

Queensland



LANDS LEGISLATION AMENDMENT ACT 1991

No. 83 of 1991

Queensland



LANDS LEGISLATION AMENDMENT BILL 1991

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Queensland



Lands Legislation Amendment Act 1991

Act No. 83 of 1991

An Act to amend certain Acts relating to the administration of land

[Assented to 9 December 1991]

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Lands Legislation Amendment Act 1991*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF THE LAND ACT 1962

Amended Act

3. The *Land Act 1962* is amended as set out in this Part and in Schedules 1 and 2.

Amendment of s. 5 (Interpretation of terms)

- 4.(1) Section 5—

omit definitions “**Commissioner**”, “**District Land Office**”, “**Land Agent**”, “**Land Inspector**”, “**Noxious plants**”, “**Prickly-pear**” and “**Registrar of Dealings**”.

- (2) Section 5—

insert—

- “**authorised officer**” means an officer of the department authorised in writing by a member of the Commission;
- “**certificate of lease**” means an instrument, executed by the Registrar of Titles in the prescribed form, evidencing the estate, interest or occupancy in any land held under this Act under a lease;
- “**certificate of licence**” means an instrument, executed by the Registrar of Titles in the prescribed form, evidencing the estate, interest or occupancy in any land held under this Act under a licence;

“district land office”, in relation to a district or land in a district, means the department's main land office in the district;

“grant of representation” means a grant of probate of the will or letters of administration of the estate of a deceased person, and includes the grant of an order to administer and the filing of an election to administer the estate of a deceased person;

“instrument”, in relation to a lease or licence, means the document, in the prescribed form, evidencing the estate, interest or occupancy in the lease or licence, and includes a certificate of lease or certificate of licence;

“lease” includes the instrument of lease and the land comprised in a lease, as the case may require;

“licence” includes the instrument of licence and the land comprised in a licence, as the case may require;

“noxious plants” means plants that are declared plants under the *Rural Lands Protection Act 1985*;

“permit” includes the instrument of permit and the land comprised in a permit, as the case may require;

“prescribed state” means—

- (a) in relation to land on which the Crown has spent amounts in the construction of improvements or the performance of development work before it ceased to be Crown land, if the amounts have not been repaid to the Crown by a lessee and is not being repaid by the current lessee—the state of the land as improved and developed when it ceased to be Crown land; and
- (b) in relation to any other land—the unimproved state of the land;

“public interest” includes, in sections 140, 141, 156, 163, 191 and 207 to 207N, the strategic, planning, social, cultural, recreational, environmental and heritage interests and land protection interests of the public;

“valuation for rental purposes” has the meaning given by section 5 of the *Valuation of Land Act 1944*.

(3) Section 5 (definition **“public purposes”**)—

insert ‘environmental purposes’, ‘heritage purposes’, ‘historical

purposes’, ‘natural resource management’.

(4) Section 5 (add at the end)—

insert—

‘(2) In this Act, a reference to a “lease”, “selection” or “application” is a reference to a lease, selection or application of the type dealt with in the Division or section in which it occurs.’.

Amendment of s. 6 (Grants and leases)

5. After section 6(2)—

insert—

‘(2A) A grant in fee simple issued—

- (a) on or after the commencement of section 5 of the *Lands Legislation Amendment Act 1991*; and
- (b) in respect of land that contains quarry material that was owned by the Crown;

is to contain a reservation to reserve to the Crown the quarry material (exclusive of topsoil).

‘(2B) To allay any doubt, subsection (2A) does not apply to a deed of grant issued under section 9 unless the land being surrendered is subject to a reservation mentioned in that subsection.

‘(2C) In this section—

“quarry material” has the same meaning as in the *Forestry Act 1959*;

“topsoil” has the same meaning as in the *Forestry Act 1959*.’.

Amendment of s. 9

6. After section 9(1)—

insert—

‘(1B) An instrument signed for the purposes of this section by a legal officer of the department as correct for the purposes of registration is correct for that purpose despite section 139 of the *Real Property Act 1861*.’.

Amendment of s. 14 (Obligation to perform conditions of leases and licences)

7.(1) Section 14(2)(a)—

omit ‘of a lease,’ *insert* ‘of a lease, and amend the purpose for which a special lease was granted.’.

(2) Section 14(2)(b)—

omit, insert—

‘(2A) Any deletion or amendment of a condition or purpose of a lease is to be published in the Gazette.

‘(2B) On publication, a condition or purpose as amended is binding on the lessee.

‘(2C) The Registrar of Titles is to cause particulars of the deletion or amendment to be recorded on the instrument of lease and in the appropriate register.’.

Amendment of s. 23 (Powers of Minister and Governor in Council)

8. Section 23(4)—

omit, insert—

‘(4) The Minister may delegate all or any of the Minister’s powers under this Act to an officer of the department.’.

Amendment of s. 24

9.(1) Section 24(1)—

omit, insert—

‘(1) A secretary to the Commission may be appointed under the *Public Service Management and Employment Act 1988*.’.

(2) Section 24(2)(a)—

omit, insert—

‘(2) An officer of the department is not eligible—

- (i) to bid or apply for any land offered for sale, or open for lease or

selection under this Act; or

- (ii) except by devolution of law or testamentary instrument—to acquire any interest, either directly or indirectly, in any lease;

unless the officer first obtains the written permission of the Minister.’.

(3) Section 24(3)—

omit, insert—

‘**(3)** The Minister, the Chief Commissioner of Lands, any other member of the Commission or any officer of the department may—

- (a) do all necessary acts for preventing intrusion, encroachment or trespass on any Crown land or any reserve; and
- (b) with or without assistants, vehicles, machinery, plant and equipment (of any description) and horses and at all reasonable times, enter on any lease, licence or permit and make any inspection or examination of the lease, licence or permit; and
- (c) do all necessary acts for recovering any rent, instalment or other amount payable; and
- (d) in case of forfeiture, determination of licence, or cancellation of a sale—do all necessary acts for taking and recovering possession of any land.’.

(4) Section 24(5)—

omit, insert—

‘**(5)** Despite any other Act—

- (a) the holder of a particular office in the department; or
- (b) any other person;

authorised by the Minister, may hold an auction under this Act without being the holder of an auctioneer’s licence.’.

Insertion of new s. 25

10. After section 24—

insert—

‘Delegation of powers

‘25. The Registrar of Titles may delegate all or any of the Registrar’s powers under this Act to any officer of the department.’.

Amendment of s. 31 (Salaries of members)

11. Section 31(2)—

omit, insert—

‘(2) A member of the Court (other than the member designated as President of the Land Court) is entitled to be paid salary and a general allowance at the same rate as a District Court Judge.’.

Insertion of new s. 38A

12. After section 38—

insert—

‘Withdrawal of reference to Court

‘38A. A party—

- (a) who has appealed to the Court; or
- (b) has requested the Minister to refer a matter to the Court;

may withdraw the matter from the Court, by filing a written request.’.

Amendment of s. 53 (Term of lease)

13. After section 53(2)—

insert—

‘(3) Subject to subsections (1) and (2), the term of a lease is—

- (a) the notified term; or
- (b) in respect of a pastoral lease issued otherwise than under this Part—as determined by the Minister.’.

Replacement of s. 60 (Payment balance survey fee)

14. Section 60—

omit, insert—

‘Payment of balance of survey fee

‘60.(1) The lessee is to pay, in 4 equal annual instalments, that part of the survey fee remaining unpaid under section 59, together with interest on the part of the fee as is, from time to time unpaid, at the prescribed rate calculated on yearly rests.

‘(2) Each instalment is to be paid at the time the annual rent is payable.

‘(3) If, but for this section, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(4) If in respect of a lease that started after the commencement of section 14 of the *Lands Legislation Amendment Act 1991*—

(a) the prescribed rate of interest is changed; or

(b) the prescribed amount is changed;

the amount (and, if necessary, the number) of the instalments is to be adjusted accordingly.

‘(5) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(6) Section 249 applies to a survey fee as if it were rent.’.

Replacement of s. 61 (Conditions generally)

15. Section 61—

omit, insert—

‘Issue and start of pastoral leases

‘61.(1) If no payment is required to be made by a successful applicant for improvements on the land, a lease is to be issued.

‘(2) If payment by a successful applicant for improvements on the land is required to be made, a lease is not to issue until payment for the improvements has been made.

‘(3) When payment for improvements has been made, a lease is to be issued.

‘(4) Each lease is to start on the first quarter day after acceptance of the application or payment for the improvements, as the case may be.

‘Rental periods of pastoral leases

‘61A.(1) The term of each lease is to be divided into 1 or more of the following rental periods—

- (a) if the lease starts during an annual rental period—the rental period from the start of the lease until—
 - (i) the end of that annual rental period; or
 - (ii) if the lease ends before the end of that annual rental period—the end of the lease; and
- (b) 1 or more annual rental periods; and
- (c) if the lease ends during an annual rental period—the rental period from the start of that annual rental period until the end of the lease.

‘(2) The first annual rental period starts on 1 July 1993.

‘Rent for a pastoral lease

‘61B. (1) Subject to subsection (2), the annual rent for each rental period is the most recently made valuation for rental purposes multiplied by the prescribed rate.

‘(2) If, in the Minister’s opinion, a calculation of rent using the most recently made valuation for rental purposes would result in an undue increase in the rent—

- (a) on a category of lease; or
- (b) on a class of land use within a category of lease;

the Minister may average the valuation over the number of years the

Minister considers appropriate, and the rent is to be calculated using the average valuation.

‘(3) If the Valuer-General (or, on appeal, the Court) amends the relevant valuation for rental purposes, the rent payable is to be amended accordingly.

‘(4) The prescribed rate—

(a) may be a single rate that applies to all leases; or

(b) may be a series of rates that apply to different prescribed categories of leases.

‘(5) The prescribed rate applies from the prescribed day.

‘(6) The annual rent for the term of the lease or any rental period is not to be less than the prescribed amount.

‘(7) The prescribed amount applies from the next 1 July after it is gazetted.

‘(8) If a person appeals against a valuation made under the *Valuation of Land Act 1944*, the annual rent calculated on the valuation is still payable on the due day.

‘(9) If the amount of the annual rent is amended under subsection (3), any excess rent paid is to be credited to the lessee, together with interest at the prescribed rate on the amount credited from the time of payment until the lessee is given written notice of the amended rent.

‘(10) The annual rent is to be calculated in whole dollars.

‘Purposes for which a pastoral lease may be used

‘61C. A lease, regardless of when it was or is granted, is to be used only for grazing or agricultural purposes unless the Minister has otherwise first approved in writing.’.

Amendment of s. 83 (Classes of selections)

16. Section 83(3)—

omit, insert—

‘(3) Perpetual lease selections and agricultural farms are not to be granted under Part 6 or sections 269, 270 or 271.’.

Replacement of s. 104 (Balance of survey fee)

17. Section 104—

omit, insert—

‘Payment of balance of survey fee

‘104.(1) The lessee is to pay, in 4 equal annual instalments, that part of the survey fee remaining unpaid under section 100(1), together with interest on the part of the fee as is, from time to time unpaid, at the prescribed rate calculated on yearly rests.

‘(2) Each instalment is to be paid at the time the annual rent is payable.

‘(3) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(4) If in respect of a lease that started after the commencement of section 17 of the *Lands Legislation Amendment Act 1991*—

- (a) the prescribed rate of interest is changed; or
- (b) the prescribed amount is changed;

the amount (and, if necessary, the number) of the instalments is to be adjusted accordingly.

‘(5) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(6) Section 249 applies to a survey fee as if it were rent.’.

Replacement of s. 123 (Tenure)

18. Section 123—

omit, insert—

‘Agricultural farms

‘123.(1) The term of lease of an agricultural farm is not to be more than 30 years.

‘(2) If the purchasing price is not more than the prescribed amount, it is to be paid in 1 payment.

‘(3) If the purchasing price is more than the prescribed amount, it may be paid—

- (a) by a single payment; or
- (b) by—
 - (i) a deposit; and
 - (ii) equal annual instalments over the term of the lease.

‘(4) If—

- (a) the lease started after the commencement of section 18 of the *Lands Legislation Amendment Act 1991*; and
- (b) the purchasing price is paid under subsection (3)(b);

each instalment is to include interest on the unpaid principal at the prescribed rate calculated on yearly rests.

‘(5) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(6) If—

- (a) the lease is to be used for agricultural purposes; and
- (b) the Minister is of the opinion that it would assist in the establishment of the lease and contribute to its ongoing viability;

the first annual instalment may be capitalised over the balance of the term of the lease.

‘(7) If in respect of a lease that started on or after the commencement of section 18 of the *Lands Legislation Amendment Act 1991*—

- (a) the prescribed rate of interest is changed; or
- (b) the prescribed amount is changed;

the amount (and, if necessary, the number) of the instalments is to be adjusted accordingly.

‘(8) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that

day.

‘(9) The lease is subject to the condition of occupation during the whole term.

‘(10) If the opening notification has imposed the condition of personal residence during the first 7 years of the term, the lease is subject to that condition and for the remainder of the term to the condition of occupation.’.

Replacement of s. 125 (When fee-simple of agricultural farm or grazing homestead freeholding lease may be acquired)

19. Section 125—

omit, insert—

‘Freeholding of agricultural farms and grazing homestead freeholding leases

‘125.(1) On—

- (a) satisfying the Minister that all developmental and improvement conditions have been complied with; and
- (b) payment of the purchasing price or balance remaining to be paid; and
- (c) payment of any other amounts payable in respect of the selection (for example, survey fees or payment for commercial timber); and
- (d) the end of the period of any condition of personal residence;

the lessee may apply to complete the purchase and is entitled to a deed of grant in fee simple over the land.

‘(2) In respect of—

- (a) a selection existing before 5 February 1990; or
- (b) an application under section 139 received before 5 February 1990;

the amount payable to complete the purchase is to be calculated under Schedule 3 to the *Land Regulations 1988*.

‘(3) In respect of a grazing homestead freeholding lease granted on an

application—

- (a) under section 139; and
- (b) received on or after 5 February 1990;

the amount payable to complete the purchase is to be calculated under the prescribed schedule.

‘(4) If the amount payable under subsection (2) or (3)—

- (a) is paid within 3 months of the day notice is given to the Minister, under section 142, of the lessee’s election to proceed—the amount is to be calculated over the full term of the lease; or
- (b) is not paid as mentioned in paragraph (a)—the amount is to be calculated from the day the next annual instalment of the purchasing price would have been payable.’

Replacement of s. 127 (Perpetual lease selections)

20. Section 127—

omit, insert—

‘Perpetual lease selections

‘**127.(1)** On the commencement of section 20 of the *Lands Legislation Amendment Act 1991*, each selection existing immediately before that commencement is—

- (a) a lease for a term of years equal to the rental period that existed immediately before that commencement; and
- (b) subject to a covenant entitling the lessee, on payment of the purchasing price and the amount mentioned in subsection (5)(b), to a deed of grant in fee simple of the lease.

‘(2) Subject to subsection (8), the purchasing price of a lease is the total rent commitment for the selection existing immediately before the commencement of section 20 of the *Lands Legislation Amendment Act 1991*.

‘(3) The purchasing price is to be paid in equal annual instalments, free of interest, over the term of the lease.

‘(4) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(5) On—

- (a) payment of the purchasing price or balance remaining to be paid; and
- (b) payment of any other amounts payable in respect of the lease (for example, deed and assurance fees); and
- (c) surrender of the selection;

the lessee is entitled to a deed of grant in fee simple over the land.

‘(6) If the balance of the purchasing price is paid before the end of the lease, the balance is to be calculated under Schedule 3 to the *Land Regulations 1988*.

‘(7) This section does not prejudice existing interests in the lease.

‘(8) All rent paid for the rental period existing at the commencement of section 20 of the *Lands Legislation Amendment Act 1991* is to be credited to the purchasing price of the lease.’.

Replacement of s. 131 (Nature of tenure and conditions of lease)

21. Section 131—

omit, insert—

‘Term and rent of grazing homestead perpetual lease

‘**131.(1)** A grazing homestead perpetual lease is a lease in perpetuity.

‘(2) The term of each lease is to be divided into the following rental periods—

- (a) if the lease starts during an annual rental period—the rental period from the start of the lease until the end of that annual rental period; and
- (b) annual rental periods.

‘(3) The first annual rental period starts on 1 July 1993.

‘(4) Subject to subsection (5), the annual rent for each rental period is the most recently made valuation for rental purposes multiplied by the prescribed rate.

‘(5) If, in the Minister’s opinion, a calculation of rent using the most recently made valuation for rental purposes would result in an undue increase in the rent—

- (a) on a category of lease; or
- (b) on a class of land use within a category of lease;

the Minister may average the valuation over the number of years the Minister considers appropriate, and the rent is to be calculated using the average valuation.

‘(6) If the Valuer-General (or, on appeal, the Court) amends the relevant valuation for rental purposes, the rent payable is to be amended accordingly.

‘(7) The prescribed rate—

- (a) may be a single rate that applies to all leases; or
- (b) may be a series of rates that apply to different prescribed categories of leases.

‘(8) The prescribed rate applies from the prescribed day.

‘(9) The annual rent for a rental period is not to be less than the prescribed amount.

‘(10) The prescribed amount applies from the next 1 July after it is gazetted.

‘(11) If a person appeals against a valuation made under the *Valuation of Land Act 1944*, the annual rent calculated on the valuation is still payable on the due day.

‘(12) If the amount of the annual rent is amended under subsection (6), any excess rent paid is to be credited to the lessee, together with interest at the prescribed rate on the amount credited from the time of payment until the lessee is given written notice of the amended rent.

‘(13) The annual rent is to be calculated in whole dollars.

‘Personal residence, occupation—grazing homestead perpetual lease

‘**131A.(1)** A lease issued under this Part is subject to the condition of personal residence during the first 7 years of the lease if the opening notification has imposed that condition.

‘(2) If—

- (a) the period of personal residence has ended; or
- (b) the lease was not subject to a condition of personal residence; or
- (c) the lease was issued under another Part;

the lease is subject to the condition of occupation unless it does not, in the Minister’s opinion, constitute a living area.

‘(3) To allay any doubt, if a lease immediately before the commencement of the *Land Act Amendment Act 1984*, was not subject to a condition of occupation, this section does not impose such a condition.

‘Agistment of grazing homestead perpetual lease

‘**131B.** A lessee must not allow stock to be agisted on the lease for a period, or periods aggregating, longer than 6 months in any 12 month period unless the written permission of the Minister is obtained first.

‘Purposes for which a grazing homestead perpetual lease may be used

‘**131C.** A lease, regardless of when it was granted, is to be used for grazing or agricultural purposes only unless the Minister has otherwise first approved in writing.’.

Replacement of s. 139 (Application for conversion)

22. Section 139—

omit, insert—

‘Application for conversion

‘**139.** The lessee of a grazing homestead perpetual lease may make written application to the Minister to have the lease converted to a grazing

homestead freeholding lease.’.

Amendment of s. 140 (Matter to be certified by the Commission)

23.(1) Section 140 (Heading)—

omit, insert **‘Dealing with application for conversion’**.

(2) Section 140(1)—

omit, insert—

‘(1) The Minister is to consider the following matters when dealing with an application under section 139—

- (a) whether any part is required to be set apart and declared as State Forest under the *Forestry Act 1959*; and
- (b) whether any part is better suited for long term forest management for the production of indigenous timbers of commercial value than for all other forms of primary production; and
- (c) whether the public interest could be adversely affected, other than in relation to a matter mentioned in paragraph (a) or (b), if the application were granted; and
- (d) whether any part is required for environmental or nature conservation purposes; and
- (e) whether any substantial part is at serious risk from land degradation; and
- (f) whether any substantial part suffers from serious land degradation; and
- (g) whether it is substantially more than 1 living area; and
- (h) whether the lessee has complied with, or to what extent the lessee has complied with, the conditions of the lease; and
- (i) whether any part has a foreseeable potential use higher than for grazing or agricultural use; and
- (j) whether any part is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like matters make it special; and
- (k) any other matter the Minister considers appropriate.

‘(2) The Minister is not to consider the matters in subsection (1)(d) to (k) if the application was received before 5 February 1990.’

(3) Section 140(3) and (4)—

omit, insert—

‘(3) After considering the application, the Minister may—

- (a) refuse the application; or
- (b) grant the application; or
- (c) by written notice given to the applicant, require the applicant to amend the application so that it relates only to part of the lease.

‘(4) If an application is amended under subsection (3)(c), the amended application becomes the application made under section 139 and is taken to be received by the Minister on the day the Minister received the original application.

‘(4A) If an applicant does not comply with a notice given under subsection (3)(c) within 3 months from the day on which the applicant received the notice, the application lapses.’

(4) After section 140(5)—

insert—

‘(5A) The Minister may grant the application subject to the lessee entering into—

- (a) an agreement with the Minister administering the *Forestry Act 1959* with regard to any commercial species of timber on the lease; or
- (b) a fauna refuge agreement over the land or part of the land with the Minister administering the *Fauna Conservation Act 1974*; or
- (c) an agreement of both types.

‘(5B) If a lessee does not sign an agreement under subsection (5A) that the Minister considers reasonable, the Minister must refuse the application.’

(5) Section 140(6) (first sentence)—

omit, insert—

‘(6) If an application is granted under subsection (3), the Minister is to determine—

- (a) the unimproved value of the lease (exclusive of the market value of any commercial timber on the land) at the day the Minister received the application; and
- (b) if applicable—the market value (including the value of trees with commercial potential), at the day of the Minister’s determination, of the commercial timber on the lease that is the property of the Crown.’.

(6) Section 140(7)—

omit, insert—

‘(7) The Minister is to give the lessee written notice of any determination made.

‘(7A) The notice is to specify a day, not less than 42 days nor more than 60 days from the day the lessee is notified, by which the lessee is to give the Minister written notice that—

- (a) the lessee accepts the Minister’s determination; or
- (b) the lessee requests that the unimproved value of the lease and, if applicable, the market value of any commercial timber, be determined by the Court.

‘(7B) If a request to refer the matter to the Court is received by the specified day, it is to be referred.

‘(7C) If the Minister refers the matter to the Court, the Court (or, on appeal, the Land Appeal Court) is to determine—

- (a) the unimproved value of the lease at the day the Minister received the application; and
- (b) if applicable—the market value of the commercial timber at the day the Court (or, on appeal, the Land Appeal Court) makes its determination of the market value.

‘(7D) If the lessee does not give the Minister notice under subsection (7A), the application lapses.’.

Replacement of s. 144A (Terms and conditions of grazing homestead freeholding lease)

24. Section 144A—

omit, insert—

‘Terms and conditions of grazing homestead freeholding leases

‘144A.(1) The term of a grazing homestead freeholding lease is not to be longer than 30 years.

‘(2) The term of a lease is to start on the next quarter day after the Minister, the Court (or, on appeal, the Land Appeal Court) determined—

- (a) the unimproved value of the lease; or
- (b) if applicable—the market value of the commercial timber;

whichever is the later day.

‘(3) The purchasing price of the lease is the unimproved value determined under section 140.

‘(4) If the purchasing price is not more than the prescribed amount, it is to be paid in 1 payment.

‘(5) If the purchasing price is more than the prescribed amount, it may be paid—

- (a) by a single payment; or
- (b) by—
 - (i) a deposit; and
 - (ii) equal annual instalments over the term of the lease.

‘(6) If—

- (a) an application under section 139 is received on or after 5 February 1990; and
- (b) the purchasing price is paid under subsection (5)(b);

each instalment is to include interest on the unpaid principal at the prescribed rate calculated on yearly rests.

‘(7) If, but for this subsection, the amount of each instalment would be

less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(8) If in respect of a lease granted on an application under section 139 and received on or after 5 February 1990—

- (a) the prescribed rate of interest is changed; or
- (b) the prescribed amount is changed;

the amount (and, if necessary, the number) of the instalments is to be adjusted accordingly.

‘(9) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(10) The new lease is subject to the fencing, developmental and improvement conditions (if any) to which the surrendered lease was subject.

‘(11) If a surrendered lease was subject to a condition of personal residence, then, despite anything in this Act, that condition continues to apply with respect to the new lease for the unexpired period of personal residence remaining at the quarter day when the term of the new lease starts.

‘(12) Subject to this Division, all other terms and conditions to which the surrendered lease was subject immediately before the day of its conversion continue in force, and the new lease is subject to all those terms and conditions.

‘(13) The conditions mentioned in subsection (12) do not include a condition as to a reservation for, or for a purpose connected with, works within the meaning of the *Water Resources Act 1989*.

‘(14) Rent paid under the surrendered lease is not to be credited to the new lease unless it is paid in respect of a time after the start of the term of the new lease.’.

Replacement of s. 147 (Payment for timber)

25. Section 147—

omit, insert—

‘Payment for timber

‘147.(1) Subject to any relevant agreement under section 140(5A)(a), on the conversion of a lease or a part of a lease, timber on the lease or the part—

- (a) that is not a forest product to which a reservation under section 147B applies; and
- (b) that is the property of the Crown;

becomes the property of the lessee.

‘(2) If a lessee does not pay cash for the commercial timber, the lessee is to pay, in not more than 10 equal annual instalments, the market value, determined under section 140, of the commercial timber.

‘(3) If instalments under subsection (2) are payable in respect of a lease granted on an application under section 139 and received on or after 5 February 1990, interest at the prescribed rate calculated on yearly rests is to be included in each instalment.

‘(4) Each instalment is to be paid at the time the annual instalment of the purchasing price is payable.

‘(5) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(6) If in respect of a lease granted on an application under section 139 and received on or after 5 February 1990—

- (a) the prescribed rate of interest is changed; or
- (b) the prescribed amount is changed;

the amount (and, if necessary, the number) of the instalments is to be adjusted accordingly.

‘(7) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(8) Section 249 applies to the annual instalments as if they were instalments of purchasing price.

‘(9) The lessee may, at any time, pay the total amount then unpaid for the commercial timber.

‘(10) Subject to subsection (12), if a lease is transferred or surrendered, the Registrar of Titles is not to record the transfer or surrender until the total amount then unpaid for the commercial timber is paid.

‘(11) If the lessee accepts, under section 147D, the discharge of a Forest Entitlement Area on which there is commercial timber, the lessee is to pay in 1 payment the consideration fixed by the Minister under section 147D(2)(b) for the commercial timber.

‘(12) If a lease is surrendered, the Minister is to set off against the total amount then unpaid for the commercial timber such amount as, in the Minister’s opinion, is the value of the commercial timber growing on the land at the day of surrender.

‘(13) Subsection (12) does not operate so as to require a payment to be made by the Minister to the person who surrendered the lease.’.

Amendment of s. 147H (Minister’s powers when instrument of title not held by him)

26. Section 147H(3)—

omit, insert—

‘(3) If an instrument of title, to be corrected under section 147G, is not produced to or as directed by the Minister, the Minister may request the Registrar of Titles to correct the copy of the instrument held by the department.

‘(4) The Registrar of Titles is to make the correction without requiring any other copy of the instrument to be produced or accounted for.’.

Replacement of s. 156

27. Section 156—

omit, insert—

‘Consideration of application

‘156. The Minister is to consider the following matters when dealing with an application under section 155—

- (a) the interest of the lessee; and
- (b) how best the land may be brought to its maximum sustainable production; and
- (c) whether any part is required to be set apart and declared as State Forest under the *Forestry Act 1959*; and
- (d) whether any part is better suited for long term forest management for the production of indigenous timbers of commercial value than for all other forms of primary production; and
- (e) whether the public interest could be adversely affected, other than in relation to a matter mentioned in paragraph (c) or (d), if the application were granted; and
- (f) whether any part is required for environmental or nature conservation purposes; and
- (g) whether any substantial part is at serious risk from land degradation; and
- (h) whether any substantial part suffers from serious land degradation; and
- (i) whether it is substantially more than 1 living area; and
- (j) whether the lessee has complied with, or to what extent the lessee has complied with, the conditions of the lease; and
- (k) whether any part has a foreseeable potential use higher than for grazing or agricultural use; and
- (l) whether any part is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like matters make it special; and
- (m) any other matter the Minister considers appropriate.’.

Replacement of s. 157 (Powers of the Minister)

28. Section 157—

omit, insert—

‘Minister may grant or refuse application

‘157.(1) After considering an application made under section 155, the Minister may—

- (a) grant the application; or
- (b) refuse the application.

‘(2) The Minister may grant an application—

- (a) in relation to the whole of the area of the lease or part of the area; and
- (b) subject to such conditions as the Minister considers appropriate.

‘(3) The Minister may offer a new lease as—

- (a) a pastoral holding, a preferential pastoral holding or a pastoral development holding; or
- (b) a grazing homestead perpetual lease; or
- (c) a special lease under section 203.

‘(4) The Minister is not to offer a new lease as a preferential pastoral lease or grazing homestead perpetual lease unless the lessee is qualified to hold those tenures.

‘(5) If a new lease starts after 1 July 1993 and during an annual rental period, the annual rent for the new lease during the remainder of that annual rental period is to be—

- (a) if the land comprised in the new lease is the same land as was comprised in the existing lease—the same amount as the annual rent that had been determined for the existing lease for that annual rental period; or
- (b) if the land comprised in the new lease is different in area from the land that was comprised in the existing lease—calculated as prescribed under section 61B for pastoral leases and section 131 for grazing homestead perpetual leases.

‘(6) If a lease starts at the start of an annual rental period, the annual rent is to be calculated under section 61B for pastoral leases and section 131 for grazing homestead perpetual leases.

‘(7) The Minister may include, in the area of land offered as a new lease,

any Crown land in addition to land contained in the existing lease.

‘(8) In determining the area of land in respect of which a new lease may be offered under grazing homestead perpetual lease, the Minister is not to determine an area that is substantially more than a living area.

‘(9) The Minister is to give the applicant written notice of the decision with respect to the application.’.

Replacement of s. 163 (Duties of Commission with respect to expired lease)

29. Section 163—

omit, insert—

‘Consideration by Minister of expired pastoral lease

‘**163.** The Minister is to consider the following matters when considering whether to offer a late lessee of an expired lease a new lease—

- (a) the interest of the late lessee; and
- (b) how best the land may be brought to its maximum sustainable production; and
- (c) whether any part is required to be set apart and declared as State Forest under the *Forestry Act 1959*; and
- (d) whether any part is better suited for long term forest management for the production of indigenous timbers of commercial value than for all other forms of primary production; and
- (e) whether the public interest could be adversely affected, other than in relation to a matter mentioned in paragraph (c) or (d), if a lease were granted; and
- (f) whether any part is required for environmental or nature conservation purposes; and
- (g) whether any substantial part is at serious risk from land degradation; and
- (h) whether any substantial part suffers from serious land degradation; and

- (i) whether it is substantially more than 1 living area; and
- (j) whether the lessee has complied with, or to what extent the lessee has complied with, the conditions of the lease; and
- (k) whether any part has a foreseeable potential use higher than for grazing or agricultural use; and
- (l) whether any part of the land is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like matters make it special; and
- (m) any other matter the Minister considers appropriate.’.

Amendment of s. 164 (When late lessee to receive offer of new lease)

30. Section 164(3) and (3A)—

omit, insert—

‘**(3)** An offer to a late lessee is to be in writing and is to set out the area, tenure, term, annual rent, and, if appropriate, the developmental, improvement or occupation conditions, determined by the Minister, to which the new lease is to be subject.

‘**(3A)** In determining the area of land in respect of which a new lease may be offered as a grazing homestead perpetual lease, the Minister is not to determine an area that is substantially more than a living area.

‘**(3B)** If a new lease starts after 1 July 1993 and during an annual rental period, the annual rent for the new lease during the remainder of that annual rental period is to be—

- (a) if the land comprised in the new lease is the same land as was comprised in the existing lease—the same amount as the annual rent that had been determined for the existing lease for that annual rental period; or
- (b) if the land comprised in the new lease is different in area from the land that was comprised in the existing lease—calculated under section 61B for pastoral leases and section 131 for grazing homestead perpetual leases.

‘**(3C)** If a lease starts at the start of an annual rental period, the annual rent is to be calculated under section 61B for pastoral leases and section 131

for grazing homestead perpetual leases.’.

Amendment of s. 171 (Notification of land for sale)

31. Section 171(1)—

omit, insert—

‘(1) The sale notification is to specify—

- (a) the place and time of sale (not less than 28 days from the day of the notification); and
- (b) the numbers of the lots and the area and upset price of each lot; and
- (c) whether the sale requires the full amount of the purchasing price to be paid within a specified number of days or the sale is on terms; and
- (d) the way and time by which the purchasing price is to be paid.’.

Replacement of s. 176 (Demise of land sold with freeholding covenant)

32. Section 176—

omit, insert—

‘Issue of auction purchase freehold lease

‘176.(1) If a purchasing price is being paid over a term of years or there are developmental and improvement conditions to be complied with, an instrument of lease is to issue for the purchase.

‘(2) The term of a lease is not to be longer than 30 years.

‘(3) The term is to start on the day after the day of the sale.

‘(4) If the purchasing price is being paid over a term of years, it is to be paid—

- (a) by a deposit at the time of sale; and
- (b) the balance in equal annual instalments over the notified term of the lease.

‘(5) If the purchasing price is paid under subsection (4), each instalment is to include interest on the unpaid principal at the prescribed rate calculated on yearly rests.

‘(6) If—

- (a) the lease is to be used for agricultural purposes; and
- (b) the Minister is of the opinion that it would assist in the establishment of the lease and contribute to its ongoing viability;

the first annual instalment may be capitalised over the balance of the term of the lease.

‘(7) If, but for this subsection, the amount of an annual instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(8) A different amount may be prescribed for land for residential purposes.

‘(9) If in respect of a lease that started on or after the commencement of section 32 of the *Lands Legislation Amendment Act 1991*—

- (a) the prescribed rate of interest is changed; or
- (b) the prescribed amount is changed;

the amount (and, if necessary, the number) of the instalments is to be adjusted accordingly.

‘(10) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(11) On—

- (a) satisfying the Minister that all developmental and improvement conditions have been complied with; and
- (b) payment of the purchasing price or balance remaining to be paid; and
- (c) payment of any other amounts payable in respect of the purchase (for example deed and assurance fees);

the lessee may apply to complete the purchase and is entitled to a deed of grant in fee simple over the land.’.

Replacement of s. 177

33. Section 177—

omit, insert—

‘Cancellation of sale

‘177.(1) If a purchaser of land, subject to a sale notification under section 171, does not comply with any condition with respect to the developmental works or improvements to be made on the land imposed by, or with any other requirement of, the sale notification, the Minister may cancel the sale.

‘(2) On the cancellation of the sale, all amounts previously paid in respect of the purchase are forfeited and the lessee has no further interest in the land.

‘(3) Every cancellation of sale is to be notified in the Gazette and takes effect from the day of gazettal.

‘(4) If a purchaser under section 171 fails to pay the balance of the purchasing price within the time specified in the sale notification—

- (a) the sale lapses; and
- (b) the deposit is forfeited; and
- (c) the purchaser has no further interest in the land.

‘(5) Each lapse of a sale is to be notified in the Gazette and takes effect from the day of gazettal.’.

Replacement of s. 178 (Payment of purchasing price)

34. Section 178—

omit, insert—

‘Extension of term

‘178.(1) If the lessee of a lease in force immediately before the commencement of section 34 of the *Lands Legislation Amendment Act 1991* applies to the Minister for the term of the lease to be extended, the

Minister may extend the term if deferral of instalments is granted under section 248A.

‘(2) If the term of the lease is extended, an annual instalment is not to be less than the amount prescribed under section 176(7) or (8).

‘(3) If the term of a lease in force immediately before the commencement of section 34 of the *Lands Legislation Amendment Act 1991* is extended and a fixed rate of interest applied to the purchase, the rate of interest that applies to the purchase from the day the extension is granted is the rate prescribed under section 176(5).’.

Replacement of s. 188 (Term of lease and rent of certain auction perpetual leases)

35. Section 188—

omit, insert—

‘Auction perpetual lease

‘**188.(1)** On the commencement of section 35 of the *Lands Legislation Amendment Act 1991*, each lease in force immediately before that commencement is—

- (a) a lease for a term of years equal to the rental period that existed immediately before that commencement; and
- (b) subject to a covenant entitling the lessee, on payment of the purchasing price and the amounts mentioned in subsection (6), to a deed of grant in fee simple of the lease.

‘(2) Subject to subsection (9), the purchasing price of a lease is the total rent commitment for the lease existing immediately before the commencement of section 35 of the *Lands Legislation Amendment Act 1991*.

‘(3) The purchasing price is to be paid in equal annual instalments, free of interest, over the term of the lease.

‘(4) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(5) A different amount may be prescribed for land for residential purposes.

‘(6) On—

- (a) payment of the purchasing price or balance remaining to be paid; and
- (b) payment of any other amounts payable in respect of the lease (for example, deed and assurance fees); and
- (c) surrender of the lease;

the lessee is entitled to a deed of grant in fee simple over the land.

‘(7) If the balance of the purchasing price is paid before the expiry of the lease, the balance is to be calculated under Schedule 3 to the *Land Regulations 1988*.

‘(8) This section does not prejudice existing interests in the lease.

‘(9) All rent paid for the rental period existing at the commencement of section 35 of the *Lands Legislation Amendment Act 1991* is to be credited to the purchasing price of the lease.

‘(10) Every remission of annual rent of a perpetual town lease or perpetual suburban lease, that—

- (a) is an auction perpetual lease under this section; and
- (b) was in force at the enactment of the *Land Act and Another Act Amendment Act 1981*;

continues in force as a deferral of part of the instalments payable until cancelled or altered.

‘(11) A reduction of the instalment payable under subsection (10) does not reduce the purchasing price.

‘(12) If the reduction of instalment is cancelled, the remaining instalments are to be adjusted so that the balance of the purchasing price is paid in the term remaining.

‘(13) An application for subdivision under section 271 is not to be granted if it is received on or after the commencement of section 35 of the *Lands Legislation Amendment Act 1991*.’

Amendment of s. 190

36. Section 190(2)(d)—

omit, insert—

‘(7) If a remission has been granted, the reduced rent is payable from the next due day for payment.

‘(8) The Commission is to review the amount of the remission on the start of a new annual rental period.

‘(9) If the Commission considers it appropriate, it may renew the remission for the next annual rental period.

‘(10) At least once every 5 years the Commission is to investigate whether the remission should be cancelled or altered.’

Replacement of s. 191 (Application)

37. Section 191—

omit, insert—

‘Application to freehold

‘**191.(1)** A lessee may make written application to the Minister for a lease to be a lease for a term of years and subject to a covenant entitling the lessee to a deed of grant in fee simple.

‘(2) This section does not apply to a lease to which section 188 applies and a lease granted under section 22B of the *State Housing Act 1945*.

‘(3) After considering the application, the Minister may refuse or may grant the application.

‘(4) The Minister is to consider the following matters when dealing with an application to which section 194(5) applies—

- (a) whether the public interest could be adversely affected in any respect if the application were granted; and
- (b) whether any part is required for environmental or nature conservation purposes; and
- (c) whether any substantial part is at serious risk from land

degradation; and

- (d) whether any substantial part suffers from serious land degradation; and
- (e) whether the lessee has complied with, or to what extent the lessee has complied with, the conditions of the lease; and
- (f) whether any part has a foreseeable potential use higher than permitted under the lease; and
- (g) whether any part is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like matters make it special; and
- (h) any other matter the Minister considers appropriate.

‘(5) The Minister may grant the application subject to the lessee entering into—

- (a) an agreement with the Minister administering the *Forestry Act 1959* with regard to any commercial species of timber on the lease; or
- (b) a fauna refuge agreement over the land or part of the land with the Minister administering the *Fauna Conservation Act 1974*; or
- (c) an agreement of both types.

‘(6) If a lessee does not sign an agreement under subsection (5) that the Minister considers reasonable, the Minister is to refuse the application.’.

Replacement of s. 192 (Court to determine unimproved value)

38. Section 192—

omit, insert—

‘Determination of value

‘**192.(1)** If an application is granted, the Minister is to determine—

- (a) the unimproved value of the lease (exclusive of the market value of any commercial timber on the land) at the day the Minister received the application; and
- (b) if applicable—the market value (including the value of trees with commercial potential), at the day of the Minister’s determination,

of the commercial timber on the lease that is the property of the Crown.

‘(2) The Minister is to give the lessee written notice of any determination made.

‘(3) The notice is to specify a day, not less than 42 days nor more than 60 days from the day the lessee is notified, by which the lessee is to give the Minister written notice that—

- (a) the lessee accepts the Minister’s determination; or
- (b) the lessee requests that the unimproved value of the lease, and, if applicable, the market value of any commercial timber, be determined by the Court.

‘(4) If a request to refer the matter to the Court is received by the specified day, it is to be referred.

‘(5) If the Minister refers the matter to the Court, the Court (or, on appeal, the Land Appeal Court) is to determine—

- (a) the unimproved value of the lease at the day the Minister received the application; and
- (b) if applicable—the market value of the commercial timber at the day the Court (or, on appeal, the Land Appeal Court) makes its determination of the market value.

‘(6) If the lessee does not give the Minister notice under subsection (3), the application lapses.

‘(7) In this section—

- (a) the unimproved value of a lease is the amount that in the Minister’s opinion or, if the Minister has referred the matter to the Court, the Court’s opinion, experienced persons would be willing to pay for an estate in fee simple in the land if it were offered for sale on the reasonable terms and conditions a bona fide seller would require; and
- (b) the unimproved value is to be determined—
 - (i) exclusive of the market value of commercial timber and trees with commercial potential; and
 - (ii) assuming the land was in the prescribed state.’.

Omission of s. 193A (Tourist leases)

39. Section 193A—

omit.

Replacement of s. 194 (Terms and conditions of lease for term of years)

40. Section 194—

omit, insert—

‘Terms and conditions of lease for term of years

‘194. (1) The term of a lease is not to be longer than 30 years.

‘(2) The term of a lease is to start on the next quarter day after the Minister, the Court (or, on appeal, the Land Appeal Court) determined—

- (a) the unimproved value of the lease; or
- (b) if applicable—the market value of the commercial timber;

whichever is the later day.

‘(3) The purchasing price of the lease is the unimproved value determined under section 192.

‘(4) If the purchasing price is not more than the prescribed amount, it is to be paid in 1 payment.

‘(5) If the purchasing price is more than the amount prescribed, it may be paid—

- (a) by a single payment; or
- (b) by—
 - (i) a deposit; and
 - (ii) equal annual instalments over the term of the lease.

‘(6) If—

- (a) an application is received on or after 5 February 1990; or
- (b) an application received on or after 3 October 1991 is in respect of a lease issued or a lease converted from a special lease issued—

- (i) under this Act and under an arrangement under section 24 of the *Industrial Development Act 1963*; or
 - (ii) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; and
- (c) the purchasing price is paid under subsection (5)(b);

each instalment is to include interest on the unpaid principal at the prescribed rate calculated on yearly rests.

‘(7) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(8) A different amount may be prescribed for land for residential purposes.

‘(9) If in respect of a lease endorsed as a result of an application mentioned in subsection (6)—

- (a) the prescribed rate of interest is changed; or
- (b) the prescribed amount is changed;

the amount (and, if necessary, the number) of the instalments is to be adjusted accordingly.

‘(10) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(11) Rent paid under the lease before it became a lease for a term of years is not to be credited to the purchasing price unless it is paid in respect of a time after it became such a lease.

‘(12) If a lease was subject to development and improvement conditions before its conversion to a lease for a term of years, the lease for a term of years is subject to the same development and improvement conditions.

‘(13) On—

- (a) satisfying the Minister that all developmental and improvement conditions have been complied with; and
- (b) payment of the purchasing price or balance remaining to be paid; and

- (c) payment of any other amounts payable in respect of the lease (for example, commercial timber or assurance and deed fees);

the lessee may apply to complete the purchase and is entitled to a deed of grant in fee simple over the land.

‘(14) If—

- (a) an application under section 191 of the *Land Act 1962* was received before 5 February 1990; or
- (b) an application received before 3 October 1991 was in respect of a lease issued or a lease converted from a special lease issued—
 - (i) under the *Land Act 1962* and under an arrangement under section 24 of the *Industrial Development Act 1963*; or
 - (ii) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development;

the amount payable to complete the purchase is to be calculated under Schedule 3 to the *Land Regulations 1988*.’.

Amendment of s. 195 (Payment of purchasing price)

41. Section 195(1)—

omit, insert—

‘(1) If the lessee elects to proceed with the application, the lessee must forward the notice of election together with the amount of the notified deposit.

‘(1A) The lessee may set off against the amount of the deposit all amounts paid by way of rent that, under section 194(12), are to be credited to the purchasing price.’.

Replacement of s. 196 (Freeholding covenant)

42. Section 196—

omit, insert—

‘Payment for timber

‘196.(1) Subject to any relevant agreement under section 191(5)(a), on a lease becoming a lease for a term of years, timber that is the property of the Crown becomes the property of the lessee.

‘(2) If a lessee does not pay cash for the commercial timber, the lessee is to pay, in not more than 10 equal annual instalments, the market value, determined under section 192, of the commercial timber.

‘(3) Each instalment is to be paid at the time the annual instalment of the purchasing price is payable.

‘(4) If—

- (a) an application is received on or after 5 February 1990; or
- (b) an application received on or after 3 October 1991 is in respect of a lease issued or a lease converted from a special lease issued—
 - (i) under this Act and under an arrangement under section 24 of the *Industrial Development Act 1963*; or
 - (ii) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; and
- (c) the purchasing price is paid under section 194(5);

each instalment for the payment of the value of any commercial timber is to include interest on the unpaid principal at the prescribed rate calculated on yearly rests.

‘(5) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(6) If in respect of a lease endorsed as a result of an application mentioned in subsection (4)—

- (a) the prescribed rate of interest is changed; or
- (b) the prescribed amount is changed;

the amount (and, if necessary, the number) of the instalments is to be adjusted accordingly.

‘(7) If the prescribed rate of interest is changed, the new rate applies from

the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(8) Section 249 applies to the annual instalments as if they were instalments of purchasing price.

‘(9) The lessee may, at any time, pay the total amount then unpaid for the commercial timber.

‘(10) Subject to subsection (11), if a lease is transferred or surrendered, the Registrar of Titles is not to record the transfer or surrender until the total amount then unpaid for the commercial timber is paid.

‘(11) If a lease is surrendered, the Minister is to set off against the total amount then unpaid for the commercial timber such amount as, in the Minister’s opinion, is the value of the commercial timber growing on the land on the day of surrender.

‘(12) Subsection (11) does not operate to require a payment to be made by the Minister to the person who surrendered the lease.’.

Replacement of s. 204 (Terms and conditions of special lease)

43. Section 204—

omit, insert—

‘Terms of special lease

‘**204.(1)** The term of a special lease is the notified term or, if the lease was issued other than under section 198, as determined by the Minister.

‘(2) The lease starts on the day the land is sold or, if the lease was issued other than under section 198, on the day determined by the Minister.

‘Rental periods of special lease

‘**204A. (1)** The term of each lease is to be divided into 1 or more of the following rental periods—

- (a) if the lease starts during an annual rental period the rental period from the start of the lease until—
 - (i) the end of that annual rental period; or

- (ii) if the lease ends before the end of that annual rental period—the end of the lease; and
- (b) 1 or more annual rental periods; and
- (c) if the lease ends during an annual rental period—the rental period from the start of that annual rental period until the end of the lease.

‘(2) The first annual rental period starts on 1 July 1993.

‘Rent of special lease

‘**204B.(1)** Subject to subsection (2), the annual rent for each rental period is the most recently made valuation for rental purposes multiplied by the prescribed rate.

‘(2) If, in the Minister’s opinion, a calculation of rent using the most recently made valuation for rental purposes would result in an undue increase in the rent—

- (a) on a category of lease; or
- (b) on a class of land use within a category of lease;

the Minister may average the valuation over the number of years the Minister considers appropriate, and the rent is to be calculated using the average valuation.

‘(3) If the Valuer-General (or, on appeal, the Court) amends the relevant valuation for rental purposes, the rent payable is to be amended accordingly.

‘(4) The prescribed rate—

- (a) may be a single rate that applies to all leases; or
- (b) may be a series of rates that apply to different prescribed categories of leases.

‘(5) The prescribed rate applies from the prescribed day.

‘(6) The annual rent for the term of the lease or a rental period is not to be less than the prescribed amount.

‘(7) The prescribed amount applies from the next 1 July after it is gazetted.

‘(8) If a person appeals against a valuation made under the *Valuation of*

Land Act 1944, the annual rent calculated on the valuation is still payable on the due day.

‘(9) If the amount of the annual rent is amended under subsection (3), any excess rent paid is to be credited to the lessee, together with interest at the prescribed rate on the amount credited from the time of payment until the day the lessee is given written notice of the amended rent.

‘(10) The annual rent is to be calculated in whole dollars.

‘(11) It is a condition of every lease comprising the whole or part of any reserve for public purposes that the lessee holds the land so that it may be used for the public purpose for which it was reserved without undue interruption or obstruction.

‘(12) If a lease is situated in a city or town and used exclusively for the lessee’s personal residence, section 190(2) applies with all necessary modifications.

‘(13) The annual rent for the first rental period of a lease sold under section 198 is the amount bid.

‘(14) If the amount bid is for a part only of an annual rental period, the annual rent for the next rental period is not to be less than the amount bid.

‘(15) Despite section 204A and this section, if the Minister considers the site needs investigation and development by the lessee, the Minister, may—

- (a) set a first rental period (not longer than 5 years) for the investigation and development of the lease; and
- (b) determine the annual rent.

‘(16) If the lessee is—

- (a) a charitable organisation; or
- (b) an organisation whose constitution does not permit its profits to be distributed to its members; or
- (c) a sporting or recreational organisation;

the Minister may set a rent for any rental period that is less than the rent that would apply under subsection (1), but is not less than the prescribed amount.

‘Conditions of special lease**‘204C.(1)** Each lease is subject to—

- (a) all the conditions specified in the sale notification; or
- (b) if a lease issued other than under section 198—the conditions the Minister considers appropriate.

‘(2) Each lease is subject to a condition that the lease is used for the purpose for which it was granted and the lease is to be endorsed accordingly.’.

Amendment of s. 205 (Lease of land costly to develop or where special circumstances exist)**44.** Section 205(1)—

omit ‘The’, *insert* ‘Despite sections 204A and 204B, the’.

Replacement of s. 207 (Sale of special lease holding)**45.** Section 207—

omit, insert—

‘Application for conversion of special lease**‘207. (1)** A lessee may make written application to the Minister—

- (a) to purchase an estate in fee simple in the lease; or
- (b) to convert the lease to a lease (in this Division called a **“perpetual lease”**) that is a perpetual town lease (non-competitive lease), a perpetual suburban lease (non-competitive lease) or a perpetual country lease (non-competitive lease).

‘(2) In this Division, a reference to an application made in respect of a lease includes a reference to an application made in respect of part of the lease, and the provisions of this Division that relate to an application granted in respect of the whole of a lease apply to that part of the lease.

‘(3) Subsection (1) does not apply to—

- (a) a lease of a reserve that is required for the purpose for which the land was reserved and set apart or for any other public purpose;

and

- (b) a lease that contains a condition (however expressed) to the effect that the lessee cannot use this section; and
- (c) a lease—
 - (i) purchased under section 200; and
 - (ii) within 12 months of its purchase if the amount bid was more than the upset rent.

‘Meaning of reasonably improved

‘207A. In the application of this Division, any improvements and developmental work that, having regard to the unimproved state of a lease, improved the lease, may be taken into account in determining whether the lease has been reasonably improved having regard to its unimproved value.

‘Dealing with application

‘207B.(1) The Minister is to consider the following matters when dealing with an application under section 207—

- (a) whether the public interest could be adversely affected in any respect if the application were granted; and
- (b) whether any part is required for environmental or nature conservation purposes; and
- (c) whether any substantial part is at serious risk from land degradation; and
- (d) whether any substantial part suffers from serious land degradation; and
- (e) whether it is substantially more than 1 living area; and
- (f) whether the lessee has complied with, or to what extent the lessee has complied with, the conditions of the lease; and
- (g) whether any part has a foreseeable potential use higher than permitted under the lease; and
- (h) whether any part is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like

matters make it special; and

- (i) whether it has been reasonably improved having regard to its unimproved value or the purpose for which it is used; and
- (j) any other matter the Minister considers appropriate.

‘(2) After considering the application, the Minister may—

- (a) refuse the application; or
- (b) grant the application; or
- (c) by written notice given to the applicant, require the applicant to amend the application so that it relates only to part of the lease.

‘(3) If an application is amended under section (2)(c), the amended application becomes the application made under section 207 and is taken to be received by the Minister when the Minister received the original application.

‘(4) If an applicant does not comply with a notice given under subsection (2)(c) within 3 months from the day on which the applicant receives the notice, the application lapses.

‘(5) The Minister may grant an application for an estate in fee simple subject to the lessee entering into—

- (a) an agreement with the Minister administering the *Forestry Act 1959* with regard to any commercial species of timber on the lease; or
- (b) a fauna refuge agreement over the land or part of the land with the Minister administering the *Fauna Conservation Act 1974*; or
- (c) an agreement of both types.

‘(6) If a lessee does not sign an agreement under subsection (5) that the Minister considers reasonable, the Minister must refuse the application.

‘If surveyed—offer to be made

‘207C. If a lease has been surveyed and a plan of survey deposited in the office of the registering authority meets the requirements of that authority under the *Surveyors Act 1977*, the Minister, if the application is granted, is

to make a written offer—

- (a) to sell to the lessee an estate in fee simple at a purchasing price for the land (and, if applicable, any commercial timber growing on the land) and on the terms and conditions specified in the offer; or
- (b) to convert the lease to a perpetual lease, subject to the conditions (including annual rent) specified in the offer.

‘Determination of value for an estate in fee simple

‘207D.(1) If an application is granted, the Minister is to determine—

- (a) the unimproved value of the lease (exclusive of the market value of any commercial timber on the land) at the day the Minister received the application; and
- (b) if applicable—the market value (including the value of trees with commercial potential), at the day of the Minister’s determination, of the commercial timber on the lease that is the property of the Crown.

‘(2) If the Minister makes a determination in subsection (1), the Minister is to give the lessee written notice of the determination.

‘(3) The notice is to specify a day, not less than 42 days nor more than 60 days from the day the lessee is notified, by which the lessee is to give the Minister written notice that the lessee—

- (a) accepts the Minister’s determination; or
- (b) requests that the unimproved value of the lease (and, if applicable, the market value of any commercial timber) be determined by the Court.

‘(4) If a request to refer the matter to the Court is received by the specified day, it is to be referred.

‘(5) If the Minister refers the matter to the Court, the Court (or, on appeal, the Land Appeal Court) is to determine—

- (a) the unimproved value of the lease at the day the Minister received the application; and
- (b) if applicable—the market value of the commercial timber at the day the Court (or, on appeal, the Land Appeal Court) makes its

determination of the market value.

‘(6) If the lessee does not give the Minister notice under subsection (3), the application lapses.

‘(7) In this Division—

- (a) the unimproved value of a lease is the amount that in the Minister’s opinion or, if the Minister has referred the matter to the Court, the Court’s opinion, experienced persons would be willing to pay for an estate in fee simple in the land if it was offered for sale on the reasonable terms and conditions a bona fide seller would require; and
- (b) the unimproved value is to be determined—
 - (i) exclusive of the market value of commercial timber and trees with commercial potential; and
 - (ii) assuming the land was in the prescribed state.

‘New offer for an estate in fee simple

‘207E.(1) On receiving the determination of the Court (or, on appeal, the determination of the Land Appeal Court that is different to the determination of the Court), the Minister is to make a new offer to the lessee containing the Court’s determination of the purchasing price and, if applicable, the market value of the commercial timber.

‘(2) If the lessee does not give the Minister written notice of the acceptance of the offer within 42 days from the day of the offer (or such longer period as the Minister allows), the offer lapses.

‘Acceptance—when effective

‘207F. In this Division, the acceptance of an offer is not effective until—

- (a) in respect of an offer to purchase—the lessee—
 - (i) pays the purchasing price or the deposit (and, if applicable, the market value of any commercial timber); and
 - (ii) complies with all of the requirements, with which the lessee is to comply, specified in the offer; or

- (b) in respect of an offer for a perpetual lease—the lessee—
 - (i) pays the first year’s rent together with any other amounts required to be paid; and
 - (ii) complies with all of the requirements, with which the lessee is to comply, specified in the offer.

‘If survey required—conditional offer

‘207G.(1) If the lease in respect of which the Minister has granted an application has not been surveyed or a plan of survey has not been deposited, the Minister is to make a written conditional offer to the lessee—

- (a) to sell an estate in fee simple in the land concerned for a purchasing price specified in the offer (and, if applicable, the market value of any commercial timber on the land); or
- (b) to lease the land concerned as a perpetual lease at the annual rent specified in the offer.

‘(2) The offer is subject to the condition that the lessee, at the lessee’s expense, is to have the necessary survey made and a plan of survey deposited.

‘(3) The plan of survey is to—

- (a) meet the requirements of; and
- (b) be deposited in the office of;

the registering authority under the *Surveyors Act 1977*.

‘Offer to lapse

‘207H. A conditional offer lapses—

- (a) 3 months from the day of the offer (or such longer period as the Minister allows), unless the lessee gives the Minister, within that period or longer period, written notice that the offer is accepted; or
- (b) 6 months from the day of the acceptance (or such longer period as the Minister allows), unless the condition of the offer is satisfied within that period or longer period.

‘Survey to be completed before amounts paid

‘207I.(1) The lessee, to whom a conditional offer is made, is not to pay—

- (a) the purchasing price or the deposit (and, if applicable, the market value of any commercial timber specified in the offer); or
- (b) if the offer is to lease the land—the first annual rent of the perpetual lease specified in the offer;

until the Minister gives written notice that the plan of survey has been deposited and meets the requirements of the registering authority.

‘(2) When the lessee is notified under subsection (1), the lessee must take such steps as are necessary to make the acceptance of the offer effective.

‘(3) Instead of accepting the offer, the lessee may request the Minister to refer—

- (a) the purchasing price of the land; or
- (b) the market value of commercial timber;

to the Court for determination and sections 207D, 207E and 207F apply with all necessary modifications.

‘Rent to be paid up to effective day

‘207J.(1) The obligation of a lessee to pay rent for the lease in respect of which an offer has been made terminates at the end of the day before the effective day.

‘(2) In this Division—

“effective day” means the day on which the acceptance of an offer is made effective.

‘Offer of freehold

‘207K.(1) If an application is to purchase an estate in fee simple, the Governor in Council may sell to a lessee for the purchasing price (including, if applicable, the market value of commercial timber) determined under section 207D.

‘(2) On payment of the purchasing price (together with interest) in accordance with the offer, and all other amounts payable by the purchaser in respect of the sale, a deed of grant in fee simple is to issue to the purchaser.

‘Conditions of special lease purchase freehold

‘207L. (1) The term of a lease is not to be more than 30 years.

‘(2) The term starts on the effective day.

‘(3) On—

- (a) satisfying the Minister that all developmental and improvement conditions have been complied with; and
- (b) payment of the purchasing price or balance remaining to be paid; and
- (c) payment of any other amounts payable in respect of the purchase (for example, survey fees or deed and assurance fees);

the lessee is entitled to a deed of grant in fee simple over the land.

‘(4) If the purchasing price is not more than the prescribed amount, it is to be paid in 1 payment.

‘(5) If the purchasing price is more than the prescribed amount, it may be paid—

- (a) by a single payment; or
- (b) by—
 - (i) a deposit; and
 - (ii) equal annual instalments over the term of the lease.

‘(6) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the amount prescribed.

‘(7) If—

- (a) an application is received on or after 5 February 1990; or
- (b) an application is received on or after 3 October 1991 in respect of a lease issued—
 - (i) under this Act and under an arrangement under section 24 of

the *Industrial Development Act 1963*; or

- (ii) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
- (iii) subject to a condition relating to the freeholding of the lease; and

(c) the purchasing price is paid under subsection (5)(b);

each instalment is to include interest on the unpaid principal at the prescribed rate calculated on yearly rests.

‘(8) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(9) A different amount may be prescribed for land for residential purposes.

‘(10) The lessee is to pay the annual instalments on or before the day that is the anniversary in each year of the effective day.

‘Payment for timber

‘207M.(1) Subject to any relevant agreement under section 207B(5)(a), on the conversion of a lease to freehold or a special lease purchase freehold lease, timber on the lease that is the property of the Crown becomes the property of the lessee.

‘(2) If a lessee does not pay cash for the commercial timber on the lease, the lessee is to pay, in not more than 10 equal annual instalments, the market value, determined under section 207D, of the commercial timber on the lease.

‘(3) Each instalment is to be paid at the time the annual instalment of the purchasing price is payable.

‘(4) If, but for this subsection, the amount of each instalment would be less than the prescribed amount, the number of instalments is to be reduced so that each instalment is not less than the prescribed amount.

‘(5) If—

- (a) an application is received on or after 5 February 1990; or

- (b) an application is received on or after 3 October 1991 in respect of a lease issued—
 - (i) under this Act and under an arrangement under section 24 of the *Industrial Development Act 1963*; or
 - (ii) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
 - (iii) subject to a condition relating to the freeholding of the lease; and
- (c) the purchasing price is paid under subsection (2);

each instalment is to include interest on the unpaid principal at the prescribed rate calculated on yearly rests.

‘(6) If the prescribed rate of interest is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(7) Section 249 applies to the annual instalments as if they were instalments of purchasing price.

‘(8) The lessee may, at any time, pay the total amount then unpaid for the commercial timber.

‘(9) Subject to subsection (10), if a lease is transferred or surrendered, the Registrar of Titles is not to record the transfer or surrender until the total amount then unpaid for the commercial timber is paid.

‘(10) If a lease is surrendered, the Minister is to set off against the total amount then unpaid for the commercial timber such amount as, in the Minister’s opinion, is the value of the commercial timber growing on the land at the day of surrender.

‘(11) Subsection (10) does not require any payment to be made by the Minister to the person who surrendered the lease.

‘Perpetual lease

‘207N. If an application for a perpetual lease is granted, the Governor in Council may grant the applicant a perpetual lease subject to section 212.’.

Replacement of s. 208 (Sales without competition in special cases)

46. Section 208—

omit, insert—

‘Sales without competition in special cases

‘208. (1) If—

- (a) there is no convenient way of access to a portion of Crown land;
or
- (b) a portion of Crown land is insufficient in area for sale by auction;
or
- (c) a portion of Crown land lies between land already granted and a street or road that forms or should form the way of access to the granted land; or
- (d) buildings erected on land already granted extend over Crown land; or
- (e) in respect of a portion of Crown land, special reasons exist;

the Governor in Council may—

- (f) sell and grant in fee simple the Crown land to the holder of adjoining land, at a price fixed by the Minister; or
- (g) grant a perpetual town lease, a perpetual suburban lease or a perpetual country lease of the Crown land to the holder of adjoining land.

‘(2) A lease granted under subsection (1)(g) is subject to section 212.’.

Omission of s. 209 (Sale or lease of Crown land to a religious body for erection of church buildings)

47. Section 209—

omit.

Amendment of s. 210 (Leases for manufacturing or industrial, etc., purposes without competition)

48. Section 210(3)—

omit, insert—

‘(3) The term of each lease is to be divided into the rental periods mentioned in section 212.

‘(4) The annual rent is to be calculated under section 212.

‘(5) Despite subsection (4), if the Minister considers the site needs investigation and development by the lessee, the Minister, may—

- (a) set a first rental period (not more than 5 years) for the investigation and development of the lease; and
- (b) determine the annual rent.’.

Amendment of s. 212 (Nature and conditions of leases under this Division)

49. Section 212(2) to (13)—

omit, insert—

‘(2) The lease is in perpetuity and starts on the first quarter day—

- (a) after the day of the surrender of the former lease; or
- (b) if over Crown land—after acceptance of an offer of the lease.

‘(3) The term of each lease is to be divided into the following rental periods—

- (a) if the lease starts during an annual rental period—the rental period from the start of the lease until the end of that annual rental period; and
- (b) one or more annual rental periods.

‘(4) The first annual rental period starts on 1 July 1993.

‘(5) Subject to subsection (10), the annual rent for each rental period is the most recently made valuation for rental purposes multiplied by the prescribed rate.

‘(6) If, in the Minister’s opinion, a calculation of rent using the most

recently made valuation for rental purposes would result in an undue increase in the rent—

- (a) on a category of lease; or
- (b) on a class of land use within a category of lease;

the Minister may average the valuation over the number of years the Minister considers appropriate, and the rent is to be calculated using the average valuation.

‘(7) If the Valuer-General (or, on appeal, the Court) amends the relevant valuation for rental purposes, the rent payable is to be amended accordingly.

‘(8) The prescribed rate—

- (a) may be a single rate that applies to all leases; or
- (b) may be a series of rates that apply to different prescribed categories of leases.

‘(9) The prescribed rate applies from the prescribed day.

‘(10) The annual rent for the term of the lease or any rental period is not to be less than the prescribed amount.

‘(11) The prescribed amount applies from the next 1 July after it is gazetted.

‘(12) If a person appeals against a valuation made under the *Valuation of Land Act 1944*, the annual rent calculated on the valuation is still payable on the due day.

‘(13) If the amount of the annual rent is amended under subsection (7), any excess rent paid is to be credited to the lessee, together with interest at the prescribed rate on the amount credited from the time of payment until the day the lessee is given written notice of the amended rent.

‘(14) The annual rent is to be calculated in whole dollars.’

Replacement of s. 227 (Registers of leases, etc., to be kept)

50. Section 227—

omit, insert—

‘Registers

‘227.(1) The Registrar of Titles is to maintain registers for the recording of particulars of all leases and licences under this Act.

‘(2) The Registrar of Titles is to register all transfers, mortgages, subleases and other dealings under this Act, and such other particulars as are prescribed.

‘(3) The registers may be maintained wholly or partly—

- (a) on paper or microfilm or in such other form (whether or not documentary form) as the Registrar of Titles considers appropriate; or
- (b) by means of such mechanical, electronic or other device for storing or processing information as the Registrar of Titles considers appropriate.

‘(4) The Registrar of Titles may cause a microfilm, or such other copy in the form or in the way approved by the Minister, to be made of any part of the registers or an instrument lodged with or produced to the Registrar.

‘(5) On the Registrar of Titles certifying that the microfilm or other copy is an accurate copy of that part, that microfilm or other copy forms part of the registers.

‘(6) Particulars recorded in 1 part of a register may be recorded or deleted from another part of the register by the Registrar of Titles.

‘(7) The Registrar of Titles may destroy an instrument that has been microfilmed or copied under subsection (4).

‘(8) The microfilm or copy is to be—

- (a) recognised as a true copy of that part of the appropriate register or instrument; and
- (b) received in evidence in any court or tribunal acting judicially.

‘(9) A person, on payment of the prescribed fee (if any), at any reasonable time during office hours is entitled to—

- (a) have access to particulars recorded in a register; and
- (b) a statement of any particulars recorded in a register; and
- (c) search and obtain a copy of an instrument lodged with or

produced to the Registrar.’.

Amendment of s. 228 (Dispensing with production of documents)

51. (1) Section 228 (proviso)—

omit.

(2) At the end of section 228—

insert—

‘(2) Before dispensing with the production of an instrument—

(a) the applicant must—

(i) at the applicant’s expense and in accordance with the directions of the Registrar of Titles, by advertisement published in a newspaper, give at least 14 days notice of the application; and

(ii) give the Registrar a copy of the page of the newspaper containing the notice and showing the day and name of the newspaper; and

(iii) pay the prescribed advertising fee; and

(b) the Registrar must, by advertisement published in the Gazette, give at least 14 days notice of the Registrar’s intention to dispense with the production of the instrument.’.

Replacement of s. 229

52. Section 229—

omit, insert—

‘Certificates of lease or licence, substitute instruments

‘229. (1) On—

(a) lodgment of a request in the prescribed form; and

(b) proof that an instrument of lease or licence, or any other instrument lodged in connection with a dealing, has been lost, mislaid or destroyed;

the Registrar of Titles may issue—

- (c) if the instrument is a lease or licence—a certificate of lease or certificate of licence; or
- (d) in any other case—a substitute instrument.

‘(2) If an instrument of lease or licence—

- (a) has become mutilated or is full of endorsements; and
- (b) is incapable of bearing an endorsement;

the Registrar of Titles may, on lodgment of the instrument, issue a certificate of lease or certificate of licence in substitution for the instrument.

‘(3) Before the issue of a certificate of lease, certificate of licence or substitute instrument under subsection (1)—

- (a) the person who lodged the request must—
 - (i) at the person’s expense and in accordance with the directions of the Registrar of Titles, by advertisement published in a newspaper, give at least 14 days notice of the request; and
 - (ii) give the Registrar a copy of the page of the newspaper containing the notice and showing the day and name of the newspaper; and
 - (iii) pay the prescribed advertising fee; and
- (b) the Registrar must, by advertisement published in the Gazette, give at least 14 days notice of the Registrar’s intention to issue a certificate of lease, certificate of licence or substitute instrument.

‘(4) A certificate of lease or certificate of licence must contain particulars of—

- (a) the tenure and title reference of the lease or licence; and
- (b) the description of the land; and
- (c) the names and interests of the lessees or licensees; and
- (d) the current registered interests; and
- (e) the conditions contained in the instrument of lease or licence.

‘(5) The Registrar of Titles must record particulars of the issue of a certificate of lease, certificate of licence or a substitute instrument in the

appropriate register.

‘(6) On the issue of a certificate of lease, certificate of licence or substitute instrument—

- (a) the original instrument ceases to be in force; and
- (b) the certificate or substitute instrument takes the place of the original instrument.’.

Replacement of s. 230 (Registration of dealings, etc.)

53. Section 230—

omit, insert—

‘Registration of dealings, etc.

‘**230.(1)** Subject to subsection (2) and sections 283(2) and 293(3), an instrument under Division 8, is registered when particulars have been—

- (a) endorsed on both copies of the lease or licence; and
- (b) recorded in the appropriate register.

‘(2) If production of the lease or licence has been dispensed with under section 228, the instrument is registered when particulars have been—

- (a) endorsed on the duplicate lease or licence; and
- (b) recorded in the appropriate register.’.

Amendment of s. 245

54. Section 245(1)—

omit, insert—

‘(1) The *Valuation of Land Act 1944* does not apply to the expression “**unimproved value**” in this Act for determining a purchasing price for a freeholding lease or to purchase an estate in fee simple.’.

Replacement of s. 247

55. Section 247—

omit, insert—

‘Rent and instalments, where and when payable

‘247.(1) Rent, instalments and other payments under this Act may be paid at any office of the department or any other prescribed place.

‘(2) If it is not prescribed by this Act—

- (a) all rent, instalments and other notices for payment are sent to lessees, licensees or permittees; and
- (b) all amounts are payable;

within the prescribed times.

‘(3) Different times may be prescribed for—

- (a) different categories; or
- (b) different starting days;

of leases, licences or permits.

‘(4) All rent and instalments (together with any accrued penalties and interest) are debts due to the Crown.’.

Insertion of new s. 248A

56. Before section 249—

insert—

‘Hardship

‘248A.(1) If a lessee is suffering hardship because of—

- (a) the effects of drought, flood, fire, natural disaster or artificial disaster; or
- (b) economic recession; or
- (c) a severe downturn in the level of markets related to the purpose of

the lease; or

- (d) serious illness or accident;

the Minister, on receiving a written application from the lessee, may grant a deferral in any annual rent or annual instalment to be paid.

‘(2) The lessee is to produce to the Minister whatever returns and financial statements the Minister may request before the application is granted.

‘(3) The approval of the Minister is to specify the period (or extended period) for which any deferral is to apply and the terms of repayment of the deferred rent or instalments.

‘(4) Subject to subsection (8), interest on any arrears outstanding is payable in respect of the deferral at the prescribed rate.

‘(5) The prescribed rate—

- (a) may be a single rate that applies to all leases; or
(b) may be a series of rates that apply to different prescribed categories of leases.

‘(6) The prescribed rate applies from the prescribed day or days, which day or days may precede the day on which the regulation prescribing it or them commences.

‘(7) If a deferral is granted, penalty under section 249 is not to apply for the period of the deferral.

‘(8) The Governor in Council may—

- (a) if the Minister has granted deferral of the payment of rent or instalments—waive the payment of interest on that deferral; or
(b) by notice published in the Gazette, forgive the whole or part of the annual rent to be paid for the period the Governor in Council specifies.

‘(9) If annual rent is forgiven any penalty payable under section 249 may also be forgiven.

‘(10) If the conditions of a deferral are not complied with—

- (a) the deferral may be cancelled by the Minister; or
(b) the forgiveness may be withdrawn by the Governor in Council.

‘(11) Notice of withdrawal of forgiveness is to be published in the Gazette.

‘(12) If a deferral is granted, the term of a freeholding lease may be amended so that it is more than the maximum term prescribed by this Act.’.

Amendment of s. 249 (Penalties for default in payment of rent)

57. (1) Section 249(1)(a)—

omit ‘rate of ten dollars per centum per annum thereon’,

insert ‘prescribed rate’.

(2) Section 249(1)(b)—

omit ‘rate of ten dollars per centum thereon’,

insert ‘prescribed rate’.

(3) Section 249(2)—

omit ‘rate of ten per centum per annum thereon’ (twice occurring),

insert ‘prescribed rate’.

(4) Section 249(3)(a)—

omit.

(5) After section 249(3)—

insert—

‘(4) If a prescribed rate of penalty under subsections (1) or (2) is changed, the new rate applies from the day of its publication in the Gazette or, if a later day is prescribed, that day.

‘(5) If—

- (a) a lease has been forfeited for non-payment of rent or instalments; and
- (b) the lessee makes payment of all amounts outstanding (including penalty);

the Minister may waive the forfeiture and reinstate the lessee.

‘(6) Notice of each waiver is to be published in the Gazette.

‘(7) In this section—
“instalments” includes deed and assurance fees payable under this Act.’.

Amendment of s. 250

58.(1) Section 250(1)—

omit, insert—

‘(1) In subsection (1A)—

“lessee” means a lessee of—

- (a) a pastoral lease; or
- (b) a stud holding; or
- (c) a grazing homestead perpetual lease; or
- (d) a perpetual town lease (non-competitive lease); or
- (e) a perpetual suburban lease (non-competitive lease); or
- (f) a special lease; or
- (g) a development lease; or
- (h) an agricultural farm, or a perpetual country lease, issued after the commencement of Part 6 of the *Lands Legislation Amendment Act 1991*;

and includes—

- (i) a licensee under an occupation licence or road licence; and
- (j) an occupier under a permissive occupancy.

‘(1A) A lessee must not destroy a tree on the land the subject of the lease, licence or permissive occupancy, unless the lessee holds a permit to destroy the tree.

‘(1B) The lessee of an agricultural selection, or a perpetual country lease, in force immediately before the commencement of Part 6 of the *Lands Legislation Amendment Act 1991*, must not, during the first 2 years of the term of the lease, destroy a tree on the lease unless the lessee holds a permit to destroy the tree.’.

(2) Section 250(2)—

omit, insert—

(2) An application for a permit to destroy trees must be—

- (a) made in the prescribed form; and
- (b) lodged at the district land office.’.

(3) Section 250(3)—

omit, insert—

(3) An authorised officer must, after inquiry—

- (a) refuse the application; or
- (b) grant a permit to destroy trees.’

(4) Section 250(5)(d)—

omit, insert—

‘(d) such further conditions as are prescribed.’.

(5) Section 250(6)—

omit, insert—

(6) An authorised officer may cancel a permit if satisfied that—

- (a) the permit was granted on the basis of a false or misleading particular contained in or accompanying the application; or
- (b) the lessee has contravened a condition of the permit; or
- (c) destruction of trees is being carried out in a way—
 - (i) not likely to be effective or complete; or
 - (ii) that is likely to be harmful or injurious to the land or adjoining land; or
- (d) there has been a substantial change in circumstances since the grant of the permit.’.

(6) Section 250(7)—

omit, insert—

(7) A permit may be cancelled under subsection (6)(b) whether or not legal proceedings have been instituted for an offence under subsection (9).’.

(7) Section 250(9)—

omit ‘and liable to a penalty of not less than fifty dollars or more than four hundred dollars’.

(8) At the end of section 250(9)—

insert—

‘Penalty—

(a) in the case of an individual—400 penalty units; or

(b) in the case of a corporation—800 penalty units.’.

Amendment of s. 270 (Amalgamation of contiguous holdings)

59.(1) Section 270(1)—

omit ‘and the rent reserved’.

(2) Section 270(1)—

omit—

‘No rental period of the amalgamated lease shall exceed ten years.’,

insert—

‘**(1A)** If 2 special leases are amalgamated, sections 204A and 204B(1) to (13) apply to the amalgamated lease.

‘**(1B)** A surrender of a lease under this section is not effective until—

(a) all requirements specified in the offer of a new lease have been complied with; and

(b) any subsequent action by the department to implement any specified requirement has been completed.’.

Amendment of s. 271 (Subdivision of holdings, etc.)

60.(1) Section 271(1)—

omit ‘as to rent or otherwise’.

(2) Section 271(3)—

omit, insert—

‘**(3)** The term of any new lease is not to be more than the term remaining

for the lease being subdivided.

‘**(3A)** If a special lease is subdivided, sections 204A and 204B(1) to (13) (both inclusive) apply to the new leases.’.

(3) Section 271(5)—

omit.

Replacement of s. 283 (Easements affecting both freehold and leasehold lands or reserves)

61. Section 283—

omit, insert—

‘Easements affecting freehold and leasehold lands or reserves

‘**283.(1)** On lodgment of an instrument creating an easement, the Registrar of Titles may, subject to the approval of the Minister, register an easement.

‘**(2)** An easement is registered when particulars of the easement are recorded—

- (a) in the register maintained under the *Real Property Act 1861*; and
- (b) the appropriate register maintained under this Act;

in the proper order of priority.

‘**(3)** In this section—

‘**“easement”** means an easement affecting—

- (a) land under the *Real Property Act 1861*; and
- (b) land comprised in a lease or a reserve.’.

Replacement of s. 285

62. Section 285—

omit, insert—

‘Existing interests to be endorsed on deed

‘285.(1) If, when a deed of a grant in fee simple of land in a lease is issued, the land is subject to an interest registered under this Act, the Registrar of Titles must—

(a) record particulars of the interest in the register maintained under the *Real Property Act 1861*; and

(b) endorse on the deed the instrument under which the interest arose;

in the proper order of priority.

‘(2) An instrument endorsed on the deed has effect as a registered instrument under the *Real Property Act 1861*.

‘(3) The Registrar of Titles must deliver the deed to the person entitled to possession of the deed.’.

Replacement of s. 290 (Transmission of land in certain cases without probate or administration)

63. Section 290—

omit, insert—

‘Registering personal representative

‘290.(1) On—

(a) the death of a lessee, licensee or person who has a registered interest in a lease or licence (in this section called the **“deceased”**); and

(b) application made in the prescribed form;

the Registrar of Titles may register a person who—

(c) has obtained a grant of representation, or a reseal of a grant of representation, in Queensland, in the deceased’s estate; or

(d) would, in the Registrar’s opinion, succeed in an application for a grant of representation in the deceased’s estate;

as personal representative in respect of the deceased’s interest.

‘(2) If the deceased has died leaving a will, the Registrar of Titles must

not register a person unless—

- (a) if a grant of representation has been obtained—the grant or reseal of the grant is produced, or an office copy of the grant or reseal is deposited; or
- (b) if paragraph (a) does not apply—the deceased’s original will, or exemplification of a grant of probate or letters of administration with the will annexed in the deceased’s estate, is deposited.

‘(3) If the deceased has died without leaving a will, the Registrar of Titles must not register a person unless—

- (a) if a grant of representation has been obtained in Queensland—the grant is produced or an office copy of the grant is deposited; or
- (b) if paragraph (a) does not apply—
 - (i) the application is made more than 6 months after the death; and
 - (ii) at the time of death, the gross value of the deceased’s estate in Queensland was no more than the prescribed amount.

‘(4) A person registered under subsection (1)(d) has the same rights, powers and liabilities concerning the lease or licence as if a grant of representation had been made to the person.

‘(5) The validity of an act done or payment by a person registered under this section is not affected by a subsequent grant of representation.

‘(6) If the grantee of a grant of representation is different from the person registered under this section, the person must—

- (a) account to the grantee for the property of the deceased controlled by the person before the grant; and
- (b) take all action necessary to transfer to the grantee the property of the deceased remaining under the control of the person.

‘Registering beneficiary

‘290A. (1) On—

- (a) the death of a lessee, licensee or person who has a registered interest in a lease or licence; and

(b) application made in the prescribed form;

the Registrar of Titles may register a person beneficially entitled under the deceased person's will as legatee in respect of the interest to which the person is entitled.

‘(2) The Registrar of Titles must not register a person's interest unless—

(a) the written consent of the person mentioned in section 290(1)(c) or (d) is produced; and

(b) the Registrar is satisfied that the person is beneficially entitled to the interest.’.

Replacement of s. 293 (Power of attorney)

64. Section 293—

omit, insert—

‘Power of attorney

‘293.(1) A lessee, licensee or person having an interest in a lease or licence may, by registering a power of attorney, authorise a person to deal with the interest under this Act.

‘(2) On lodgment of a request and production of a power of attorney, the Registrar of Titles must register the power of attorney.

‘(3) A power of attorney is registered when particulars of the power of attorney are recorded in the appropriate register.

‘(4) The Registrar of Titles must retain a copy of a registered power of attorney and deliver the original to the person who produced it.

‘(5) A registered power of attorney is evidence that the donee is authorised to act under the power of attorney.

‘(6) The Registrar of Titles may register an instrument executed under a registered power of attorney without requiring proof that, at the time of execution of the instrument, the power was unrevoked.

‘(7) The Registrar of Titles may require a declaration of non-revocation of a power of attorney.

‘(8) Subject to section 173 of the *Property Law Act 1974*, on lodgment

of a request and production of a power of attorney, the Registrar of Titles must register the revocation of the power of attorney.

‘(9) Subsection (8) applies to a power of attorney whether registered before or after the commencement of this section.

‘(10) The Registrar of Titles must not register an instrument executed under a registered power of attorney if the instrument took effect after the registration of—

- (a) a request to register its revocation; or
- (b) the death or insolvency of the donor.

‘(11) If—

- (a) a power of attorney is registered under the *Real Property Act 1861*; and
- (b) the power of attorney authorises a person to deal with land under this Act;

the donee is authorised to deal with the land under the power of attorney without registering the power of attorney under this Act.’.

Replacement of s. 306 (Resumption with compensation)

65. Section 306—

omit, insert—

‘Resumption with compensation

‘**306.(1)** The Governor in Council may resume, by proclamation published in the Gazette, the whole or any part of any holding or easement over any holding, Crown land or land reserved and set apart for a public purpose.

‘(2) If for any purpose it is sufficient to acquire an easement, the Governor in Council may resume that easement and that resumption is to be taken to be a resumption under this Division of the part of the holding, Crown land or reserve affected by the easement.

‘(3) On the resumption of the whole or part of a holding or of an easement under this section the lessee or grantee of the easement is entitled

to compensation for the loss as set out in this Division.’.

Amendment of s. 339 (By-laws)

66. Section 339(d) and (e)—

omit, insert—

- ‘(d) imposing penalties, not more than 100 penalty units, for any breach of a by-law;
- (e) defining the powers and duties of authorised officers;
- (f) generally, for carrying out the objects and purposes of the trust.’.

Amendment of s. 363 (Closure of road on application by registered proprietor or lessee of adjoining land)

67.(1) Section 363(2)(a)—

omit ‘Gazette and’, *insert* ‘Gazette and, if the Minister determines,’.

(2) Section 363(2)(c)(ii)—

omit ‘and the police station nearest the road in question’.

Amendment of s. 372 (Trespass to Crown land, etc., and removal of trespassers)

68. Section 372(1)—

omit ‘Penalty: Minimum \$100; Maximum \$1 000.’,

insert—

‘Penalty—

- (a) in the case of an individual—400 penalty units; or
- (b) in the case of a corporation—800 penalty units.’.

Amendment of s. 375

69.(1) Section 375(2)—

omit ‘a Commissioner, Land Inspector,’.

(2) Section 375(2)—

omit ‘shall be guilty of an offence against this Act and liable to a penalty of not less than twenty dollars or more than two hundred dollars.’,

insert ‘commits an offence against this Act.

Penalty—100 penalty units.’.

PART 3—AMENDMENT OF THE MINERS’ HOMESTEAD LEASES ACT 1913

Amended Act

70. The *Miners’ Homestead Leases Act 1913* is amended as set out in this Part and Schedule 3.

Insertion of new s. 23AB

71. After section 23A—

insert—

‘Remission

‘23AB.(1) A lessee of a miners’ homestead perpetual lease, used as the lessee’s residence, may apply to the Minister on the ground of hardship for a reduction in the rent to be paid.

‘(2) The application is to be in the form and to contain the particulars required by the Minister.

‘(3) The Minister after considering the application may reduce the rent but not to an amount less than \$50, or such other amount as may be prescribed.

‘(4) The Minister is to decide the day from which rent is to be reduced.

‘(5) A reduction in rent applies to the applicant only and not to any subsequent lessee.

‘(6) The Minister, after investigation of the lessee’s circumstances, may

cancel or alter the reduction in rent.’.

Replacement of s. 27 (Transfer by sheriff when lease taken in execution and sold)

72. Section 27—

omit, insert—

‘Registering a writ of execution

‘27.(1) A judgment is not to be registered with the Registrar of Miners’ Homesteads.

‘(2) A writ of execution is to be registered if—

- (a) a request to register the writ is lodged; and
- (b) an office copy of the writ is lodged.

‘(3) In this Act—

“**writ of execution**” means a writ of execution after judgment, and includes a warrant of execution after judgment in a District Court or Magistrates Court.

‘Effect of registering a writ of execution

‘27A.(1) As regards purchasers and creditors, a writ of execution—

- (a) does not bind or affect the lease (whether or not there is actual or constructive notice of the writ) until registered; and
- (b) does not bind or affect the lease unless the writ is executed and put in force—
 - (i) within 6 months from the day of its lodgment; or
 - (ii) within such further time allowed by a Judge or Magistrate and notified to the Registrar of Miners’ Homesteads.

‘(2) The Registrar of Miners’ Homesteads may cancel registration of a writ of execution after the time or further time mentioned in subsection (1)(b) has ended.

‘Discharging or satisfying writ of execution

‘27B. Discharge or satisfaction of a writ of execution may be registered if—

- (a) a request to register the discharge or satisfaction is lodged; and
- (b) the Registrar of Miners’ Homesteads is satisfied that the writ has been discharged or satisfied.

‘Transfer of land sold in execution

‘27C.(1) When land is sold under a writ of execution, the Sheriff or the registrar of a District or Magistrates Court, as appropriate, is to execute an instrument of transfer to a qualified purchaser.

‘(2) When a transfer under subsection (1) is registered, the transferee becomes the registered lessee of the lease subject to any registered estate.’.

Replacement of s. 39 (Transmission)

73. Section 39—

omit, insert—

‘Transmission by death

‘39.(1) On—

- (a) the death of a lessee or person who has a registered interest in a lease (in this section called the **“deceased”**); and
- (b) application made in the prescribed form; and
- (c) payment of the prescribed fee;

the Minister may register a person who—

- (d) has obtained a grant of representation, or a reseal of a grant of representation, in Queensland, in the deceased’s estate; or
- (e) would, in the Minister’s opinion, succeed in an application for a grant of representation in the deceased’s estate;

as personal representative in respect of the deceased’s interest.

‘(2) If the deceased has died leaving a will, the Minister must not register a person unless—

- (a) if a grant of representation has been obtained—the grant or reseal of the grant is produced or an office copy of the grant or reseal is deposited; or
- (b) if paragraph (a) does not apply—the deceased’s original will, or exemplification of a grant of probate or letters of administration with the will annexed in the deceased’s estate, is deposited.

‘(3) If the deceased has died without leaving a will, the Minister must not register a person unless—

- (a) if a grant of representation has been obtained in Queensland—the grant is produced or an office copy of the grant is deposited; or
- (b) if paragraph (a) does not apply—
 - (i) the application is made more than 6 months after the death; and
 - (ii) at the time of death, the gross value of the deceased’s estate in Queensland was no more than the prescribed amount.

‘(4) A person registered under subsection (1)(e) has the same rights, powers and liabilities concerning the lease as if a grant of representation had been made to the person.

‘(5) The validity of an act done or payment by a person registered under this section is not affected by a subsequent grant of representation.

‘(6) If the grantee of a grant of representation is different from the person registered under this section, the person must—

- (a) account to the grantee for the property of the deceased controlled by the person before the grant; and
- (b) take all action necessary to transfer to the grantee the property of the deceased remaining under the control of the person.

‘(7) On—

- (a) the death of a lessee or person who has a registered interest in a lease; and
- (b) application made in the prescribed form;

the Minister may register a person beneficially entitled under the deceased person's will as legatee in respect of the interest to which the person is entitled.

'(8) The Minister must not register a person's interest unless—

- (a) the written consent of the person mentioned in subsection (1)(d) or (e) is produced; and
- (b) the Minister is satisfied that the person is beneficially entitled to the interest.'

Insertion of new ss. 39B and 39C

74. After section 39A—

insert—

'Transmission on bankruptcy

'39B. The Registrar of Miners' Homesteads is to register a transmission of a lease resulting from bankruptcy if a request is lodged and the Registrar of Miners' Homesteads is satisfied of the transmission.

'Disclaimer in bankruptcy

'39C. On lodgment of—

- (a) a notice of disclaimer of an interest in a lease under this Act under a law concerning bankruptcy; and
- (b) a request to register the disclaimer;

the Registrar of Miners' Homesteads is, if satisfied of the disclaimer, to register it.'

Insertion of new Part 4

75. After Part 3—

insert—

‘PART 4—BUSINESS, MARKET GARDEN AND RESIDENCE AREAS

‘Application of Act to areas

‘43. (1) Business areas, market garden areas and residence areas under the *Mineral Resources Act 1989* are from the commencement of this section business areas, market garden areas and residence areas under this Act.

‘(2) Except as provided by this Part, Parts 1 and 3 (other than sections 28 and 28B) apply to business areas, market garden areas and residence areas as if they were miners’ homestead perpetual leases.

‘Conditions of areas

‘44. (1) The maximum area that may be held is—

- (a) as a business area—2025 square metres; and
- (b) as a residence area—1012 square metres; and
- (c) as a market garden area—2.5 hectares.

‘(2) The holders of all areas under this Part are to pay an annual rent of \$20 starting on 1 January 1992.’.

PART 4—AMENDMENT OF THE MINING TITLES FREEHOLDING ACT 1980

Amended Act

76. The *Mining Titles Freeholding Act 1980* is amended as set out in this Part and Schedule 4.

Amendment of s. 4 (Interpretation)

77. (1) Section 4—

omit definitions “business area” and “residence area”.

(2) Section 4—

insert—

‘ **“business area”** means a business area under Part 4 of the *Miners’ Homestead Leases Act 1913*;

“market garden area” means a market garden area under Part 4 of the *Miners’ Homestead Leases Act 1913*;

“residence area” means a residence area under Part 4 of the *Miners’ Homestead Leases Act 1913*.’.

Amendment of s. 8 (Application)

78. After section 8(3)—

insert—

‘**(3A)** Despite subsection (3)(d), the Minister may waive the payment of the prescribed freeholding fee if the lessee is in receipt of a pension or the Minister considers the lessee’s circumstances warrant waiving the fee.’.

Insertion of new s. 8C

79. After section 8B—

insert—

‘Unimproved value of land resumed or surrendered

‘8C.(1) If, after 31 December 1980, the area of—

- (a) a miners’ homestead perpetual lease; or
- (b) a business area, market garden area or residence area;

has been reduced by resumption or surrender for public purposes, the Valuer-General is to make a valuation of the unimproved value of the land remaining in the lease or area.

‘(2) The valuation under subsection (1) is to be made at the effective day under section 8A(a) or (b) as if the resumption or surrender had not taken effect for the balance term.

‘(3) The lessee, or a holder of an area, may appeal under section 11 to the Land Court against a valuation made by the Valuer-General under this section.

‘(4) If the valuation of the Land Court is different to the valuation of the Valuer-General, the valuation of the Land Court is the valuation for the purposes of this section.

‘(5) A valuation is to be made under the *Valuation of Land Act 1944* as in force at the effective day, except that section 11(1)(vii) of that Act is not to apply to a valuation for the purposes of section 8A(a).’.

Amendment of s. 9 (Application)

80. After section 9(2)—

insert—

‘(3) If an area of land occupied as a business area, market garden area or residence area is more than the maximum areas allowed under section 44 of the *Miners’ Homestead Leases Act 1913*, the Minister may grant an application under this section only in respect of the maximum area allowable.

‘(4) The Minister may require, as a condition of approval, that the area of land to be freeholded be surveyed or re-surveyed.’.

Replacement of s. 10 (Valuation of unimproved value)

81. Section 10—

omit, insert—

‘Applicant to be advised

‘**10.(1)** The Minister is to give the applicant written notice of a determination made under section 9.

‘(2) If the application is granted the notice is to contain a certificate of

valuation by the Valuer-General of the unimproved value of the land.’.

Amendment of s. 17 (Applicant electing for lease for term of years)

82. Section 17—

omit ‘price,’, *insert* ‘price, or \$100, whichever is more’.

Amendment of s. 18 (Terms and conditions of lease for term of years)

83. (1) Section 18(1)(b)—

omit, insert—

‘(b) the term of a lease is not to be more than 30 years;’.

(2) Section 18(1)(c)—

omit, insert—

‘(c) the term of a lease starts—

(i) on the day of the grant of the lease; or

(ii) if the application under section 9 is received on or after the commencement of section 83 of the *Lands Legislation Amendment Act 1991* and the lessee so elects—on the day of receipt of the application;’.

(3) Section 18(1)(e)—

omit, insert—

‘(e) amounts paid as rent on the former miner’s homestead perpetual lease, business area, market garden area or residence area—

(i) before the start of the lease—are not to be credited to the purchasing price; and

(ii) on or after the start of the lease—are to be credited to the purchasing price.’.

(4) After section 18(1)—

insert—

‘**(1A)** If, but for this subsection, the amount of each instalment under subsection (1)(d) would be less than \$100 (or such other amount as may be

prescribed), the number of instalments is to be reduced so that each instalment is not less than that amount.

‘**(1B)** If in respect of a lease that existed before the commencement of section 83 of the *Lands Legislation Amendment Act 1991*, the amount is changed, the amount (and, if necessary, the number of instalments) is to be adjusted accordingly and is to take effect from the next due day for payment.’.

Insertion of new s. 21A

84. After section 21—

insert—

‘Remission

‘**21A.(1)** A lessee of a lease granted under this Act that is used as the lessee’s residence may apply to the Minister on the grounds of hardship for a reduction of the instalment to be paid.

‘**(2)** The application is to be in the form and to contain the particulars required by the Minister.

‘**(3)** The Minister, after considering the application, may reduce the instalment, but not to an amount less than \$50 nor more than \$100.

‘**(4)** The Minister is to decide the day from which the instalment is to be reduced.

‘**(5)** A reduction of the instalment applies to the applicant only and not to any subsequent lessee.

‘**(6)** The Minister, after investigation of the lessee’s circumstances, may cancel or alter the reduction in the instalment.

‘**(7)** A reduction of the instalment payable does not reduce the purchasing price.

‘**(8)** If a reduction is granted, the term of the lease may be amended so that it is more than the maximum term.

‘**(9)** If the reduction in the instalment is cancelled, the remaining instalments may be adjusted so that the balance of the purchasing price is paid in the term remaining.’.

**PART 5—AMENDMENT OF THE IRRIGATION
AREAS (LAND SETTLEMENT) ACT 1962**

Amended Act

85. The *Irrigation Areas (Land Settlement) Act 1962* is amended as set out in this Part.

Amendment of s. 22 (Agricultural farm tenure)

86. Section 22(1), (2) and (3)—

omit.

Amendment of s. 39 (Land may be sold by auction or withdrawn)

87. Section 39(2), (3) and (4)—

omit.

Insertion of new s. 50A

88. After section 50—

insert—

‘References to Ministers, officers and other matters

‘50A. In the application of the *Land Act 1962* to a matter dealt with under this Act—

- (a) a reference to the Minister in the *Land Act 1962* is taken to be a reference to the Minister under this Act; and
- (b) a reference to an officer of the Department of Lands in the *Land Act 1962* is taken to be a reference to an officer under this Act; and
- (c) a reference to an opening or sale notification or other matter in the *Land Act 1962* is taken to be a reference to those matters under this Act.’.

PART 6—AMENDMENT OF THE FORESTRY ACT 1959

Amended Act

89. The *Forestry Act 1959* is amended as set out in this Part and in Schedule 5.

Amendment of s. 5 (Meaning of terms)

90.(1) Section 5—

omit definitions “Crown holding”, “owner” and “quarry material”.

(2) Section 5—

insert—

‘ **“Crown holding”** means all land—

- (a) held under the *Land Act 1962* as pastoral lease, stud holding, grazing homestead perpetual lease, perpetual town lease (non-competitive lease), perpetual suburban lease (non-competitive lease), perpetual country lease (non-competitive lease), special lease, development lease, occupation licence, permissive occupancy or road licence; and

includes—

- (b) such other land, subject to any lease or licence granted by the Crown, as may be prescribed;

‘ **“deed of grant”** means land granted in fee simple under the *Land Act 1962* and includes a certificate of title issued by the Registrar of Titles;

‘ **“owner”** means, in relation to—

- (a) a vehicle that is registered under a law of a State or Territory providing for the registration of vehicles—the person in whose name the vehicle is registered; or
- (b) a deed of grant—the registered proprietor;

‘**“quarry material”** includes—

- (a) guano; and
- (b) stone, gravel, sand, rock, clay, earth and soil;

but does not include—

- (c) minerals within the meaning of the *Mineral Resources Act 1989*; or
- (d) topsoil, if quarry material is reserved in a deed of grant;

‘**“topsoil”** means that part of the soil profile from the earth’s surface down to the limit of major biological activity that—

- (a) generally contains most of the root systems of native perennial plants; and
- (b) is generally darker in colour than underlying material;’.

Amendment of s. 45 (Forest products, etc., which are the property of the Crown)

91. (1) Section 45(iii)—

omit ‘selection or lease’, *insert* ‘selection or lease, if that selection or lease existed before the commencement of section 91 of the *Lands Legislation Amendment Act 1991*, unless the lessee was the owner of the forest products at that time’.

(2) After section 45(iii)—

insert—

‘(iia) all quarry material—

- (A) other than topsoil, in all leases, containing an entitlement to a deed of grant in fee simple, held under the *Land Act 1962* if granted after the commencement of section 91 of the *Lands Legislation Amendment Act 1991*, unless the lessee was the owner of that material at that time; and
- (B) in all deeds of grant containing a reservation under section 6(2A) of the *Land Act 1962*.’.

(3) Section 45(v)—

omit ‘forest products’, insert ‘forest products or quarry material’.

(4) Section 45 (last sentence)—

omit, insert—

‘(2) Subsection (1) does not affect the operation of section 7.5 of the *Mineral Resources Act 1989*.

‘(3) Subsection (1)(iii)(A) does not stop a lessee of a freeholding lease from using quarry material from the lease for use on that lease.’.

Insertion of new s. 45A

92. After section 45—

insert—

‘Owner of quarry material

‘45A. A lessee is to be taken to be the owner of quarry material in respect of a lease granted under the *Land Act 1962*—

- (a) on an application, under section 139 of the *Land Act 1962*, received before 5 February 1990; or
- (b) on an application, under section 191 of the *Land Act 1962*, received before—
 - (i) 5 February 1990; or
 - (ii) 3 October 1991, in respect of a lease issued or a lease converted from a special lease issued—
 - (A) under the *Land Act 1962* and under an arrangement under section 24 of the *Industrial Development Act 1963*; or
 - (B) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
- (c) on an application, under section 207 of the *Land Act 1962*, received before—
 - (i) 5 February 1990; or

- (ii) 3 October 1991, in respect of a lease issued—
 - (A) under the *Land Act 1962* and under an arrangement under section 24 of the *Industrial Development Act 1963*; or
 - (B) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
 - (C) subject to a condition relating to the freeholding of the lease.’.

Amendment of s. 47 (Sale of forest products on Crown holdings or mining leases)

93. (1) Section 47(1)—

omit ‘or any forest products’, *insert* ‘or’.

(2) Section 47(1)(ii)(a)—

omit ‘or of forest products’, *insert* ‘or’.

(3) Section 47(1)(ii)(b)—

omit ‘forest products on land comprised in’.

(4) Section 47(2B) (as numbered by this Act)—

omit ‘forest products proposed’, *insert* ‘forest products or quarry material proposed’.

Amendment of s. 53

94. Section 53(1)(ii)—

omit ‘forest products’, *insert* ‘forest products or any quarry material’.

Amendment of s. 54 (Interfering with forest products on Crown lands, etc.)

95. After section 54(a)—

insert—

‘(aa) by the owner if the quarry material is to be used on the land in the deed of grant from which the quarry material is to be taken; or’.

Insertion of new s. 54A

96. After section 54—

insert—

‘Interfering with quarry material in deeds of grant

‘54A.(1) A person must not, without lawful authority, interfere with, or cause to be interfered with, any quarry material in any deed of grant that contains a reservation under section 6(2A) of the *Land Act 1962*.

‘(2) This section does not stop an owner from using quarry material taken from a deed of grant for use on that grant.’.

Amendment of s. 55 (Licenses to get forest products, etc.)

97.(1) Section 55(1)(iv)—

omit, insert—

‘(iv) any Crown holding;’.

(2) After section 55(1)—

insert—

‘(1A) Subsection (1)(iv) does not apply to material (of which the lessee is the owner) mentioned in subsection (1)(a), (b), (c) or (d) in an agricultural selection or a perpetual country lease under the *Land Act 1962* or a miner’s homestead lease or a miner’s homestead perpetual lease under the *Miners’ Homestead Leases Act 1913*.

‘(1B) The Conservator of Forests may grant licences for the purpose of getting quarry material from deeds of grant that contain a reservation under section 6(2A) of the *Land Act 1962*.’.

Insertion of new Part 6A

98. After section 61A—

insert—

‘PART 6A—QUARRY MATERIAL IN DEED OF GRANT

‘Interpretation

‘61B. In this Part—

“permit” means—

- (a) a permit for the sale of quarry material in a deed of grant; or
- (b) a licence to remove quarry material in a deed of grant.

‘Entitlement under permit

‘61C.(1) A permit does not authorise a person to enter the surface of land of an owner that is—

- (a) within 200 metres laterally of—
 - (i) a dwelling-house, or other building (not of a temporary nature) on that land, principally used for accommodation of persons or the conduct of business; or
 - (ii) a building (not of a temporary nature) on that land used for community, sporting or recreational purposes or as a place of worship; or
 - (b) within 100 metres laterally of—
 - (i) a principal stockyard or a dam, bore or artesian well of that owner or other artificial water storage of that owner connected to a supply of water; or
 - (ii) a cemetery or burial place;
- except with the written consent of the owner of the land lodged

with the Conservator of Forests.

‘(2) In this section—

“**dwelling-house**” means a fixed structure that is wholly or partly enclosed by walls and is roofed;

“**building**” means a fixed structure that is wholly or partly enclosed by walls and is roofed.

‘**Withdrawal of consent**

‘**61D.** Consent mentioned in section 61C may only be withdrawn by the giving of written notice to—

- (a) the holder of the permit; and
- (b) the Conservator of Forests.

‘**Provision of security**

‘**61E.(1)** A permit must not be granted until the applicant deposits the security (if any) determined by the Conservator of Forests to ensure compliance with the permit and this Act.

‘(2) The security must cover any damage to land or improvements that may be caused by a person acting under the authority of the permit.

‘(3) The owner of land may apply in writing to the Conservator of Forests to rectify the damage mentioned in subsection (2) that has been caused by activity allegedly authorised under a permit in respect of the land.

‘(4) If the Conservator of Forests is satisfied (whether or not on an application referred to in subsection (3)) that damage mentioned in subsection (1) has been caused by a person purporting to act under the authority of a permit, the Conservator must require the person to take all action necessary to rectify the damage.

‘(5) The Conservator of Forests may, at any time (whether during or after the term of a permit and whether or not the Conservator cancels the permit), use the whole or part of the amount of the security deposited in respect of the permit—

- (a) to rectify any damage mentioned in subsection (4); or

- (b) towards payment of amounts (including penalties) owing to the Crown under this Act or for a breach of any of the conditions of the permit or of this Act.

‘(6) If, at any time (whether during or within 28 days after the term of a permit)—

- (a) the amount or part of the amount deposited under this section is used as provided by subsection (5); or
- (b) the Conservator of Forests considers that, because of the damage caused or likely to be caused by a person purporting to act under the authority of the permit or for any other reason, a further amount of security should be deposited in respect of the permit;

the Conservator must, by written notice, require the holder or former holder of the permit to deposit the further security within the time specified in the notice.

‘(7) The Conservator of Forests may accept a bond or guarantee by, or other financial arrangement with, a bank, insurance company or other financial institution approved by the Conservator, or another form of security acceptable to the Conservator, as the whole or part of the security to be deposited under this section.

‘(8) It is a condition of a permit that the holder must deposit security or further security from time to time in accordance with requirements made under this section.

‘(9) Subject to subsection (5), if a permit has ended or been terminated, the Conservator of Forests must refund to the holder of the permit (or as the holder in writing directs) any security deposited, and not used as provided by subsection (5), less any amount determined by the Conservator to be used after—

- (a) the receipt by the Conservator of Forests of written agreement by the owners of all occupied land so specified; or
- (b) the expiration of 28 days from the date of expiration or termination of the permit, whichever first occurs.

‘(10) For the purposes of paragraph (9)(a), if more than one person is the owner of a parcel of land, the agreement of one such person is, in the absence of evidence to the contrary, taken to be the agreement of those persons.

‘(11) If security under this section in respect of a permit is accepted by way of a bond or guarantee by, or other financial arrangement with, a bank, insurance company or other financial institution, an amount payable to the holder under subsection (9) is to be refunded to the bank, insurance company or financial institution and not to the holder of the permit.

‘Compensation

‘61F.(1) Despite section 61E, the Crown or an owner is entitled to recover in the Land Court compensation in respect of damage or injury suffered or loss incurred because of a person acting or purporting to act under the authority of a permit.

‘(2) Amounts paid under section 61E in respect of rectification of damage the subject of the proceeding must be taken into account in assessing compensation.

‘(3) The holder of a permit is not liable under this section in respect of damage or injury or loss caused by a person who is not authorised by the holder to be on the land the subject of the permit.

‘Prior notice of entry to be served

‘61G. (1) The holder of a permit is to notify the owner of occupied land (other than a reserve for a road) of the holder’s intention to enter the land at least 7 days before initial entry is made under the authority of a permit.

‘(2) The owner of the land may, by an endorsement on the application for the permit or the permit, agree to a shorter period of notice.

‘Appeal to Land Court

‘61H.(1) The Land Court is authorised to hear and determine matters under this Division.

‘(2) Application may be made to the Land Court for it to settle the amount of compensation payable to an owner of the land for—

- (a) deprivation of possession of the surface of land; and
- (b) diminution of the value of land or improvements; and
- (c) diminution of the use made, or that may be made, of land or

improvements; and

- (d) severance of part of land from other parts or from other land; and
- (e) surface rights of access; and
- (f) loss or expense because of the grant or renewal of a permit.

‘Appeal against Land Court’s determination

‘61I. Section 44 of the *Land Act 1962* applies to a party aggrieved by a determination of the Land Court made under section 61H.’.

PART 7—AMENDMENT OF THE VALUATION OF LAND ACT 1944

Amended Act

99. The *Valuation of Land Act 1944* is amended as set out in this Part.

Amendment of s. 5

100. Section 5(1)—

insert—

- ‘ “valuation for rental purposes” means the valuation under section 11(1) (va) of land in a lease, licence or permit granted or issued under the *Land Act 1962*;’.

Replacement of s. 9 (Power of delegation)

101. Section 9—

omit, insert—

‘Delegation of powers

‘9. The Valuer-General may delegate all or any of the Valuer-General’s powers under this Act to an officer of the department.’.

Amendment of s. 11

102. (1) Section 11(1)(v)(b)—

omit, insert—

‘(b) in a lease, licence or permission to occupy under the *Land Act 1962* or granted or issued by the Co-ordinator-General or the Commissioner of Water Resources; or’.

(2) Section 11(1)(v)(d) and (e)—

omit.

(3) Section 11(1)(v)—

omit ‘limitation’, insert ‘limitation of use having regard to the purpose and conditions’.

(4) After section 11(1)(v)—

insert—

‘(va) Subject to paragraph (vb), the value to be used to determine the rent that applies to a lease, licence or permit under the *Land Act 1962* is the unimproved value under this Act.

(vb) For the purposes of a valuation for rental purposes, if the conditions of the lease, licence or permit are not restricted to farming or to a use as a single dwelling-house as defined in paragraph (vii)—

(a) paragraph (vii) and section 12(1A)(i) do not apply; and

(b) in the case of land other than land used for farming—the physical state and condition of the land at the start of the lease, licence or permit (other than improvements as defined in section 5 of the *Land Act 1962*) is to be considered.’.

(5) Section 11(1)(vii)—

omit ‘the business of primary production’, *insert* ‘farming’.

(6) Section 11(1)(vii)—

omit definition “the business of primary production”,

insert—

‘**“farming”** means—

- (a) the business or industry of grazing, dairying, pig farming, poultry farming, viticulture, orcharding, apiculture, horticulture, aquiculture, vegetable growing, the growing of crops of any kind, forestry; or
- (b) any other business or industry involving the cultivation of soils, the gathering in of crops or the rearing of livestock;

if the business or industry represents the dominant use of the land, and—

- (d) has a significant and substantial commercial purpose or character; and
- (e) is engaged in for the purpose of profit on a continuous or repetitive basis.’.

(6) Section 11(1)(viii)—

omit.

Amendment of s. 15 (Separate valuation)

103. (1) Section 15(1)(c)(i), (ii) and (iii)—

omit, insert—

- ‘(i) is situated partly in one Area and partly in another; or
- (ii) is situated wholly in one Area, but partly in one division and partly in another, and the amount of the general rate made and levied in respect of the rateable land in each division is not the same; or
- (iii) is rateable as to part only; or
- (iv) is being valued for rental purposes;’.

(2) Section 15(1)(c)—

omit ‘that is rateable’, *insert* ‘that is rateable, or the part that is valued for rental purposes’.

Amendment of s. 16B (Valuer-General to make annual valuation)

104. After section 16B(3)—

insert—

‘(4) The Valuer-General is not to make an annual valuation if directed by the Minister.

‘(5) If an annual valuation is not made the previous annual valuation continues in force.’.

Amendment of s. 16G (Owner may object)

105. Section 16G—

at the end, *insert—*

‘(2) An owner of land may object to the valuation of the land for rental purposes by the Valuer-General if—

- (a) the owner has not previously objected under subsection (1); or
- (b) the valuation for rental purposes differs from the valuation in subsection (1).

‘(3) An objection under subsection (2) must be made within 28 days after the owner receives a rent notice under section 247 of the *Land Act 1962*.’.

Amendment of s. 16H (Valuer-General to consider objection and notify objector)

106. (1) Section 16H—

omit ‘consider the objection’, *insert* ‘consider an objection made under section 16G’.

(2) Section 16H—

omit ‘within 60 days after the period of 28 days after the period of 28 days referred to in section 16G’,

insert ‘as soon as is reasonably practicable’.

Amendment of s. 25 (Purposes for which valuation to be used)**107.** Section 25—at the end, *insert*—

‘(2) The valuation for rental purposes is to be used to calculate a rent under the *Land Act 1962* if that Act provides for the use of that value.’.

Amendment of s. 47 (Regulations)**108.** Section 47(3) and (4)—*omit, insert*—

‘(3) Section 28A of the *Acts Interpretation Act 1954* applies to an order in council made under this section as if it were a regulation.’.

PART 8—TRANSITIONAL AND SAVINGS**Rent and rental periods—Land Act 1962****109.(1)** This section applies only to leases that started before 1 July 1993.

(2) Sections 38, 40, 41A, 61, 131, 204, 210, 212, 242, 243, 245, 246 and 248 of the *Land Act 1962* (as they existed immediately before assent to the *Lands Legislation Amendment Act 1991*) relating to determinations by the Minister and the Land Court (or, on appeal, the Land Appeal Court) and references to the Land Court (or, on appeal, the Land Appeal Court) in respect of—

- (a) annual rent for rental periods; and
- (b) rental periods;

continue to apply up to and including 30 June 1993.

(3) If the Minister has made a determination of rent under subsection (2), the Minister, on becoming aware of—

- (a) the application of further relevant evidence—may reduce the rent;

or

- (b) any error of fact or law (but not of reasoning or valuation practice)—may reduce or, subject to subsection (4), increase the rent.

(4) The rent may only be increased before the end of the period during which the lessee could request that the matter be referred to the Land Court.

(5) If rent is increased under subsection (3), the period during which the lessee may request that the matter be referred to the Land Court starts on the day the Minister notifies the lessee of the rent increase.

(6) If the lessee has requested that the matter be referred to the Land Court before the Minister notifies the lessee of the rent increase, the request is taken to be a request made in respect of the increased rent.

(7) If a reference is made to the Land Court under a section mentioned in subsection (2) for the hearing and determination of an annual rent, the lessee is to pay the annual rent determined by the Minister until a different annual rent is determined.

(8) If on a reference mentioned in subsection (7) the amount of the annual rent is amended, any excess rent paid is to be credited to the lessee, together with interest at the prescribed rate on the amount credited from the time of payment until the lessee is given written notice of the amended rent.

(9) The Governor in Council may make regulations, not inconsistent with this Act, with respect to any matter that is required or permitted to be prescribed by this Part.

Rent notices—Land Act 1962 (s. 247)

110. Section 247 of the *Land Act 1962* (as it existed before the commencement of section 55 of this Act) is to continue to apply to a matter that may be prescribed under the *Land Act 1962* (as amended by this Act) until the matter is prescribed.

Payment of survey fees—Land Act 1962

111. Sections 60 and 104 of the *Land Act 1962* (as amended by this Act), so far as they relate to the payment of interest, do not apply to pastoral leases or selections that existed before the commencement of sections 14

and 17 of this Act.

Term, instalments and purchasing price—Land Act 1962

112.(1) This section applies only to leases to which sections 123, 127, 144A, 176, 188, 194 and 207 of the *Land Act 1962* (as they existed before the commencement of sections 18, 20, 24, 32, 35, 40 and 45 of this Act) applied.

(2) The term of a lease may continue to be more than 30 years, unless the amount of an instalment would be less than the prescribed amount.

(3) Subject to subsection (4), if, but for this subsection, the amount of an instalment would be less than the prescribed amount—

(a) the amount of the instalment is to be increased to an amount not less than the prescribed amount from the next due day for payment after the commencement of this section; and

(b) if necessary—the term adjusted accordingly.

(4) Subject to subsection (6), if in respect of a lease declared to be used for residential purposes, the amount of the increase and the time when such increase is payable is to be as prescribed.

(5) Subject to subsection (6), if in respect of a lease not used for residential purposes, the amount of the increase and the time when such increase is payable is to be as prescribed.

(6) If in any year the prescribed amount is increased, any increase payable under subsection (4) or (5) is to be recalculated.

(7) Each lease—

(a) under section 176 (subject to section 178); and

(b) under section 207;

of the *Land Act 1962* to which a fixed rate of interest on the payment of instalments applies, continues to be subject to the fixed rate.

(8) If a lessee elects to complete the purchase, the amount to be paid to complete the purchase is to be calculated under Schedule 3 of the Land Regulations 1988 as if the term had not been adjusted under subsection (3).

Auction purchase freehold lease—Land Act 1962

113. (1) If an instrument of lease has not been issued to a purchaser under section 176 of the *Land Act 1962* (as in force immediately before the commencement of section 32 of this Act), the purchaser is taken to be a lessee of a lease that would issue under section 176 of the *Land Act 1962* (as in force immediately after the commencement of section 32 of this Act).

(2) If a deed of grant over the land comprised in an auction purchase freehold lease under the *Land Act 1962* (as in force immediately before the commencement of this section) has not issued because a developmental or improvement condition has not been complied with, then, despite section 179 of the *Land Act 1962*, the deed is to be issued if all other requirements of section 179 have been complied with.

(3) Subsection (2) does not apply to a lease issued under—

- (a) both the *Land Act 1962* and the *Irrigation Areas (Land Settlement) Act 1962*; or
- (b) both the *Land Act 1962* and the *Brigalow and Other Lands Development Act 1962*; or
- (c) a condition requiring a purchaser to complete improvement or developmental works or establish a business or industry on the land within a specified time and that time has not ended at the commencement of this section.

Applications under s. 191—Land Act 1962

114. (1) If—

- (a) an application under section 191 of the *Land Act 1962* was received before 5 February 1990; or
- (b) an application received before 3 October 1991 was in respect of a lease issued or a lease converted from a special lease issued—
 - (i) under the *Land Act 1962* and under an arrangement under section 24 of the *Industrial Development Act 1963*; or
 - (ii) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development;

the application is to be dealt with under Division 3 of Part 7 of the *Land Act 1962* (as in force immediately before the commencement of the *Land Act Amendment Act 1990*).

(2) To allay any doubt, the lease mentioned in section 191 of the *Land Act 1962* (as in force immediately before the commencement of section 37 of this Act) include a lease mentioned in subsection (1)(b).

Rental period of special leases—Land Act 1962

115. (1) If a special lease that started before 1 July 1993 is in its first rental period, that period if it would end after 30 June 1993—is to continue to 30 June following its end, despite section 43 of this Act.

(2) After the end of the first rental period after 30 June 1993, the rent is to be calculated under section 204B of the *Land Act 1962* (as in force at the commencement of section 43 of this Act).

(3) If a special lease that started before 1 July 1993 is in its second or a subsequent rental period, the rental period existing at the commencement of section 43 of this Act ends on 30 June 1993.

(4) If a special lease that started before section 43 of this Act has a rental period for the whole of its term, it retains that rental period.

Hardship special leases—Land Act 1962 (s. 204 (8A))

116. A concession granted under section 204(8A) of the *Land Act 1962* (as in force immediately before the commencement of section 43 of this Act) is to continue to apply until the expiry of the rental period in which it was granted.

Sale to religious body—Land Act 1962 (s. 209)

117. A lease issued under section 209 of the *Land Act 1962* is, from 1 July 1993, subject to section 212 of the *Land Act 1962* (as amended by this Act).

Registers—Land Act 1962

118. A register maintained under the *Land Act 1962* immediately before the commencement of this section forms part of the appropriate register to be maintained under that Act as amended by this Act.

Reference to officers in Land Act 1962—other Acts

119. A reference in any Act—

- (a) to a Land Commissioner, Assistant Land Commissioner, Deputy Land Commissioner, Land Agent or Land Inspector is to be taken to be a reference to an officer of the Department of Lands; and
- (b) to the Registrar of Dealings is to be taken to be a reference to the Registrar of Titles.

Penalty and forfeiture—State Housing Act 1945 and Land Act 1962

120. (1) Section 249 of the *Land Act 1962* (as in force immediately before the commencement of section 57 of this Act) is to continue to apply to sections 22B, 24 and 24A of the *State Housing Act 1945*.

(2) The rate of penalty under section 249 of the *Land Act 1962* (as in force immediately before the commencement of section 57 of this Act) is to continue to apply to leases and licences under the *Land Act 1962* until another rate is prescribed.

SCHEDULE 1

section 3

CONSEQUENTIAL AMENDMENTS—GENERAL

Section 3—

omit.

Section 4 (1)—

omit ‘the Schedule’, *insert* ‘Schedule 1’.

Section 8 (1)—

omit ‘in the office in Brisbane of’, *insert* ‘to’.

Section 8 (2)—

omit, insert—

‘(2) On enrolment of the deed of grant by the Registrar of Titles a copy of the instrument declaring the trusts is part of the register under the *Real Property Act 1861*.’.

Section 9 (1) (last sentence)—

renumber as ‘(1A)’.

Section 9 (1A)—

renumber as ‘(1C)’.

Section 14—

renumber ‘(2)(a)’ as ‘(2)’ and *omit* ‘paragraph (c) of this subsection’, *insert* ‘subsection (2D)’.

renumber ‘(2)(c)’ as ‘(2D)’ and ‘(2A)’ as ‘(2E)’.

Section 16 (1)—

omit ‘the office of’ and ‘in Brisbane’.

Section 17 (1)—

insert ‘region,’ before ‘district’ (wherever occurring).

Heading to Division 3 of Part 2—

omit ‘, Commissioners’.

Section 24(2)(b)—

renumber as ‘(2A)’ and *omit* ‘paragraph (a) of this subsection’, *insert* ‘subsection (2)’.

Section 24(8)—

omit ‘or a Commissioner,’.

Section 24(8A)—

omit ‘Registrar of Dealings’ (twice occurring), *insert* ‘Registrar of Titles’.

Section 38 (Heading)—

omit ‘rent,’.

Section 38—

(1) *omit* ‘rent, or’.

(2) *omit* last sentence.

Section 38(a)—

omit ‘made by the Commissioner or some other person’.

Section 38(b)—

omit ‘rent or’.

Section 40(1)(c)—

omit ‘rent,’.

Section 40(1)(g)—

omit.

Section 41A(1)—

omit ‘rental determinations or’.

Section 44(7)—

omit ‘Land Agent’s’.

Section 56(1)—

omit ‘with the Land Agent’.

Section 56(2)—

omit ‘block’, *insert* ‘lot’.

Section 56(3)—

omit ‘block’, *insert* ‘lot’.

Section 56(4) (Heading)—

omit ‘Curator’, *insert* ‘Trustee’.

Section 56(4)—

(1) *omit* ‘block’, *insert* ‘lot’.

(2) *omit* ‘Curator’ (twice occurring), *insert* ‘Trustee’.

Section 56(6)—

omit ‘block’ (twice occurring), *insert* ‘lot’.

Section 56(7)—

(1) *omit* ‘blocks’ (wherever occurring), *insert* ‘lots’.

(2) *omit* ‘block’ (twice occurring), *insert* ‘lot’.

Section 58(4)—

omit ‘with the Land Agent’.

Section 59—

omit ‘Land Agent or to the office, in Brisbane, of the’.

Section 73(6)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 73A—

omit.

Section 75(3)—

omit ‘by the Commissioner’.

Section 77(1)(a)—

omit ‘with the Land Agent’.

Section 77(2)—

omit ‘by the Commissioner’.

Section 77(3)(a)—

omit ‘by the Commissioner’ and ‘with the Land Agent’.

Section 77(3)(b)—

- (1) *omit* ‘the Commissioner shall,’.
- (2) *omit* ‘cause the land’, *insert* ‘the land is’.
- (3) *omit* ‘to the Land Agent’.

Section 77(3)(c)—

omit ‘by the Commissioner’.

Section 77(3)(d)—

omit ‘by the Commissioner’ and ‘by him’ (twice occurring).

Section 90(2)—

omit ‘with the Land Agent’.

Section 96(1)—

- (1) *omit* ‘with the Land Agent’ and ‘by a Land Agent’.
- (2) *omit* ‘with him when he so receives it’, *insert* ‘when received’.

Section 96(4)—

omit ‘portion’, *insert* ‘lot’.

Section 96(9)—

- (1) *omit* ‘portion’, *insert* ‘lot’.
- (2) *omit* ‘portions’, *insert* ‘lots’.

Section 96(14) (Heading)—

omit ‘Curator’, *insert* ‘Trustee’.

Section 96(14)—

omit ‘Curator’, *insert* ‘Trustee’ (twice occurring).

Section 100(1)—

omit ‘the Land Agent for the District in which the land is situated, or to the office in Brisbane of’.

Section 100(2)—

omit ‘the office of ’ and ‘in Brisbane’.

Section 101(1)(c) (second)—

omit ‘with the Land Agent’.

Section 112—

(1) *omit* ‘, the Commissioner’, *insert* ‘, an authorised officer’.

(2) *omit* ‘by the Commissioner’, *insert* ‘by such an officer’.

Section 118 (Heading)—

omit ‘Commissioner’, *insert* ‘Officer’.

Section 118—

omit ‘The Commissioner’, *insert* ‘An authorised officer on investigation as to all the circumstances’.

Section 120—

omit ‘by the Land Agent’.

Section 121—

omit.

Section 124—

omit.

Section 127A—

omit.

Sections 132 and 133—

omit.

Section 140(5)—

omit ‘rejecting an application on the ground referred to in subsection (3)(c)’,

insert ‘refusing an application’.

Section 140(6) (last sentence)—

(1) *renumber* as (6A).

(2) *omit* ‘this subsection’, *insert* ‘subsection (6)’.

Section 140(8)—

omit.

Section 141(1) (last sentence)—

omit.

Section 141(3)(a)—

omit ‘one hundred and thirty-five, one hundred and thirty-six, one hundred and thirty-seven, one hundred and thirty-eight,’.

Section 141(3)(c)—

omit.

Section 142(1)—

omit ‘date of the determination’, *insert* ‘day of the notification of the determination’.

Section 142(2)—

omit ‘date of the aforementioned determination by the Minister’, *insert* ‘day specified under subsection (1)’.

Section 142(5)—

(1) *omit* ‘first year’s rent’, *insert* ‘deposit’.

(2) *omit* ‘deemed to be arrears of rent’, *insert* ‘taken to be arrears of instalments’.

Section 155(3)—

omit.

Section 158—

omit.

Section 159A(2)(b)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 159A(6)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 164(1)—

omit ‘upon consideration of the recommendation of the Commission’.

Heading to Division 1 of Part 7—

omit ‘Sales in Fee-Simple’, *insert* ‘Purchase Freehold Leases and Sales’.

Section 171(2)(h)—

omit.

Section 173(1)—

omit ‘a declaration’, *insert* ‘an application’.

Section 173(2)—

omit ‘declaration of competency shall be’, *insert* ‘prescribed form is to be completed and’.

Section 173(3)—

omit ‘declaration of competency as aforesaid’, *insert* ‘completed prescribed form’.

Section 174(1)—

(1) *omit* ‘with the Land Agent:’, *insert* ‘at the place appointed by the sale notification.’.

(2) *omit* the proviso, *insert* ‘(1A) An application that does not indicate the applicant to be competent under this Act and the sale notification is to be refused.’.

Section 174(2)—

omit ‘by the Land Agent’.

Section 174(3)—

omit ‘by the Land Agent’.

Section 188A—

omit.

Section 189—

omit.

Section 190(2) —

- (1) *renumber* ‘(a)’ (first sentence) as ‘(1)’.
- (2) *renumber* ‘(a)’ (second sentence) as ‘(2)’.
- (3) *renumber* ‘(a)’ (third sentence) as ‘(3)’.
- (4) *renumber* ‘(b)’ (first sentence) as ‘(4)’.
- (5) *renumber* ‘(b)’ (second sentence) as ‘(5)’.
- (6) *renumber* ‘(c)’ as ‘(6)’.
- (7) *renumber* ‘(e)’ as ‘(11)’.
- (8) *renumber* ‘(f)(i)’ as ‘(12)’ and *omit* ‘this subsection’, *insert* ‘subsection (13)’.
- (9) *renumber* ‘(f)(ii)’ as ‘(13)’ and *omit* ‘paragraph (e) of this subsection’, *insert* ‘subsection (11)’.
- (10) *renumber* ‘(f)(iii)’ as ‘(14)’ and *omit* ‘subparagraph (i) or (ii) of this paragraph’, *insert* ‘subsection (12) or (13)’.

Section 193(1)—

omit ‘date of the determination’, *insert* ‘day of the notification of the determination’.

Section 193(2)—

omit ‘date of the aforementioned determination’, *insert* ‘day specified under subsection (1)’.

Section 193(5)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 195(2) and (3)—

omit.

Section 195(4)—

omit ‘subsection (2) of this section’, *insert* ‘this Division’.

Section 197—

omit.

Section 199(1)(d)—

omit ‘together with’, *insert* ‘together with the plan fee, any other fees applicable and’.

Section 200(1)—

omit ‘a declaration’, *insert* ‘an application’.

Section 200(2)—

omit ‘declaration of competency shall be’, **insert** ‘prescribed form is to be completed and’.

Section 200(3)—

omit ‘declaration of competency’, *insert* ‘completed prescribed form’.

Section 200A(1)—

(1) *omit* ‘with the Land Agent’, *insert* ‘at the place appointed by the sale notification’.

(2) *omit* last sentence, *insert* ‘(1A) An application that does not indicate the applicant to be competent under this Act and the sale notification is to be refused.’.

Section 200A(2)—

omit ‘by the Land Agent’.

Section 200A(3)—

omit ‘by the Land Agent’.

Section 203(d)—

omit ‘section 207 of this Act’, *insert* ‘Division 2 of Part 8’.

Section 203 (fifth sentence)—

omit ‘Such person’, *insert* ‘That person, if not the owner of the improvements,’.

Heading to Division 2 of Part 8—

omit, insert ‘Division 2—Conversion of special lease’.

Section 214A(2)(b)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 225 (Heading)—

omit ‘Land Agent to keep registers’, *insert* ‘Registers’.

Section 225(1)—

(1) *omit* ‘The Land Agent shall keep a register in which he shall enter’,
insert ‘A register is to be kept in each district land office in which is to be entered’.

(2) *omit* ‘by him’, *insert* ‘in that office’.

Section 225(2)—

omit, insert—

‘(2) A register of applications under the selective method to lease land as pastoral lease or selection is to be maintained in each office appointed by an

opening notification for the receipt of applications.

‘(3) A register is also to be maintained in the office where the applications are considered by the Committee of Review.’.

Section 226(1)—

omit ‘in the office in Brisbane of ’, *insert* ‘by’.

Section 228—

omit ‘Minister’ (wherever occurring), *insert* ‘Registrar of Titles’.

Section 236(1)—

omit ‘Land Agent or at the office in Brisbane of the’.

Section 236(2)—

omit ‘the Land Agent or at the office in Brisbane of ’.

Section 236(4)(b)—

omit ‘by the Commissioner or some other person’.

Section 237(1)—

omit ‘the Land Agent or at the office in Brisbane of ’.

Heading to Division 3 Part 10 (before s. 242)—

omit ‘Rent’, *insert* ‘Valuation’.

Sections 242 to 243—

omit.

Section 246—

omit.

Section 248—

omit.

Section 249 (Heading)—

omit, insert—

‘Penalties for default in payment of rent or instalments’.**Section 249(1)—**

omit ‘rent’ (wherever occurring), *insert* ‘rent or instalments’.

Section 249(3)(b)—

omit ‘rent’ (wherever occurring), *insert* ‘rent or instalments’.

Section 249(3)(b)(i)—

omit ‘by the Minister under paragraph (a) of this subsection’,
insert ‘under section 248A’.

Section 249(3)(b)(ii)—

omit, insert—

‘(ii) if a deferral or forgiveness is in force under section 248A’.

Section 249(3)(c)—

omit.

Section 249A—

omit ‘to the nearest whole dollar’, *insert* ‘in whole dollars’.

Section 279(3)—

omit ‘Commissioner’ (twice occurring), *insert* ‘Commission’.

Section 279(4)—

omit ‘the Commissioner’ (twice occurring), *insert* ‘a member of the Commission’.

Section 282(3)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 284(3)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 284(4)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 286(1)—

omit ‘**Registrar of Dealings**’, *insert* ‘Registrar of Titles’.

Section 288(3)—

omit ‘Registrar of Dealings’, *insert* ‘Registrar of Titles’.

Section 289 (Heading)—

omit ‘and transmissions by death’.

Section 289—

omit ‘, and the transmission of the interest in any land held or being purchased under this Act of any deceased lessee, licensee or purchaser under Part VII shall’,

insert ‘may’.

Section 291(1) and (1A)—

omit ‘Registrar of Dealings’ (wherever occurring), *insert* ‘Registrar of Titles’.

Section 297(1)—

omit ‘rent’, *insert* ‘rent or instalments’.

Section 299(2)—

omit ‘Commissioner’ (twice occurring), *insert* ‘Commission’.

Section 300—

omit ‘rent’, *insert* ‘rent or instalments’.

Section 305(1)—

omit ‘rent’, *insert* ‘rent or instalments’.

Section 323(8) (Heading)—

omit.

Section 323(8)—

omit ‘a Commissioner to furnish or’, *insert* ‘the Commission’.

Section 333(1)—

omit ‘year’s rent’, *insert* ‘year’s rent or instalment’.

Section 333(2)—

omit ‘rent’, *insert* ‘rent or instalment’.

Section 364—

omit ‘or the Registrar of Dealings’.

Section 365(3)(c)—

omit ‘rent’, *insert* ‘rent or purchasing price’.

Section 365(5)—

omit, insert—

‘(5) If land is to be added on the closure of a road under section 363 to a lease held under section 127 or 188, the capital value of the land to be added is to be paid to the Crown before the addition of the further land.’.

Section 373(1)—

omit ‘Commissioner or’.

Section 377(1)—

omit ‘a Commissioner, a land inspector or’.

Section 378 (Heading)—

omit ‘Commissioners and other’.

Section 378—

- (1) *omit* ‘, any Commissioner,’.
- (2) *omit* ‘other’ (twice occurring).
- (3) *omit* ‘, Commissioner’.

Section 381(3)—

omit ‘a Commissioner or prickly-pear warden’, *insert* ‘an officer of the department’.

SCHEDULE 2

section 3

CONSEQUENTIAL AMENDMENTS—RURAL LANDS PROTECTION

Section 18—

omit.

Heading to Division 5 of Part 10—

omit.

Sections 252 to 262A—

omit.

Sections 264 to 268—

omit.

Heading to Division 13 of Part 10—

omit.

Sections 324 to 332—

omit.

Section 376—

omit.

SCHEDULE 3

section 70

**CONSEQUENTIAL AND MINOR AMENDMENTS—MINERS'
HOMESTEADS****Section 23A(1)(b)—***omit.***Section 23A(2)—***omit '\$2', insert '\$20'.***Section 24(4)—***omit 'lessee on', insert 'lease on'.***SCHEDULE 4**

section 76

**CONSEQUENTIAL AND MINOR AMENDMENTS—MINING
TITLES FREEHOLDING****Section 3—***omit.***Section 5—***omit 'business area', insert 'business area, market garden area'.*

Part 3 (Heading)—

omit ‘BUSINESS AREAS’, *insert* ‘BUSINESS AREAS, MARKET GARDEN AREAS’.

Section 8A—

omit ‘business area’, *insert* ‘business area, market garden area’.

Section 8B(1)—

omit ‘business area’, *insert* ‘business area, a market garden area’.

Section 9(1)—

omit ‘business area’ (twice occurring), *insert* ‘business area, market garden area’.

Section 9(2)—

omit ‘business area’ (twice occurring), *insert* ‘business area, market garden area’.

Section 11—

omit ‘or 8B,’ *insert* ‘, 8B or 8C,’.

Section 15(1)(b)—

omit ‘30’.

Section 16(1)(a)—

omit ‘business area’, *insert* ‘business area, market garden area’.

Section 16(3)—

omit, insert—

‘(3) If an election is made under subsection (1), amounts paid as rent—

- (a) before the day of receipt of the notice of election—if received before the commencement of Schedule 4; or
- (b) before the day of the receipt of the application under section 9—if received on or after the commencement of Schedule 4;

of the *Lands Legislation Amendment Act 1991*, are not to be credited to the purchasing price.

‘(4) Amounts paid after the day specified in subsection (3)(a) or (b), as the case may require, are to be credited to the purchasing price.’.

Section 17(1)—

omit ‘30’.

Section 17(1)(a)—

omit ‘business area’, insert ‘business area, market garden area’.

Section 22(1)(d)—

omit, insert—

- ‘(d) a market garden area; or**
- (e) a residence area.’.**

SCHEDULE 5

section 89

CONSEQUENTIAL AND MINOR AMENDMENTS—FORESTRY

Section 47(1)—

(1) *omit* ‘State Forest’, *insert* ‘State Forest), or any quarry material in a reservation for quarry material in a deed of grant’.

(2) *omit* ‘or holder’, *insert* ‘, holder or owner,’.

Section 47(1)(i)—

omit ‘Shall’, *insert* ‘is, except in the case of a deed of grant, to’.

Section 47(1)(ii)(b)—

omit ‘Resource Industries,’,

insert—

‘Resource Industries; or

(c) if the sale is of quarry material in a reservation in a deed of grant;’.

Section 47(2) (After first sentence)—

insert—

(1) ‘(2A) If an objection under subsection (1) to the sale of quarry material in a reservation in a deed of grant is not made, the Conservator of Forests may make the sale.’.

(2) *number* the last sentence as ‘(2B)’.

Section 53(1)(i)(a)—

omit ‘lease;’, *insert* ‘lease, if that selection or lease existed before the commencement of Schedule 5 of the *Lands Legislation Amendment Act 1991*, unless, in the case of quarry material, the lessee was the owner of that quarry material at that time;’.

Section 53(1)(i)(b)—

(1) *omit* ‘other’.

(2) *omit* ‘Crown holding’, *insert* ‘Crown holding under the *Land Act 1962* or miners’ homestead lease or miners’ homestead perpetual lease under the *Miners’ Homestead Leases Act 1913*’.