cancel the sale of the said land; whereupon the said sale shall become absolutely void, and the said land shall be forfeited to the Crown.

Subsec. (4) amended by 2293, 1936, s. 4 (2nd. Sched.); 98, 1969, s. 2 (i).

(4) Upon the filing in the Lands Titles Registration Office by the Minister of a copy of the *Government Gazette* containing any such notice, the Registrar-General shall make and sign an endorsement on the receipt for the purchase-money of the land filed in his office (if the same has been so filed) or on the land grant of the land (if the same has been issued), or on any certificate of title which may have been issued in respect of the land, or any part thereof, to the effect that the said receipt or land grant or certificate is cancelled to the extent that it applies to such land or such part, the same having been forfeited to the Crown. The receipt or land grant or certificate shall thereupon be cancelled to the said extent, and the said land shall thereafter, for the purposes of The Real Property Act, 1886<sup>1</sup>, be dealt with and regarded as if it had never been alienated from the Crown. The Registrar-General shall also call in and endorse in the same manner the duplicate of the land grant or certificate, which shall thereupon be cancelled to the said extent.

(5) The provisions of this section shall take effect notwithstanding anything in The Real Property Act, 1886<sup>1</sup>, or any other Act or law to the contrary.

Building conditions in town blocks.  
S. 234a enacted by 26, 1944, s. 32.  
Subsec. (1) amended by 98, 1969, s. 2 (i); substituted by 25, 1974, s. 34.

**234a.** (1) Whenever any town land is offered for sale under this Part, the Minister may, by notice in the *Government Gazette* offering the land for sale, declare that the land shall be sold subject to either or both of the following conditions:—

(a) a condition that the purchaser or his successors in title shall, within the time specified in the notice, make on the land improvements of a kind specified in the notice, and shall comply with any other requirements so specified;

and

(b) conditions regulating or restricting, in such manner as is specified in the notice, the purpose for which the land may be used.

(3) Subsections (2) to (8) inclusive of section 232h of this Act shall apply to every such condition in the same way as they apply to conditions under that section.

<sup>1</sup> Now Real Property Act, 1886-1975.

**234b.** Whenever any land has been sold pursuant to the provisions of this Part, and is subsequently forfeited to the Crown by virtue of some breach of a condition subject to which it was sold, the Minister may, on the advice of the board, refund such portion of the purchase money that has been paid for the land as he considers just.

Refunded purchase moneys.  
S. 234b enacted by 25, 1974, s. 35.

**235.** (1) Whenever town lands are sold by auction, under any provision of this Act, the Minister may by notice in the *Government Gazette* direct that all or any of the following conditions shall apply in relation to any area specified in the notice, being the whole or any part of the town where the lands are situated:—

Limitation of number of town allotments that may be purchased.  
1199, 1915, s. 236.

(a) That not more than a specified number of allotments in that area shall be purchased by or on behalf of any person;

Subsec. (1) substituted by 26, 1944, s. 33; amended by 98, 1969, s. 2 (i).

(b) That no allotments in that area shall be purchased by or on behalf of any person who holds more than a specified number of allotments in that area;

(c) That allotments in that area shall not be purchased by or on behalf of any person so as to increase the total number of allotments in that area held by him or on his behalf beyond a specified number.

(2) If it is shown to the satisfaction of the Minister that any allotments have been purchased in breach of any such condition the Governor may by notice published in the *Government Gazette*, cancel the sale of all or any of those allotments; whereupon the sale so cancelled shall become absolutely void, and the allotments of which the sale was cancelled shall be forfeited to the Crown.

Subsec. (2) substituted by 26, 1944, s. 33; amended by 98, 1969, s. 2 (i).

(3) Upon the filing in the Lands Titles Registration Office by the Minister of a copy of the *Government Gazette* containing any such notice, the Registrar-General shall make and sign an endorsement on the receipts for the purchase-money of the cancelled allotments filed in his office (if the same has so been filed) or on the land grant of the cancelled allotments (if the same has been issued), or on any certificate of title which may have been issued in respect of the cancelled allotments or any of them, to the effect that that receipt or land grant or certificate is cancelled to the extent that it applies to the cancelled allotments or any of them, the same having been forfeited to the Crown. The receipt or land grant or certificate shall thereupon be cancelled to the said extent, and the cancelled allotments shall thereafter, for the purpose of The Real Property Act, 1886<sup>1</sup>, be dealt with as if they had never been alienated from the Crown. The Registrar-General shall also call in and endorse in the same manner the duplicate of the said land grant or certificate, which shall thereupon be cancelled to the said extent.

Subsec. (3) amended by 98, 1969, s. 2 (i).

(4) The provisions of this section shall take effect notwithstanding anything in The Real Property Act, 1886<sup>1</sup>, or any other Act or law to the contrary.

**236.** Every agreement, whether in writing or otherwise, whereby any person promises or agrees, either directly or indirectly, to give or allow any sum of money, reward, benefit, or thing to any other person, in consideration of that other person not bidding at any auction under this Act, or of his not competing at any such auction, or in consideration of his bidding to a limited amount only, or of his withdrawing from competition at any such auction, or in consideration of his doing any other act or thing which in any way might

Agreement preventing fair competition at auction to be void.  
1199, 1915, s. 237.

<sup>1</sup> Now Real Property Act, 1886-1975.



## PART XIII

## DIVISION I

tend to prevent free and open competition at any such auction, shall be wholly illegal and void.

S. 237 repealed  
by 45, 1968,  
s. 47.

\* \* \* \* \*

## DIVISION II

## DIVISION II—EXCHANGE OF LANDS

Powers of the  
Government to  
make exchange  
of land.

1199, 1915,  
s. 239.  
S. 238 amended  
by 45, 1968,  
s. 48; 98, 1969,  
s. 2 (i).

**238.** Any Crown lands, or, subject to section 128 of the Pastoral Act, 1904, or section 136 of the Pastoral Act, 1936, as amended<sup>1</sup>, any lands set apart, dedicated, or reserved for any of the purposes mentioned in section 5 (except lands dedicated under subdivision (d) of the said section 5, under subdivision (d) of section 5 of the Crown Lands Act, 1915, or under subdivision (d) of section 7 of the Crown Lands Act, 1903), or held under lease or agreement, may, notwithstanding any lease or agreement thereof, be exchanged for any other lands in the State, subject to the following provisions:—

Para. 1 amended  
by 98, 1969,  
s. 2 (i).

I. The Minister shall cause plans and a valuation to be made of the lands proposed to be given and of the lands proposed to be taken in exchange:

II. The board shall report on the proposed exchange:

III. The said plans, valuation, and report, together with a statement of the terms of exchange, shall be laid before both Houses of Parliament for fourteen days, and resolutions approving of the exchange shall be adopted.

After such adoption as aforesaid the lands proposed to be given in exchange may be granted for an estate in fee simple, a perpetual lease or agreement, or such lesser estate as may have been agreed upon.

Lands given in  
exchange may  
be sold or let by  
Minister.

1199, 1915,  
s. 240.  
S. 239 amended  
by 98, 1969,  
s. 2 (i).

**239.** The land given in exchange may be sold or let by the Minister to the original lessee of the land exchanged for the unexpired term of his original lease, on terms to be agreed upon, and on the lessee or purchaser surrendering his original lease or agreement.

Lands acquired  
by the  
Government to  
be dedicated for  
same purposes  
(if any) as lands  
alienated.

1199, 1915,  
s. 241.

**240.** The lands taken in exchange shall be set apart, dedicated, or reserved (as the case may be) for the same purposes as those for which the lands given in exchange were set apart, dedicated, or reserved.

## DIVISION III

## DIVISION III—GRANTING OF SITES

Power to grant  
sites for public  
and charitable  
purposes.  
1199, 1915,  
s. 242. 1900,  
1929, s. 8.

**241.** (1) The Governor may at any time, on the application in writing of the purchaser or lessee under any of the Crown Lands Acts, grant any of the land comprised in his agreement or lease—

Para. (a)  
amended by 25,  
1974, s. 36 (a).

(a) to any corporation or to trustees, to be used as a site for a school, church, chapel, institute, or hospital, or for any other public or charitable purpose whatsoever: Provided that the land granted for any one of the said purposes does not exceed 1 hectare:

<sup>1</sup> Now Pastoral Act, 1936-1974.

(b) to the holder, or lessee, or his nominee, to be used as a site for a blacksmith's shop, carpenter's shop, mill, store, or post office, or for any other purpose approved by the Governor: Provided that—

- I. the land granted for any one of the said purposes does not exceed 1 hectare; Subpara. I amended by 25, 1974, s. 36 (b).
- II. the land is not situated within 10 kilometres of town lands; and Subpara. II amended by 25, 1974, s. 36 (c).
- III. such security is given to the Governor as he thinks proper that the land will be used for one of the said purposes.

(2) Any lands granted pursuant to subsection (1) hereof may, with the consent of the Governor, be exchanged for other lands granted for the purpose for which the lands first mentioned were granted, or may be surrendered to the Crown freed from any trust, express or implied, or subject to such trusts as the Governor approves. Subsec. (2) amended by 2060, 1931, s. 16.

242. The purchaser or lessee shall, at or before making his application, pay to the Treasurer the purchase-money for the land, fixed (if the land is subject to a contract for a lease with right of purchase or to an agreement) at the rate per hectare at which he has agreed to purchase or has the right to purchase the land; or (in other cases) by the Minister on the recommendation of the board. Purchase-money for site to be paid on application. 1199, 1915, s. 243. S. 242 amended by 40, 1939, s. 17; 98, 1969, s. 2 (i); 25, 1974, s. 37.

243. After the grant the lease or agreement shall be read as if the land comprised in the grant had been expressly excepted from the operation of the lease or agreement. Lease or agreement to be read as excepting the granted land. 1199, 1915, s. 244.

## PART XIV

## PART XIV

### LICENCES

244. The Minister or any person authorized by him may grant licences, as provided by this section, to persons to enter upon and occupy the lands described in the licences for the objects and purposes hereunder expressed:— Licences may be granted. 1199, 1915, s. 245. S. 244 amended by 45, 1968, s. 49; 98, 1969, s. 2 (i).

- I. With respect to any Crown lands or any other lands belonging to or vested in the Crown (not being lands let on perpetual lease within hundreds, or on lease with right of purchase, or lands under agreement to purchase), or leased for miscellaneous purposes, or comprised in leases under the Pastoral Act, 1904, or under the Pastoral Act, 1936, as amended<sup>1</sup>, licences may be granted for the purpose of cutting, obtaining, and taking away any live or dead timber, gravel, stone, clay, earth, guano, manure, shell, or seaweed: Para. I amended by 45, 1968, s. 49.
- II. With respect to any Crown lands, dedicated or reserved lands, or lands leased for pastoral purposes, licences may be granted for—

(a) fishermen's residences and drying grounds:

<sup>1</sup> Now Pastoral Act, 1936-1974.

(b) manufactories, fellmongering establishments, slaughter-houses, brick or lime kilns, or sawmills:

(c) except in the case of lands leased for pastoral purposes, depasturing the lands with cattle, sheep, or other animals:

Subpara. (d)  
amended by 98,  
1969, s. 2 (i).

(d) any other purpose approved by the Minister, whether similar to any of the abovementioned purposes or not.

Conditions in  
licences.

S. 244a enacted  
by 26, 1944,  
s. 34; amended  
by 98, 1969,  
s. 2 (i).

**244a.** A licence granted under the last preceding section may contain conditions requiring the licensee to erect or construct and maintain gates, grids and ramps or any of them at any place not within a municipality or district council district, on any road which passes through or abuts on the land described in the licence, and such other conditions as the Minister thinks fit.

Minister may  
limit licences.  
1199, 1915,  
s. 246.

S. 245 amended  
by 98, 1969,  
s. 2 (i).

**245.** The Minister may, by notice in the *Government Gazette*, prohibit any licensed or unlicensed person from exercising, on any lands described in the notice, any one or more of the powers conferred by licence or other authority for any of the purposes mentioned in paragraph 1 of section 244; and any person who commits any act in contravention of any such notice shall forfeit his licence.

Term and  
conditions of  
licence.

S. 246 amended  
by 98, 1969,  
s. 2 (i);  
substituted by  
25, 1974, s. 38.

**246.** (1) A licence shall be granted for a term specified therein, not exceeding one year, and upon payment of the fee determined by the Minister, may be renewed from time to time, at the discretion of the Minister, for a further term.

(2) A licence shall be subject to such restrictions and conditions as are imposed by the Minister.

## PART XV

## PART XV

### SPECIAL PROVISIONS AS TO LANDS OUTSIDE GOYDER'S LINE OF RAINFALL

Transfer of  
leases outside  
Goyder's line.  
1199, 1915,  
s. 248.

S. 247 amended  
by 45, 1968,  
s. 50; 98, 1969,  
s. 2 (i).

**247.** Notwithstanding anything contained in this Act, when the Minister consents to the transfer of any lease (not being a lease under the Pastoral Act, 1904 or the Pastoral Act, 1936, as amended<sup>1</sup>), of land suitable only for grazing purposes, situate outside Goyder's line of rainfall, he may permit any rent then owing by the transferring lessee, together with interest at the rate of four per centum per annum, to be paid by the transferee by instalments extending over any period not exceeding five years.

Allotment in  
case of holdings  
outside  
Goyder's line.  
1199, 1915,  
s. 249.

Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

**248.** (1) Any lessee who has transferred a lease such as mentioned in section 247, and any lessee of any land suitable only for grazing purposes situated outside Goyder's line of rainfall, whose rent is in arrear and unpaid, and who is unable to transfer his lease, may, on application to and approval by the Minister, be allotted by the board any Crown lands within the said line of rainfall which are available; and in such case, notwithstanding anything contained in this Act, the allottee may, subject to the payment by him of interest, at the rate of four per centum per annum, on the rent or instalments (as the case may be) becoming due in respect of the land so allotted for the

<sup>1</sup> Now Pastoral Act, 1936-1974.

first three years of the lease or agreement, be allowed three years wherein to pay the rents or instalments (as the case may be) so becoming due for the said first three years.

(2) The lease or agreement shall not be issued, nor shall any transfer be permitted, in respect of the land so allotted, until the moneys due thereon have been paid.

## PART XVI

## PART XVI

## MISCELLANEOUS

**249.** Wherever by any provision of this Act or of any lease or agreement made under this Act or any repealed Act power is given—

- (a) to cancel or forfeit an agreement or lease; or
- (b) to accept the surrender of an agreement or lease; or
- (c) to resume lands comprised in an agreement or lease,

Powers of forfeiture, acceptance of surrender, and resumption of agreements and leases to be exercised by Minister.  
1199, 1915, s. 250.  
S. 249 amended by 40, 1939, s. 18; 98, 1969, s. 2 (i).

that provision shall be read as conferring the said power upon the Minister, and not upon the Governor, unless the contrary is expressly provided.

\* \* \* \* \*

S. 249a enacted by 25, 1941, s. 11; repealed by 45, 1968, s. 51.

**249b.** Where an agreement or a lease or grant entered into or executed under this Act contains a condition or covenant requiring personal residence on the land the subject of the agreement, lease or grant, such agreement, lease or grant shall be construed as if no such condition or covenant was therein contained.

Leases, etc., containing condition of personal residence deemed not to contain such condition.  
S. 249b enacted by 98, 1969, s. 13.

**250.** (1) The care, control, and management of all lands reserved or dedicated by the Governor for or to any public purpose shall, in the interim between the reservation or dedication of the lands and the grant thereof in fee, be vested in the Minister.

Minister to have care and control of reserved and dedicated lands.  
1199, 1915, s. 251.

(2) The said lands shall during the said interim be deemed Crown lands, except for the purpose of sale, or for the purpose of leasing under Part V.

Subsec. (1) amended by 98, 1969, s. 2 (i).

(3) Nothing in this section shall affect any lands the care, control, and management of which have already been or are hereafter placed in a municipal corporation or district council.

**251.** All Crown lands within hundreds, and not within any municipality or district council district, shall be subject to such rights of commonage as, with the consent of the Minister, are from time to time prescribed.

Right of commonage.  
1199, 1915, s. 252.  
S. 251 amended by 98, 1969, s. 2 (i).

**252.** (1) No person under the age of eighteen years shall be entitled to hold, directly or otherwise, any lands comprised in any agreement, lease, or licence under this Act, unless that person becomes entitled to the agreement, lease, or licence as the personal representative of a purchaser, lessee, or licensee.

Disability of persons under eighteen to hold agreement, lease, or licence.  
1199, 1915, s. 253.

## PART XVI

Subsec. (2)  
amended by  
2256, 1935,  
s. 10; struck out  
by 15, 1971,  
s. 4 (1) (Sched.  
Part X).

\* \* \* \* \*

Liability of  
executors and  
trustees under  
leases and  
agreements.  
S. 252a enacted by  
25, 1941,  
s. 12.

**252a.** Where a lease or agreement is vested in a person as an executor, administrator or trustee, he shall not be liable under the lease or agreement except to the extent of the assets of the estate of which he is executor or administrator, or, as the case may be, to the extent of the trust property: Provided that this section shall not relieve any person from personal liability for voluntary waste or for any wrongful act causing damage to the land comprised in the lease or agreement, or affect any power to cancel the lease or agreement.

Duties of  
Crown lands  
ranger.  
1199, 1915,  
s. 254.  
S. 253  
redesignated  
s. 253 (1) by 27,  
1965, s. 26.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

**253.** (1) Every Crown lands ranger shall do all acts for preventing intrusion, encroachment, and trespass on lands belonging to or vested in the Crown, and for taking possession of any such lands in case of forfeiture, and for such other purposes as the Minister generally or specially directs or authorizes.

Subsec. (2)  
inserted by 27,  
1965, s. 26.

(2) For the purposes of this Act any member of the police force shall be deemed to be a Crown lands ranger.

Powers of  
district council  
rangers.  
1199, 1915,  
s. 255.  
Subsec. (1)  
amended by  
2246, 1935, s. 4  
(2nd Sched.).

**254.** (1) The powers conferred upon Crown lands rangers by this Act, may be exercised within a district council district by any district council ranger appointed by the council thereof, in respect of Crown lands, roads, or reserves under the control of the council.

(2) All penalties incurred within the district, and recovered under this Part, shall be paid to the council.

Crown lands  
ranger may  
make claim or  
entry.  
1199, 1915,  
s. 256.

**255.** (1) Any Crown lands ranger may give any notice, make any claim, and make, or authorize any person to make, any entry which is requisite to be given or made by the Crown.

(2) Every such notice or claim made in writing under the hand of any Crown lands ranger, and every such entry made by any Crown lands ranger or person authorized by him, shall be valid for all purposes whatsoever as if the same were respectively given or made by the Crown.

Power to  
impound cattle  
trespassing and  
to destroy pigs.  
1199, 1915,  
s. 257.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

**256.** (1) Cattle or sheep unlawfully trespassing upon Crown lands, or lands reserved for or dedicated to the public use, may be impounded by a Crown lands ranger or by any person authorized by the Minister or ranger.

(2) All pigs trespassing on Crown lands, or reserves or dedicated lands, may be destroyed by a Crown lands ranger, or by any person authorized by a Crown lands ranger, without compensation to the owner.

Unbranded wild  
cattle belong to  
the Crown.  
1199, 1915,  
s. 258.  
1882, 1928,  
s. 31.

**257.** (1) All unbranded wild cattle above the age of twelve months being on Crown lands, and having no apparent owner, shall be the property of the Crown.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

(2) The Minister may cause any such cattle to be sold by public auction, or by tender, provided that the object, time, and place of the auction, or the time up to which such tender is to be made, is notified in the *Government Gazette* at least one month next preceding the time of auction or tender.

(3) The purchaser, on obtaining the written authority of the Minister, may enter with proper assistance upon the Crown lands where the cattle are and take possession of the same.

Subsec. (3)  
amended by 98,  
1969, s. 2 (i).

(4) If no bid is obtained at public auction or no tender received for any cattle offered for sale those cattle may be destroyed by any Crown lands ranger authorized by the Minister to do so.

Subsec. (4)  
amended by 98,  
1969, s. 2 (i).

258. Notwithstanding the provisions of any Act to the contrary, every agreement made under this Act shall be exempt from any charge for stamp duty.

Exemption of  
agreements  
from stamp  
duty.  
1199, 1915,  
s. 259.

259. All rent payable in respect of any lands leased under this Act or any Act hereby repealed shall, except as otherwise provided herein, be paid annually in advance.

Annual  
payment of  
rent.  
1199, 1915,  
s. 260.

260. (1) The Minister may, with the consent of the Governor, acquire, for an estate in fee simple, lands in any part of the State which in his opinion may conveniently be set apart as sites for towns and for purposes incidental thereto.

Power of  
Minister to  
acquire lands  
for towns.  
1199, 1915,  
s. 262.

(2) Any such lands may be acquired either pursuant to agreement or compulsorily, and if the same are acquired compulsorily the provisions of Division II of Part X shall, *mutatis mutandis*, apply with respect to the acquisition thereof and all things incidental thereto or consequent thereon.

Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

(3) All lands taken and acquired under this section shall thereupon for all purposes be Crown lands, and may by proclamation be set apart and dedicated as town lands or suburban lands under subdivision (h) of section 5, and for any of the purposes mentioned or referred to in subdivision (d) of that section.

261. (1) When any land has been set apart as a site for a town or for purposes incidental thereto, and part of that land has been laid out as roads or park lands, or roads and park lands, and the balance has been subdivided into allotments, some or all of which allotments have been alienated from the Crown, but no town has, in the opinion of the Minister, been erected on the land, and the land is, in the opinion of the Minister, no longer required as a site for a town—

Power of  
Minister to  
resume land set  
apart as site for  
town.  
1199, 1915,  
s. 263.  
1882, 1928,  
s. 32.

Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

(a) the Minister may, with the consent of the Governor, acquire for an estate in fee simple all or any of the said allotments which have been alienated from the Crown; and

Para. (a)  
amended by 98,  
1969, s. 2 (i).

(b) the Governor may by proclamation declare the said roads to be closed, and cancel, wholly or partially, the proclamation (if any) setting apart such land as aforesaid,

and thereupon the whole of the said land shall be deemed for all purposes to be Crown lands, and may be dealt with accordingly under Part X or any other provisions of this Act.

(2) Subject to subsection (3) hereof any such allotments may be acquired either by agreement or compulsorily.

Subsec. (2)  
substituted by  
27, 1957, s. 3.

(3) Where the Minister of Lands is of opinion that it is expedient to acquire any such allotments compulsorily, the Governor may by proclamation published in the *Gazette* and in a newspaper circulating in the district in which the allotments are situated, declare that on a day mentioned in the proclamation, and not being earlier than the day on which the proclamation is last published, those allotments shall be vested in Her Majesty the Queen.

Subsec. (3)  
inserted by 27,  
1957, s. 3.

Subsec. (4)  
inserted by 27,  
1957, s. 3.

(4) On and after the day mentioned in the proclamation—

- (i) the allotments described therein shall by force of this section be vested in Her Majesty, and shall be deemed for all purposes to be Crown lands; and
- (ii) those allotments shall be freed and discharged from all trusts, obligations, estates, interests, contracts, licences, charges, rates, and easements to the intent that the unencumbered legal estate in fee simple therein shall vest in Her Majesty, and that the Minister and any persons authorized by him or deriving title from Her Majesty shall be entitled to immediate possession and occupation of those allotments; and
- (iii) the estate and interest of every person interested in those allotments shall be converted into a claim for compensation.

Subsec. (5)  
inserted by 27,  
1957, s. 3;  
amended by 27,  
1965, s. 27;  
45, 1968, s. 52.

(5) Forthwith after the last publication of a proclamation made under subsection (3) of this section, the Minister shall give a notice of acquisition to every person having an estate or interest in the allotments and who is known or after diligent inquiry becomes known to the Minister.

Subsec. (6)  
inserted by 27,  
1957, s. 3.

(6) A notice of acquisition given under this section shall—

- (a) describe the allotments to which it relates and state that they have been acquired by Her Majesty by proclamation on the day stated in the notice; and
- (b) state that every person having an estate or interest in the said allotments is entitled to compensation for the land taken and for the damage, if any, caused by the severance of that land from other land of such person; and
- (c) state that the Minister is willing to negotiate with the person to whom the notice is given as to the amount of compensation, if any, to which he is entitled.

Subsec. (7)  
inserted by 27,  
1957, s. 3.

(7) The notice of acquisition shall be given to a person—

- (a) by sending it to him by registered letter addressed to his last known or usual place of abode or business; or
- (b) by delivering it to him personally; or
- (c) by leaving it for him at his last known or usual place of abode or business with some person apparently an inmate thereof or employed thereat and apparently not less than sixteen years of age;
- (d) in the case of a body corporate by delivering it at its principal office or place of business in the State.

Subsec. (8)  
inserted by 27,  
1957, s. 3.

(8) If a person to whom a notice of acquisition is to be given, is absent from the State or cannot be found after reasonable inquiries or is a body corporate not having an office or place of business in South Australia the notice of acquisition may be given to the occupier of the land to which it relates, or if there is no such occupier, it may be fixed on a conspicuous part of the land.

Subsec. (9)  
inserted by 27,  
1957, s. 3.

(9) Every person having an estate or interest in land acquired under this section shall be entitled to compensation. The amount of such compensation shall be the value, as at the date of the proclamation, of the land acquired and compensation for the damage (if any) suffered by such person by reason of the severance of the land from other land in which such person has an estate or interest.

(10) Any person entitled to compensation may bring an action for that compensation in any court having jurisdiction in personal actions up to the amount claimed. In any action for compensation the court shall have jurisdiction to determine all matters incidental to the right to compensation and the amount thereof, including questions as to the title to any land.

Subsec. (10)  
inserted by 27,  
1957, s. 3.

(11) An action for compensation in respect of land acquired under this section may be commenced at any time within six years after the date of the acquisition of the land.

Subsec. (11)  
inserted by 27,  
1957, s. 3.

**261a.** (1) The Minister shall furnish the Registrar-General with a copy of every proclamation duly published under section 261 of this Act.

Duty of  
Registrar-  
General.  
S. 261a enacted  
by 27, 1957,  
s. 4.

(2) Upon receipt of any such proclamation, or of any transfer, conveyance, or other assurance to Her Majesty of land acquired under section 261 otherwise than by proclamation, the Registrar-General shall—

(a) make such entries in any register book memorial or other book or record in the Lands Titles Registration Office or in the General Registry Office as he deems appropriate to evidence the vesting of the land in Her Majesty;

(b) if the land is comprised in a land grant, certificate of title, Crown lease, or agreement for the sale of Crown lands, make an entry on the appropriate folium in the Register Book or Register of Crown Leases and on any duplicate of such land grant, certificate of title, Crown lease or agreement produced to him, to the following effect:—"Cancelled, the within land having been acquired [or purchased] by the Crown" and shall sign such entry.

**262.** The moneys required by the Minister for the purposes of sections 260 and 261 shall be supplied to him by the Treasurer out of moneys provided by Parliament for those purposes.

Provision of  
moneys for  
purposes of  
sections 260 and  
261.  
1199, 1915,  
s. 264.  
S. 262 amended  
by 98, 1969,  
s. 2 (i).

**262a.** (1) Where it appears to the Governor that any land acquired for any purpose which after such acquisition has become Crown lands, is not suitable for, or is not required for the said purpose and is not required for any purpose of the Government of the State, he may—

Power to  
dispose of  
surplus lands.  
Cf. 1346, 1918,  
s. 19.  
S. 262a enacted  
by 2256, 1935,  
s. 11.  
Subsec. (1)  
amended by  
2363, 1937, s. 6.

(a) sell the land, or any estate, right, or interest therein, either by public auction or private contract; or

(b) exchange the land, or any estate, right, or interest therein, for any other land or property, or any estate, right, or interest therein; or

(c) dispose in any other way of the land, or any estate, right, or interest therein,

for such price or other consideration as may be recommended by the board and the Governor deems sufficient, and upon such (if any) terms and conditions as the board recommends and he deems proper.

(2) For the purpose of carrying out any such transaction as mentioned in subsection (1) of this section, the Governor may execute any and every assurance, deed, instrument, and writing, and do all such other things as may be deemed necessary or expedient.

(3) The Minister's receipt shall be a sufficient discharge for any moneys to be paid in pursuance of any such transaction, and it shall not be necessary for

Subsec. (3)  
amended by 98,  
1969, s. 2 (i).



the person paying any such moneys to inquire whether or not a proper case has arisen for the exercise of any power conferred by this section.

(4) Nothing in this section shall be deemed to derogate from any other power vested in the Governor or any other person by this Act.

Power to dispose of lands formerly dedicated or reserved which have been resumed by Crown.  
S. 262aa enacted by 27, 1965, s. 28.  
Subsec. (1) amended by 25, 1974, s. 39.

**262aa.** (1) Any lands the area of which does not exceed 5 hectares which were dedicated or reserved for any purpose or set apart for a particular purpose (other than by dedication by proclamation) and which have been resumed pursuant to paragraph (e) of section 5 of this Act, or freed from the trusts pursuant to paragraph (e1) of section 5 of this Act may be sold by the Minister on such terms and conditions as may be recommended by the board.

(2) Notwithstanding the provisions of the Real Property Act, 1886-1963<sup>1</sup>, the Minister in exercise of the power of sale conferred by subsection (1) of this section may execute a transfer of any such land and such transfer may be registered without production of the duplicate land grant and the Registrar-General may issue a certificate of title to the purchaser which shall not include any reference to the trusts recited in the land grant.

Power to dispose of material, plant, and equipment.  
S. 262b enacted by 23, 1940, s. 20.  
Subsec. (1) amended by 27, 1965, s. 29 (a), (b); 98, 1969, s. 2 (i).

**262b.** (1) Notwithstanding the Public Supply and Tender Act, 1914-1940<sup>2</sup>, or any other Act, if the board recommends that any material, plant, or equipment which belongs to the Crown and has been used in connection with primary production on any Crown lands or reverted Crown lands or any buildings or other structural improvements on such lands, is no longer required and should be sold or otherwise disposed of, the Minister may sell or otherwise dispose of that material, plant, equipment, building or other structural improvement to the best advantage in such manner and at such times as he considers expedient, and in so doing shall not be subject to the Public Supply and Tender Act, 1914-1940<sup>2</sup>.

(2) In this section "reverted Crown lands" means lands which having been granted in fee simple or held under agreement, licence or lease have reverted to the Crown whether on a surrender, cancellation or other termination of the estate in fee simple, agreement, licence or lease.

Provision for preservation of timber.  
1199, 1915, s. 265.  
1882, 1928, s. 33.  
Subsec. (1) amended by 25, 1974, s. 40 (a), (b).

**263.** (1) Subject to subsection (2) of this section, it shall be a condition of every lease or agreement granted or entered into, after the eighteenth day of December, 1912<sup>3</sup>, that at least 2 hectares of every 100 hectares of the land comprised therein shall be set apart and reserved for the growth of timber, and that no timber trees growing thereon shall be destroyed.

Subsec. (2) amended by 98, 1969, s. 2 (i).

(2) The Minister may, when he deems it advisable so to do, grant an exemption in whole or in part from compliance with the said condition.

(3) This section shall not apply—

(a) to any lease or agreement granted or entered into under Part XI of the Crown Lands Act, 1903, Part XI of the Crown Lands Act, 1915, or Part XI of this Act, unless the surrendered lease or agreement in lieu of which the lease or agreement first mentioned was granted, contained the condition mentioned in subsection (1) of this section, or unless that surrendered lease was a miscellaneous lease:

<sup>1</sup> Now Real Property Act, 1886-1975.

<sup>2</sup> Now Public Supply and Tender Act, 1914-1975.

<sup>3</sup> Reference to the year nineteen hundred and twelve altered to 1912 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

(b) to any lease or agreement which comprises a less area than 100 hectares.

Para. (b)  
amended by 25,  
1974, s. 40 (c).

**263a.** (1) Subject to subsection (2) of this section, it shall be a condition of every lease (other than a lease of town lands) or agreement, granted or entered into after the passing of the Crown Lands Act Amendment Act (No. 2), 1939, that the lessee or purchaser will set apart and keep reserved for the purpose of preventing soil erosion such areas of the land comprised in the lease or agreement, being areas covered with natural scrub growth, as the Minister or his servants shall notify to the lessee or purchaser, and will not destroy or permit to be destroyed any natural scrub growth growing on the said areas; the said areas to be of the respective sizes and in the respective positions notified to the lessee or purchaser by the Minister or his servants:

Provision for  
soil  
conservation  
reserves.  
S. 263a enacted  
by 40, 1939,  
s. 19.  
Subsec. (1)  
amended by 26,  
1944, s. 35 (a),  
(b);  
98, 1969, s. 2 (i).

Provided that the total area of the said areas shall not exceed one-tenth of the area of the land comprised in the lease or agreement unless the Minister, on the recommendation of the board, determines that a greater total area should be set apart and reserved in any particular case. If such a determination is made the total area shall not exceed that so determined.

(2) The Minister may wherever he deems it advisable to do so, grant an exemption in whole or in part from compliance with the said condition.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

(3) The land to be set apart and kept reserved pursuant to this section shall be in addition to any land required to be set apart and reserved pursuant to section 263 of this Act.

**263b.** (1) Every agreement and every lease granted after the enactment of this section shall contain such terms, covenants and conditions (if any) as are recommended by the board and approved by the Minister for restricting the number of stock to be depastured on the land comprised in the lease or agreement.

Overstocking.  
S. 263b enacted  
by 44, 1945,  
s. 12.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

(2) Every agreement and every lease whether granted before or after the enactment of this section shall be deemed to contain a covenant that the purchaser or lessee will comply with any notice given under subsection (3) of this section.

(3) If the board is of opinion that the purchaser or lessee of the land comprised in any such agreement or lease is depasturing on that land such a number of stock that the land is likely to be permanently injured thereby, the Minister may by notice in writing require the purchaser or lessee within the time specified in the notice to reduce the number of stock so depastured to the number specified in the notice and to comply with any other restrictions specified in the notice as to the stocking of such land, and if the purchaser or lessee fails to comply with the terms of the notice the Minister may forfeit the agreement or lease as if the purchaser or lessee had been guilty of a breach of a covenant contained therein.

Subsec. (3)  
amended by 98,  
1969, s. 2 (i).

**263c.** (1) Every term covenant or condition contained in a lease or agreement granted before the passing of the Crown Lands Act amendment Act, 1940, and providing for the insurance of any buildings erections or improvements on the land comprised in the lease or agreement shall be deemed to require that the lessee or purchaser shall insure such buildings erections or improvements against loss or damage by fire storm and tempest; and every such term covenant or condition shall be construed as if it extended and applied to such insurance.

Covenant for  
insurance.  
S. 263c enacted  
by 23, 1940,  
s. 21 as s. 263b;  
re-numbered as  
s. 263c by 27,  
1965, s. 30.

## PART XVI

Subsec. (2)  
amended by 26,  
1944, s. 36 (a);  
98, 1969, s. 2 (l).

(2) Every lease or agreement granted after the passing of the Crown Lands Act Amendment Act, 1940, shall contain a covenant—

(a) requiring the lessee or purchaser to insure the buildings erections and other improvements on the land against loss by fire storm and tempest; and

Para. (b)  
amended by 98,  
1969, s. 2 (l).

(b) empowering the Minister to exercise, on default by the lessee or purchaser in compliance with such covenant, any rights and remedies therein specified.

Subsec. (3)  
inserted by 26,  
1944, s. 36 (b);  
amended by 27,  
1965, s. 31;  
98, 1969, s. 2 (l).

(3) If a lessee or purchaser does not insure any buildings, erections, or improvements, as required by his lease or agreement or this Act, the Minister may insure them and recover the cost of such insurance together with interest thereon at the rate of five per cent per annum from the lessee or purchaser as a debt by action in any court of competent jurisdiction.

Completion of  
purchase under  
lease with right  
of purchase or  
agreement  
obtained on  
surrender.  
1199, 1915,  
s. 266.  
S. 264 amended  
by 98, 1969,  
s. 2 (l).

264. Any person holding any land from the Crown under a lease with right of purchase, or (subject to anything contained in Part X) under an agreement obtained on a surrender, may complete his purchase at the expiration of six years from the time when the land was originally taken up by the said person or his predecessors in title, or at any time thereafter during the currency of his lease or agreement; and shall, on payment of the purchase-money or the balance thereof then unpaid, and of the prescribed fee for the grant be entitled to the land in fee simple: Provided that the Minister may, in any case, prevent the exercise of the right herein expressed until he is satisfied that the conditions of the lease or agreement have been *bona fide* fulfilled.

Right of  
purchase not  
exercisable until  
conditions have  
been complied  
with or  
equivalent  
improvements  
made.  
1199, 1915,  
s. 267.  
S. 265 amended  
by 98, 1969,  
s. 2 (l).

265. No person holding a lease with a right of purchase or an agreement, whenever granted, shall be entitled to complete the purchase unless the conditions of the lease or agreement have been fully complied with, or the Minister is satisfied that the lessee or purchaser has made such permanent improvements on the land that strict compliance with the conditions of the lease or agreement should be dispensed with.

Cancellation of  
lease or  
agreement  
where holder  
abandons land.  
Cf. 1581, 1923,  
s. 3.  
S. 265a enacted  
by 2256, 1935,  
s. 12;  
amended by 98,  
1969, s. 2 (l).

265a. Notwithstanding anything contained in this or any other Act or anything contained in any lease or agreement under this Act or any other Act relating to Crown lands, if the person who is the lessee or purchaser under any such lease or agreement (whether the lease or agreement was issued before or after the passing of this Act) intimates, whether verbally or by writing, to the Minister or any officer of the Department of Lands that he has abandoned the land comprised in the lease or agreement, or makes any intimation to the like effect, the Minister may, by writing under his hand, without notice to the said person, and without re-entry, forthwith determine the lease or agreement and thereupon the interest of the said person in the said land shall absolutely cease and determine.

Power of  
Minister to  
manage blocks.  
S. 265b enacted  
by 26, 1944,  
s. 37.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (l).

265b. (1) If—

Para. (a)  
amended by 98,  
1969, s. 2 (l).

(a) a lessee or purchaser is continuously absent from the land comprised in his lease or agreement for one month or more without having given the Minister notice of such absence; or

(b) notice of cancellation of any lease or agreement has been given pursuant to this Act,

and if the Minister believes on reasonable grounds that the land comprised in the lease or agreement is being seriously neglected and is thereby deteriorating in value, he may, on the recommendation of the board, assume the general control and management of that land and may do all things necessary to keep it in production and prevent deterioration.

(2) Any expense incurred by the Minister in so doing shall be a charge on the land and shall be payable by the lessee or purchaser for the time being of the land and may be recovered by the Minister by action in any court of competent jurisdiction as a debt due to him by the lessee or purchaser.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

266. Notwithstanding anything in any of the Crown Lands Acts or in any agreement or lease made or granted under any of the repealed Acts, if notice is given to the purchaser or lessee (as the case may be) of any breach of a covenant contained in or implied by such agreement or lease, no notice of any future breach of the same covenant, or of the continuance of the same breach thereof, shall be necessary before the exercise of the powers of forfeiture or cancellation expressed in or implied by the agreement or lease, whether so implied by such Acts as aforesaid, or any of them, or otherwise.

Repeated notice  
of breach not  
necessary  
before  
forfeiture.  
1199, 1915,  
s. 268.

267. Where any agreement or lease is subject to any estate, interest, or caveat noted or registered thereon, and the purchaser or lessee completes the purchase of the fee simple of the land comprised in the agreement or lease, pursuant to any right conferred on him by this Act or the agreement or lease, and a land grant is issued, that land grant shall unless the person entitled to any such estate, interest, or as the case may be, the person who lodged the caveat otherwise directs by notice to the Minister, be subject to that estate, interest, or caveat, and particulars of that estate, interest, or caveat, shall be noted on the land grant.

Land grant to  
be noted as  
subject to  
interest.  
S. 267  
substituted by  
40, 1939, s. 20;  
amended by 98,  
1969, s. 2 (i).

268. (1) The Minister may from time to time, and upon the alienation of any of the lands hereinafter mentioned shall, forward to the Registrar-General, or other proper officer, the certificate, grant, or other muniment or muniments of title to all or any lands—

Cancellation of  
muniments of  
title when grant  
cancelled or  
land reverts to  
Crown.  
1199, 1915,  
s. 270.  
1405, 1919,  
s. 11.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

(a) the grant of which has been cancelled by the Governor under the Crown Lands Act, 1903, the Crown Lands Act, 1915, or this Act;  
or

(b) which, having been lawfully held by any person for any estate or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted to or revert to or have been or are acquired by, the Crown,

and request the said Registrar-General or officer, in writing to forthwith cancel the said certificate, grant, or other muniment or muniments of title, either wholly or partially.

(2) The said Registrar-General, or other officer, shall thereupon enter on the folium relating to the land in the register-book and on the certificate, grant, or other muniment or muniments, a memorandum cancelling the same, either wholly or partially as the said writing may require, and shall sign the said memorandum. Thereafter the land in respect of which the certificate, grant, or other muniment or muniments of title have been cancelled may, until again alienated from the Crown, be dealt with in all respects as if it had never been alienated from the Crown.

Subsec. (3)  
inserted by 25,  
1974, s. 41.

(3) Where a certificate, grant, or other muniment or muniments of title have been cancelled under this section, and the land to which they relate is subsequently again alienated from the Crown, the Registrar-General may, upon the request of the Minister of Lands, by endorsement on the certificate, grant, or other muniment or muniments of title, revive that certificate, grant, or muniment of title.

Registrar-General to make necessary entries in registers.  
1199, 1915,  
s. 271.  
S. 269 amended  
by 98, 1969,  
s. 2 (i).

**269.** The Registrar-General shall, at the request of the Minister, make all entries in all register-books necessary or proper to be made for the purpose of giving effect to this Act.

S. 270 amended  
by 98, 1969,  
s. 2 (i);  
repealed by 13,  
1975, s. 3.

\* \* \* \* \*

Proclamation  
valid for all  
purposes.  
1199, 1915,  
s. 273.

**271.** No proclamation shall be invalid by reason of anything required as preliminary thereto not having been done, or not having been duly done.

Powers of  
Minister as to  
reverted lands.  
S. 271a enacted  
by 23, 1940,  
s. 22.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

**271a.** (1) Where any land which has been granted in fee simple by the Crown or included in any lease or agreement granted by the Crown has reverted in or reverted to the Crown, whether on a surrender, cancellation, or other termination of the grant, lease, or agreement, and whether before or after the passing of the Crown Lands Act Amendment Act, 1940, the Minister may, at his discretion do all or any of the following things namely:—

- (a) enter into an agreement with any person for the working of the land or any part thereof on shares;
- (b) purchase any stock, plant, or materials or make any other payment required in connection with the carrying out of any such agreement;
- (c) maintain and keep in repair any improvements on the land;
- (d) erect, construct or carry out on the land any further improvements which in the Minister's opinion are necessary or desirable.

Para. (d)  
amended by 98,  
1969, s. 2 (i).

(2) Any money received under any such agreement shall be paid into the General Revenue of the State.

(3) Any money required for the purposes of this section shall be paid out of moneys provided by Parliament for such purposes.

Description of  
land in  
documents.  
S. 271b enacted  
by 23, 1940,  
s. 22.

**271b.** Notwithstanding anything in this Act or any Act incorporated with this Act, in any lease, agreement, or grant, any town lands therein comprised may be described as allotments, and any other lands as sections.

Gifts of land  
for the benefit  
of soldiers.  
S. 271c enacted  
by 25, 1941,  
s. 14.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (i).

**271c.** (1) If—

Para. (a)  
amended by 98,  
1969, s. 2 (i).

- (a) any person (hereinafter called "the donor") offers to convey or transfer land to the Minister by way of gift for the purpose of being dealt with under this section, and informs the Minister by letter of his wishes as to the disposal of the land; and

- (b) the Minister is of opinion that the letter discloses an intention to benefit any soldier (whether identified or not) or any dependants of any soldier;

Para. (b)  
amended by 98,  
1969, s. 2 (i).

the Minister may accept the offer, and the land may be conveyed or transferred to him accordingly.

(2) When any land is conveyed or transferred to the Minister under this section, he shall, subject to this section, dispose of it in accordance with the wishes of the donor as set out in the said letter. If, however, owing to circumstances existing at any time the Minister is of opinion that it is impracticable or undesirable to carry out the wishes of the donor, he may on the recommendation of the board dispose of or deal with the land in any other manner which he thinks just, having regard to the wishes of the donor.

Subsec. (2)  
amended by 98,  
1969, s. 2 (i).

(3) Land may be disposed of by the Minister under this section upon such tenure and terms as in the Minister's opinion will best carry out the wishes of the donor, so far as the Minister considers it practicable or desirable to carry out such wishes, and the Minister shall not, in disposing of any land under this section, be bound by any of the other provisions of this Act.

Subsec. (3)  
amended by 98,  
1969, s. 2 (i).

(4) The wishes expressed in a letter relating to any land accepted by the Minister under this section shall not be deemed to create any trusts of that land.

Subsec. (4)  
amended by 98,  
1969, s. 2 (i).

(5) The Minister may be registered under The Real Property Act, 1886-1940<sup>1</sup>, as the proprietor of any land which is transferred to him under this section and is subject to that Act, and may execute any transfer, conveyance, or other instrument which he deems necessary for the purpose of disposing of the land pursuant to this section.

Subsec. (5)  
amended by 98,  
1969, s. 2 (i).

(6) No stamp duty shall be payable on any instrument executed to convey or transfer land to the Minister under this section, or upon any instrument executed by the Minister under this section; and no fees shall be payable to the Minister or any public officer for the preparation or registration of any instrument executed under this section.

Subsec. (6)  
amended by 98,  
1969, s. 2 (i).

(7) In this section "soldier" means a person who, whilst domiciled in the State, enlisted in any naval, military or air force of any part of His Majesty's dominions for service in the war which began in September 1939<sup>2</sup>, and served in that force during the said war.

**271d.** (1) The owner in fee simple of land unencumbered may transfer or convey that land, and deliver the title therefor, to the Minister who may accept the land on behalf of the Crown.

Transfer of land  
to Minister.  
S. 271d enacted  
by 27, 1965,  
s. 32.

(2) Where any land which is not subject to the Real Property Act, 1886-1963<sup>3</sup>, has been conveyed as mentioned in subsection (1) of this section the Registrar-General of Deeds shall register the conveyance under the Registration of Deeds Act, 1935-1962<sup>4</sup>. On being satisfied as to the title of the Minister and on payment of all such fees and production of all such plans and maps as would have been required to be paid or produced on an application to bring the land under the Real Property Act, 1886-1963<sup>3</sup> the Registrar-General shall thereupon issue a certificate of title to the said land in the name of the Minister of Lands.

<sup>1</sup> Now Real Property Act, 1886-1975.

<sup>2</sup> Reference to the year nineteen hundred and thirty-nine altered to 1939 pursuant to s. 7 (1) of the Acts Republishment Act, 1967, as amended.

<sup>3</sup> Now Real Property Act, 1886-1975.

<sup>4</sup> Now Registration of Deeds Act, 1935-1973.

(3) All land transferred or conveyed under this section shall be under the control of the Minister of Lands who may sell, lease or otherwise dispose of the land to such persons, and in such manner and upon such terms and conditions as the Minister of Lands approves upon the recommendation of the Land Board.

(4) The Minister of Lands may execute any transfer, lease, conveyance or other document necessary to carry out any transaction entered into under this section. Any such transfer, lease, conveyance or document which relates to land which is subject to the Real Property Act, 1886-1963<sup>1</sup>, shall comply with that Act.

(5) The Registrar-General shall, if so requested by the Minister of Lands, cancel the certificate of title relating to any land transferred to him under this section by making an endorsement on the certificate and in the Register Book of the words "Cancelled at the request of the Minister of Lands". Thereupon the land shall for all purposes be deemed to be Crown land and may be dealt with as though it has never been alienated from the Crown.

(6) The proceeds of every lease, sale or other disposition under this section shall be paid to the Treasurer in aid of the general revenue of the State.

(7) For the purposes of this section land shall be regarded as unencumbered if it is not subject to any registered mortgage, charge, encumbrance or lease, whether statutory or otherwise, and the expression "certificate of title" shall include "land grant".

## PART XVII

## PART XVII

## OFFENCES AND PENALTIES

Unauthorized occupation or use of Crown and other property.  
S. 272 substituted by 27, 1965, s. 33.  
Subsec. (1) amended by 60, 1965, s. 6 (2); 98, 1969, s. 14 (a).

**272.** (1) Any person who without the authority of the Minister occupies or uses for cropping, grazing or in any manner whatsoever any land belonging to or vested in the Crown, or any land leased under the provisions of the Pastoral Act, 1936-1960<sup>2</sup>, shall be liable to a penalty of not more than one hundred dollars.

(2) For the purposes of subsection (1) of this section a person who is merely traversing or who is temporarily camping on any land referred to in that subsection shall not be deemed to be occupying or using such land.

Subsec. (3) amended by 60, 1965, s. 6 (2); 98, 1969, s. 14 (a).

(3) Any person who without the authority of the Minister erects or causes to be erected any building, fence or other structure on any land belonging to or vested in the Crown or any land leased under the provisions of the Pastoral Act, 1936-1960<sup>2</sup>, shall be liable to a penalty of not more than one hundred dollars and shall in addition be liable to pay to the Minister the cost of removing, selling or destroying the building, fence or other structure. Payment of any such costs to the Minister may be ordered by a court imposing any such penalty as aforesaid or may be recovered by the Minister as a debt due to the Minister in any court of competent jurisdiction.

Subsec. (4) amended by 60, 1965, s. 6 (2); 98, 1969, s. 14 (a).

(4) Any person who without the authority of the Minister deposits or causes to be deposited any materials on any land belonging to or vested in the Crown or any land leased under the provisions of the Pastoral Act, 1936-1960<sup>2</sup>, shall be liable to a penalty of not more than one hundred dollars and shall in addition be liable to pay to the Minister the cost of removing,

<sup>1</sup> Now Real Property Act, 1886-1975.

<sup>2</sup> Now Pastoral Act, 1936-1974.

selling or destroying those materials. Payment of any such costs to the Minister may be ordered by a court imposing any such penalty as aforesaid or may be recovered by the Minister as a debt due to the Minister by action in any court of competent jurisdiction.

(5) Where—

Subsec. (5)  
inserted by 98,  
1969, s. 14 (b).

- (a) a person, pursuant to any authority of the Minister has erected or caused to be erected any building, fence or other structure on any land belonging to or vested in the Crown or on any land leased under the provisions of the Pastoral Act, 1936-1968, as amended<sup>1</sup>;
- (b) such authority was granted or obtained subject to the condition that the building, fence or structure will be removed from the land within a specified time or upon the termination of that person's occupancy of the land;

and

- (c) that person has failed within the specified time or upon the termination of that occupancy to remove or cause to be removed from the land the building, fence or structure,

that person shall be liable to a penalty not exceeding one hundred dollars and shall in addition be liable to pay to the Minister the cost of removing, selling or destroying the building, fence or structure and payment of the whole or any part of such cost to the Minister may be ordered by a court imposing any such penalty or may be recovered by the Minister as a debt due to the Minister in any court of competent jurisdiction.

(6) Where, upon the termination of a person's occupancy of land belonging to or vested in the Crown or leased under the provisions of the Pastoral Act, 1936-1968, as amended<sup>1</sup>, that person vacates the land without removing therefrom any chattel belonging to him, the Minister may, by notice in writing served on him, require him to remove the chattel from the land within a time specified in the notice and, if the chattel is not removed from the land within the time so specified, the Minister may remove, sell or destroy the chattel and the cost of so doing may be deducted by the Minister from moneys belonging to that person in the Minister's hands or may be recovered by the Minister from that person as a debt due to the Minister in any court of competent jurisdiction.

Subsec. (6)  
inserted by 98,  
1969, s. 14 (b).

273. (1) The owner or person in charge of cattle or sheep which—

- (a) are found upon Crown lands, or dedicated or reserved lands; and

Delaying with  
travelling stock.  
1199, 1915,  
s. 276.

- (b) are not *bona fide* travelling either to the station of the owner or to market, or, if travelling *bona fide*, do not travel at least 8 kilometres a day in a direct line,

Subsec. (1)  
amended by 27,  
1965, s. 34 (i),  
(ii);  
60, 1965,  
s. 6 (2); 25,  
1974, s. 42 (a).

Para. (b)  
amended by 25,  
1974, s. 42 (a).

shall be liable to a penalty of one dollar per head for every head of cattle, and six dollars for every hundred sheep or part of every hundred sheep so found upon the said lands.

(2) Upon the hearing of the complaint the onus of proving that the cattle or sheep were so *bona fide* travelling, or that they *bona fide* travelled at least

Subsec. (2)  
amended by 25,  
1974, s. 42 (b).

<sup>1</sup> Now Pastoral Act, 1936-1974.



8 kilometres a day, shall be upon the owner or person in charge of the cattle or sheep.

Depasturing  
cattle, etc.  
1199, 1915,  
s. 277.  
S. 274 amended  
by 27, 1965,  
s. 35 (a), (b), (c);  
60, 1965,  
s. 6 (2).

#### 274. Whoever—

- (a) depastures cattle, sheep, goats, or pigs upon Crown lands, or reserved or dedicated lands, or lands vested in the Commissioner of Educational Lands without licence or other lawful authority; or
- (b) depastures on any such lands more cattle or sheep than authorized by his licence or authority,

shall be liable to a penalty of not more than four hundred dollars; and, in addition thereto, for every offence to a further penalty of five cents per head for every head of sheep, goats, or pigs, and thirty cents for every head of cattle, so unlawfully depastured.

Injuring or  
removing  
timber, metals,  
etc., without  
licence.  
1199, 1915,  
s. 278.  
1882, 1928,  
s. 34.  
Subsec. (1)  
amended by 23,  
1940, s. 23 (a),  
(b), (c), (d);  
27, 1965,  
s. 36 (a);  
60, 1965,  
s. 6 (2);  
45, 1968, s. 53.

#### 275. (1) Any person who—

- (a) injures or destroys any tree, shrub or sapling, or cuts, saws, removes, or sells any timber being on Crown lands, or lands leased, dedicated or reserved under any of the Crown Lands Acts, or the Pastoral Act, 1904, or any Act incorporated therewith, or the Pastoral Act, 1936, as amended<sup>1</sup>, without a licence or other valid authority, except on land so leased by him and for the purpose of making improvements on the said land or exercising or performing any of the rights conferred or duties imposed upon him by his lease; or
- (b) unlawfully removes, or severs, excavates, quarries, or digs for, with intent to remove, any metal, or ore containing metal, or any stone, sand, gravel, or other material from any such lands, without a licence or other authority,

shall be liable to forfeit and pay, in addition to the value of the tree, shrub, sapling, timber, metal, or other material, a penalty of not less than ten dollars nor more than twenty dollars or to be imprisoned for any period not exceeding two months.

Penalty for  
contravening  
covenants as to  
cutting trees,  
etc.  
Subsec. (1a)  
inserted by 25,  
1941, s. 13;  
amended by 27,  
1965, s. 36 (b);  
60, 1965,  
s. 6 (2).

(1a) Any lessee or purchaser who cuts, injures or destroys or permits to be cut, injured or destroyed any tree, shrub, or sapling in contravention of any term, covenant or condition in his lease or agreement, shall be guilty of an offence and liable to a fine of not less than ten dollars or more than twenty dollars.

(2) Any person found committing an offence against this section may be forthwith apprehended and taken before any justice of the peace by a Crown lands ranger, police constable, or person authorized by the ranger.

<sup>1</sup> Now Pastoral Act, 1936-1974.

276. Whoever wilfully and unlawfully defaces, injures, destroys, removes, or obliterates any survey-picket or other land mark erected or being on any lands belonging to or vested in the Crown, shall be liable to a penalty of not more than one hundred dollars.

Injuring or removing land marks.  
1199, 1915, s. 279.  
S. 276 amended by 60, 1965, s. 6 (2).

277. Whoever wilfully defaces, injures, destroys, removes, cuts, scratches, or carves upon any monument, pedestal, carving, writing, ornamentation, or record placed, erected, or being upon any lands belonging to or vested in the Crown, or being dedicated or reserved lands, shall be liable to a penalty of not more than one hundred dollars or to imprisonment for any period not exceeding six months.

Injuring monuments, records, etc., on Crown lands.  
1199, 1915, s. 280.  
S. 277 amended by 60, 1965, s. 6 (2).

278. (1) Whoever, by materials of any kind, except by gates, grids or ramps approved by the Minister, wilfully obstructs or injures any road or way vested in the Crown, not being within the limits of any district council district, so as to hinder the free passage of any carriage thereon, shall be liable to a penalty of not less than four dollars nor more than twenty dollars, in addition to the expense of removal.

Obstructing roads and ways.  
1199, 1915, s. 281.  
Subsec. (1) amended by 27, 1965, s. 37; 60, 1965, s. 6 (2); 98, 1969, s. 2 (1).

(2) It shall be lawful for any Crown lands ranger or any person authorized in writing without any warrant, to forthwith summarily remove and prevent every such obstruction, at the cost of the party causing the same.

279. Any person who injures or destroys any gate or opening erected by the authority of the Minister on any road or way, or does not close the same, shall for every such offence be liable to a fine of not more than one hundred dollars, or to imprisonment for any period not exceeding six months.

Leaving gates open.  
1199, 1915, s. 282.  
S. 279 amended by 60, 1965, s. 6 (2); 98, 1969, s. 2 (1).

280. Any person who wilfully obstructs or hinders any member of the board, or any Crown lands ranger, or other authorized person, in the exercise of any right under this Act shall be liable to a penalty not exceeding one hundred dollars, or to be imprisoned for any period not exceeding six months.

Obstructing authorized persons from carrying out powers.  
1199, 1915, s. 283.  
S. 280 amended by 60, 1965, s. 6 (2).

281. (1) Every person who directly or indirectly takes or receives any sum of money, or any thing whatsoever, in pursuance of any agreement herebefore declared to be void, or in consideration of any act on his part which would be illegal if agreed to be done, shall forfeit that sum of money or other thing.

Any money or reward received under any illegal agreement to be forfeited, and recoverable by anyone suing for the same.  
1199, 1915, s. 284.

(2) The said sum shall be recoverable by any person who sues for the same within twelve months from the time when the same was received.

282. (1) Whenever any person—

(a) offers to any person, not being the principal for whom he is acting, intending purchaser, or lessee, to bid or not to bid at any auction except in some particular manner, or to bid for certain lands or leases only, in consideration of an intending purchaser or lessee bidding or not bidding for any land or lease to be offered for sale at the auction; or

Making illegal agreement.  
1199, 1915, s. 285.  
Subsec. (1) amended by 60, 1965, s. 6 (2).

(b) offers to enter into any agreement which would be illegal under this Act,

the first-mentioned person shall forfeit the full value of the lands or of the lease forming the subject of the agreement, or a sum of two hundred dollars, whichever is the higher in amount.

(2) The amount so forfeited may be sued for and recovered by any person who sues for the same within twelve months from the time of the offer or proposal.

Offering to enter into void agreements, etc. 1199, 1915, s. 286. Subsec. (1) amended by 60, 1965, s. 6 (2).

**283.** (1) Whenever any person—

- (a) offers to any intending purchaser or lessee at any auction to enter into any agreement which would be void under this Act; or
- (b) offers to make any agreement or arrangement for making which any forfeiture or penalty is provided; or
- (c) makes any such offer as mentioned in section 282,

by means of threats or representations respecting the future biddings, purchases, or competition, or respecting any particular course of proceeding of such person at any such auction, he shall forfeit twice the full value of the lands or lease which formed the subject of the offer, proposal, or illegal agreement, or a sum of four hundred dollars, whichever is the higher in amount.

(2) The amount so forfeited may be sued for and recovered by any person who sues for the same within twelve months from the time of the offer or proposal.

False statement as to commonage. 1199, 1915, s. 287. S. 284 amended by 60, 1965, s. 6 (2).

**284.** Any person who knowingly makes any false statement with regard to commonage in hundreds shall be liable to a penalty of not more than one hundred dollars.

Forgery and uttering a felony. 1199, 1915, s. 288.

**285.** Whoever—

- (a) forges, counterfeits, or alters, with intent to defraud; or
- (b) with a like intent, utters, or makes use of, knowing the same to be forged, counterfeited, or altered,

any writing or document authorized to be made, issued, or granted under this Act and relating to any Crown lands, shall be guilty of a felony, and shall be liable to be imprisoned for any term not exceeding eight years.

Perjury. 1199, 1915, s. 289.

**286.** Any person who wilfully makes a false declaration, or who, upon oath or affirmation taken or made under the provisions of this Act, wilfully and corruptly gives any false evidence before the board, or any member thereof, shall be guilty of perjury, and may be imprisoned for any term not exceeding four years.

Fraud or false representation. 1199, 1915, s. 290. Para. (a) amended by 98, 1969, s. 2 (f).

**287.** Any person who—

- (a) by any manner of fraud or wilful misrepresentation, obtains or attempts to obtain any advance or loan under this Act from the Minister or the State Bank of South Australia; or
- (b) by any false representation attempts to account for the expenditure of any moneys advanced as aforesaid,

shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding twelve months.

## PART XVIII

## PART XVIII

## REGULATIONS

288. (1) The Governor may make regulations for fully and effectually carrying out and giving force and effect to the various objects, purposes, rights, powers, and authorities of this Act, including regulations for fees, and for penalties not exceeding forty dollars for any one offence.

Regulations.  
1199, 1915,  
s. 291.  
Subsec. (1)  
amended by 60,  
1965, s. 6 (2).

(1a) Without limiting the generality of the purposes for which regulations may be made under this section, those regulations may provide for the survey of—

Subsec. (1a)  
inserted by 25,  
1974, s. 43.

(a) Crown lands;

(b) lands reserved for, or dedicated to, any public purpose;

and

(c) land subject to any agreement, lease or licence lawfully granted by or on behalf of the Crown or the Minister.

(2) All such regulations shall be published in the *Government Gazette*, and shall be laid before both Houses of Parliament within fourteen days after the publication thereof, if Parliament is then sitting, and if not, then within fourteen days after the next session of Parliament begins; and if within sixty days of the laying before Parliament of any such regulations either House of Parliament passes a resolution objecting thereto, the same shall (so far as so objected to) thenceforth cease to have the force of law, and notice of every such resolution shall forthwith be published by the Minister in the *Government Gazette*.

Subsec. (2)  
amended by 98,  
1969, s. 2 (b).

(3) Subject to subsection (2) hereof, all such regulations shall have full force of law from the first date of publication thereof.

(4) The *Government Gazette* containing any such regulations purporting to be made by the Governor by virtue of this Act, shall be conclusive evidence of the making thereof; and the *Government Gazette* containing a notice of a resolution being passed by either House of Parliament objecting to any such regulation shall be conclusive evidence of the passing of that resolution.

## PART XIX

## PART XIX

## ARBITRATION, EVIDENCE, LEGAL PROCEDURE, ETC.

289. (1) All valuations under any of the Crown Lands Acts (except valuations of rents and improvements to be made by the board), and valuations of improvements on resumed miscellaneous leased lands, shall be determined, in case of dispute by the Land and Valuation Court.

Valuation for  
compensation to  
be determined  
by the Land and  
Valuation  
Court.  
1199, 1915,  
s. 292.  
Subsec. (1)  
amended by 52,  
1969, s. 5 (a);  
98, 1969, s. 2 (l);  
42, 1974,  
s. 3 (2nd  
Sched.).

\* \* \* \* \*

Subsec. (2)  
struck out by 52,  
1969, s. 5 (b).

290. All declarations required by this Act to be made by any person may be made before a member of the board, a justice of the peace, a notary public, or a commissioner for taking affidavits in the Supreme Court.

Declarations,  
how to be  
made.  
1199, 1915,  
s. 293.

Parties  
compellable to  
give evidence,  
but not to be  
prosecuted in  
certain cases.  
1199, 1915,  
s. 294.

**291.** (1) In any proceedings under Part XVII all parties to any agreement such as mentioned in section 236 or 237, made in connection with an auction, and all persons making or receiving any offer, with or without threats, to enter into such an agreement, shall be compellable to give evidence upon all matters relating to the agreement or offer.

(2) No information shall be maintained against any person for conspiracy in consequence of any such agreement or offer, if the said person being summoned as a witness, answers all questions that may be asked of him concerning the matters in question; nor shall he be convicted of conspiracy if he at any time previous to any information being laid has fully disclosed such act on oath, under the compulsory process of any court, in any action or proceeding instituted under Part XVII of this Act, Part XVII of the Crown Lands Act, 1915, or Part XVII of the Crown Lands Act, 1903.

*Gazette*  
evidence of  
facts stated  
therein.  
1199, 1915,  
s. 295.

**292.** The production of the *Government Gazette* containing any publication required to be published shall be conclusive evidence of the facts stated, recited, or assumed therein.

Burden of  
proof.  
1199, 1915,  
s. 296.  
1311, 1917,  
s. 11.

**293.** In any action, suit, or proceeding under any of the Crown Lands Acts—

Para. (a)  
amended by 23,  
1940, s. 24.

(a) the averment that any lands are Crown lands, dedicated lands, reserved lands, or lands belonging to or vested in the Crown, or lands leased under any Act, or that any person is a Crown lands ranger, or other person authorized to take any proceedings, or perform any duty, or sue for the recovery of any penalties or other moneys under any of the said Acts, shall be sufficient proof of that fact, unless the defendant proves the contrary:

(b) where the authority of the defendant to do any act is in question, the proof thereof shall lie upon the defendant:

Para. (c)  
amended by  
1990, 1930, s. 3;  
40, 1939, s. 21.

(c) all licences, certificates, maps, plans, and office copies, purporting to be certified as true under the hand of the Director of Lands, the Assistant Director of Lands, or the Surveyor-General or the Deputy Surveyor-General of the State, shall be sufficient evidence without production of original records, and without the personal attendance of those officers, or proof of their signatures.

Who may lay  
complaint, and  
hearing of  
same.  
1199, 1915,  
s. 297.  
Subsec. (1)  
amended by 98,  
1969, s. 2 (1).

**294.** (1) All proceedings may be had and taken and all complaints may be laid for any offence against this Act at the instance of the Minister, or any person authorized by him, or any Crown lands ranger; and all complaints shall be heard and determined, and all moneys, costs, and expenses shall be recovered, in a summary way.

(2) The court of summary jurisdiction may also, in case any penalty is imposed, order the defendant, in default of payment thereof, to be imprisoned for any period not exceeding six months.

Actions for  
trespass in local  
court.  
S. 294a enacted  
by 23, 1940,  
s. 25.  
Subsec. (1)  
amended by 60,  
1965, s. 6 (2).

**294a.** (1) The Attorney-General, on behalf of the Crown, may bring an action in a local court for trespass or injury to any Crown Lands, dedicated lands, or reserved lands, or any property of the Crown on any such lands, in any case where the amount of damages claimed does not exceed one thousand five hundred dollars.

(2) Subject to any rules of court, every such action shall be maintained and prosecuted in accordance with the ordinary practice and procedure of the court in an action between subjects.

295. Except when otherwise provided, all penalties shall, when recovered, be paid to the Treasurer of the State.

Penalties.  
1199, 1915,  
s. 298.

295a. Where money is paid to the Minister or to the receiver of rents in respect of any amounts of rent, purchase-money, or interest which became due at different times, the Minister or receiver may, notwithstanding any direction to the contrary, apply the money for or towards payment of those amounts in the order in which they became due, or in any other order which appears to the Minister or receiver to be convenient.

Appropriation  
of payments.  
S. 295a enacted  
by 40, 1939,  
s. 22; amended  
by 98, 1969,  
s. 2 (i).

296. The Treasurer may cause to be paid out of the Public Treasury the costs or charges of any action brought by or against any justice, Crown lands ranger, constable, or other person acting under the authority and in the execution of this Act.

Treasurer may  
provide for  
costs of officers.  
1199, 1915,  
s. 302.

297. (1) All actions for anything done under any of the Crown Lands Acts shall be commenced within six months after the cause of action has arisen, and not afterwards.

Protection to  
persons acting  
in execution of  
this Act.  
1199, 1915,  
s. 303.

(2) Notice in writing of every such action, and the cause thereof, shall be given to the defendant one month at least before the commencement of the action.

(3) In every such action the defendant may plead the general issue, and give this Act, or any Act hereby repealed, and the special matter in evidence at any trial to be had thereupon.

(4) No plaintiff shall recover in any such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into court by or on behalf of the defendant after action brought, together with the costs incurred up to that time.

## SCHEDULES

### THE FIRST SCHEDULE

#### ACTS REPEALED

Section 3.

Reference to Act	Short Title	Extent of Repeal
No. 1199 of 1915 .....	Crown Lands Act, 1915 .....	The whole
No. 1206 of 1915 .....	Crown Lands Act Suspensory Act, 1915 .....	The whole
No. 1231 of 1915 .....	Crown Lands Act Amendment Act, 1915 .....	The whole
No. 1311 of 1917 .....	Crown Lands Act Amendment Act, 1917 .....	The whole
No. 1405 of 1919 .....	Crown Lands Act Further Amendment Act, 1919 .....	The whole
No. 1703 of 1925 .....	State Bank Act, 1925 .....	Section 72 and the Seventh Schedule
No. 1740 of 1926 .....	Crown Lands Act Amendment Act, 1926 .....	The whole
No. 1803 of 1927 .....	Crown Lands Act Amendment Act, 1927 .....	The whole
No. 1882 of 1928 .....	Crown Lands Act Amendment Act, 1928 .....	The whole
No. 1900 of 1929 .....	Crown Lands Act Amendment Act, 1929 .....	The whole

Second Sched.  
repeated by 45,  
1968, s. 54.

\* \* \* \* \*

Section 35.  
1199, 1915,  
Third Schedule.  
1405, 1919, s. 4.  
1882, 1928,  
s. 35.  
3rd Sched.  
amended by 25,  
1974, s. 45a and  
as hereinafter  
indicated.

### THE THIRD SCHEDULE

South [Royal Arms] Australia

#### CROWN LEASE (PERPETUAL)

The Crown doth hereby lease to A.B., of [address and occupation] all that [here describe land leased] to be held in perpetuity at the following yearly rents namely:—[here set out the rents in accordance with the appropriate section of the Act], each of which yearly rents is to be paid in advance on the \_\_\_\_\_ day of \_\_\_\_\_, with such penalties as are provided for by the Crown Lands Act, 1929, added thereto in case any of such rents is in arrear, and subject to the reservations, covenants, and conditions shortly stated below, and which are more fully set out in the Crown Lands Act, 1929.

Heading and  
clause 1 struck  
out by 25, 1974,  
s. 45 (b).

\* \* \* \* \*

#### Covenants

##### 2. The lessee must—

- i. Enclose the land with a cattle-proof fence before the end of the fifth year of the lease;
- ii. Keep in good repair all Crown improvements (if any) on the land;
- iii. Clear so as to render available for cultivation, or so as to improve the grazing capacity thereof, .....hectares of the land;
- iv. Forthwith commence to destroy and to keep the land free from vermin to the satisfaction of the Minister of Lands during the lease;
- v. Insure and keep insured in the full insurable value thereof all buildings the property of the Crown upon the leased land in the joint names of the Minister and the lessee, in some insurance office to be approved of by the Minister, and forthwith lodge the policy of such insurance in the office of the Minister, and forward to the Minister the receipts for the premiums payable in respect of such policy within seven days after the same shall become due, with a power for the Minister to insure on default by the lessee, and to recover the amount paid for such insurance in like manner as the rent is recoverable.
- va. Permit the Minister or any person authorized by him to enter upon the land for any reasonable purpose.

Para. III  
amended by 25,  
1974, s. 45 (c).

Para. IV  
amended by 98,  
1969, s. 2 (j).

Para. V  
amended by 98,  
1969, s. 2 (k).

Para. Va  
inserted by 25,  
1974, s. 45 (d).

##### And the lessee must not—

- vi. Transfer, sublet, encumber, or mortgage without the written consent of the Minister first had in each case;
- vii. Erect brush fence or suffer or permit the same to be erected or to remain on the land.

Para. VI  
amended by 98,  
1969, s. 2 (k).

#### Conditions

##### 3. The lease shall be liable to forfeiture in the following cases and no others:—

- i. If default be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing demanding its payment;
- ii. If default be made in the performance of any covenant; or
- iii. If the land shall be transferred, sublet, or mortgaged without the written consent of the Minister first had in each case.

Clause 3  
amended by 98,  
1969, s. 2 (k).

4. The land may be resumed by the Crown for mining or for any public work or purposes, full compensation being made to the lessee for his loss.

Section 35.  
1199, 1915,  
Fourth  
Schedule.  
1405, 1919, s. 4.  
1882, 1928,  
s. 36.

### THE FOURTH SCHEDULE

Item 1 amended  
by 98, 1969,  
s. 2 (i); struck  
out by 25, 1974,  
s. 46 (a).

Reference to the Form in the Third Schedule	Extended Meaning
1. * * *	* * *
2. (i) Covenant to fence	The lessee will during the first five years substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle, and during the term of the lease maintain such fence or wall in good and substantial repair.

THE FOURTH SCHEDULE—*continued*

Reference to the Form in the Third Schedule	Extended Meaning	
2. (ii) Covenant to keep Crown improvements in repair	The lessee will at his own cost during the said term, keep and maintain in good and tenable repair and condition all improvements (if any) the property of the Crown on the land hereby leased.	
2. (iii) Covenant to clear	The lessee will during the first two years clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than twenty per centum of the area specified in that behalf in the lease, and will during the second two years clear as aforesaid not less than ten per centum of the area so specified, and will during each succeeding year clear as aforesaid not less than ten per centum of the area so specified until the whole of the area so specified has been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.	Item 2 (iii) amended by 25, 1974, s. 46 (b), (c).
3. Condition of forfeiture	Provided always, and this lease is upon this express condition, that if default shall be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing demanding its payment, or if default shall be made in the performance of any covenant on the part of the lessee; or if the lessee shall, without the written consent of the Minister first had and obtained, transfer, mortgage, encumber, or sublet the premises, or any part thereof, The Crown or the Minister, after three months' written notice, may re-enter and take possession of the said lands; and it shall be lawful for the Minister, before or after re-entry, to cancel and determine this lease, and the Minister may thereupon insert a notice in the <i>Government Gazette</i> declaring this lease to be forfeited, and such notice appearing in the <i>Government Gazette</i> as having been published by the authority of the Minister shall, in all courts and elsewhere, and under all circumstances, be taken to be conclusive evidence that such lease has been legally cancelled and forfeited: Provided, however, that the Minister shall not (except in the case of rent being in arrear as aforesaid, or of the transfer, mortgage, encumbrance, or subletting of the premises without such consent as aforesaid) exercise the powers expressed in this clause in the case of default in the performance of a covenant before the expiration of the period of three months after notice has been given to the lessee of such default and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the lessee of any default in the performance of a covenant, no notice of any future default in the performance of the same covenant, or of the continuance of the same default, shall be necessary before the exercise of such powers.	Item 3 amended by 98, 1969, s. 2 (m); 25, 1974, s. 46 (d).
4. Condition of resumption	Provided also, and it is expressly agreed, that the Crown shall, and may, at any time, or from time to time hereafter resume possession of all or any part of the said land hereby demised for roads, railways, tramways, or for sites for towns or for park lands, or for mining purposes, or for any public work or purpose upon the Minister giving three calendar months' notice to the lessee by publication in the <i>Government Gazette</i> of such intended resumption; and that immediately from and after the expiration of three calendar months after such notice shall have been given as aforesaid this lease and the demise hereby made shall cease, determine, and be void as to all or such parts of the said lands as shall be mentioned and described in such notice, anything in this lease to the contrary notwithstanding: Provided that, on any resumption, the lessee shall be paid compensation for the loss the lessee shall sustain thereby; and, in case of dispute, the amount of such compensation shall be determined by the Land Board, or, at the option of the Minister or the lessee, in the manner provided by section 289 of the Crown Lands Act, 1929.	Item 4 amended by 2060, 1931, s. 17; 98, 1969, s. 2 (m); 25, 1974, s. 46 (e).



Section 44.  
1199, 1915,  
Fifth Schedule.  
1405, 1919, s. 4.  
1882, 1928,  
s. 37.  
5th Sched.  
amended by  
2060, 1931,  
s. 18; 2246,  
1935, s. 4 (2nd  
Sched.); 2293,  
1936, s. 4 (2nd  
Sched.); 60,  
1965, s. 6 (1)  
(Sched.); and as  
hereinafter  
indicated.

Para. 1  
amended by 60,  
1965, s. 6 (1)  
(Sched.); 25,  
1974, s. 47 (a);  
88, 1975, s. 3 (1)  
(2nd Sched.).

Para. 6  
amended by 25,  
1974, s. 47 (b).

Para. 8  
amended by  
2246, 1935, s. 4  
(2nd Sched.);  
substituted by  
25, 1974,  
s. 47 (c).

Para. 12  
amended by  
2246, 1935, s. 4  
(2nd Sched.).

## THE FIFTH SCHEDULE

## TERMS AND CONDITIONS IN AGREEMENT

1. The vendor agrees to sell and the purchaser agrees to purchase for the sum of \_\_\_\_\_ being the price fixed by the Land Board all \_\_\_\_\_ section of land situated in the Hundred of \_\_\_\_\_ County of \_\_\_\_\_ containing \_\_\_\_\_ hectares or thereabouts numbered \_\_\_\_\_ and the improvements thereon.
2. The purchaser shall pay the purchase-money together with interest thereon at the rate of \_\_\_\_\_ per centum per annum in sixty half-yearly instalments of \_\_\_\_\_ payable in advance on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ in each year until the whole of the purchase-money and interest shall be paid: Provided that the purchaser may complete the purchase of the said land at any time after six years from the time when such land was originally taken up on payment of the balance of the purchase-money and interest to the date of completion of the purchase.
3. The purchaser will pay and discharge all rates taxes assessments impositions and outgoings which shall become payable in respect of the said land.
4. The purchaser shall and will during the first five years from the date of this agreement substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle and will until the completion of the purchase of the said land maintain and uphold such fence in good and substantial repair.
5. The purchaser will during this agreement keep and maintain in good and tenantable repair and condition all improvements on the said land.
6. The purchaser will during the first two years from the date of this agreement clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than \_\_\_\_\_ hectares of the said land and will during the second two years clear as aforesaid not less than \_\_\_\_\_ hectares of the said land and will during each succeeding year clear as aforesaid not less than \_\_\_\_\_ hectares of the said land until \_\_\_\_\_ hectares of the said land have been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.
7. The purchaser will not without the consent of the vendor being first had and obtained transfer sublet encumber or mortgage the said land.
8. The Minister, and any person authorized by him, may enter upon the land for any reasonable purpose.
9. It shall be lawful for the vendor and all persons authorized by him at all times unrestrictedly to enter into and upon the said land before completion of the purchase thereof.
10. The vendor reserves unto himself and all persons and bodies authorized by him full right and liberty without any payment to the purchaser by way of compensation from time to time and at all times hereafter with or without beasts of draught or burden or any vehicles whatever to enter into and upon the said land for the purpose of laying pipes or a pipe track in, along, over, or under the said land, and to view the condition of and to cleanse, relay, repair, and maintain the said pipes or pipe track, and to allow water to be in and to flow through the said pipes or pipe track, and to construct drains and pipe tracks, and to lay pipes where required in, along, over, or under the said land, and to view the condition of and cleanse, relay, repair, and maintain the said drains and pipe tracks and pipes, and to allow water to be in and to flow through the said drains, pipe tracks, and pipes.
11. The purchaser will insure and during this agreement keep insured in the full insurable value thereof in some insurance office in Adelaide to be approved by the vendor all buildings and erections the property of the purchaser upon the said land or which may thereafter be thereupon against loss or damage by fire such insurance to be in the joint names of the purchaser and the vendor and will forthwith lodge the policy of every such insurance in the office of the vendor and will forward to the vendor the receipts for the premiums payable in respect of every such policy within seven days after the same shall become due and if the foregoing covenant shall not be duly observed then the vendor shall be at liberty to insure the said improvements in manner aforesaid and it is agreed that all sums of money received under any such insurance shall be laid out in reinstating the premises in respect of which the same shall have been received.
12. The purchaser will destroy all rabbits on the said land and fill up their burrows to the satisfaction of the vendor and will forthwith commence to destroy all such other vermin on the said land as are by or under the Vermin Act, 1931<sup>1</sup>, or by or under any other Act for the time being in force in the said State declared to be vermin and will keep the said land free of all vermin to the satisfaction of the vendor during this agreement and will destroy Bathurst burr and all other noxious weeds growing upon the said land and upon the half width of Government roads adjacent thereto.

<sup>1</sup> The Vermin Act, 1931, and its amendments have been repealed by the Vertebrate Pests Act, 1975.

13. The purchaser will neither allow to remain if now existing nor erect nor suffer the erection of any brush fence upon the said land.

14. And it is hereby declared that if any of the instalments hereby reserved shall be unpaid and in arrear for more than six months after the day whereon the same is hereby made payable the purchaser having had at least three months' previous notice in writing demanding its payment, or if the vendor shall be satisfied that there has been a breach in the performance of any of the covenants herein contained or that this agreement is liable to forfeiture the vendor may re-enter and take possession of the said land and it shall be lawful for the Minister of Lands before or after re-entry to cancel and determine this agreement and the said Minister may thereupon insert a notice in the *Government Gazette* declaring this agreement to be forfeited and such notice appearing in the *Government Gazette* shall in all courts and elsewhere and under all circumstances be taken to be conclusive evidence that this agreement has been legally cancelled and forfeited: Provided that the vendor or the said Minister shall not (except in the case of an instalment being unpaid and in arrear as aforesaid or of a breach of clause 7 hereof) exercise the powers expressed in this clause in case of a breach of covenant before the expiration of the period of three months after notice has been given to the purchaser of such breach and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the purchaser of any breach of a covenant no notice of any future breach of the same covenant or of the continuance of the same breach thereof shall be necessary before the exercise of such powers.

Para. 14  
amended by 98,  
1969, s. 2 (n),  
(o).

15. And it is hereby expressly agreed that the said Minister may at any time or from time to time hereafter resume possession of all or any part of the said land for roads railways or tramways or for sites for towns or park lands or for mining purposes or for any public purpose whatsoever after the expiration of three calendar months from the giving by the said Minister to the purchaser of notice in writing of the intended resumption and that immediately upon the giving of such notice the right of the purchaser to complete the purchase shall cease and determine and be void as to all or such of the said lands as shall be specified in such notice and that immediately after the expiration of the said three calendar months this agreement and the right of the purchaser to possession shall cease and determine and be void as to all or such part of the said lands as shall be specified in such notice anything in this agreement to the contrary notwithstanding: Provided that on any resumption the purchaser shall be paid compensation for the loss the purchaser shall sustain thereby and in case of dispute the amount of such compensation shall be determined by the Land Board or at the option of the said Minister or the purchaser in the manner provided by section 289 of the Crown Lands Act, 1929.

Para. 15  
amended by  
2060, 1931,  
s. 18; 98, 1969,  
s. 2 (o).

16. And it is hereby expressly declared that any notice to be served or given to the purchaser under this agreement shall be deemed to have been duly served or given if the same be sent through the post office enclosed in an envelope addressed to the purchaser at any address stated in any recent application letter or document received from him or at his usual or last known place of abode in the said State or to the care of any solicitor attorney or agent acting in the purchaser's behalf in the particular matter in respect whereof such notice is given and such notice shall be deemed to have been served or given on and time shall run from the day of the posting thereof as aforesaid.

Para. 16  
amended by  
2293, 1936, s. 4  
(2nd Sched.).

#### THE SIXTH SCHEDULE

##### CONDITIONS ON LEASE OF LANDS RESUMED FOR WATER

Section 76.  
1199, 1915,  
Sixth Schedule.

- (a) To pay the rent and taxes;
- (b) To maintain in good order and tenantable condition and repair all buildings, wells, dams, reservoirs, embankments, erections, ditches, and watercourses upon the leased land;
- (c) To erect, to the approval of the Minister, and maintain upon the land during the currency of the lease, a house of public accommodation, and therein afford accommodation to the public; and if the lessee shall obtain a licence in respect of the said house under any laws for the time being relating to licensed victuallers, to keep and conduct the licensed premises in a proper and orderly manner, so as to afford no just or reasonable cause for withholding or withdrawing the licence and from time to time without intermission to renew and keep such licence in force: Provided that this covenant shall not be inserted in any lease where the Minister shall determine that a house of accommodation is not required;
- (d) To construct appliances for watering stock, either by shallow sinking, deep-seated sinking with surface appliances, or surface reservoirs; and
- (e) Whenever thereunto reasonably required, to supply all cattle, sheep, and other stock with water.

Para. (c)  
amended by 98,  
1969, s. 2 (p).

\* \* \* \* \*

7th Sched.  
repealed by 45,  
1968, s. 55.

\* \* \* \* \*

8th Sched.  
amended by 60,  
1965, s. 6 (1)  
(Sched.);  
repealed by 45,  
1968, s. 56.

Section 178.  
1199, 1915,  
Ninth Schedule.  
1405, 1919, s. 4.  
1882, 1928,  
s. 38.

9th Sched.  
amended as  
hereinafter  
indicated.

Para. 1 amended  
by 60, 1965,  
s. 6 (2); 25,  
1974, s. 48 (a);  
88, 1975, s. 3 (1)  
(2nd Sched.).

## THE NINTH SCHEDULE

### TERMS AND CONDITIONS TO BE CONTAINED IN AGREEMENT

1. The vendor agrees to sell and the purchaser agrees to purchase for the sum of \_\_\_\_\_ dollars being the price fixed by the Land Board all \_\_\_\_\_ section of \_\_\_\_\_ land situated in the Hundred of \_\_\_\_\_ County of \_\_\_\_\_ containing \_\_\_\_\_ hectares or thereabouts numbered \_\_\_\_\_ and the improvements thereon.

2. The purchaser shall until the whole of the purchase-money and interest shall be paid pay the purchase-money together with interest thereon in seventy half-yearly instalments as follows:—The first ten half-yearly instalments shall each be the sum of \_\_\_\_\_ and the subsequent sixty half-yearly instalments shall each be the sum of \_\_\_\_\_ all of which instalments shall be payable in advance on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ in each year: Provided that the purchaser may complete the purchase of the said land at any time after six years from the date of this agreement on payment of the balance of the purchase-money and interest to the date of completion of the purchase and complying with all the terms covenants conditions and provisions of this agreement. And provided that on any of the said days the purchaser may pay in advance any part (being the sum of one hundred dollars or a multiple thereof) of the purchase-money whereupon interest on the amount so paid shall cease and the amounts of the instalments subsequently falling due shall be decreased ratably to the amount so paid.

3. The purchaser will pay and discharge all rates taxes assessments impositions and outgoings which shall become payable in respect of the said land.

Para. 4 struck  
out by 98, 1969,  
s. 15.

\* \* \* \* \*

5. The purchaser shall spend on the said land during each of the first five years from the date of this agreement a sum of money equal to six dollars for every two hundred dollars of the value of the said land as fixed by the Land Board in substantial improvements consisting of buildings fencing or water improvements being the sum of \_\_\_\_\_: Provided that the amount so expended by the purchaser in excess of the amount required to be expended as aforesaid in one year shall be set off against the amount required to be expended in the next or following years: Provided also that so much of any amount of the purchase-money paid by the purchaser as shall have been paid on account of improvements on the said land may be deducted from the amount to be expended by the purchaser on improvements on the said land.

6. The purchaser shall and will during the first five years from the date of this agreement substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle and will until the completion of the purchase of the said land maintain and uphold such fence in good and substantial repair.

7. The purchaser will during this agreement keep and maintain in good and tenantable repair and condition all improvements on the said land.

Para. (8)  
amended by 25,  
1974, s. 48 (b).

8. The purchaser will during the first two years from the date of this agreement clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than \_\_\_\_\_ hectares of the said land and will during the second two years clear as aforesaid not less than \_\_\_\_\_ hectares of the said land and will during each succeeding year clear as aforesaid not less than \_\_\_\_\_ hectares of the said land until \_\_\_\_\_ hectares of the said land have been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.

9. The purchaser will not without the consent of the vendor being first had and obtained transfer sublet encumber or mortgage the said land.

Para. 10  
amended by  
2246, 1935, s. 4  
(2nd Sched.);  
substituted by  
25, 1974,  
s. 48 (c).

10. The Minister, and any person authorized by him, may enter upon the land for any reasonable purpose.

11. It shall be lawful for the vendor and all persons authorized by him at all times unrestrictedly to enter into and upon the said land before completion of the purchase thereof.

12. The vendor reserves unto himself and all persons and bodies authorized by him full right and liberty without any payment to the purchaser by way of compensation from time to time and at all times hereafter, with or without beasts of draught or burden or any vehicles whatever to enter into and upon the said land for the purpose of laying pipes or a pipe track in, along, over or under the said land, and to view the condition of and to cleanse, relay, repair, and maintain the said pipes or pipe track, and to allow water to be in and flow through the said pipes or pipe track, and to construct drains and pipe tracks, and to lay pipes where required in, along, over or under the said land, and to view the condition of and cleanse, relay, repair, and maintain the said drains and pipe tracks and pipes, and to allow water to be in and to flow through the said drains, pipe tracks, and pipes.

13. The purchaser will ensure and during this agreement keep insured in the full insurable value thereof in some insurance office in Adelaide to be approved by the vendor all buildings and erections the property of the vendor upon the said land or which may thereafter be thereupon against loss or damage by fire such insurance to be in the joint names of the purchaser and the vendor and will forthwith lodge the policy of every such insurance in the office of the vendor and will forward to the vendor the receipts for the premiums payable in respect of every such policy within seven days after the same shall become due and if the foregoing covenant shall not be duly observed then the vendor shall be at liberty to insure the said improvements in manner aforesaid and it is agreed that all sums of money received under any such insurance shall be laid out in reinstating the premises in respect of which the same shall have been received.

14. The purchaser will destroy all rabbits on the said land and fill up their burrows to the satisfaction of the vendor and will forthwith commence to destroy all such other vermin on the said land as are by or under the Vermin Act, 1931<sup>1</sup>, or by or under any other Act for the time being in force in the said State declared to be vermin and will keep the said land free from all vermin to the satisfaction of the vendor during this agreement and will destroy Bathurst burr and all other noxious weeds growing upon the said land and upon the half width of Government roads adjacent thereto.

Para. 14  
amended by  
2246, 1935, s. 4  
(2nd Sched.).

15. The purchaser will neither allow to remain if now existing nor erect nor suffer the erection of any brush fence upon the said land.

16. And it is hereby declared that if any of the instalments hereby reserved shall be unpaid and in arrear for more than six months after the day whereon the same is hereby made payable the purchaser having had at least three months' previous notice in writing demanding its payment, this agreement may be cancelled by the Minister of Lands or if the vendor shall be satisfied that there has been a breach in the performance of any other of the covenants herein contained or that this agreement is liable to forfeiture the vendor may re-enter and take possession of the said land and it shall be lawful for the said Minister before or after re-entry to cancel and determine this agreement and the said Minister may thereupon insert a notice in the *Government Gazette* declaring this agreement to be forfeited and such notice appearing in the *Government Gazette* shall in all courts and elsewhere and under all circumstances be taken to be conclusive evidence that this agreement has been legally cancelled and forfeited: Provided that the vendor or the said Minister shall not (except in the case of an instalment being unpaid and in arrears as aforesaid or of a breach of clause 9 hereof) exercise the powers expressed in this clause in the case of a breach of covenant before the expiration of the period of three months after notice has been given to the purchaser of such breach and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the purchaser of any breach of a covenant no notice of any future breach of the same covenant or of the continuance of the same breach thereof shall be necessary before the exercise of such powers.

Para. 16  
amended by 98,  
1969, s. 2 (q),  
(r).

17. And it is hereby expressly agreed that the said Minister may at any time or from time to time hereafter resume possession of all or any part of the said land for roads railways or tramways or for sites for towns or park lands or for mining purposes or for any public purposes whatsoever after the expiration of three calendar months from the giving by the said Minister to the purchaser of notice in writing of the intended resumption and that immediately upon the giving of such notice the right of the purchaser to complete the purchase shall cease and determine and be void as to all or such of the said lands as shall be specified in such notice and that immediately after the expiration of the said three calendar months this agreement and the right of the purchaser to possession shall cease and determine and be void as to all or such part of the said lands as shall be specified in such notice anything in this agreement to the contrary notwithstanding: Provided that on any resumption the purchaser shall be paid compensation for the loss the purchaser shall sustain thereby and in case of dispute the amount of such compensation shall be determined by the Land Board or at the option of the said Minister or the purchaser in the manner provided by section 289 of the Crown Lands Act, 1929.

Para. 17  
amended by  
2060, 1931,  
s. 19; 98, 1969,  
s. 2 (r).

18. And it is hereby expressly declared that any notice to be served or given to the purchaser under this agreement shall be deemed to have been duly served or given if the same be sent through the post office enclosed in an envelope addressed to the purchaser at any address stated in any recent application letter or document received from him or at his usual or last known place of abode in the said State or to the care of any solicitor attorney or agent acting in the purchaser's behalf in the particular matter in respect whereof such notice is given and such notice shall be deemed to have been served or given on and time shall run from the day of the posting thereof as aforesaid.

Para. 18  
amended by  
2293, 1936, s. 4  
(2nd Sched.).

## THE TENTH SCHEDULE

### *Land added to the Lyrup Village Association District*

Comprising all that portion of the hundred of Paringa bounded as follows:—Commencing at the northern corner of block 47, thence south-easterly along the north-eastern boundary of the said block and production to the eastern side of road east of said block; thence south-south-westerly and south-westerly along the eastern and south-eastern sides of road east and south-east of said block; westerly along the southern side of road south of blocks 47, 46, and portion of block 44, south-south-westerly along the south-eastern side of road south-east of block 43, west-north-westerly and north-westerly along the south-western side of road south-west of block 43, generally northerly along the western side of road west of said block 43, blocks 42 and 40, north-easterly along the north-western side of road north-west of blocks 40 and 39, south-easterly along the north-eastern side of road north-east of block 39 to the north-western boundary of channel reserve, thence north-easterly and south-easterly along the north-west and north-eastern boundaries of said channel reserve to the western side of road west of block 33, thence generally south-westerly along said side of road and production to the northern corner of block 146, thence south-south-easterly along the eastern boundaries of blocks 146 and 45, south-easterly along the north-eastern boundaries of blocks 45 and 46 to the point of commencement.

Section 88a.  
10th Sched.  
Inserted by  
2246, 1935, s. 4  
(2nd Sched.).

<sup>1</sup> The Vermin Act, 1931, and its amendments, have been repealed by the Vertebrate Pests Act, 1975.

11th Sched.  
Inserted by 50,  
1966, s. 7;  
amended by 50,  
1967, s. 15;  
repealed by 45,  
1968, s. 57.

\* \* \* \* \*

# THE TWELFTH SCHEDULE

Section 66e.

SOUTH [ROYAL ARMS] AUSTRALIA

12th Sched.  
Inserted by 50,  
1967, s. 16;  
amended by 98,  
1969, s. 16; 25,  
1974, s. 49 (a) to  
(l).

## CROWN LEASE

(PERPETUAL (SPECIAL DEVELOPMENT) No. )

The Crown doth hereby lease to A.B. of [address and occupation] all that [here describe land leased] to be held in perpetuity at the yearly rent of [here state the amount of the rent] to be paid in advance on the day of commencing on the day of with such penalties as are provided for by the Crown Lands Act, 1929-1967<sup>1</sup>, added thereto in case any of such rents is in arrear and subject to the reservations covenants and conditions shortly stated below and some of which are more fully set out in the Crown Lands Act, 1929-1967<sup>1</sup>.

Heading and  
Para. 1 struck  
out by 25, 1974,  
s. 49 (b).

\* \* \* \* \*

## Covenants

### 2. The lessee must—

- I. Enclose the land with a sheep and cattle-proof fence before the end of the fifth year of the lease.
- II. Enclose and keep enclosed with a fence or wall ordinarily capable of resisting the trespass of sheep or cattle any excluded area included in the lease.
- III. Keep in good repair all Crown Improvements (if any) on the land.
- IV. Pay and discharge all rates taxes assessments impositions and outgoings which shall become payable in respect of the said land.
- V. Clear, sow and maintain pasture on hectares of the land not being land comprised in an excluded area.
- VI. During the first two years clear, sow and maintain pasture on not less than twenty per centum of the area specified herein and during the second two years clear, sow and maintain pasture on not less than twenty per centum of the area so specified and during each succeeding year clear, sow and maintain pasture on not less than ten per centum of the area so specified until the whole of the area so specified has been cleared and sown as aforesaid and will at all times maintain pasture on the land so cleared and sown.
- VII. Insure and keep insured all Crown improvements (if any) on the land.

Subpara. VIII  
struck out by 98,  
1969, s. 16.

\* \* \* \* \*

Subpara. IX  
substituted by  
25, 1974,  
s. 49 (e).

- IX. Permit the Minister, or any person authorized by the Minister, to enter upon the land for any reasonable purpose.

Subpara. X  
amended by 25,  
1974, s. 49 (f).

- X. Set apart and reserve for the growth of timber at least 2 hectares of every 100 hectares of the said land and will not destroy or permit or suffer to be destroyed any timber trees growing thereon.
- XI. Set apart and keep reserved for the purpose of preventing soil erosion such areas of the land comprised in this lease being areas covered with natural scrub growth as the Minister or his servants shall notify to the lessee and will not destroy or permit to be destroyed any natural scrub growth growing on the said areas; the said areas will be of the respective sizes and in the respective positions notified to the lessee by the Minister or his servants provided that the total area of the said areas shall not exceed one-tenth of the area of the land comprised in this lease or such greater area as the Minister on the recommendation of the Land Board may determine. The land to be set apart and kept reserved pursuant to this covenant shall be in addition to the land required to be set apart and reserved pursuant to covenant x hereof.
- XII. Comply with any notice in writing from the Minister to reduce the number of stock within the time specified in such notice and comply with any other restrictions specified in the notice.
- XIII. Forthwith commence to destroy and to keep the land and the adjoining half width of all public roads adjacent thereto free from vermin to the satisfaction of the Minister during the lease and fill up all burrows on the land and the said half width of road.

<sup>1</sup> Now Crown Lands Act, 1929-1975.

XIV. Destroy and keep the land free from all weeds which are declared by the Governor by regulation under the Weeds Act, 1956-1963<sup>1</sup>, to be dangerous or noxious weeds.

XV. Pay for the improvements on the said land the sum of \_\_\_\_\_ in the following manner:— Subpara. XV amended by 25, 1974, s. 49 (g).

The sum of \_\_\_\_\_ to be paid on the \_\_\_\_\_ day of \_\_\_\_\_ and the balance thereof together with interest at the rate of \_\_\_\_\_ per centum per annum to be paid in \_\_\_\_\_ equal annual instalments of \_\_\_\_\_ being instalments of principal and interest on the \_\_\_\_\_ day of \_\_\_\_\_ in each year:

Provided that in the event of any such instalment being in arrear the lessee must pay interest thereon at the rate of Ten Dollars per centum per annum from the date such instalment became due until the date of payment thereof: Provided also that the lessee shall have the right to pay off the whole or any portion of the money payable under this covenant together with interest then due at any time.

And the lessee must not—

XVI. Transfer sublet encumber or mortgage without the written consent of the Minister first had in each case.

XVII. Effect any ground or structural improvements on the land without first obtaining the written approval of the Minister: Provided that where the lessee effects any improvements with the consent of the Minister he will within three months of their completion lodge with the Minister a statement giving full particulars of such improvements and their location and cost.

XVIII. Clear, cultivate or use for grazing any excluded area or part thereof.

XIX. Erect brush fence or suffer or permit the same to be erected or to remain on the land.

#### Conditions

3. The lease shall be liable to forfeiture in the following cases:—

- I. If default be made in payment of any rent in arrear for six months after the same falls due the lessee having had at least three months previous notice in writing demanding its payment; or if
- II. Default be made in the performance or observance of any covenant; or if
- III. The land shall be transferred sublet or mortgaged without the written consent of the Minister first had in each case; or if
- IV. The lessee shall effect any ground or structural improvements on the land without first obtaining the written approval of the Minister; or if
- V. The lessee shall clear, cultivate or use for grazing any excluded area or part thereof;
- VI. The lessee shall refuse to permit the Crown by its officers or servants to enter upon the land hereby leased to construct drains and/or pipe tracks and/or to lay pipes and/or to conserve water for public use; or if

\* \* \* \* \* Subpara. VII struck out by 25, 1974, s. 49 (h).

VIII. The lessee shall not set apart and reserve for the growth of timber at least 2 hectares of every 100 hectares of the said land or if the lessee shall destroy or permit or suffer to be destroyed any timber trees growing thereon; or if Subpara. VIII amended by 25, 1974, s. 49 (i).

IX. The lessee shall not set apart and thereafter keep reserved for the purpose of preventing soil erosion such areas of the land comprised in this lease being areas covered with natural scrub growth of the respective sizes and in the respective positions notified to the lessee by the Minister or his servants or if the lessee shall destroy or permit to be destroyed any natural scrub growth growing on the said areas; or if

X. The lessee shall erect brush fence or suffer or permit the same to be erected or to remain on the land.

4. If at any time the Minister is satisfied on such evidence as he deems sufficient that the stability or productivity of the land comprised in this lease is deteriorating to such an extent that further occupation would be likely to be detrimental to such land or to any adjacent land the Minister may give notice in writing to the lessee of his intention to determine this lease and upon the expiration of three calendar months from the giving of such notice the Minister may determine this lease and re-enter and take possession of the said land and no compensation shall be payable to the lessee in the event of such determination.

5. The land may be resumed by the Crown for mining or for any public work or purposes full compensation being made to the lessee for his loss.

<sup>1</sup> Now Weeds Act, 1956-1969.

Section 66e.  
13th Sched.,  
inserted by 50,  
1967, s. 16.

## THE THIRTEENTH SCHEDULE

	Reference to the Form in the Twelfth Schedule	Extended Meaning
Para. 1 amended by 42, 1974, s. 3 (2nd Sched.); struck out by 25, 1974, s. 50 (a).	1. * * *	* * * * *
	2. (i) Covenant to fence	The lessee will during the first five years substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of sheep or cattle and during the currency of the lease maintain such fence or wall in good and substantial repair.
	2. (iii) Covenant to keep Crown improvements in Repair	The lessee will at his own cost during the said term, keep and maintain in good and tenantable repair and condition all improvements (if any) the property of the Crown on the land hereby leased.
Para. 2 (v) amended by 25, 1974, s. 50 (b).	2. (v) Covenant to clear and sow with pasture	The lessee will during the first two years clear, sow and maintain pasture on not less than twenty per centum of the area specified in that behalf in the lease and will during the second two years clear, sow and maintain pasture on not less than twenty per centum of the area so specified and will during each succeeding year clear, sow and maintain pasture on not less than ten per centum of the area so specified until the whole of the area so specified has been cleared and sown as afore-said and will at all times maintain pasture on the land so cleared and sown.
	2. (vii) Covenant to insure Crown improvements	Insure and keep insured in the full insurable value thereof against loss and damage by fire storm and tempest all buildings erections and other improvements the property of the Crown upon the leased land in the joint names of the Minister and the lessee in some insurance office in Adelaide to be approved of by the Minister and forthwith lodge the policy of every such insurance in the office of the Minister and forward to the Minister the receipts for the premiums payable in respect of such policy within seven days after the same shall become due. The Minister may insure on default by the lessee and recover all amounts paid for such insurance in like manner as the rent is recoverable.
Para. 3 amended by 25, 1974, s. 50 (c).	3. Conditions of forfeiture	Provided always, and this lease is upon this express condition, that if default shall be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing demanding its payment, or if default shall be made in the performance or observance of any covenant on the part of the lessee; or if the lessee shall, without the written consent of the Minister first had and obtained, transfer, mortgage, encumber, or sublet the premises or any part thereof; or if the lessee shall effect any ground or structural improvements on the land without first obtaining the written approval of the Minister or if the lessee shall clear cultivate or use for grazing any excluded area or part thereof, the Crown or the Minister, after three months' written notice, may re-enter and take possession of the said lands; and it shall be lawful for the Minister, before or after re-entry, to cancel and determine this lease, and the Minister may thereupon insert a notice in the <i>Government Gazette</i> declaring this lease to be forfeited, and such notice appearing in the <i>Government Gazette</i> as having been published by the authority of the Minister shall, in all courts and elsewhere, and under all circumstances, be taken to be conclusive evidence that such lease has been legally cancelled and forfeited: Provided, however, that the Minister shall not (except in the case of rent being in arrear as aforesaid, or of the transfer, mortgage, encumbrance or subletting of the premises without such consent as aforesaid) exercise the powers expressed in this clause in the case of default in the performance of a covenant before the expiration of the period of three months after notice has been given to the lessee of such default and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the lessee of any default in the performance of a covenant, no notice of any future default in the performance of the same covenant, or of the continuance of the same default, shall be necessary before the exercise of such powers.

THE THIRTEENTH SCHEDULE—*continued*

Reference to the Form in the Twelfth Schedule	Extended Meaning	
5. Condition of resumption	<p>Provided also, and it is expressly agreed, that the Crown shall, and may, at any time, or from time to time hereafter resume possession of all or any part of the said land hereby demised for roads, railways, tramways, or for sites for towns or for park lands, or for mining purposes, or for any public work or purpose upon the Minister giving three calendar months' notice to the lessee by publication in the <i>Government Gazette</i> of such intended resumption; and that immediately from and after the expiration of three calendar months after such notice shall have been given as aforesaid this lease and the demise hereby made shall cease, determine, and be void as to all or such parts of the said lands as shall be mentioned and described in such notice, anything in this lease to the contrary notwithstanding: Provided that, on any resumption, the lessee shall be paid compensation for the loss the lessee shall sustain thereby; and, in case of dispute, the amount of such compensation shall be determined by the Land Board, or, at the option of the Minister or the lessee, in the manner provided by section 289 of the Crown Lands Act, 1929-1967<sup>1</sup>.</p>	<p>Para. 5 amended by 25, 1974, s. 50 (d).</p>

<sup>1</sup> Now Crown Lands Act, 1929-1975.