



# Land Act 1994

Current as at 1 July 2014

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## Queensland

# Land Act 1994

## Contents

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		Page
<b>Chapter 1</b>	<b>Preliminary</b>	
<b>Part 1</b>	<b>Introduction</b>	
1	Short title .....	33
3	Dictionary .....	33
<b>Part 2</b>	<b>Objects</b>	
4	Object of this Act .....	34
<b>Part 3</b>	<b>Application of Act</b>	
5	Land to which Act applies .....	35
6	Act binds all persons .....	35
7	Relationship with Native Title Act .....	36
<b>Part 4</b>	<b>Tidal and non-tidal boundaries and associated matters</b>	
<b>Division 1</b>	<b>Preliminary</b>	
8	Definitions for pt 4 .....	36
<b>Division 2</b>	<b>The tidal environment</b>	
9	Land adjacent to tidal boundary or right line tidal boundary owned by State .....	37
10	Land raised above high-water mark by works .....	38
11	Local government for new land .....	38
12	Inundated land .....	38
13	Power to deal with land seaward of tidal boundary or right line tidal boundary .....	39
<b>Division 3</b>	<b>The non-tidal environment</b>	
13A	Land adjacent to non-tidal boundary (watercourse) or non-tidal boundary (lake) owned by State .....	40
13B	Power to declare and deal with former watercourse land .....	41
<b>Chapter 2</b>	<b>Land allocation</b>	
<b>Part 1</b>	<b>Allocation powers</b>	
14	Governor in Council may grant land .....	43

Contents

---

15	Leasing land . . . . .	44
16	Deciding appropriate tenure . . . . .	45
17	Granting land to the State . . . . .	46
18	Exchanging land . . . . .	46
18A	Grant or lease of unallocated State land in consideration of surrender of native title interest . . . . .	47
19	Minister may buy land . . . . .	48
20	Dealing with mining interests, geothermal tenures or GHG authorities	48
<b>Part 2</b>	<b>Reservations</b>	
21	Reservation of minerals, petroleum etc. . . . .	49
22	Reservation of quarry materials . . . . .	49
23	Reservation for public purposes . . . . .	50
23A	Floating reservation on plan of subdivision . . . . .	50
24	Disposal of reservations no longer needed . . . . .	51
25	Disposal of reservations by sale . . . . .	52
26	Minister may decide boundaries of reservations . . . . .	52
26A	Disposal of redundant reservation . . . . .	53
26B	Forest entitlement areas . . . . .	53
26C	Effect of resumption of forest entitlement area . . . . .	55
<b>Part 3</b>	<b>Native title</b>	
27	Object . . . . .	55
28	Interaction with native title legislation . . . . .	56
29	Taking into consideration Aboriginal tradition and Islander custom	57
<b>Chapter 3</b>	<b>Reserves, deeds of grant in trust and roads</b>	
<b>Part 1</b>	<b>Reserves and deeds of grant in trust</b>	
<b>Division 1</b>	<b>General</b>	
30	Object . . . . .	57
<b>Division 2</b>	<b>Reserves</b>	
<b>Subdivision 1</b>	<b>Reserves generally</b>	
31	Dedication of reserve . . . . .	58
31A	Changing boundaries of reserve . . . . .	59
31B	Changing purpose . . . . .	60
31C	Applying for dedication of reserve . . . . .	60
31D	Applying for adjustment of reserve . . . . .	61
31F	Notice of registration of action in relation to reserve . . . . .	61
32	State leases over reserves . . . . .	62

33	Revocation of reserves . . . . .	63
34	Applying to revoke dedication of reserve . . . . .	63
34C	Removal of interests before revocation . . . . .	63
34D	Registration revokes dedication of reserve. . . . .	64
34E	Notice of revocation . . . . .	64
34F	Effect of revocation. . . . .	65
34G	Person to give up possession. . . . .	65
34H	Dealing with improvements . . . . .	66
<b>Subdivision 2</b>	<b>Operational reserves</b>	
34I	Applying for deed of grant . . . . .	67
34IA	Particular matters about issue of deed of grant . . . . .	67
34L	Removal of interests before grant. . . . .	67
34M	Registration of deed of grant revokes reservation and setting apart	68
34N	Notice of registration of deed of grant . . . . .	68
34O	Effect of revocation. . . . .	68
<b>Division 3</b>	<b>Deeds of grant in trust</b>	
34P	Subdivision of DOGIT land. . . . .	69
35	Use of land granted in trust . . . . .	70
36	Amalgamating land with common purposes. . . . .	70
37	Removing area from deed of grant in trust. . . . .	71
38	Cancelling a deed of grant in trust . . . . .	72
38A	Applying for additional community purpose, amalgamation or cancellation . . . . .	72
38D	Notice of registration of action . . . . .	73
38E	Effect of cancellation . . . . .	74
38F	Person to give up possession. . . . .	74
38G	Dealing with improvements . . . . .	75
<b>Division 4</b>	<b>Deeds of grant in trust for Aborigines and Torres Strait Islanders</b>	
39	Application of division. . . . .	76
40	Improvements and land may be excluded . . . . .	76
41	Survey not needed . . . . .	76
42	Change of boundaries or roads . . . . .	77
42A	Amalgamating particular land with existing deeds of grant in trust	77
43	Only Parliament may delete land from or cancel an existing deed of grant in trust . . . . .	78

<b>Division 5</b>	<b>Appointments, functions and removal of trustees</b>	
44	Appointing trustees. . . . .	79
45	Details of trustees. . . . .	80
46	Trustee's administrative functions. . . . .	80
47	Trustee's accounting functions . . . . .	81
48	Trustees to give information and allow inspection of records . . . .	81
49	External audits . . . . .	82
50	Vacation of office by trustee . . . . .	82
51	Removal of trustees . . . . .	83
<b>Division 6</b>	<b>Powers of trustee</b>	
52	General powers of trustee . . . . .	83
52A	Declaration that trustee is statutory body. . . . .	84
53	Statutory body trustee powers . . . . .	84
53A	State trustee powers and delegation . . . . .	84
54	No power to sell trust land . . . . .	85
55	Power to surrender deed of grant in trust. . . . .	85
55A	Applying to surrender. . . . .	85
55D	Registration surrenders deed of grant in trust . . . . .	86
55E	Notice of surrender. . . . .	86
55F	Effect of surrender . . . . .	87
55G	Person to give up possession on surrender . . . . .	87
55H	Dealing with improvements . . . . .	87
56	Model by-laws. . . . .	88
<b>Division 7</b>	<b>Trustee leases and trustee permits</b>	
57	Trustee leases . . . . .	89
57A	Amending a trustee lease. . . . .	91
58	Other transactions relating to trustee leases . . . . .	91
59	Basis of Ministerial approval. . . . .	93
60	Trustee permits. . . . .	93
61	Conditions on trustee leases and trustee permits . . . . .	94
62	Grouping trust land. . . . .	95
63	Rent to be charged. . . . .	95
64	Minister may dispense with approval . . . . .	96
65	Cancellation of a trustee lease or trustee permit . . . . .	97
66	Right to remove improvements on cancellation . . . . .	97

<b>Division 8</b>	<b>Mortgaging trust land</b>	
67	Power to mortgage trust land . . . . .	98
68	Mortgagee in possession . . . . .	99
69	What is the unimproved value . . . . .	99
70	Sale by mortgagee in possession . . . . .	99
71	Effect of sale. . . . .	100
72	Disposal of sale price . . . . .	100
<b>Division 9</b>	<b>Winding up trusts of trust land</b>	
73	Application of division. . . . .	101
74	Minister may start winding up. . . . .	101
75	Property vests in liquidator. . . . .	101
76	Sale of trust assets. . . . .	102
77	Trustees to help in winding-up . . . . .	102
78	Winding-up may continue after revocation, cancellation or sale. . . . .	102
<b>Division 10</b>	<b>Cemeteries</b>	
79	Cemetery registers. . . . .	103
80	Trustee may remove structures . . . . .	103
81	Application to close or reopen cemetery . . . . .	103
82	Trustees may transfer trust to local government. . . . .	104
83	Exhumations. . . . .	104
<b>Division 11</b>	<b>Other grants for public purposes</b>	
84	Surrender of land still needed for a public purpose . . . . .	104
85	Surrender of land no longer needed for a public purpose . . . . .	105
86	Public notice of proposed surrender. . . . .	105
87	Effect of surrender . . . . .	106
88	Dealing with land used as a cemetery . . . . .	106
<b>Division 12</b>	<b>Miscellaneous</b>	
89	Survey of trust land . . . . .	106
90	Application of Acts to trustees . . . . .	106
91	Trustees taken to be owners for legal proceedings . . . . .	107
92	Protection from liability . . . . .	107
<b>Part 2</b>	<b>Roads</b>	
<b>Division 1</b>	<b>Dedicating and opening roads</b>	
93	Meaning of road . . . . .	107
94	Dedication of road . . . . .	108
95	Roads vest in the State . . . . .	108

Contents

---

96	Roads in existing leases are dedicated . . . . .	108
97	Clarification of road status . . . . .	109
<b>Division 2</b>	<b>Closing roads</b>	
97A	Definitions for div 2. . . . .	109
98	Closure of road. . . . .	109
99	Application to close road . . . . .	110
100	Public notice of closure. . . . .	111
101	Minister to consider objections . . . . .	112
102	Changing application . . . . .	112
<b>Division 3</b>	<b>Road licences for temporarily closed roads</b>	
103	Issue of road licence . . . . .	113
104	Conditions of issuing road licence . . . . .	113
105	Cancellation or surrender of road licence. . . . .	114
<b>Division 3A</b>	<b>Temporarily closed roads</b>	
106	Temporarily closed road still dedicated land. . . . .	114
107	Reopening a temporarily closed road. . . . .	114
<b>Division 4</b>	<b>Permanently closed roads</b>	
108	Permanent closure of road. . . . .	115
109	Closed road may be dealt with as lot or amalgamated with adjoining land. . . . .	115
109A	Simultaneous opening and closing of roads—deed of grant . . . . .	115
109B	Simultaneous opening and closure of roads—trust land or lease land 116	
109C	Buying or leasing land if closed road amalgamated with adjoining land 118	
<b>Division 5</b>	<b>Building of roads in State developments</b>	
110	Minister may build roads. . . . .	118
111	When road comes under local government control . . . . .	119
<b>Chapter 4</b>	<b>Land holdings</b>	
<b>Part 1</b>	<b>Making land available</b>	
<b>Division 1</b>	<b>Interests in land available by competition</b>	
112	Interests in land available by auction, tender or ballot . . . . .	119
113	Public notice of availability to be given . . . . .	120
114	Information to be included in sale notice . . . . .	120
115	Conditions of sale. . . . .	120
116	Interests in land may be sold after auction. . . . .	121
117	Interest may be withdrawn from auction, tender or ballot. . . . .	122



118	Appeal against exclusion from ballot or tender . . . . .	122
119	Conduct of ballot . . . . .	122
120	Offer to winner of ballot or tender . . . . .	122
<b>Division 2</b>	<b>Interests in land available without competition</b>	
120A	Applying for interest in land without competition . . . . .	123
121	Leases of unallocated State land . . . . .	123
122	Deeds of grant of unallocated State land . . . . .	124
123	Priority criteria . . . . .	124
124	Leases of State forests and national parks . . . . .	125
125	Deeds of grant in trust and leases over reserves . . . . .	125
126	Strategic port land . . . . .	125
127	Reclaimed land . . . . .	125
127A	Amalgamation may be a condition . . . . .	126
<b>Division 2A</b>	<b>Leases for significant development</b>	
128	Meaning of significant development . . . . .	127
129	Lease for significant development . . . . .	127
129A	Further dealings with lease land on completion of significant development . . . . .	127
130	Transfer of lease for significant development . . . . .	128
130A	Change of financial and managerial capabilities of lessee of lease for significant development . . . . .	128
<b>Division 3</b>	<b>Availability of additional areas</b>	
132	Granting additional areas . . . . .	131
133	Who is eligible for additional areas . . . . .	131
134	Issues the Minister must consider . . . . .	132
135	Committee of review to help Minister . . . . .	132
136	Conditions of offer and lease . . . . .	132
<b>Division 4</b>	<b>Miscellaneous</b>	
137	Right to occupy . . . . .	133
138	Default . . . . .	134
138A	Restriction on commencement of lease or permit . . . . .	134
139	Improvements to be bought by incoming lessee or buyer . . . . .	134
140	Provisional value may be negotiated . . . . .	135
141	Payment of survey fee . . . . .	136
<b>Part 2</b>	<b>Restrictions on eligibility to hold land</b>	
142	Minors not to hold land . . . . .	136

## Contents

143	Departmental officers not to hold land without approval . . . . .	136
<b>Part 3</b>	<b>Leases</b>	
<b>Division 1</b>	<b>Preliminary</b>	
153	Lease must state its purpose . . . . .	137
154	Minister may approve additional purposes . . . . .	137
<b>Division 1A</b>	<b>Length of term on issue of term lease</b>	
155	Length of term leases. . . . .	138
<b>Division 1B</b>	<b>Extension of particular term leases</b>	
155AA	Application of div 1B. . . . .	139
155A	Extensions for a term of up to 40 years . . . . .	139
155B	Extensions for a term of up to 50 years . . . . .	140
155BA	Extensions for a term of up to 75 years . . . . .	142
155C	Registering and taking of effect of extension . . . . .	143
<b>Division 1C</b>	<b>Reduction of particular term leases</b>	
155CA	Non-application of division to particular term leases . . . . .	144
155D	When Minister may reduce. . . . .	144
155DA	Notice of intention to reduce term . . . . .	145
155E	Provisions about reduction . . . . .	146
<b>Division 2</b>	<b>Expiry, renewal and extension</b>	
<b>Subdivision 1</b>	<b>Expiry</b>	
157	Expiry of lease . . . . .	147
<b>Subdivision 2</b>	<b>Renewal</b>	
157AA	Limited application of sdiv 2. . . . .	147
157A	Chief executive's approval required for renewal . . . . .	147
158	Application for new lease . . . . .	148
159	General provisions for deciding application . . . . .	148
159A	Provisions for decision about most appropriate form of tenure . .	150
160	Notice of chief executive's decision . . . . .	150
161	When offer has been accepted. . . . .	151
162	Issuing of new lease. . . . .	151
163	Land not included in the offer . . . . .	151
<b>Subdivision 3</b>	<b>Extensions of rolling term leases</b>	
164	What is a rolling term lease . . . . .	152
164A	Approval of lease as a rolling term lease . . . . .	152
164B	Identification of lease as a rolling term lease . . . . .	153
164C	Making extension application or giving expiry advice. . . . .	153

---

164D	When extension application or expiry advice may not be made or given 154	
164E	Length of extension . . . . .	155
164F	Effect of extension . . . . .	155
164G	Notice of expiry . . . . .	157
<b>Subdivision 4</b>	<b>Possible extension instead of renewal</b>	
164H	Application for term lease renewal may become extension application 157	
<b>Division 3</b>	<b>Conversion of tenure</b>	
165	Application of division . . . . .	157
165A	Chief executive's approval required for conversion . . . . .	158
166	Application to convert lease . . . . .	158
167	Provisions for deciding application . . . . .	159
168	Notice of chief executive's decision . . . . .	161
169	Conditions of freehold offer . . . . .	161
170	Purchase price if deed of grant offered . . . . .	162
171	When offer has been accepted . . . . .	162
172	Issuing of new tenure . . . . .	162
173	Land not included in the offer . . . . .	163
<b>Division 4</b>	<b>Subdividing leases</b>	
175	When lease may be subdivided . . . . .	163
176	Application to subdivide . . . . .	164
176A	General provisions for deciding application . . . . .	164
176B	Criteria for deciding application . . . . .	165
176C	Specific grounds for refusal . . . . .	165
176D	Notice of decision . . . . .	166
176E	Appeal against refusal . . . . .	166
176F	Acceptance of subdivision offer . . . . .	166
176G	Issuing of new leases . . . . .	166
176I	Power to waive fees if chief executive requested application . . . .	167
<b>Division 5</b>	<b>Amalgamating leases</b>	
176J	When leases may be amalgamated . . . . .	167
176K	Application to amalgamate . . . . .	167
176L	General provisions for deciding application . . . . .	168
176M	Criteria for deciding application . . . . .	169
176N	Roads . . . . .	169

---

## Contents

176O	Specific grounds for refusal . . . . .	170
176P	Notice of decision . . . . .	170
176Q	Appeal against refusal . . . . .	170
176R	Acceptance of amalgamation offer . . . . .	171
176S	Issuing of amalgamated lease . . . . .	171
176T	Power to waive fees if chief executive requested application . . . . .	171
<b>Division 6</b>	<b>Land management agreements</b>	
176U	Making and registration of agreement about land management . . . . .	172
176UA	Power to require land management agreement in particular circumstances . . . . .	172
176V	Purposes of a land management agreement . . . . .	172
176W	Content of land management agreement . . . . .	173
176X	Reviewing land management agreement . . . . .	173
176XA	Cancellation of land management agreement . . . . .	174
<b>Division 7</b>	<b>Miscellaneous provisions</b>	
176Y	Part does not affect amounts owing relating to lease . . . . .	174
176Z	When payment obligations end if lease ends under part . . . . .	174
176ZA	Overpayments relating to former lease . . . . .	174
<b>Part 4</b>	<b>Permits to occupy particular land</b>	
177	Chief executive may issue permit . . . . .	175
177A	Applying for permit . . . . .	176
177D	Notice of permit . . . . .	176
178	Permits for land in area of tidal influence . . . . .	176
179	Fencing . . . . .	177
180	When permit may be cancelled or surrendered . . . . .	177
180A	Applying to cancel or surrender permit . . . . .	178
180D	When cancellation or surrender is effective . . . . .	179
180E	Notice about cancellation or surrender . . . . .	179
180F	Effect of cancellation or surrender . . . . .	180
180G	Permittee to give up possession on cancellation or surrender . . . . .	180
180H	Dealing with improvements . . . . .	181
<b>Chapter 5</b>	<b>Matters affecting land holdings</b>	
<b>Part 2</b>	<b>Conditions</b>	
<b>Division 1</b>	<b>General mandatory conditions</b>	
198C	Operation of div 1 . . . . .	181
198D	Mandatory conditions need not be registered . . . . .	182

199	Duty of care condition. . . . .	182
199A	Land may be used only for tenure's purpose . . . . .	182
200	Noxious plants condition. . . . .	183
201	Information condition . . . . .	183
202	Improvement condition . . . . .	183
202AA	Notice to transferee if lease land subject to indigenous cultural interest 184	
202AB	Notice to sublessee if lease land is or is to be subject to indigenous cultural interest. . . . .	184
<b>Division 2</b>	<b>Imposed conditions</b>	
202A	Operation of div 2. . . . .	185
202B	Imposed condition must be registered . . . . .	185
203	Typical conditions . . . . .	185
204	Survey condition. . . . .	186
205	Tied condition. . . . .	186
206	Personal residence condition . . . . .	187
207	Another person may complete personal residence condition. . . . .	187
208	Resumption condition. . . . .	188
209	Performance security condition . . . . .	188
<b>Division 3</b>	<b>Changing and reviewing imposed conditions</b>	
210	Power to change imposed condition of lease, licence or permit by agreement . . . . .	189
211	Reviewing imposed conditions of lease . . . . .	189
212	Minister may change imposed conditions after review . . . . .	190
<b>Division 3A</b>	<b>Regulated conditions</b>	
212A	Operation of div 3A. . . . .	190
212B	Regulation may impose conditions. . . . .	191
212C	Regulated conditions need not be registered. . . . .	192
<b>Division 4</b>	<b>Compliance with conditions</b>	
213	Obligation to perform conditions. . . . .	192
<b>Division 5</b>	<b>Remedial action</b>	
214	Minister's power to give remedial action notice . . . . .	193
214A	Steps required before giving remedial action notice. . . . .	194
214B	Appeal against decision to give remedial action notice . . . . .	195
214C	Additional condition of lease or licence to take required remedial action 195	
214D	Failure to comply with remedial action notice. . . . .	196

## Contents

214E	Power to reduce term of lease or impose additional conditions . .	196
214F	Provisions about reduction or additional conditions . . . . .	197
<b>Part 3</b>	<b>Resumption and compensation</b>	
<b>Division 1</b>	<b>Resumption of a lease or easement</b>	
215	Application of division. . . . .	198
216	Resumption of lease. . . . .	198
217	Resumption of an easement . . . . .	198
218	Resumption for constructing authorities . . . . .	199
219	Effect of resumption . . . . .	199
220	Service of order in council . . . . .	200
221	Application of Acquisition of Land Act 1967 . . . . .	200
222	Revoking a resumption. . . . .	201
<b>Division 2</b>	<b>Resumption of a lease under a condition of the lease</b>	
223	Application of division. . . . .	201
224	Resumption of lease. . . . .	202
225	Effect of resumption . . . . .	202
226	Compensation limited to improvements . . . . .	202
227	Development work an improvement. . . . .	202
<b>Division 3</b>	<b>Resumption of a reservation for a public purpose</b>	
228	Application of division. . . . .	203
229	Resumption of reservation . . . . .	203
230	Effect of resumption of possession. . . . .	203
231	Application of Acquisition of Land Act 1967 . . . . .	204
232	Compensation limited to improvements . . . . .	205
233	Development work an improvement. . . . .	205
<b>Part 4</b>	<b>Forfeiture</b>	
<b>Division 1</b>	<b>Grounds for forfeiture</b>	
234	When lease may be forfeited . . . . .	205
<b>Division 2</b>	<b>Forfeiture of leases for non-payment</b>	
234A	Application of div 2 . . . . .	206
235	Notice of forfeiture for outstanding amounts. . . . .	206
236	Designated person's options if amount unpaid. . . . .	207
237	Minister may reinstate lease if payment made . . . . .	207
<b>Division 2A</b>	<b>Forfeiture of leases by referral to court or for fraud</b>	
237A	Application of div 2A. . . . .	207
238	Application to the court for forfeiture. . . . .	207

---

239	Designated person's options . . . . .	208
<b>Division 3A</b>	<b>Sale of lease instead of forfeiture</b>	
<b>Subdivision 1</b>	<b>Sale by lessee</b>	
240E	Sale by lessee . . . . .	209
<b>Subdivision 2</b>	<b>Sale by mortgagee</b>	
240F	Sale by mortgagee instead of forfeiture . . . . .	209
<b>Subdivision 3</b>	<b>Sale by local government</b>	
240G	Application . . . . .	210
240H	Notice of approval. . . . .	210
240I	Sale of lease. . . . .	210
<b>Subdivision 4</b>	<b>Sale by chief executive</b>	
240J	Application of sdiv 4 . . . . .	211
240K	Notice that chief executive may sell . . . . .	211
240L	Entry into possession and sale. . . . .	212
240M	Transition to sale agreement . . . . .	213
240N	Advice about entering transition to sale agreement. . . . .	214
240O	Making and registration of transition to sale agreement. . . . .	215
240P	Auction or sale of lease . . . . .	216
240Q	Disposal of proceeds of sale . . . . .	217
240R	Protection from liability . . . . .	218
<b>Division 4</b>	<b>Forfeiture</b>	
240S	Notice of forfeiture . . . . .	218
241	Effect of forfeiture . . . . .	218
242	Lessee to give up possession on forfeiture . . . . .	219
243	Improvements on forfeited lease . . . . .	219
245	Effect of forfeiture of lease issued without competition for development purposes. . . . .	220
<b>Part 5</b>	<b>Payment for improvements</b>	
<b>Division 1</b>	<b>Payment for improvements by incoming lessee etc.</b>	
246	Application of division. . . . .	220
247	Application of payment for improvements by incoming lessee or buyer 221	
248	Unclaimed improvement amounts . . . . .	221
<b>Division 2</b>	<b>Payment by the State for improvements</b>	
249	Payment by the State for improvements. . . . .	222

---

## Contents

<b>Division 3</b>	<b>General</b>	
250	Amounts owing to the State to be deducted. . . . .	223
251	Payment to mortgagee . . . . .	223
<b>Part 6</b>	<b>Protection of monitoring sites</b>	
252	Prohibition on interfering with monitoring marker or device . . . . .	223
253	Evidentiary provision for proceedings under s 252 . . . . .	224
<b>Chapter 6</b>	<b>Registration and dealings</b>	
<b>Part 1</b>	<b>Land registry and registers</b>	
<b>Division 1</b>	<b>Land registry</b>	
275	Registers comprising land registry . . . . .	225
<b>Division 2</b>	<b>Registers</b>	
276	Registers to be kept by chief executive . . . . .	226
277	Form of registers . . . . .	226
277A	Registration of document evidencing tenure . . . . .	227
278	Particulars that must be registered. . . . .	227
279	Registration of land management agreements and transition to sale agreements . . . . .	227
279A	Registration of documents lodged or matters notified under particular Acts . . . . .	228
280	Particulars that may be recorded . . . . .	228
280A	Particulars that must be recorded for specified national parks. . . . .	228
281	Other information may be kept . . . . .	229
282	Chief executive's procedures on lodgement and registration of document . . . . .	229
283	Documents form part of a register . . . . .	230
284	Entitlement to search a register . . . . .	230
284A	Fee required to produce document under subpoena etc. . . . .	231
285	Evidentiary effect of certified copies of documents . . . . .	232
285A	Supply of statistical data. . . . .	232
<b>Division 3</b>	<b>General requirements for documents in registers</b>	
286	Form of documents . . . . .	233
286A	Land practice manual . . . . .	234
286B	Requiring plan of survey to be lodged . . . . .	235
287	Registered documents must comply with particular requirements . . . . .	235
288	Certain documents must be signed . . . . .	236
288A	Original mortgagee to confirm identity of mortgagor . . . . .	236
288B	Mortgage transferee to confirm identity of mortgagor . . . . .	238



288C	Effect of registration of mortgage under Land Title Act 1994 . . . .	240
289	Giving consent for dealings . . . . .	241
290	Offence not to use appropriate form. . . . .	242
<b>Division 3A</b>	<b>Format of plans of survey</b>	
290A	Available formats for plans . . . . .	242
290B	Standard format plan . . . . .	242
290C	Volumetric format plan . . . . .	242
<b>Division 3B</b>	<b>Explanatory format plans</b>	
290D	Explanatory format plan . . . . .	242
<b>Division 3C</b>	<b>Plans of subdivision</b>	
290E	Meaning of plan of subdivision . . . . .	243
290F	Plan of subdivision may be registered . . . . .	243
290G	Standard format plan of subdivision. . . . .	244
290H	Volumetric format plan of subdivision. . . . .	244
290I	Division of lot on standard format plan of subdivision . . . . .	244
290J	Requirements for registration of plan of subdivision. . . . .	244
290JA	Dedication of public use land in plan . . . . .	246
290JB	Access for public use land . . . . .	247
290K	Particulars to be recorded when registered plan takes effect. . . .	248
290L	Lodged plan that is withdrawn and relodged . . . . .	248
290M	Division excluding road or watercourse . . . . .	248
290N	Pre-examination of plans . . . . .	248
<b>Division 3D</b>	<b>Electronic conveyancing documents</b>	
290O	Reference to a particular type of document includes its electronic conveyancing form . . . . .	249
290P	What is an electronic conveyancing document. . . . .	249
290Q	Signing or executing an electronic conveyancing document . . . .	250
<b>Division 4</b>	<b>Powers of the chief executive</b>	
291	Chief executive may correct registers. . . . .	250
291A	Correction for omitted easement . . . . .	251
292	Lot-on-plan description. . . . .	251
294	Chief executive may require public notice to be given of certain proposed action . . . . .	252
<b>Part 1A</b>	<b>Building management statements</b>	
<b>Division 1</b>	<b>Application</b>	
294A	Application . . . . .	252

Contents

---

<b>Division 2</b>	<b>Building management statements</b>	
294B	Building management statement may be registered . . . . .	252
294BA	Single area for lots to which building management statement applies 253	
294C	Circumstances under which building management statement may be registered . . . . .	254
294D	Content of building management statement. . . . .	254
294E	Registration of building management statement . . . . .	255
294F	Amending a building management statement . . . . .	256
294G	Building management statement if lots owned by 1 lessee . . . . .	256
294H	One person becoming lessee of all lots . . . . .	256
294I	Extinguishing a building management statement. . . . .	256
294J	Building management statement affecting freehold and non-freehold land . . . . .	257
<b>Part 2</b>	<b>Registration and its effect</b>	
<b>Division 1</b>	<b>Registration of documents</b>	
295	Right to have interest registered. . . . .	258
297	Order of registration of documents. . . . .	259
298	Priority of registered documents. . . . .	259
299	When a document is registered . . . . .	259
299A	No registration in absence of required approval or consent of Minister 260	
<b>Division 2</b>	<b>Consequences of registration</b>	
300	Benefits of registration . . . . .	261
301	Interest in land not transferred or created until registration . . . . .	261
302	Effect of registration on interest . . . . .	261
303	Evidentiary effect of recording particulars in the register . . . . .	261
<b>Part 3</b>	<b>Documents</b>	
<b>Division 1</b>	<b>General</b>	
304	Correcting unregistered documents . . . . .	262
305	Requisitions . . . . .	262
305A	Electronic communication of statutory declaration or affidavit . . . . .	263
306	Rejecting document for failure to comply with requisition. . . . .	264
307	Borrowing lodged or deposited document before registration . . . . .	265
308	Withdrawing lodged document before registration . . . . .	265
309	Chief executive may call in document for correction or cancellation . . . . .	266
310	Execution of documents . . . . .	266

311	Witnessing documents for individuals . . . . .	267
313	Delivery of paper documents . . . . .	267
314	Dispensing with production of paper document . . . . .	267
315	Destroying document in certain circumstances . . . . .	268
316	Transferor must do everything necessary . . . . .	269
<b>Division 2</b>	<b>Documents forming part of standard terms documents</b>	
317	Meaning of standard terms document in division . . . . .	269
317A	References to registered standard terms document . . . . .	269
318	Standard terms document may be registered . . . . .	269
318A	Minister may lodge mandatory standard terms document . . . . .	270
319	Standard terms document part of a further document . . . . .	270
320	Document not limited to that contained in standard terms document	270
320A	Conflict with mandatory standard terms document . . . . .	270
321	Withdrawal or cancellation of standard terms document . . . . .	271
<b>Part 4</b>	<b>Dealings affecting land</b>	
<b>Division 1</b>	<b>Transfers</b>	
322	Requirements for transfers . . . . .	271
322A	Severing joint tenancy by transfer . . . . .	273
323	Transfers must be registered . . . . .	274
324	Transfer of lands sold in possession or in execution . . . . .	274
325	Effect of registration of transfer . . . . .	274
326	Transferee to indemnify . . . . .	275
326A	Disclosure of information to proposed transferee of lease or licensee 275	
<b>Division 2</b>	<b>Surrender</b>	
327	Absolute surrender of freehold land . . . . .	275
327A	Surrender of lease . . . . .	276
327B	Applying to surrender freehold land . . . . .	276
327C	Applying to surrender lease . . . . .	276
327E	Registration surrenders lease . . . . .	276
327F	Notice of surrender . . . . .	276
327G	Effect of surrender . . . . .	277
327H	Person to give up possession on surrender . . . . .	277
327I	Dealing with improvements . . . . .	278
328	Surrender of subleases . . . . .	278
329	Notice of surrender needed . . . . .	279

Contents

---

330	Requirements for effective surrender . . . . .	279
331	Effect of surrender on existing interests . . . . .	280
<b>Division 3</b>	<b>Subleases</b>	
332	Requirements for subleases . . . . .	280
333	General authority to lessee for particular dealings . . . . .	281
334	When subleasing is totally prohibited . . . . .	282
334A	Application to sub-subleases . . . . .	282
335	Subleases must be registered . . . . .	282
336	Amending a sublease . . . . .	283
337	Lessee continues to be responsible for primary obligations . . . . .	283
338	Validity of sublease or amendment of sublease against mortgagee . . . . .	284
339	Re-entry by sublessor . . . . .	284
<b>Division 3A</b>	<b>Mediation for disputes about terms of particular subleases</b>	
339A	Application of div 3A . . . . .	284
339B	Mediation . . . . .	285
<b>Division 4</b>	<b>Mortgages</b>	
340	Registering a mortgage . . . . .	286
341	Effect of a mortgage . . . . .	287
342	Releasing a mortgage . . . . .	287
343	Amending a mortgage . . . . .	287
344	Amending priority of mortgages . . . . .	287
345	Mortgagee in possession may sell . . . . .	288
346	Sale of mortgaged lease . . . . .	288
347	Land to be sold within 2 years . . . . .	289
348	Disposal of proceeds of sale . . . . .	289
349	Liability of mortgagee in possession . . . . .	290
350	Effect of transfer after sale by mortgagee . . . . .	290
<b>Division 7</b>	<b>Correcting and changing deeds of grant and leases</b>	
358	Changing deeds of grant—change in description or boundary of land 290	
358A	Amendment of leasehold land register or freehold land register for omitted acquired easement . . . . .	291
358B	Compensation not payable to any person for action under s 358A . . . . .	293
358C	Correction of minor error in deed of grant . . . . .	293
359	Correcting or cancelling deeds of grant . . . . .	294
360	Governor in Council may change freeholding leases . . . . .	295

360A	Minister may change term leases, other than State leases, or perpetual leases . . . . .	296
360B	Minister may change State lease . . . . .	297
360C	Applying to amend description of lease . . . . .	297
360D	Notice of intention to apply to amend lease . . . . .	298
360F	Notice of registration of amendment of lease . . . . .	298
<b>Division 8</b>	<b>Easements</b>	
361	Definitions for div 8 . . . . .	299
362	Easements may be created only by registration . . . . .	299
363	Registration of easement . . . . .	300
364	Registration of plan showing proposed easement . . . . .	300
365	Particulars to be registered . . . . .	301
366	Rights and liabilities created on registration of document . . . . .	301
367	Easement benefiting and burdening land of same person . . . . .	301
368	Same person becoming trustee, lessee or licensee of benefited and burdened lands . . . . .	302
369	Public utility easements . . . . .	302
369A	Transfer of public utility easements . . . . .	304
369B	Transfer of benefited land . . . . .	304
370	Amending an easement . . . . .	305
371	Surrendering an easement . . . . .	306
372	End and continuation of easements . . . . .	306
373	Court may modify or extinguish an easement . . . . .	307
373AA	Particular matters about easements and permit land . . . . .	307
<b>Division 8A</b>	<b>Covenants</b>	
373A	Covenant by registration . . . . .	308
373AB	Compliance with s 373A . . . . .	311
373B	Requirements of document creating covenant . . . . .	311
373C	Amending document creating covenant . . . . .	312
373D	Releasing a covenant . . . . .	312
<b>Division 8B</b>	<b>Profits a prendre</b>	
373G	Profit a prendre by registration . . . . .	312
373H	Profit a prendre affecting freehold land and a lease . . . . .	313
373I	Requirements of document creating profit a prendre . . . . .	313
373J	Particulars to be registered . . . . .	313
373K	Profit a prendre benefiting and burdening same person's lease or freehold land . . . . .	314

Contents

---

373L	Same person becoming lessee of benefited and burdened leases	314
373M	Owner of benefited lease acquiring interest in burdened lease . .	314
373N	Amending a profit a prendre . . . . .	315
373O	Releasing or removing a profit a prendre . . . . .	315
373P	Effect of surrender of lease on profit a prendre . . . . .	315
373Q	Dealing with a profit a prendre . . . . .	316
<b>Division 8C</b>	<b>Carbon abatement interests</b>	
<b>Subdivision 1</b>	<b>Preliminary</b>	
373R	Definitions for div 8C . . . . .	316
<b>Subdivision 2</b>	<b>Creation and registration</b>	
373S	Creation only by registration . . . . .	317
373T	Consent of relevant Minister required . . . . .	318
373U	Requirements for registration . . . . .	319
373V	Additional requirements if granted by lessee of term lease . . . . .	319
373W	Grantor and grantee may be the same . . . . .	320
<b>Subdivision 3</b>	<b>Amendments and dealings</b>	
373X	Amending interest . . . . .	320
373Y	Surrendering or removing interest . . . . .	320
373Z	Continuation of interest . . . . .	321
373ZA	Dealing with a carbon abatement interest . . . . .	322
<b>Division 8D</b>	<b>Indigenous cultural interests</b>	
<b>Subdivision 1</b>	<b>Preliminary</b>	
373ZB	Definitions for div 8D . . . . .	322
<b>Subdivision 2</b>	<b>Mandatory terms</b>	
373ZC	Mandatory terms for approved agreements . . . . .	323
<b>Subdivision 3</b>	<b>Creation and registration</b>	
373ZD	Creation only by registration . . . . .	324
373ZE	Requirements for registration . . . . .	325
<b>Subdivision 4</b>	<b>Amendments and dealings</b>	
373ZF	Amending interest . . . . .	326
373ZG	When amendment or replacement of approved agreement ends interest 327	
373ZH	Surrendering or removing interest . . . . .	327
373ZI	Notice of end of approved agreement . . . . .	328
373ZJ	Continuation of interest . . . . .	328
373ZK	Transfer of lease affecting interest . . . . .	330

---

373ZL	Reviewing approved agreements for indigenous cultural interests	330
<b>Division 9</b>	<b>Trusts, deceased estates and bankruptcy</b>	
374	Details of trust must be given . . . . .	331
374A	Interests held in trust must be registered . . . . .	331
375	Document of transfer to trustee . . . . .	332
375A	Document to vest in trustee . . . . .	332
376	Deed of grant or lease may issue in name of deceased person . . . . .	333
377	Registering personal representative. . . . .	333
378	References in documents to a person with an interest in land includes personal representatives etc. . . . .	335
379	Registering beneficiary. . . . .	335
380	Applying for Supreme Court order . . . . .	335
381	Transmission on bankruptcy. . . . .	336
382	Disclaimer in bankruptcy . . . . .	336
<b>Division 10</b>	<b>Powers of attorney and disabilities</b>	
383	Power of attorney . . . . .	337
385	Acts in relation to substitute decision makers. . . . .	337
<b>Division 11</b>	<b>Writs of execution</b>	
386	Registering a writ of execution . . . . .	338
387	Effect of registering a writ of execution. . . . .	338
388	Cancellation of registration of a writ of execution. . . . .	338
389	Discharging or satisfying writ of execution . . . . .	339
389A	Effect on writ of execution of transfer after sale by mortgagee. . . . .	339
389B	Effect on writ of execution of transfer after sale by chief executive . . . . .	339
<b>Division 11A</b>	<b>Caveats</b>	
<b>Subdivision 1</b>	<b>Caveats generally</b>	
389C	Requirements of caveats . . . . .	340
389D	Lodging caveat . . . . .	340
389E	Notifying caveat . . . . .	341
389F	Effect of lodging caveat . . . . .	341
389G	Withdrawing caveat . . . . .	342
389H	Removing caveat . . . . .	342
389I	Cancelling caveat . . . . .	342
389J	Further caveat . . . . .	343
389K	Notices to the caveator. . . . .	343

---

<b>Subdivision 2</b>	<b>Chief executive's caveat</b>	
389L	Chief executive may prepare and register caveat. . . . .	344
<b>Division 12</b>	<b>Liens</b>	
390	Vendor does not have equitable lien. . . . .	345
<b>Division 13</b>	<b>Miscellaneous</b>	
390A	Special provision for transport related land . . . . .	346
390B	Particular dealing with prescribed land. . . . .	346
<b>Chapter 7</b>	<b>General</b>	
<b>Part 1</b>	<b>Administration</b>	
<b>Division 1</b>	<b>Ministerial administration</b>	
391	Administration of Act . . . . .	347
391A	General provision about approvals. . . . .	348
392	Delegation by Minister . . . . .	348
393	Delegation by chief executive. . . . .	349
393A	Departmental officer may give notices for this Act . . . . .	350
394	Committees . . . . .	350
394A	Ministerial guidelines about what constitutes a good condition for lease land. . . . .	351
<b>Division 2</b>	<b>Appointment of authorised persons and other matters</b>	
395	Appointment of authorised persons . . . . .	352
396	Authorised person's appointment conditions . . . . .	352
397	Authorised person's identity card . . . . .	353
398	Production of identity card . . . . .	353
399	Protection from liability . . . . .	354
<b>Division 3</b>	<b>Inspection powers</b>	
400	Power to enter land, generally . . . . .	354
<b>Division 5</b>	<b>Other provisions about authorised persons</b>	
401	Authorised person to give notice of damage . . . . .	356
402	Compensation . . . . .	357
403	Impersonation of authorised person. . . . .	357
403A	False or misleading statements . . . . .	357
403B	False or misleading documents . . . . .	358
<b>Division 6</b>	<b>Public notices other than gazette notices</b>	
403C	Publication of particular public notices on department's website .	358



<b>Part 2</b>	<b>Unlawful occupation of non-freehold and trust land</b>	
<b>Division 1</b>	<b>Unlawful occupation of non-freehold and trust land</b>	
404	No trespassing . . . . .	359
<b>Division 2</b>	<b>Action to deal with unlawful occupation</b>	
405	Application of division. . . . .	360
405A	Exercise of chief executive's powers under division . . . . .	360
405B	Occupation fee for unlawful occupation by offeree until grant of tenure 361	
406	Notice to person to leave land, remove structures etc. . . . .	362
407	Person must comply with notice . . . . .	363
408	Improvements etc. forfeited . . . . .	363
409	Person may start proceeding in Magistrates Court . . . . .	363
410	Chief executive may start proceeding. . . . .	364
411	Defence may be filed . . . . .	364
412	State may carry out work . . . . .	365
413	Powers of officers and employees of the department. . . . .	365
<b>Division 3</b>	<b>Action by lessee, licensee, permittee or trustee</b>	
414	Application of division. . . . .	365
415	Lessee, licensee, permittee or trustee may start proceeding. . . . .	365
416	Defence may be filed . . . . .	366
<b>Division 4</b>	<b>Court matters</b>	
417	Hearing procedures . . . . .	366
418	Discretion of Magistrates Court about orders. . . . .	367
419	Order of the Magistrates Court must be complied with . . . . .	367
420	Appeal to District Court on questions of law only. . . . .	367
<b>Part 2A</b>	<b>General provisions for applications</b>	
420A	Application of pt 2A . . . . .	368
420B	Application guidelines. . . . .	368
420C	Requirements for making an application . . . . .	369
420CA	Requirements for giving notice of intention to apply. . . . .	370
420CB	Submissions. . . . .	370
420D	Refusal of frivolous or vexatious applications. . . . .	371
420E	Request to applicant about application . . . . .	371
420F	Refusing application for failure to comply with request . . . . .	372
420FA	Regard may be had to information and advice. . . . .	372
420G	Particular criteria generally not exhaustive. . . . .	372

## Contents

420H	Particular grounds for refusal generally not exhaustive . . . . .	373
420I	General power to impose conditions . . . . .	373
<b>Part 3</b>	<b>Review of decisions and appeals</b>	
<b>Division 1</b>	<b>Right of appeal</b>	
421	Notice of right of appeal to be given . . . . .	374
<b>Division 2</b>	<b>Internal review of decisions</b>	
422	Appeal process starts with internal review . . . . .	374
423	Who may apply for review etc. . . . .	374
424	Applying for review . . . . .	374
425	Stay of operation of decision etc. . . . .	375
426	Decision on reconsideration . . . . .	375
<b>Division 3</b>	<b>Appeals</b>	
427	Who may appeal. . . . .	376
428	Procedure for an appeal to the court . . . . .	376
429	Powers of court on appeal . . . . .	376
430	Effect of decision of court on appeal . . . . .	377
431	Jurisdiction of the court . . . . .	377
<b>Part 3A</b>	<b>Proceedings generally</b>	
<b>Division 1</b>	<b>Preliminary</b>	
431A	Application of pt 3A . . . . .	377
<b>Division 2</b>	<b>Evidence</b>	
431B	Evidentiary provisions . . . . .	378
431C	Further evidentiary aids . . . . .	379
431D	Instruments, equipment and installations . . . . .	379
431E	Certificate or report about remotely sensed image . . . . .	380
<b>Division 3</b>	<b>Starting proceedings</b>	
431G	Offences are summary offences. . . . .	380
431H	Limitation on time for starting offence proceedings . . . . .	381
<b>Division 4</b>	<b>Other matters about proceedings</b>	
431J	Liability of executive officer—offence committed by corporation against s 214D(1) . . . . .	381
431L	Recovery of costs of investigation . . . . .	382
431M	Representation of departmental officer in court . . . . .	382
431N	Ability to prosecute under other Acts . . . . .	383
<b>Part 4</b>	<b>Miscellaneous</b>	
432	Pasturage rights for travelling stock . . . . .	383

434	Meaning of tourism purposes . . . . .	384
434A	Establishing an island as a regulated island. . . . .	384
434B	Availability of short-term extension in particular circumstances . . . . .	385
434C	Change of status of particular land . . . . .	385
435	Minister may refer matters to the court. . . . .	385
436	Auctioneer's licence not necessary . . . . .	386
437	Changing county or parish boundaries. . . . .	386
438	What are debts owing to the State . . . . .	386
439	Words and expressions used in documents under Act . . . . .	386
440	Obstruction of officers etc. . . . .	386
441	Protection from liability . . . . .	387
441A	Requirement for making conditional offers . . . . .	387
442	Lapse of offer . . . . .	387
443	No deed of grant until fees paid . . . . .	388
444	Chief executive may approve forms . . . . .	388
448	Regulation-making power. . . . .	388
448A	Application of GST to rents . . . . .	389
448B	Application of GST to purchase price for leases . . . . .	389
<b>Chapter 8</b>	<b>Continued rights and tenures</b>	
<b>Part 1</b>	<b>Reserves, deeds of grant in trust and roads</b>	
<b>Division 1</b>	<b>Reserves</b>	
449	Existing reserves and purposes continue. . . . .	390
450	Trustees continue . . . . .	391
<b>Division 2</b>	<b>Deeds of grant in trust</b>	
451	Existing deeds of grant in trust and purposes continue . . . . .	391
452	Trustees continue . . . . .	391
452A	Land granted for Aboriginal or Islander inhabitants . . . . .	391
<b>Division 3</b>	<b>Existing trustee leases</b>	
453	Existing trustee leases and licences continue . . . . .	392
<b>Division 4</b>	<b>Roads</b>	
454	Existing roads continue . . . . .	392
455	Existing road licences continue . . . . .	393
<b>Part 2</b>	<b>Freeholding leases</b>	
<b>Division 1</b>	<b>Pre-Wolfe freeholding leases</b>	
456	Existing leases continue. . . . .	393
457	Terms of pre-Wolfe freeholding leases . . . . .	393

Contents

---

458	Deed of grant to issue . . . . .	394
459	Residential hardship concessions . . . . .	394
<b>Division 2</b>	<b>Post-Wolfe freeholding leases</b>	
460	Existing leases continue . . . . .	395
461	Terms of existing post-Wolfe freeholding leases continue . . . . .	395
462	Terms of post-Wolfe freeholding leases . . . . .	395
463	Deed of grant to issue . . . . .	396
<b>Division 3</b>	<b>Grazing homestead freeholding leases</b>	
464	Existing leases continue . . . . .	397
465	Terms of existing grazing homestead freeholding leases continue . . . . .	397
466	Terms of grazing homestead freeholding leases . . . . .	397
467	Deed of grant to issue . . . . .	398
<b>Part 3</b>	<b>Perpetual leases</b>	
<b>Division 1</b>	<b>Grazing homestead perpetual leases</b>	
468	Existing leases continue . . . . .	399
469	Right to a grazing homestead freeholding lease . . . . .	399
<b>Division 2</b>	<b>Non-competitive leases</b>	
470	Existing leases continue . . . . .	400
471	Right to a post-Wolfe freeholding lease . . . . .	400
<b>Part 4</b>	<b>Term leases</b>	
<b>Division 1</b>	<b>Pastoral, preferential pastoral, pastoral development, and stud holdings</b>	
472	Existing leases continue . . . . .	401
473	Covenant for a new term lease . . . . .	401
474	Uses of stud holdings . . . . .	401
475	Restrictions on ownership of preferential pastoral holdings . . . . .	401
<b>Division 2</b>	<b>Special and development leases</b>	
476	Existing leases continue . . . . .	402
477	Change of purpose for special lease . . . . .	402
478	Right to a post-Wolfe freeholding lease . . . . .	402
479	Development leases not to be sublet . . . . .	403
<b>Part 5</b>	<b>Licences and permits</b>	
<b>Division 1</b>	<b>Occupation licences</b>	
480	Occupation licences continue . . . . .	403
481	Cancellation . . . . .	403
481A	Absolute surrender . . . . .	404

481B	Application to cancel or surrender . . . . .	404
481E	Registration cancels occupation licence . . . . .	405
481F	Registration surrenders occupation licence . . . . .	405
481G	Notice of cancellation or absolute surrender . . . . .	406
481H	Effect of cancellation or absolute surrender . . . . .	406
481I	Person to give up possession on cancellation or absolute surrender	407
481J	Improvements. . . . .	407
482	Approval needed for improvement and development work. . . . .	408
<b>Division 1A</b>	<b>Permits</b>	
483	Existing permits continue . . . . .	408
<b>Division 2</b>	<b>Fencing use licences</b>	
484	Existing fencing use licences continue . . . . .	408
485	Minister may cancel licence for breach of condition . . . . .	408
<b>Part 6</b>	<b>Continued tenures generally</b>	
486	Existing conditions continue . . . . .	409
487	Existing concessions continue . . . . .	409
488	Fencing conditions and exemptions . . . . .	409
489	Amalgamating or subdividing existing leases. . . . .	410
<b>Part 7</b>	<b>Tenures under other Acts</b>	
<b>Division 1</b>	<b>Sale to Local Authorities Land Act 1882</b>	
490	Existing deeds of grant continue . . . . .	411
491	Conditions and reservations still applying . . . . .	411
492	Application for new tenure under this Act . . . . .	411
493	Automatic issue of new tenure under this Act . . . . .	412
<b>Division 2</b>	<b>Miners homesteads</b>	
494	Objective. . . . .	412
495	Definitions for div 2. . . . .	412
496	Current applications . . . . .	413
497	Refusal or lapsing of current miners homestead application . . . .	414
498	Time in which offer must be accepted . . . . .	414
499	Automatic issue of new tenure . . . . .	414
500	Application of prepaid rent . . . . .	415
501	Replacement miners homestead documents. . . . .	415
502	Replacement mining titles freeholding leases . . . . .	416
503	Approvals continue. . . . .	417

---

<b>Division 2A</b>	<b>Further opportunity to convert certain perpetual town leases, that were previously miners homesteads, to freehold</b>	
503A	Objective . . . . .	417
503B	Definitions for div 2A. . . . .	417
503C	Who may apply under this division . . . . .	418
503D	Time within which application must be made . . . . .	418
503E	How application is dealt with . . . . .	418
503F	Lapse of offer . . . . .	418
503G	Surrender of existing lease. . . . .	419
503H	Existing encumbrances . . . . .	419
503I	Credit for rent paid . . . . .	419
<b>Division 2B</b>	<b>Treatment of special perpetual mining purposes leases under certain Acts</b>	
503J	Special perpetual mining purposes leases become perpetual leases 420	
503K	Replacement documents . . . . .	420
<b>Division 3</b>	<b>Port and harbour lands</b>	
504	Changing tenures of port lands . . . . .	421
505	Changing tenures of harbour land . . . . .	422
<b>Division 4</b>	<b>Cemetery Act 1865</b>	
506	Existing cemeteries continue . . . . .	423
<b>Chapter 9</b>	<b>Transitional and repeal provisions</b>	
<b>Part 1</b>	<b>Transitional provisions for original Act (No. 81 of 1994)</b>	
508	Interests under repealed Act continue . . . . .	423
509	Registration of documents lodged before commencement . . . . .	424
510	Offers made before commencement . . . . .	424
511	References in Acts and documents . . . . .	424
512	Harbour matters . . . . .	426
513	Casino matters . . . . .	426
514	Closure of Brigalow Fund . . . . .	427
516	Existing by-laws . . . . .	427
518	Existing powers of attorney . . . . .	427
519	Things done under repealed Acts . . . . .	427
520	Effect of repeal by this Act . . . . .	428

---

<b>Part 1A</b>	<b>Transitional provision for Natural Resources and Other Legislation Amendment Act 2000</b>	
521A	Lease of land under repealed Act, section 269(1) . . . . .	429
<b>Part 1B</b>	<b>Transitional provisions for Guardianship and Administration Act 2000</b>	
521B	Performance of condition under previous s 207(1)(b) possible for 1 year 429	
521C	Authorisation under repealed s 384 continues for 1 year . . . . .	430
<b>Part 1C</b>	<b>Transitional provision for Audit Legislation Amendment Act 2006</b>	
521D	Persons appointed to perform certain audits before commencement	430
<b>Part 1D</b>	<b>Transitional provisions for Land and Other Legislation Amendment Act 2007</b>	
521E	Divesting and vesting trust land . . . . .	431
521F	Existing leases exempted from particular amendments . . . . .	431
521G	Offer of additional area . . . . .	431
521H	Forfeiture for outstanding amount. . . . .	431
521I	Requirements for plan of subdivision . . . . .	432
521J	Non-application of s 299A to particular documents . . . . .	432
521L	Continuance of power to substitute particular tenure or registered documents . . . . .	432
521M	Permits to occupy and unallocated State land . . . . .	432
521N	Dealing with disputes under particular subleases . . . . .	432
521O	Exclusion of imposed condition reviews for particular leases. . . . .	433
<b>Part 1E</b>	<b>Transitional provision for Aboriginal and Torres Strait Islander Land Amendment Act 2008</b>	
521P	Trustee leases . . . . .	433
<b>Part 1F</b>	<b>Further transitional provisions for Land and Other Legislation Amendment Act 2007</b>	
521Q	Definition for pt 1F . . . . .	434
521R	Outstanding applications continued under post-amended Act . . . . .	434
521S	Particular new leases exempted from particular provisions . . . . .	435
<b>Part 1G</b>	<b>Transitional provision for Acquisition of Land and Other Legislation Amendment Act 2009</b>	
521T	Provision about change of purpose for reserves . . . . .	435
<b>Part 1H</b>	<b>Transitional provisions for Natural Resources and Other Legislation Amendment Act 2010</b>	
521U	Definitions for pt 1H . . . . .	436
521V	Existing term lease applications . . . . .	436

## Contents

521W	Existing extension applications . . . . .	436
521X	Application of s 155D to existing leases . . . . .	437
521Y	Application of s 201A to existing leases . . . . .	437
521Z	Continuing application of no compensation provision . . . . .	437
521ZA	Lease or permit . . . . .	437
<b>Part 1I</b>	<b>Transitional provision for Classification of Computer Games and Images and Other Legislation Amendment Act 2013</b>	
521ZB	References to the repealed Dividing Fences Act 1953 . . . . .	438
<b>Part 1J</b>	<b>Transitional provision for amendments under Waste Reduction and Recycling Act 2011</b>	
521ZC	Existing profit a prendre relating to natural resource product. . . . .	439
<b>Part 1K</b>	<b>Transitional provisions for Land, Water and Other Legislation Amendment Act 2013</b>	
521ZD	Definitions for pt 1K . . . . .	439
521ZE	Cancellation of land management agreements . . . . .	440
521ZF	Prohibition on cancellation of particular land management agreements 440	
521ZG	Particular conditions about land management agreements for relevant term leases. . . . .	441
521ZH	Extension and reduction of relevant term leases . . . . .	441
521ZI	Existing term lease applications . . . . .	441
<b>Part 1L</b>	<b>Transitional provision for Vegetation Management Framework Amendment Act 2013</b>	
521ZJ	Particular existing forfeiture procedures . . . . .	442
<b>Part 1M</b>	<b>Transitional provisions for Land and Other Legislation Amendment Act 2014</b>	
521ZK	Definitions for pt 1M . . . . .	443
521ZL	Application for term lease renewal may become extension application for rolling term lease. . . . .	443
521ZM	Application for term lease renewal before commencement may become extension application . . . . .	444
521ZN	Ending of mandatory condition under repealed s 176H . . . . .	444
521ZO	Transitional regulation-making power . . . . .	445
<b>Part 2</b>	<b>Repeal</b>	
522	Completion of repeal . . . . .	445
<b>Schedule 1</b>	<b>Community purposes</b> . . . . .	446
<b>Schedule 1A</b>	<b>Provisions that include mandatory conditions for tenures</b> . . . . .	448



---

<b>Schedule 1B</b>	<b>Regulation about the payment and collection of rent and instalments</b> . . . . .	449
1	Matters that may be included . . . . .	449
<b>Schedule 2</b>	<b>Original decisions</b> . . . . .	451
<b>Schedule 3</b>	<b>Requirements for approved agreements</b> . . . . .	453
<b>Schedule 6</b>	<b>Dictionary</b> . . . . .	459
 <b>Endnotes</b>		
1	Index to endnotes . . . . .	484
2	Key . . . . .	484
3	Table of reprints . . . . .	485
4	List of legislation . . . . .	487
5	List of annotations . . . . .	498
6	Information about retrospectivity . . . . .	559



# Land Act 1994

[as amended by all amendments that commenced on or before 1 July 2014]

**An Act to consolidate and amend the law relating to the administration and management of non-freehold land and deeds of grant in trust and the creation of freehold land, and for related purposes**

## Chapter 1 Preliminary

### Part 1 Introduction

#### 1 Short title

This Act may be cited as the *Land Act 1994*.

#### 3 Dictionary

The dictionary in schedule 6 defines particular words used in this Act.

## Part 2                      Objects

### 4            Object of this Act

In the administration of this Act, land to which this Act applies must be managed for the benefit of the people of Queensland by having regard to the following principles—

#### **Sustainability**

- sustainable resource use and development to ensure existing needs are met and the State's resources are conserved for the benefit of future generations

#### **Evaluation**

- land evaluation based on the appraisal of land capability and the consideration and balancing of the different economic, environmental, cultural and social opportunities and values of the land

#### **Development**

- allocating land for development in the context of the State's planning framework, and applying contemporary best practice in design and land management
- when land is made available, allocation to persons who will facilitate its most appropriate use that supports the economic, social and physical wellbeing of the people of Queensland

#### **Community purpose**

- if land is needed for community purposes, the retention of the land for the community in a way that protects and facilitates the community purpose

#### **Protection**

- protection of environmentally and culturally valuable and sensitive areas and features

### **Consultation**

- consultation with community groups, industry associations and authorities is an important part of the decision-making process

### **Administration**

- consistent and impartial dealings
- efficient, open and accountable administration
- a market approach in land dealings, adjusted when appropriate for community benefits arising from the dealing.

## **Part 3                      Application of Act**

### **5            Land to which Act applies**

- (1) This Act applies to all land, including land that is, whether permanently or from time to time, covered by water subject to tidal influence.

*Note—*

Although this Act generally applies to non-freehold land, most freehold land contains a reservation to the State for minerals. To that extent, this Act applies to all land.

- (2) Layers and strata above and below the surface of land may be dealt with under this Act.

*Note—*

However, see section 14(3).

### **6            Act binds all persons**

This Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

[s 7]

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## 7 Relationship with Native Title Act

This Act does not affect the operation of the *Native Title (Queensland) Act 1993*.

# Part 4 Tidal and non-tidal boundaries and associated matters

## Division 1 Preliminary

### 8 Definitions for pt 4

In this part—

***non-tidal boundary (lake)*** has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, part 7.

***non-tidal boundary (watercourse)*** has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, part 7.

***right line boundary*** has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, part 7.

***right line tidal boundary***, of land, means a right line boundary of the land that is located approximately where a tidal boundary might otherwise be located.

*Example—*

The boundaries of a lot include a tidal boundary. Because of difficulties arising in relation to the location at law of the tidal boundary, or for some other reason, the registered owner of the lot agrees to surrender the lot to the State. The lot is resurveyed, and a new deed of grant is issued for the lot, but without the tidal boundary. The deed of grant and associated plan of survey now provide for a right line boundary in a location that is the approximate location of the previous tidal boundary.

***tidal boundary*** has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, part 7.

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*tidal water* means any part of the sea or of a port, or of a watercourse, lagoon, swamp or other place where water may be found, ordinarily within the ebb and flow of the tide at spring tides.

## Division 2                      The tidal environment

### 9                      Land adjacent to tidal boundary or right line tidal boundary owned by State

- (1) If land has a boundary that is a tidal boundary or right line tidal boundary, other land that is on the same side of the boundary as the water subject to tidal influence—
  - (a) is the property of the State; and
  - (b) may be dealt with as unallocated State land.
- (2) Subsection (1) does not apply to land if it is inundated land or a registered interest in the land is held by someone else.
- (3) Subsections (1) and (2) apply even if a person owns land having tidal boundaries or right line tidal boundaries on both sides of water subject to tidal influence.

*Example—*

A person owns land that has as its northern boundary a tidal boundary that is located on the southern edge of a river. The same person also owns land in the same locality that has as its southern boundary a tidal boundary located on the northern edge of the same river. The ownership of land on both sides of the river does not in these circumstances confer on the person ownership of the river itself.

- (4) To remove any doubt, it is declared that, before the commencement of this section, if a boundary of land (the *relevant land*) was formed by high-water mark—
  - (a) other land that adjoined the boundary and was below high-water mark was, and always was, the property of the State, unless it was inundated land or a registered interest in the land was held by someone else; and

[s 10]

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- (b) if the line of the high-water mark shifted over time by gradual and imperceptible degrees, the shift was a shift in the boundary of the relevant land.
- (5) An act before the commencement of this section to occupy, use, build works or remove material or product, with or without lawful authority, could never divest the State of its ownership of land below high-water mark.
- (6) An act after the commencement of this section to occupy, use, build works or remove material or product, with or without lawful authority, can not divest the State of its ownership of land that is on the same side of a boundary that is a tidal boundary or right line tidal boundary as the water subject to tidal influence.

## **10 Land raised above high-water mark by works**

- (1) Land in the ownership of the State that becomes raised above high-water mark as a result of the carrying out of works on or in proximity to the land remains owned by the State and may be dealt with as unallocated State land.
- (2) This section does not apply to land the subject of reclamation mentioned in section 127.

## **11 Local government for new land**

- (1) Land that becomes raised above high-water mark is land within the local government area of land adjoining the raised land.
- (2) If the raised land adjoins land in more than 1 local government area, the Minister must decide the local government for the land.

## **12 Inundated land**

- (1) If inundated land adjoins the limits of a port, the land forms part of the port for an Act applying to tidal water in the port.



- (2) If inundated land is outside the limits of a port, the land forms part of the tidal water for an Act applying to tidal water.
- (3) The registered owner of inundated land may suitably indicate where the boundaries of the land are across the surface of the water.
- (4) If the registered owner of inundated land has suitably indicated where the boundaries of the land are, the registered owner may regulate or prohibit the use or movement of ships in or over the water above the inundated land.
- (5) To remove any doubt, it is declared that an interest in freehold land immediately before the land becomes inundated land is not affected by the inundation and neither the State nor a port authority, port lessor, port lessee or port manager is authorised to deal with or give an interest in the land unless the State, port authority, port lessor, port lessee or port manager is the registered owner of the land.
- (6) In this section—  
*registered owner* of inundated land includes a lessee of the land.

### **13 Power to deal with land seaward of tidal boundary or right line tidal boundary**

- (1) Land that is on the seaward side of a tidal boundary or right line tidal boundary, other than inundated land, may be leased, granted, occupied, sold or transferred only under the authority of an Act.
- (2) Subsection (1) does not stop land that is on the seaward side of a tidal boundary or right line tidal boundary from being granted in fee simple if it is the subject of reclamation mentioned in section 127.

## Division 3                      The non-tidal environment

### 13A    Land adjacent to non-tidal boundary (watercourse) or non-tidal boundary (lake) owned by State

- (1) If land has a non-tidal boundary (watercourse), other land that adjoins the boundary and is on the watercourse side of the boundary is the property of the State.
- (2) If land has a non-tidal boundary (lake), other land that adjoins the boundary and is on the lake side of the boundary is the property of the State.
- (3) Subsections (1) and (2) apply despite the alienation of land by the State.
- (4) A person (the *owner*) who may take water under the *Water Act 2000*, section 20(3)—
  - (a) may exercise a right of access for the owner, the owner's family, executive officers, employees, agents and stock over the part (the *adjacent area*) of the watercourse or lake that is the property of the State and that adjoins the owner's land; and
  - (b) may exercise a right of grazing for the person's stock over the adjacent area; and
  - (c) may bring action against a person who trespasses on the adjacent area as if the owner were the registered owner of the adjacent area.
- (5) If the adjacent area is being used by the State for a purpose under the *Water Act 2000*—
  - (a) subsection (4)(a) and (b) applies only to the extent exercising the right does not interfere with the State's use of the adjacent area; and
  - (b) subsection (4)(c) does not allow the owner to bring an action against a person acting on behalf of the State.

*Note—*

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This section effectively replaces the *Water Act 2000*, section 21 (Beds and banks forming boundaries of land are State property), which was repealed by the *Natural Resources and Other Legislation Amendment Act 2010*. However, that Act inserted a transitional provision into the *Water Act 2000* to provide that the repealed section 21 continues to apply for all matters arising before its repeal.

### **13B Power to declare and deal with former watercourse land**

- (1) A person (the *applicant*) who is the owner of land (the *relevant land*) having a non-tidal boundary (watercourse) may apply to the chief executive (water) to have land (the *watercourse land*) adjoining the relevant land's non-tidal boundary (watercourse) declared to be former watercourse land if—
  - (a) no person holds a registered interest in the watercourse land; and
  - (b) the physical location of the boundary's associated watercourse has been the subject of change, whether before or after the commencement of this section; and
  - (c) on an application of the ambulatory boundary principles, the location at law of the non-tidal boundary (watercourse) has not changed correspondingly; and
  - (d) the watercourse land has effectively ceased to be part of a functioning watercourse.
- (2) However, before applying, the person must give notice of the person's intention to make the application to the owners of any land that adjoins the watercourse land.
- (3) The chief executive (water) may by gazette notice declare the watercourse land to be former watercourse land.
- (4) However, the chief executive (water) may make the declaration only if satisfied that—
  - (a) the matters stated in subsection (1)(a) to (d) are true; and

[s 13B]

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(b) taking a long-term perspective, there is negligible likelihood that the watercourse land will again become part of a functioning watercourse.

- (5) In making the application, the applicant must give the chief executive (water) enough evidence to satisfy the chief executive (water) that the watercourse land has effectively ceased to be part of a functioning watercourse.

*Examples of evidence—*

photographs, survey material identifying topographical changes and authoritative information about flow history

- (6) The applicant may appeal against the refusal of the application, and a person entitled to be given notice of the proposed application under subsection (2) may appeal against the granting of the application.
- (7) When the watercourse land becomes former watercourse land, it does not become unallocated State land, but it may be dealt with under this Act as if it were unallocated State land.
- (8) Despite subsection (7), the granting of an estate in fee simple, a lease or a permit to occupy for the purpose of dealing with the former watercourse land under that subsection is not subject to any public auction, tender or ballot requirements under chapter 4, part 1, division 1.
- (9) To remove any doubt, it is declared that the former watercourse land declaration may incorporate by reference a map or plan held by the chief executive under this Act for identifying the boundaries of the former watercourse land.
- (10) The chief executive (water) may delegate his or her powers under this section to an appropriately qualified public service officer or employee.
- (11) In this section—

*ambulatory boundary principles* has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, part 7.

*appropriately qualified*, for a person to whom a power may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

*associated watercourse*, of a non-tidal boundary (watercourse), means the watercourse on which the boundary is based.

*chief executive (water)* means the chief executive under the *Water Act 2000*.

*former watercourse land* means the land the subject of a former watercourse land declaration.

*former watercourse land declaration* means a declaration under subsection (3).

*owner*, of land, means—

- (a) if the land is freehold land—the registered owner of the land; or
- (b) if the land is the subject of a lease—the lessee of the land; or
- (c) if the land is a reserve—the trustee of the reserve; or
- (d) if a person has occupation rights in relation to the land under a licence or permit—the licensee or permittee.

## Chapter 2 Land allocation

### Part 1 Allocation powers

#### 14 Governor in Council may grant land

- (1) The Governor in Council may grant, in fee simple, unallocated State land, an operational reserve or rail land.

[s 15]

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- (2) The Governor in Council may also grant, in fee simple in trust, unallocated State land for use for a community purpose.
- (3) A grant under subsection (1) or (2) may not be made for land that adjoins a tidal boundary or right line tidal boundary of other land.
- (4) A grant of rail land under subsection (1) may be made only to the State.
- (5) Subsection (3) does not stop land that is on the seaward side of a tidal boundary or right line tidal boundary from being granted in fee simple if it is the subject of a reclamation mentioned in section 127.

## 15 Leasing land

- (1) The Governor in Council may issue a freeholding lease following an application to convert a lease made under section 166(1).
- (2) The Minister may—
  - (a) lease unallocated State land for either a term of years or in perpetuity; and
  - (b) lease land in a reserve for a term of years only.
- (3) However, a lease in perpetuity of unallocated State land may be granted only if—
  - (a) under a provision of an Act, other than this Act, a perpetual lease must be issued over the unallocated State land; or  
*Example of a provision of an Act for paragraph (a)—*  
*Transport Infrastructure Act 1994, section 105J(4) and (5)*
  - (b) under a provision of this Act, the Minister may issue a perpetual lease; or  
*Example of a provision of this Act for paragraph (b)—*  
section 17(2)

- 
- (c) the Minister considers the lease is in the interests of the State.
  - (4) A lease for land that is on the same side of a boundary that is a tidal boundary or right line tidal boundary as the water subject to tidal influence may be granted only if—
    - (a) it will not unduly affect safe navigation and sound development of the State’s waterways and ports; and
    - (b) the impact on marine infrastructure has been considered; and
    - (c) it would not have a detrimental effect on coastal management; and
    - (d) it is consistent with the intent of any relevant State management plan.
  - (5) A lease for land that is on the same side of a boundary that is a tidal boundary or right line tidal boundary as the water subject to tidal influence is not an approval to reclaim the lease land.

## **16 Deciding appropriate tenure**

- (1) Before land is allocated under this Act, the chief executive must evaluate the land to assess the most appropriate tenure and use for the land.
- (2) The evaluation must take account of State, regional and local planning strategies and policies and the object of this Act.
- (2A) Also, to the extent the land is in a priority development area, the evaluation must take account of, and give primary consideration to, any relevant development instrument under the *Economic Development Act 2012* that applies to the land.
- (3) For Cape York agreement land, the evaluation may also take account of commitments and undertakings—
  - (a) having effect in relation to tenure; and
  - (b) given by persons under, or arising from, a Cape York agreement.

[s 17]

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- (4) Subsection (3) applies for 10 years after it commences.
- (5) This section does not apply to a grant of rail land in fee simple to the State.
- (6) In this section—

***Cape York agreement*** means—

- (a) the Cape York Peninsula Land Use Heads of Agreement made on 5 February 1996; or
- (b) the agreement made on 17 September 2001, headed ‘Deed of Endorsement Cape York Land Use Heads of Agreement’.

***Cape York agreement land*** means unallocated State land to which a Cape York agreement applies.

## **17 Granting land to the State**

- (1) The Governor in Council may grant unallocated State land, an operational reserve or rail land in fee simple to the State.
- (2) The Minister may lease unallocated State land to the State for either a term of years or in perpetuity.

## **18 Exchanging land**

- (1) The Governor in Council, by agreement with a registered owner, may grant unallocated State land in exchange for all or part of the freehold land.

*Note—*

A deed of grant issued because of an exchange of land is issued under section 358.

- (2) The Governor in Council, by agreement with a lessee of a freeholding lease, may grant a freeholding lease over unallocated State land in exchange for all or part of the freeholding lease.

*Note—*



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A freeholding lease amended because of an exchange of land is amended under section 360(1)(f).

- (3) The Minister, by agreement with a lessee of a term lease, other than a State lease, or a perpetual lease, may lease unallocated State land for a term of years or in perpetuity in exchange for all or part of the lease.

*Note—*

A term or perpetual lease amended because of an exchange of land is amended under section 360A(3)(c).

- (4) A power under this section may be exercised only if the State's equity in land would not be reduced.
- (5) If a registered owner or lessee asks for an agreement to be made under this section, the request must be accompanied by the fee prescribed under a regulation.

## **18A Grant or lease of unallocated State land in consideration of surrender of native title interest**

- (1) This section applies if, under an ILUA, all native title in relation to an area is extinguished by surrender to the State.
- (2) The designated person may grant or lease unallocated State land to a grantee entity.
- (3) The unallocated State land being granted or leased need not be land the subject of a surrender under the ILUA.
- (4) If there are 2 or more surrender areas, the grant or lease may be made to 2 or more grantee entities jointly.
- (5) In this section—

*Commonwealth Native Title Act* means the *Native Title Act 1993* (Cwlth).

*designated person*, until the commencement of the *Land and Other Legislation Amendment Act 2007*, section 16, means the Governor in Council.

*grantee entity* means—

[s 19]

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- (a) if there is, under the Commonwealth Native Title Act, a registered native title body corporate for a surrender area—the registered native title body corporate for the surrender area; or
- (b) for any other surrender area—
  - (i) a body corporate whose membership is restricted to persons in the surrender group; or
  - (ii) a person as trustee for a trust whose beneficiaries are restricted to persons in the surrender group.

**ILUA** means an indigenous land use agreement.

**surrender area** means—

- (a) an area in relation to which native title is surrendered under the ILUA and in relation to which there is a registered native title body corporate; or
- (b) an area in relation to which native title is surrendered under the ILUA on behalf of a surrender group.

**surrender group** means the persons identified in the ILUA as persons on whose behalf native title is surrendered.

## **19 Minister may buy land**

The Minister, for the State, may buy land leased under this Act or freehold land.

## **20 Dealing with mining interests, geothermal tenures or GHG authorities**

- (1) Even if there is a mining interest, geothermal tenure or GHG authority over unallocated State land, the land is still unallocated State land for dealing with it under this Act.
- (2) However, the dealing can not affect—
  - (a) the rights of the holder of the mining interest, geothermal tenure or GHG authority or the successors of the holder; or

(b) an agreement made, or anything else done, under the *Mineral Resources Act 1989*, the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Geothermal Energy Act 2010* or the *Greenhouse Gas Storage Act 2009*.

(3) In this section—

***geothermal tenure*** means a geothermal tenure under the *Geothermal Energy Act 2010*.

***GHG authority*** means a GHG authority under the *Greenhouse Gas Storage Act 2009*.

***mining interest*** means a permit, claim, licence, lease or other authority held under the *Mineral Resources Act 1989*, the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.

## Part 2 Reservations

### 21 Reservation of minerals, petroleum etc.

Each deed of grant, deed of grant in trust or lease issued under this Act is subject to the reservations and conditions authorised or required under this or another Act.

*Note—*

The *Mineral Resources Act 1989*, section 8, the *Petroleum Act 1923*, section 10 and the *Petroleum and Gas (Production and Safety) Act 2004*, section 27 provide that each grant and lease issued under this Act is subject to the reservation of the minerals and petroleum mentioned in the sections.

### 22 Reservation of quarry materials

(1) A deed of grant or deed of grant in trust issued for land containing quarry material owned by the State must contain a

[s 23]

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reservation of the quarry material, other than topsoil, to the State.

- (2) Subsection (1) applies to a deed of grant or deed of grant in trust issued under section 358 only if the land being surrendered is already subject to the reservation mentioned in subsection (1).

*Note—*

Section 358 is about getting a new deed of grant because of a surrender.

## **23 Reservation for public purposes**

- (1) A deed of grant, deed of grant in trust or lease issued under this Act may be issued containing a reservation for a public purpose.
- (2) Each reservation must be for a stated area, in size, but the grant or lease need not identify the particular land reserved.

## **23A Floating reservation on plan of subdivision**

- (1) A person seeking to have a plan of subdivision registered in relation to the land contained in a deed of grant, deed of grant in trust or lease may apply to the Minister for the allocation of a floating reservation to some or all of the lots created by the plan.
- (2) In making a decision for subsection (1), the Minister must have regard to the purpose of the reservation, the likely future use of the land and where the reservation is most likely to be needed.

*Example—*

If the reservation is for road purposes, the Minister will have regard to where the road is most likely to be needed.

- (3) If the reservation is contained in a deed of grant or freeholding lease, and the Minister is satisfied that all or part of the reservation is no longer needed, the reservation, to the extent it is no longer needed, may be dealt with under section 24.

- (4) If the reservation is contained in a deed of grant in trust, or in a lease other than a freeholding lease, and the Minister is satisfied that all or part of the reservation is no longer needed, the reservation, to the extent it is no longer needed, may be dealt with under section 26A.
- (5) Notice of the Minister's decision for subsection (1) and the reasons for the decision must be given to the applicant.
- (6) The applicant may appeal against the Minister's decision.

## **24 Disposal of reservations no longer needed**

- (1) If a reservation for a public purpose in a deed of grant or freeholding lease is no longer needed for the purpose, the Governor in Council may sell all or part of the land in the reservation to the registered owner of the deed of grant or the lessee of the lease.

*Note—*

A deed of grant issued because of the disposal of a reservation is issued under section 358.

- (2) Alternatively, if the reservation is adequate in size to be used by a person other than the registered owner or lessee and the registered owner or lessee does not buy the land—
  - (a) possession of all or part of the land reserved may be resumed; and
  - (b) the land resumed may be dealt with as unallocated State land.
- (3) Land in a reservation may be sold under subsection (1) only if the registered owner or lessee has applied to the Minister to buy the land, and the Minister is satisfied the reservation is no longer needed.
- (4) In making a decision under subsection (3), the Minister must have regard to the purpose of the reservation and the likely future use of the land.

*Example—*

[s 25]

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If the reservation is for road purposes, the Minister will have regard to whether the road is likely to be needed.

## **25 Disposal of reservations by sale**

- (1) If land is sold under section 24(1), the sale price for the land is the unimproved value of the land decided by the Minister in the way prescribed by regulation.
- (2) The registered owner or lessee may appeal against the unimproved value.
- (3) The unimproved value must be decided—
  - (a) if the registered owner or lessee applied to buy the land—for the day the application was received by the Minister; or
  - (b) if the Minister made an offer to sell the land before the registered owner or lessee applied to buy the land—for the day the offer was made.

## **26 Minister may decide boundaries of reservations**

- (1) If the Governor in Council resumes possession of all or part of a reservation and the boundaries of the reservation are not stated in the lease, deed of grant or deed of grant in trust, the Minister may decide the boundaries of the reservation.

*Note—*

Resumptions are dealt with in chapter 5, part 3, division 3.

- (2) In deciding the boundaries of the land being resumed, the Minister must consider the following matters unless the lessee, registered owner or trustee of the land otherwise agrees with the Minister—
  - (a) 1 of the boundaries should adjoin, or be, an existing road;
  - (b) the lessee, registered owner or trustee should not be deprived of access to the land;

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- (c) the land to be resumed should be, as near as practicable, of the average qualities and capabilities of all the land in the lease, deed of grant or deed of grant in trust.
  - (3) Notice of the Minister's decision on the boundaries and the reasons for the decision must be given to the lessee, registered owner or trustee.
  - (4) The lessee, registered owner or trustee may appeal against the Minister's decision on the boundaries.

## **26A Disposal of redundant reservation**

- (1) If a reservation for a public purpose in a deed of grant in trust, a term lease or a perpetual lease is no longer needed for the purpose, the Minister may dispose of the reservation under this section.
- (2) The Minister disposes of the reservation by approving the lodgement of a plan of subdivision that cancels the reservation and incorporates the land the subject of the reservation as land contained in the grant or lease.
- (3) If the reservation is in a deed of grant in trust, the disposal must happen in conjunction with a surrender, under section 358(1), of the land contained in the deed of grant in trust.
- (4) If the reservation is in a term lease or perpetual lease and a rent and instalment regulation applies to it for the purposes of this section, its rent may be adjusted as provided for in the rent and instalment regulation in relation to any increase in the area of land in the lease.
- (5) In this section—  
*reservation* includes part of a reservation.

## **26B Forest entitlement areas**

- (1) Subject to the terms of the reservation for a forest entitlement area, a lessee or registered owner may use and occupy the forest entitlement area.

[s 26B]

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- (2) If the forest entitlement area is no longer needed by the State the lessee or registered owner may buy the forest entitlement area under sections 24 and 25.

*Note—*

Section 24 is about the disposal of reservations no longer needed and section 25 is about the disposal of reservations by sale.

- (3) If the lessee or registered owner buys the forest entitlement area, the lessee or registered owner must also pay the value of the commercial timber on the forest entitlement area.
- (4) When a payment, as a first instalment or in full, is made for the forest entitlement area and the value of the commercial timber—
- (a) the reservation is discharged and the area ceases to be a forest entitlement area; and
  - (b) the commercial timber become the property of the person for whose benefit the reservation is discharged.
- (5) If the lessee or registered owner does not want to buy the forest entitlement area, possession of the forest entitlement area may be resumed, subject to section 26C, under section 24.

*Note—*

Section 26C is about the effect of resumptions on forest entitlement areas.

- (6) For subsection (3), the value of the commercial timber on a forest entitlement area is decided by the Minister in the way prescribed by regulation.
- (7) The value of the commercial timber decided by the Minister must be its value on the day—
- (a) if the lessee or registered owner applies to buy the forest entitlement area—the application was received by the Minister; or
  - (b) if the Minister made an offer to sell the forest entitlement area before the lessee or registered owner



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applied to buy the forest entitlement area—the offer was made.

- (8) The lessee or registered owner may appeal against the value decided by the Minister for the commercial timber.

*Note—*

Under section 421 (Notice of right of appeal to be given), a person who has a right to appeal against a decision must be given notice of the person's right to appeal.

- (9) However, if the lessee or registered owner appeals against the value decided by the Minister under subsections (6) and (7), the value of the timber decided by the court must be the value of the timber on the day the appeal is decided.
- (10) Subsection (9) has effect despite anything in chapter 7, part 3, division 3.

## **26C Effect of resumption of forest entitlement area**

If a forest entitlement area is resumed under section 24, the reservation is discharged and compensation is payable only for—

- (a) improvements existing on the forest entitlement area before the reservation was made; and
- (b) if building of improvements on the forest entitlement area were authorised by the Minister and the authorisation has not specifically excluded the payment of compensation—the improvements authorised.

## **Part 3 Native title**

### **27 Object**

The object of this part is to emphasise that land administered under this Act must be dealt with in a way not inconsistent

with the *Native Title Act 1993* (Cwlth) and the *Native Title (Queensland) Act 1993*.

## 28 Interaction with native title legislation

- (1) Any action taken under this Act must be taken in a way not inconsistent with the *Native Title Act 1993* (Cwlth) and the *Native Title (Queensland) Act 1993*.
- (2) To remove any doubt, it is declared that if native title exists over land, the land may still be dealt with under this Act.
- (3) However, subsection (2) is subject to subsection (1).

*Example—*

The issue of a permit under this Act, with appropriate conditions, could be a low impact future act under the *Native Title Act 1993* (Cwlth).

- (4) In subsection (1)—

**action** includes any of the following—

- (a) reserving land;
- (b) dedicating land as a road;
- (c) granting land;
- (d) issuing a lease, permit or licence over unallocated State land, reserve, road, national park, regional park (general), State forest or timber reserve;
- (e) including a reservation in a deed of grant, deed of grant in trust or lease;
- (f) disposing of a reservation no longer needed;
- (g) renewing or extending a lease;
- (h) converting a lease to another form of tenure;
- (i) including land in a lease or deed;
- (j) approving a trustee lease or trustee permit;
- (k) changing the purpose of a lease, licence, permit or reserve;

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- (m) actions above and below high-water mark and in layers or strata;
  - (n) offering or agreeing to carry out an action.

## 29 Taking into consideration Aboriginal tradition and Islander custom

- (1) If land is entered under chapter 7, part 1, division 3, and the land is registered in the native title register or has been transferred or granted under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*, the entry must, to the extent possible, take Aboriginal traditions and Islander customs into consideration.

*Note—*

Chapter 7, part 1, division 3 deals with the power of an authorised person to enter and inspect land.

- (2) In this section—

*native title register* means the National Native Title Register under the *Native Title Act 1993* (Cwlth).

# Chapter 3 Reserves, deeds of grant in trust and roads

## Part 1 Reserves and deeds of grant in trust

### Division 1 General

#### 30 Object

The object of this part is to—

[s 31]

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- (a) enable unallocated State land to be dedicated as a reserve or granted in fee simple in trust for community purposes; and
- (b) ensure that reserves and land granted in trust are properly and effectively managed—
  - (i) by persons (the *trustees*) who have some particular association or expertise with the reserve or land and its purpose or with the local community; and
  - (ii) in a way that is consistent with the purpose for which the reserve was dedicated or the land was granted in trust; and
- (c) ensure that the community purpose for which the reserve was dedicated or the land was granted in trust is not diminished by granting inappropriate interests over the reserve or land granted in trust; and
- (d) enable a deed of grant to be issued over an operational reserve.

## **Division 2 Reserves**

### **Subdivision 1 Reserves generally**

#### **31 Dedication of reserve**

- (1) The Minister may dedicate unallocated State land as a reserve for 1 or more community purposes.
- (2) However, the Minister may dedicate unallocated State land as a reserve for a community purpose that is the provision of services beneficial to Aboriginal people particularly concerned with land or Torres Strait Islanders particularly concerned with land only if the unallocated State land is transferable land.

- (3) The Minister may dedicate land under this section without receiving an application under section 31C(1).
- (4) Land is dedicated as a reserve by registering a dedication notice or plan of subdivision for the reserve.
- (5) The dedication notice or plan of subdivision must state the community purpose for which the land is dedicated as a reserve.
- (6) The dedication notice must also state the description of the land dedicated as a reserve.
- (7) The dedication of a reserve takes effect on the day the dedication notice or plan of subdivision for the dedication of the reserve is registered.

### **31A Changing boundaries of reserve**

- (1) The Minister may change the boundaries of a reserve other than a reserve dedicated for a community purpose mentioned in section 31(2).
- (2) The Minister may change the boundaries of a reserve under this section without receiving an application under section 31D(1).
- (3) The boundaries of a reserve are changed by registering an adjustment notice or plan of subdivision.
- (4) The adjustment notice must state—
  - (a) the reason for the change of the boundaries of the reserve; and
  - (b) the amended description of the land dedicated as the reserve.
- (5) The change of the boundaries of a reserve takes effect on the day the adjustment notice or plan of subdivision for the change is registered.

### **31B Changing purpose**

- (1) The Minister may change the purpose for which a reserve is dedicated to a community purpose or another community purpose.
- (2) However, the Minister may change the purpose for which a reserve is dedicated to a purpose mentioned in section 31(2) only if the reserve is transferable land.
- (3) Also, the Minister may change the purpose of a reserve dedicated for a purpose mentioned in section 31(2) only to Aboriginal purposes or Torres Strait Islander purposes.
- (4) The Minister may change the purpose for which a reserve is dedicated under this section without receiving an application under section 31D(1).
- (5) The purpose for which a reserve is dedicated is changed by registering an adjustment notice.
- (6) The adjustment notice must state—
  - (a) the reason for the change of purpose of the reserve; and
  - (b) the changed purpose for which the reserve is dedicated.
- (7) The change of purpose for which a reserve is dedicated takes effect on the day the adjustment notice for the change is registered.

### **31C Applying for dedication of reserve**

- (1) A person may apply to the Minister for the dedication of a reserve.
- (2) However, before applying, the person must give notice of the person's intention to make the application to—
  - (a) if the person is not the proposed trustee of the reserve—the proposed trustee; and
  - (b) each person with a registered interest in the unallocated State land over which the reserve is proposed to be dedicated.

- (3) The person may also give notice to any other person the first person considers has an interest in the unallocated State land over which the reserve is proposed to be dedicated.

### **31D Applying for adjustment of reserve**

- (1) The trustee of a reserve may apply to the Minister—
  - (a) to change the boundaries of the reserve; or
  - (b) to change the purpose for which the reserve is dedicated.
- (2) However, before applying, the trustee must give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.
- (3) The trustee may also give notice to any other person the trustee considers—
  - (a) has an interest in the reserve; or
  - (b) would have an interest in the reserve if the boundaries of the reserve or the purpose for which the reserve is dedicated were changed.

### **31F Notice of registration of action in relation to reserve**

- (1) The chief executive must give notice of the registration of an action relating to a reserve to each relevant person for the action.
- (2) The notice must include the date of registration of the action.
- (3) If an action is not registered, notice of the fact must be given to each relevant person for the action.
- (4) In this section—

**action**, in relation to a reserve, means—

  - (a) the dedication of the reserve under section 31; or
  - (b) the change of the boundaries of the reserve under section 31A; or

[s 32]

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- (c) the change of purpose for which the reserve is dedicated under section 31B.

*relevant person*, for an action in relation to a reserve, means—

- (a) the person or trustee that made an application under section 31C or 31D in relation to the proposed action;
- (b) each person given a notice under section 31C or 31D about the proposed action.

## **32 State leases over reserves**

- (1) The Minister must not grant a lease over a reserve for more than 30 years.
- (2) A lease over a reserve must not contain a covenant, agreement or condition—
  - (a) to renew the lease; or
  - (b) to convert to another form of tenure (including freehold); or
  - (c) to buy the land.
- (3) A lease over a reserve may be granted only if the lease—
  - (a) would be consistent with the purpose for which the land was reserved; or
  - (b) would facilitate or enhance the purpose for which the land was reserved.
- (4) Despite subsection (3), a lease may be granted over a reserve for a purpose inconsistent with the purpose for which the reserve was dedicated if—
  - (a) the lease would not diminish the purpose; and
  - (b) no more improvements, other than improvements approved by the Minister, are built or placed by the lessee on the leased part of the reserve.



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- (5) If there is a trustee of the reserve, the trustee must be consulted before the lease is granted.

### **33 Revocation of reserves**

- (1) The Minister, may revoke the dedication of all or part of a reserve if—
- (a) it is no longer needed for a community purpose; or
  - (b) it is needed, in the public interest, for a different use; or
  - (c) the Minister is satisfied a different tenure would be more appropriate for the purpose for which the land is used; or
  - (d) the reserve or part is in a priority development area.
- (2) The Minister may revoke the dedication of all or part of a reserve without receiving an application under section 34.

### **34 Applying to revoke dedication of reserve**

- (1) A person may apply for the revocation of the dedication of all or part of a reserve.
- (2) However, before applying, the person must give notice of the person's intention to make the application to—
- (a) if the person is not the trustee of the reserve—the trustee of the reserve; and
  - (b) each person with a registered interest in the reserve.
- (3) The person may also give notice to any other person the first person considers has an interest in the reserve.

### **34C Removal of interests before revocation**

Before the Minister revokes the dedication of a reserve—

- (a) any State lease or easement existing over the reserve must be resumed or surrendered; and

[s 34D]

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- (b) any permit to occupy existing over the reserve must be cancelled or surrendered.

*Note—*

Under section 372(2), a public utility easement may continue over unallocated State land when the dedication of a reserve is revoked.

### **34D Registration revokes dedication of reserve**

- (1) The dedication of all or part of a reserve is revoked by registering a revocation notice or plan of subdivision for the reserve.
- (2) However, if the revocation relates to only part of a lot, the revocation may only be made by registering a plan of subdivision.
- (3) Also, if all or part of a reserve for cemetery purposes has been used for cemetery purposes, the dedication of the reserve or any part of it may be revoked under this section only if a regulation authorises the revocation.
- (4) A revocation notice or plan of subdivision registered for subsection (3)—
  - (a) must state the particulars of the regulation mentioned in subsection (3); and
  - (b) may only be registered when the *Statutory Instruments Act 1992*, section 50, can no longer operate to cause the regulation to cease to have effect.
- (5) The revocation of the dedication of all or part of a reserve takes effect on the day a revocation notice or plan of subdivision is registered.

### **34E Notice of revocation**

- (1) The chief executive must give notice of the revocation of the dedication of a reserve to the person who applied for the

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revocation and each person given notice about the proposed revocation under section 34 (either a *relevant person*).

- (2) The notice under subsection (1) must include all of the following—
  - (a) the date of the revocation;
  - (b) the effect, under section 34F, of the revocation;
  - (c) if there are improvements on the land the subject of the reserve owned by the person receiving the notice—a statement that the person may apply to remove the improvements.
- (3) If the Minister decides not to revoke the dedication of a reserve, notice of the fact must be given to each relevant person.

### **34F Effect of revocation**

On the revocation of all or part of a reserve, all of the following apply in relation to the land the subject of the revocation—

- (a) the reserve ends;
- (b) all appointments of trustees are cancelled;
- (c) all trustee leases and interests in the trustee leases are cancelled;
- (d) all trustee permits are cancelled;
- (e) the land becomes unallocated State land;
- (f) no person has a right to claim compensation from the Minister or the State for the revocation.

### **34G Person to give up possession**

- (1) On the revocation of the dedication of all or part of a reserve, a person occupying land the subject of the revocation must immediately vacate the land.

[s 34H]

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- (2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying unallocated State land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

### **34H Dealing with improvements**

- (1) An owner of improvements on a reserve the dedication of which has been revoked may apply to remove the owner's improvements on the reserve.
- (2) The owner may remove the improvements only with the written approval of, and within a time stated by, the Minister.
- (3) The improvements become the property of the State if—
- (a) the Minister refuses to give written approval for their removal; or
  - (b) the Minister gives written approval for their removal but the improvements have not been removed within the time stated by the Minister.
- (4) However, if the land the subject of revocation is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.
- (5) In this section—
- owner**, of improvements, means—
- (a) if the trustee of the reserve the dedication of which has been revoked owned the improvements—the trustee; or
  - (b) a person who—
    - (i) made the improvements with the trustee's authority; and
    - (ii) owned the improvements.

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## **Subdivision 2      Operational reserves**

### **34I      Applying for deed of grant**

- (1) The trustee of an operational reserve may apply for the issue of a deed of grant over the reserve if the trustee is a constructing authority.
- (2) An application under subsection (1) may not be made for the issue of a deed of grant over part only of the reserve.
- (3) However, before applying, the trustee must give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.
- (4) The trustee may also give notice to any other person the trustee considers has an interest in the reserve.

### **34IA      Particular matters about issue of deed of grant**

- (1) The Minister may recommend to the Governor in Council the issue of a deed of grant only if satisfied the deed of grant would be an appropriate tenure for the reserve, having regard to—
  - (a) the public purpose for which the land was reserved and set apart under the repealed Act; and
  - (b) the current and proposed use of the land.
- (2) If the Minister decides to recommend to the Governor in Council the issue of a deed of grant, the Minister must decide the purchase price for the land in the reserve in the way prescribed by regulation.

### **34L      Removal of interests before grant**

Before the Governor in Council may issue a deed of grant over an operational reserve—

- (a) any State lease that exists over the reserve must be resumed or surrendered; and

[s 34M]

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- (b) any permit to occupy that exists over the reserve must be cancelled or surrendered.

### **34M Registration of deed of grant revokes reservation and setting apart**

- (1) The reservation and setting aside of an operational reserve is revoked by registering a deed of grant over the reserve.
- (2) The deed of grant takes effect on the day the deed of grant is registered.

### **34N Notice of registration of deed of grant**

- (1) The chief executive must give notice of the registration of the deed of grant over an operational reserve to the trustee who applied for the issue of the deed of grant and each person given notice about the proposed issue under section 34I (either a *relevant person*).
- (2) The notice under subsection (1) must include both of the following—
  - (a) the date of registration of the deed of grant;
  - (b) the effect, under section 34O, of the registration of the deed of grant.
- (3) If the Governor in Council does not issue a deed of grant over an operational reserve, notice of the fact must be given to each relevant person.

### **34O Effect of revocation**

On the registration of a deed of grant over an operational reserve, all of the following apply—

- (a) the reservation and setting apart of the reserve is revoked;
- (b) the reserve ends;
- (c) all appointments of trustees are cancelled;

- (d) the deed of grant is issued subject to—
  - (i) all easements and trustee leases over the reserve; and
  - (ii) all registered interests in the easements and trustee leases.

## Division 3                      Deeds of grant in trust

### 34P      Subdivision of DOGIT land

- (1) DOGIT land may be subdivided by a plan of subdivision creating 2 or more lots.
- (2) The plan of subdivision mentioned in subsection (1) may be registered only with the approval of the Minister, unless the plan of subdivision is only for the purposes of the resumption, taking or other compulsory acquisition under an Act of part of the DOGIT land.
- (3) A plan of subdivision for DOGIT land lodged for registration in the freehold land register must be accompanied by an instrument of covenant ensuring the lots created by the plan, other than any exempt lot, are held by the same person.
- (4) The covenantee under the instrument creating the covenant must be the State.
- (5) In this section—

***DOGIT land*** means land contained in a deed of grant in trust.

***exempt lot*** means—

- (a) land dedicated to public use under the plan; or
- (b) land resumed, taken or otherwise compulsorily acquired under an Act; or
- (c) land surrendered under section 55.

### **35 Use of land granted in trust**

(1) The way land granted in trust by the Governor in Council is used must not be inconsistent with—

(a) a purpose for which it was granted; or

*Note—*

The power of the Governor in Council to grant land in trust is in section 14(2) (Governor in Council may grant land).

(b) an additional community purpose notified under subsection (2).

(2) The Governor in Council may, by gazette notice, notify an additional community purpose for land granted in trust.

(3) The Governor in Council may notify an additional community purpose without receiving an application under section 38A(1)(a).

(4) An additional community purpose for land granted in trust is registered by registering an adjustment notice.

(5) The adjustment notice under subsection (4) must state—

(a) the particulars of the gazette notice notifying an additional community purpose; and

(b) the additional community purpose for the deed of grant in trust.

(6) The additional community purpose for land granted in trust takes effect on the day the adjustment notice is registered.

### **36 Amalgamating land with common purposes**

(1) If unallocated State land to be granted in trust for a community purpose adjoins land contained in a deed of grant in trust for the same purpose, both areas of land may be included in a single deed of grant in trust.

(2) If land contained in a deed of grant in trust for a purpose adjoins land contained in another deed of grant in trust for the



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same purpose, both areas of land may be included in a single deed of grant in trust.

*Note for subsections (1) and (2)—*

A deed of grant issued because of an addition of land is issued under section 358.

- (3) However, the following land must not be included with land contained in a deed of grant in trust issued on or after 1 July 1995—
  - (a) land contained in a deed of grant in trust issued before 1 July 1995;
  - (b) land contained in a conditional deed that became a deed of grant in trust under section 493(1).
- (4) For this section—
  - (a) land separated from other land by a road or watercourse is taken to adjoin the other land; and
  - (b) a reference to a deed of grant in trust issued before 1 July 1995 is taken to include a reference to a deed of grant in trust issued on or after 1 July 1995 under section 358 for land originally granted in trust before 1 July 1995.

### **37 Removing area from deed of grant in trust**

- (1) If the Minister is satisfied the area of a deed of grant in trust is more than the area reasonably needed for the trust, the Minister may refer the matter to the court for a decision on whether the land is more than the area reasonably needed, and if so, the part not needed.
- (2) If the court decides part of the land is surplus to the needs of the trust, the Governor in Council may resume the surplus land under the *Acquisition of Land Act 1967*.
- (3) If land is resumed, compensation is payable only for improvements and development work lawfully carried out by the trustee, or a person with the trustee's authority, on the resumed land.

### **38 Cancelling a deed of grant in trust**

- (1) The Governor in Council, by gazette notice, may cancel a deed of grant in trust if—
  - (a) the trust stops operating; or
  - (b) the affairs of the trust are not properly managed in the public interest; or
  - (c) the land is used in a way inconsistent with the purpose of the trust; or
  - (d) the Governor in Council considers it appropriate in the public interest; or
  - (e) the land is in a priority development area.
- (2) Before a deed of grant in trust is cancelled, the Minister may ask the court for a decision on a matter mentioned in subsection (1)(a) to (c).
- (3) The Governor in Council may cancel a deed of grant in trust without receiving an application under section 38A(2).
- (4) A deed of grant in trust is cancelled by the registration of a cancellation notice.
- (5) The cancellation notice must include the particulars of the gazette notice cancelling the deed of grant in trust.
- (6) The cancellation of the deed of grant in trust takes effect on the day the cancellation notice is registered.

### **38A Applying for additional community purpose, amalgamation or cancellation**

- (1) The trustee (the *applicant*) of a deed of grant in trust may apply—
  - (a) for an additional community purpose to be notified under section 35; or
  - (b) to amalgamate land with common purposes under section 36.

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- (2) A person (also the *applicant*) may apply for the cancellation of a deed of grant in trust under section 38.
  - (3) However, before applying under this section, the applicant must give notice of the applicant's intention to apply to each of the following—
    - (a) the trustee of the deed of grant in trust, other than the applicant;
    - (b) each person with a registered interest in the trust land.
  - (4) The applicant may also give notice to any other person the applicant considers has an interest in the trust land.

### **38D Notice of registration of action**

- (1) The chief executive must give notice of the registration of an action relating to a deed of grant in trust to the applicant and each person given notice about the proposed action under section 38A (either a *relevant person*).
- (2) The notice under subsection (1) must include the following—
  - (a) the date of registration of the action;
  - (b) if the action is the addition of a community purpose for the deed of grant in trust—a copy of the gazette notice mentioned in section 35(2);
  - (c) if the action is the amalgamation of land with common purposes—the particulars of the new deed of grant in trust issued under section 358;
  - (d) if the action is the cancellation of a deed of grant in trust—
    - (i) a copy of the gazette notice mentioned in section 38(1); and
    - (ii) the effect, under section 38E, of the cancellation; and
    - (iii) if there are improvements on the land the subject of the deed of grant in trust owned by the person

[s 38E]

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receiving the notice—a statement that the person may apply to remove the improvements.

- (3) If an action is not registered, notice of the fact must be given to each relevant person.
- (4) In this section—

*action*, in relation to a deed of grant in trust, means—

  - (a) the addition of a community purpose for the deed of grant in trust under section 35(2); or
  - (b) the amalgamation of land with common purposes under section 36; or
  - (c) the cancellation of a deed of grant in trust under section 38.

### **38E Effect of cancellation**

On the cancellation of a deed of grant in trust, all of the following apply—

- (a) the trust ends;
- (b) all appointments of trustees are cancelled;
- (c) all interests in the deed of grant in trust are cancelled;
- (d) the land becomes unallocated State land;
- (e) no person has a right to claim compensation from the Minister or the State for the cancellation.

### **38F Person to give up possession**

- (1) On the cancellation of a deed of grant in trust, a person occupying the land the subject of the cancellation must immediately vacate the land.
- (2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying unallocated State land.

*Note—*

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Action for trespassing may be taken under chapter 7, part 2.

### **38G Dealing with improvements**

- (1) An owner of improvements on a deed of grant in trust that has been cancelled may apply to remove the owner's improvements on the deed of grant in trust.
- (2) The owner may remove the improvements only with the written approval of, and within a time stated by, the Minister.
- (3) The improvements become the property of the State if—
  - (a) the Minister has not given written approval for their removal; or
  - (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.
- (4) However, if the land the subject of cancellation is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.
- (5) In this section—

**owner**, of improvements, means—

  - (a) if the trustee under the cancelled deed of grant in trust owned the improvements—the trustee; or
  - (b) a person who—
    - (i) made the improvements with the trustee's authority; and
    - (ii) owned the improvements.

## **Division 4                      Deeds of grant in trust for Aborigines and Torres Strait Islanders**

### **39            Application of division**

This division applies only to deeds of grant in trust granted for the benefit of Aboriginal and Islander inhabitants or for Aboriginal and Islander purposes.

### **40            Improvements and land may be excluded**

- (1) The following things may be excluded from a deed of grant in trust when it is granted—
  - (a) improvements owned by the State, other than buildings built for the residence of Aboriginal or Islander inhabitants authorised to live within the boundaries of the land granted, together with—
    - (i) the land on which the improvements are located; and
    - (ii) a reasonable area of land surrounding the improvements; and
    - (iii) adequate access to the improvements;
  - (b) land consisting of aerodromes, landing strips, ports, roads, stock routes, bridges and railways.
- (2) An exclusion may be by description rather than survey.

### **41            Survey not needed**

- (1) A deed of grant in trust may be issued even if it has not been surveyed.
- (2) If the deed of grant is not surveyed before it is issued, the land must be described in a way approved by the Minister.

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- (3) If a more accurate description of the land, including exclusions, becomes available, the registrar of titles must substitute the description for the previous description in the freehold land register.

## **42 Change of boundaries or roads**

- (1) A regulation may change the location of the boundaries of a deed of grant in trust or a road in or other thing excluded under section 40 from the deed of grant in trust.

*Note—*

A deed of grant issued because of a change of boundary or road is issued under section 358.

Section 40 lists the things that may be excluded from a deed of grant in trust to which this division applies.

- (2) The regulation must not decrease the area of land granted in trust.

## **42A Amalgamating particular land with existing deeds of grant in trust**

- (1) This section applies to land that is—
- (a) transferable land; and
  - (b) located within or adjoining the external boundaries of the land the subject of an existing deed of a grant in trust.
- (2) The State may prepare a plan of subdivision showing the inclusion of the land with the land the subject of the deed of grant in trust.
- (3) Section 452A does not apply to the land included with the deed of grant in trust.
- (4) In this section—
- transferable land* includes land in a road that is to be—
- (a) closed under section 109(2)(b) or 109B; and

[s 43]

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- (b) included in a new deed of grant issued under section 358.

### **43 Only Parliament may delete land from or cancel an existing deed of grant in trust**

- (1) Only an Act may—
  - (a) delete land from an existing deed of grant in trust; or
  - (b) cancel an existing deed of grant in trust.
- (2) This section has effect despite sections 37 and 38.
- (3) Subsection (1)(b) does not apply to the cancellation of a deed of grant in trust under section 358 for the purposes of an amalgamation under section 42A.
- (4) For subsection (1), an interest in land in an existing deed of grant in trust may be taken under the Acquisition Act by a constructing authority.
- (5) However, an interest in land in an existing deed of grant in trust may be taken under the Acquisition Act only for a relevant purpose.
- (6) To remove any doubt, it is declared that, for taking an interest in land in an existing deed of grant in trust under the Acquisition Act, the land is land as defined in that Act.
- (7) Subsection (1) does not apply to a deletion of land from an existing deed of grant in trust, or the cancellation of an existing deed of grant in trust, as a result of the taking of the land under the Acquisition Act.
- (8) In this section—

*Acquisition Act* means the *Acquisition of Land Act 1967*.

*relevant purpose* means any purpose for which land may be taken under the Acquisition Act by a constructing authority, other than a purpose under—

- (a) the *State Development and Public Works Organisation Act 1971*; or



- (b) the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (c) the *Greenhouse Gas Storage Act 2009*; or
- (d) the *Geothermal Energy Act 2010*.

## **Division 5                      Appointments, functions and removal of trustees**

### **44            Appointing trustees**

- (1) The Minister may appoint trustees of trust land.
- (2) A trustee may be—
  - (a) the State; or
  - (b) a statutory body; or
  - (c) an incorporated body; or
  - (d) a named individual.
- (3) The Minister may appoint a trustee subject to conditions.
- (4) Before a trustee may be appointed, the Minister must be given written acceptance of the appointment.
- (5) Written acceptance of the appointment under subsection (4) must be in the approved form.
- (6) A trustee is appointed by registering a trustee of trust land notice or plan of subdivision.
- (7) The appointment of a trustee under subsection (1) is effective—
  - (a) if the appointment is the appointment of a trustee of a reserve—on the day the trustee of trust land notice or plan of subdivision for the dedication of the reserve is registered; or

[s 45]

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- (b) if the appointment is the appointment of a trustee of a deed of grant in trust—on the day the trustee of trust land notice for the appointment is registered.
- (8) A plan of subdivision mentioned in subsection (7)(a) must include all of the following—
- (a) the Minister’s approval of the appointment;
  - (b) the name of the trustee;
  - (c) any conditions to which the appointment is subject under subsection (3).

#### **45 Details of trustees**

- (1) A change to a name of a trustee must be registered.
- (2) A trustee must advise the chief executive of the trustee’s address and any change to the address.
- (3) If an incorporated body is a trustee and it loses its incorporated status, it must immediately advise the chief executive.

#### **46 Trustee’s administrative functions**

- (1) A trustee’s functions are to—
  - (a) manage the trust land consistent with achieving the purpose of the trust; and
  - (b) fulfil the trust within their conditions of appointment (if any); and
  - (c) control noxious plants on the trust land; and
  - (d) keep records required by the Minister or required under this and other Acts.
- (2) A trustee has the responsibility for a duty of care for the trust land.

- (3) Unless the Minister otherwise decides, a trustee's functions include protecting and maintaining, so far as is reasonable, all improvements on the trust land.
- (4) The Minister may direct a trustee to erect signs on trust land indicating the land has been granted in trust or dedicated as a reserve.
- (5) The trustee must comply with the Minister's direction.

#### **47 Trustee's accounting functions**

- (1) The trustee of trust land must keep proper books of account and have the books annually audited by a—
  - (a) member of CPA Australia who is entitled to use the letters 'CPA' or 'FCPA'; or
  - (b) member of The Institute of Chartered Accountants in Australia who is entitled to use the letters 'CA' or 'FCA'; or
  - (c) member of the Institute of Public Accountants who is entitled to use the letters 'MIPA' or 'FIPA'; or
  - (d) person approved by the chief executive.
- (2) The trustee must give a copy of the audited financial statement to the chief executive within 28 days after it has been finished.
- (3) Subsections (1) and (2) apply only to trusts receiving yearly income from the trust land greater than an amount prescribed under the regulations.
- (4) If subsections (1) and (2) do not apply to a trust, the Minister may ask the trustees to give the Minister a report of the financial activities of the trust.

#### **48 Trustees to give information and allow inspection of records**

- (1) The trustee of trust land must, if asked by the Minister—

[s 49]

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- (a) apply for the approval of a management plan for the trust land; and
  - (b) at all reasonable times, make all trust records available for inspection by the Minister and allow copies and notes of the records to be made.
- (2) If a management plan mentioned in subsection (1)(a) is approved, the plan may be registered in the appropriate register.

#### **49 External audits**

The trustee of trust land must, if asked by the Minister or required under an Act—

- (a) allow the auditor-general, a person mentioned in section 47(1)(a) to (d), or a person authorised by the chief executive of a department, to audit the trust's financial accounts; and
- (b) help the conduct of the audit, including the disclosure of financial institution accounts necessary for the audit.

#### **50 Vacation of office by trustee**

- (1) A trustee of trust land is taken to have vacated office if—
- (a) the trustee dies, resigns by signed notice of resignation given to the Minister, becomes incapable of acting or can not be located; or
  - (b) if the trustee is an incorporated body—the incorporated body ceases to exist.
- (2) The vacation of office of a trustee must be registered.
- (3) The Minister may appoint, under section 44, a new trustee to fill the vacated office.

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## 51 Removal of trustees

- (1) The Minister may remove a trustee from office if the Minister is satisfied—
  - (a) the trustee has breached the conditions of the trust, the conditions of appointment or this Act; or
  - (b) the removal is in the public interest.
- (2) The removal of a trustee from office must be registered.
- (3) The Minister may appoint, under section 44, a new trustee in the place of the trustee removed.

## Division 6 Powers of trustee

### 52 General powers of trustee

- (1) The trustee of trust land may take all action necessary for the maintenance and management of the land.
- (2) However, the action must be consistent with—
  - (a) the purpose for which the reserve was dedicated or the land was granted in trust; and
  - (b) this Act; and
  - (c) any conditions of appointment of the trustee.
- (3) Despite subsection (2)(a), the Minister may approve action that is inconsistent (*inconsistent action*) with the purpose for which the reserve was dedicated or the land was granted in trust if the Minister is reasonably satisfied the inconsistent action will not—
  - (a) diminish the purpose for which the reserve was dedicated or the land was granted in trust; or
  - (b) adversely affect any business in the area surrounding the reserve or land granted in trust.
- (4) The Minister's approval under subsection (3) may be subject to conditions.

[s 52A]

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- (5) A trustee of trust land may apply for the approval of an inconsistent action under subsection (3).

## **52A Declaration that trustee is statutory body**

- (1) The trustee of trust land, in the capacity as trustee, is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) Subsection (1) applies despite the *Statutory Bodies Financial Arrangements Act 1982*, section 6(1).

*Note—*

Under the *Statutory Bodies Financial Arrangements Act 1982*, section 6(1) various entities are not statutory bodies, including, for example, a company incorporated under the Corporations Act and a GOC.

- (3) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the powers of the trustee under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## **53 Statutory body trustee powers**

If a statutory body is the trustee of trust land, the body may only exercise, for the trust land, its powers that are not inconsistent with this Act.

## **53A State trustee powers and delegation**

- (1) If the State is the trustee of trust land, the State may only exercise, for the trust land, powers that are not inconsistent with this Act.
- (2) A relevant Minister for trust land may delegate a power of the State as trustee of trust land to an appropriately qualified officer of the State.
- (3) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate to exercise the power.

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*Example of standing—*

a person's level of employment in the entity in which the person is employed

***officer of the State*** means a public service officer and any other person employed in a public sector unit.

***relevant Minister***, for trust land, means the Minister having responsibility for the State for administering the trust land.

#### **54 No power to sell trust land**

The trustees of trust land are not authorised to dispose of the trust land.

#### **55 Power to surrender deed of grant in trust**

- (1) A trustee may surrender all or part of a deed of grant in trust—
  - (a) on terms agreed to between the Minister and the trustee; and
  - (b) with the Minister's written approval.
- (2) If part of the land is surrendered, the deed of grant in trust remains in force for the land not surrendered and the registrar of titles must make an appropriate recording in the freehold land register.

#### **55A Applying to surrender**

- (1) The trustee of a deed of grant in trust may apply to surrender all or part of the deed of grant in trust.
- (2) However, before applying, the trustee must give notice of the trustee's intention to apply to each person with a registered interest in the deed of grant in trust.
- (3) The trustee may also give notice to any other person the trustee considers has an interest in the deed of grant in trust.

[s 55D]

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### **55D Registration surrenders deed of grant in trust**

- (1) All or part of a deed of grant in trust may be surrendered by registering a surrender notice or plan of subdivision.
- (2) However, if the surrender relates to only part of a lot, the surrender may only be made by registering a plan of subdivision.
- (3) The surrender of all or part of a deed of grant in trust takes effect on the day a surrender notice or plan of subdivision is registered.
- (4) The *Land Title Act 1994*, section 50, and the provisions of the *Sustainable Planning Act 2009* about reconfiguring a lot do not apply to a plan of subdivision registered to give effect to a surrender under this section.

### **55E Notice of surrender**

- (1) The chief executive must give notice of the surrender of a deed in grant in trust to the trustee and each person given a notice about the proposed surrender under section 55A (either a *relevant person*).
- (2) The notice must include all of the following—
  - (a) the date of the surrender;
  - (b) the effect, under section 55F, of the surrender;
  - (c) if there are improvements on the land the subject of the deed of grant in trust owned by the person receiving the notice—a statement that the person may apply to remove the improvements.
- (3) If the Minister decides not to approve the surrender of a deed of grant in trust, notice of the fact must be given to each relevant person.



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**55F Effect of surrender**

On the surrender of all or part of a deed of grant in trust, the following applies in relation to the land the subject of the surrender—

- (a) the trusts ends;
- (b) all appointments of trustees are cancelled;
- (c) all interests in the deed of grant in trust are extinguished;
- (d) the land becomes unallocated State land;
- (e) no person has a right to claim compensation from the Minister or the State for the surrender.

**55G Person to give up possession on surrender**

- (1) On the surrender of all or part of a deed of grant in trust, a person occupying the land the subject of the surrender must immediately vacate the land.
- (2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying unallocated State land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

**55H Dealing with improvements**

- (1) An owner of improvements on a deed of grant in trust that has been surrendered may apply to remove the owner's improvements on the deed of grant in trust.
- (2) The owner may remove the improvements only with the written approval of, and within a time stated by, the Minister.
- (3) The improvements become the property of the State if—
  - (a) the Minister has not given written approval for their removal; or

[s 56]

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- (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.
- (4) However, if the land the subject of surrender is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.
- (5) In this section—  
*owner*, of improvements, means—
  - (a) if the trustee under the surrendered deed of grant in trust owned the improvements—the trustee; or
  - (b) a person who—
    - (i) made the improvements on the land the subject of the surrender with the trustee’s authority; and
    - (ii) owned the improvements.

## 56 Model by-laws

- (1) The Governor in Council, by regulation, may make model by-laws for trust land.
- (2) Without limiting subsection (1), a model by-law may be made about the following matters—
  - (a) the protection and use of trust land, including buildings on trust land;
  - (b) regulating the business and management of trusts;
  - (c) penalties, not more than 100 penalty units, for the contravention of a model by-law.
- (3) A model by-law may state that all or part of trust land is a public place within the meaning of an Act—
  - (a) conferring or imposing on police officers powers or duties about public places; or
  - (b) providing for the punishment of offences committed in public places.

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- (4) If a local government is the trustee it may—
    - (a) make local laws for the trust land under the *Local Government Act 2009* or the *City of Brisbane Act 2010*; and
    - (b) adopt a model by-law.
  - (5) If a local government adopts a model by-law, it must follow the procedure under the *Local Government Act 2009* for adopting a model local law when it adopts the model by-law.
  - (6) A local law made under subsection (4)(a) must not be inconsistent with this Act.
  - (7) A trustee other than a local government, in the way prescribed under the regulations, may adopt as its by-laws all or any of the model by-laws.
  - (8) A model by-law has no effect unless it is adopted in the prescribed way.
  - (9) In a proceeding, a copy of a public notice about the adoption of a model by-law is—
    - (a) evidence of the information in the notice; and
    - (b) evidence that the model by-law had been properly adopted.

## **Division 7                      Trustee leases and trustee permits**

### **57            Trustee leases**

- (1) A trustee may lease all or part of the trust land if the trustee first obtains the Minister's written 'in principle' approval to the lease.
- (2) The Minister's approval may include conditions, including, for example, that a stated mandatory standard terms document must form part of the lease.
- (3) Despite subsections (1) and (2) a trustee may, without the Minister's approval, grant a trustee lease (construction) or a

[s 57]

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trustee lease (State or statutory body) over all or part of the trust land.

- (4) A *trustee lease (construction)* is a lease of trust land to the State for the construction of transport infrastructure and the provision of transport services on the trust land.
- (5) A *trustee lease (State or statutory body)* is a lease of trust land if all of the following apply—
  - (a) the trustee of the trust land is the State or a statutory body;
  - (b) a stated mandatory standard terms document forms part of the lease;
  - (c) the purpose of the lease is consistent with the purpose for which the trust land was reserved or granted in trust;
  - (d) if a management plan for the trust land is registered under section 48—the lease is consistent with the management plan.
- (6) A trustee lease (construction) may be granted even if its purpose is inconsistent with the purpose for which the trust land was reserved or granted in trust.
- (7) Each trustee lease must be registered in the appropriate register.
- (8) This section does not authorise the construction of works under a trustee lease (construction) before the lease is registered.
- (9) Each trustee lease, other than a trustee lease (construction) or trustee lease (State or statutory body), must be endorsed with the Minister's approval before it is registered.
- (10) If the trustee lease is for only part of the trust land, the appropriate form for the trustee lease must also include—
  - (a) a sketch plan the chief executive is satisfied identifies the land being leased; or
  - (b) if required by the chief executive—a plan of survey identifying the land being leased.

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- (11) However, the chief executive may allow the land being leased to be identified by a description alone if the chief executive is satisfied the land is adequately identified by the description.

*Note—*

This section and other provisions of this division do not apply in relation to leasing Aboriginal trust land as defined under the *Aboriginal Land Act 1991* or Torres Strait Islander trust land as defined under the *Torres Strait Islander Land Act 1991*. See the *Aboriginal Land Act 1991*, part 5F and the *Torres Strait Islander Land Act 1991*, part 5B.

### **57A Amending a trustee lease**

- (1) A registered trustee lease may, with the Minister's approval, be amended by registering an amendment of the trustee lease.
- (2) However, the Minister's approval is not required if the lease is—
- (a) a trustee lease (construction); or
  - (b) a construction trustee sublease; or
  - (c) a trustee lease (State or statutory body); or
  - (d) a sublease of a trustee lease (State or statutory body).
- (3) Also, the document of amendment must not—
- (a) increase or decrease the area leased; or
  - (b) add or remove a party to the lease; or
  - (c) increase the term of the lease.

### **58 Other transactions relating to trustee leases**

- (1) A trustee lessee may transfer, mortgage or sublease a trustee lease if the trustee lessee first obtains the written approval of the Minister and the trustee to the transaction.
- (2) However, the Minister's approval is not required if—
- (a) the trustee has a written authority under section 64; or

*Note—*

Under section 64, the Minister may give a trustee a standing authority to sublease.

- (b) the lease is a trustee lease (State or statutory body).
- (3) The Minister and the trustee's written approvals may include conditions, including, for example, in the case of a proposed sublease, that a stated mandatory standard terms document must form part of the sublease.
- (4) Despite subsections (1) and (3)—
  - (a) the State as the lessee trustee lease (construction) may, without the trustee's or Minister's approval, sublease (a *construction trustee sublease*) all or part of the lease land to someone else for the purposes mentioned in section 57(4); and
  - (b) the sublessee may further sublease the land the subject of the sublease.
- (5) A construction trustee sublease may be granted even if its purpose is inconsistent with the purpose for which the trust land was reserved or granted in trust.
- (6) If the Minister refuses to approve the transfer, mortgage or sublease, notice of the Minister's decision and the reasons for the decision must be given to the trustee lessee.
- (7) A trustee lessee may appeal against the Minister's decision.
- (8) All or part of a trustee lease or a sublease of a trustee lease may be surrendered only if each registered mortgagee and registered sublessee of the interest being surrendered has given written agreement to the surrender.
- (9) Each transaction must be registered in the appropriate register.
- (10) This section does not authorise the construction of works under a construction trustee sublease before the sublease is registered.
- (11) Section 342 applies, with necessary changes, to the release of a mortgage of a trustee lease or sublease of a trustee lease.

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## **59 Basis of Ministerial approval**

- (1) The Minister may approve a trustee lease or transaction under sections 57 and 58 only if the trustee lease or transaction—
  - (a) would be consistent with the purpose for which the land was reserved or granted in trust; and
  - (b) would facilitate or enhance the purpose for which the land was reserved or granted in trust.
- (2) Despite subsection (1), the Minister may approve a trustee lease or a sublease for a purpose inconsistent with the purpose for which the trust land was dedicated or granted only if—
  - (a) the lease or sublease would not diminish the purpose; and
  - (b) all further improvement built or placed by the lessee on the part of the trust land that is leased or subleased are first approved by the Minister.

## **60 Trustee permits**

- (1) A trustee may issue a trustee permit for the use of all or part of trust land.
- (2) A trustee permit must not be inconsistent with the community purpose of the trust land and the requirements prescribed under a regulation.
- (3) If a trustee permit is for more than 1 year, the trustee must lodge a copy of the permit for registration in the appropriate register.
- (4) A trustee permit must not be for more than 3 years.
- (5) If there is a registered mandatory standard terms document that applies generally to trustee permits—
  - (a) a trustee must not issue a trustee permit under this section unless the standard terms document forms part of the trustee permit; and

[s 61]

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- (b) the trustee permit is of no effect if the document does not form part of the trustee permit.
- (6) Subsection (5) applies to a trustee permit whether or not it is required to be registered.

## **61 Conditions on trustee leases and trustee permits**

- (1) A trustee lease or sublease must not be for more than 30 years.
- (2) However, a trustee lease or sublease may be for up 100 years if—
  - (a) the lease or sublease is for land the subject of an operational deed of grant in trust; and
  - (b) the purpose of the lease or sublease is development that, in the opinion of the Minister—
    - (i) will have a significant impact on the economic and social development of a locality or region; and
    - (ii) is necessary to support existing or proposed infrastructure that provides, or will provide, services to the community.

*Example of a purpose for paragraph (b)—*

construction of buildings at, or an upgrade of, an airport in a regional area

- (3) A trustee lease or sublease must not contain a covenant, agreement or condition—
  - (a) to renew the lease; or
  - (b) to convert to another form of tenure (including freehold); or
  - (c) to buy the land.
- (4) It is a condition of every trustee lease, sublease and trustee permit that the lessee, sublessee or permittee holds the lease, sublease or permit so that the land may be used for the purpose for which it was reserved or granted in trust without undue interruption or obstruction.



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- (5) The condition mentioned in subsection (4) does not apply to a construction trustee lease or to a building permitted to be built on the land.
  - (6) In this section—  
*operational deed of grant in trust* means a deed of grant in trust that was granted under the repealed Act for a public purpose that is not a community purpose under this Act.

## **62 Grouping trust land**

- (1) The chief executive, if asked by a trustee, may approve the grouping of trust land, with the same or complementary purposes, under the control of the trustee.
- (2) A grouping may be approved only if the chief executive is satisfied the grouping will enhance the financial and general management of the trust land sought to be grouped.
- (3) The chief executive may cancel an approval to group trust land.
- (4) If an approval is cancelled, the trust lands are no longer grouped.

## **63 Rent to be charged**

- (1) A trustee may keep the rent paid under a trustee lease or trustee permit.
- (2) The rent must be the most appropriate rent having regard to the use and the community benefit and purpose of the trustee lease or trustee permit.
- (3) Unless the Minister first gives written approval, rent received from a trustee lease or trustee permit over trust land must be spent on the maintenance or enhancement of the trust land or grouped trust land.
- (4) Subsection (3) does not apply if the trustee is—
  - (a) the State; or

- (b) a statutory body prescribed under a regulation.

## 64 Minister may dispense with approval

- (1) If the Minister considers it appropriate, the Minister may give a relevant person a written authority dispensing with the need to obtain the Minister's approval for relevant leases.
- (2) If the Minister gives an authority, a relevant lease must be consistent with the purpose of the trust land and the requirements prescribed under a regulation.
- (3) The Minister, by notice, may withdraw the authority.
- (4) A relevant person may apply for approval to lease, sublease or sub-sublease trust land even if an authority is in force.
- (5) If there is a registered mandatory standard terms document that applies generally to relevant leases—
  - (a) a relevant person must not lease, sublease or sub-sublease trust land unless the standard terms document forms part of the relevant lease; and
  - (b) the relevant lease is of no effect if the document does not form part of the relevant lease.
- (6) Also, if there is a registered mandatory standard terms document that applies to a stated type of relevant lease—
  - (a) a relevant person must not issue a relevant lease of the stated type unless the standard terms document forms part of the relevant lease; and
  - (b) the relevant lease is of no effect if the document does not form part of the relevant lease.

*Examples of stated types of relevant lease—*

a lease for a particular purpose or a lease relating to land in a particular area

- (7) In this section—

***relevant lease*** means—

  - (a) a trustee lease; or

- (b) a sublease of a trustee lease; or
- (c) a sub-sublease of a sublease of a trustee lease.

*relevant person* means—

- (a) a trustee; or
- (b) a lessee under a trustee lease; or
- (c) a sublessee under a sublease of a trustee lease.

## **65 Cancellation of a trustee lease or trustee permit**

- (1) A trustee may cancel a trustee lease or trustee permit if the lessee or permittee does not comply with the conditions of the lease or permit.
- (2) The Minister may also cancel a trustee lease or trustee permit if—
  - (a) the lessee or permittee does not comply with the conditions of the lease or permit; or
  - (b) the Minister is satisfied cancellation would be in the public interest.
- (3) If a trustee lease or trustee permit is cancelled, no person has a right to a claim for compensation.
- (4) Every cancellation of a trustee lease or trustee permit must be registered in the appropriate register.

## **66 Right to remove improvements on cancellation**

- (1) If a trustee lease or trustee permit is cancelled by the trustee, the trustee may allow the trustee lessee or trustee permittee to remove the trustee lessee's or trustee permittee's improvements on the land within a reasonable time stated by the trustee.
- (2) If a trustee lease or trustee permit is cancelled by the Minister, the Minister may allow the trustee lessee or trustee permittee to remove the trustee lessee's or trustee permittee's

[s 67]

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improvements on the land within a reasonable time stated by the Minister.

- (3) If the improvements are not removed within the stated time, they become the property of the trustee.

## **Division 8                      Mortgaging trust land**

### **67            Power to mortgage trust land**

- (1) A trustee of a reserve must not mortgage the reserve.
- (2) A trustee of a deed of grant in trust, issued before the commencement of this Act, may mortgage the deed of grant in trust.
- (3) A trustee may also mortgage a deed of grant in trust issued after the commencement if the deed—
  - (a) was issued because of a surrender under section 358 and the deed being surrendered was issued before the commencement; or

*Note—*

Section 358 allows a registered owner or trustee to surrender land in certain circumstances in exchange for a new deed.

- (b) was issued under section 493.

*Note—*

Section 493 deals with the automatic issue of new tenures under this Act.

- (4) Despite subsections (2) and (3), a trustee may mortgage a deed of grant in trust only if the Minister has approved the mortgage.
- (5) The Minister's approval may be subject to conditions.
- (6) Amounts raised by mortgaging trust land must be used on the trust land and for the purpose for which the trust was granted.

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## **68 Mortgagee in possession**

- (1) If a trustee defaults under a mortgage over a deed of grant in trust, the mortgagee must give the Minister 28 days notice of the mortgagee's intention to exercise its powers under the mortgage.

Maximum penalty—5 penalty units.

- (2) A mortgagee must not sell a deed of grant in trust until payment has been made to the State of the amount of the unimproved value of the land on the day the notice was given under subsection (1).
- (3) However, the Minister may allow a sale of the deed of grant in trust to proceed before payment of the amount of the unimproved value of the land is made, if the mortgagee gives the Minister security or an undertaking, to the Minister's satisfaction, that payment of the amount will be made on completion of the sale.

## **69 What is the unimproved value**

- (1) The Minister must decide the unimproved value in the way prescribed by regulation.
- (2) The unimproved value must be calculated as if the land were not restricted by the trust.
- (3) The mortgagee may appeal against the Minister's decision.

## **70 Sale by mortgagee in possession**

- (1) If a mortgagee complies with section 68, the mortgagee may sell the deed of grant in trust.

*Note—*

Section 68 is about the notice a mortgagee in possession must give before exercising powers under the mortgage.

- (2) The mortgagee must first offer the deed of grant in trust for sale by public auction.

[s 71]

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- (3) The deed of grant must not be offered for sale by public auction until at least 28 days after the mortgagee has published a notice, in the newspaper that has the largest circulation in the locality of the land, that the land is for sale.
- (4) The mortgagee is authorised to sign a surrender of the deed of grant in trust.

## **71 Effect of sale**

When the land is sold—

- (a) the trust is at an end; and
- (b) all appointments of trustees are cancelled from the day the land is sold; and
- (c) the buyer is entitled to have a new deed of grant issued in the buyer's name and released from the trust but subject to other registered encumbrances that have not been released; and
- (d) the Minister may appoint a person under section 74 to sell other property or assets of the trust.

*Editor's note—*

Section 74 is about how the Minister appoints a liquidator to wind up the affairs of a trust.

## **72 Disposal of sale price**

Anything remaining after the following amounts have been paid must be paid to the State—

- (a) the amount of the unimproved value of the deed of grant in trust;
- (b) the amount of the mortgage debt;
- (c) the expenses incurred in selling the land;
- (d) all other reasonable deductions.

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## Division 9                      Winding up trusts of trust land

### 73            Application of division

This division applies to trusts of trust land.

### 74            Minister may start winding up

- (1) The Minister, by gazette notice (the *liquidation notice*), may appoint a person (the *liquidator*) to wind up the affairs of a trust if—
  - (a) the dedication of a reserve is revoked; or
  - (b) a deed of grant in trust is cancelled; or
  - (c) a deed of grant in trust is sold by a mortgagee in possession.
- (2) The Minister must—
  - (a) give a copy of the liquidation notice to every person who has a registered interest in the trust land; and
  - (b) advise every trustee lessee and trustee permittee of the trust land of their rights to remove their improvements from the trust land.

### 75            Property vests in liquidator

- (1) All the property of the trust and all the trustee's powers and obligations that, immediately before the day the liquidation notice was published, were vested in the trustee, or someone else for the trustee, vest in the liquidator.
- (2) However, a trustee lessee or trustee permittee may remove their improvements from the land if—
  - (a) the trustee lease or trustee permit gave the trustee lessee or trustee permittee the right to remove the improvements at the expiry of the lease; and

[s 76]

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- (b) the trustee lessee or trustee permittee removes the improvements within 28 days after the liquidation notice was published.
- (3) To remove any doubt, it is declared that trust land is not part of the property of a trust.

## **76 Sale of trust assets**

- (1) The liquidator must sell all the trust property and apply the proceeds of the sale towards payment of—
  - (a) firstly, the costs and expenses of the winding-up; and
  - (b) secondly, the amount owing to any mortgagee (other than a mortgagee under section 70) or, if more than 1 mortgagee, according to their priorities; and

*Note—*

Section 70 is about how a mortgagee in possession can sell a deed of grant in trust.

- (c) thirdly, the debts and obligations of the trust.
- (2) If an amount remains, the liquidator must pay the amount to the State for disposal as the Minister considers appropriate.

## **77 Trustees to help in winding-up**

The trustees of the trust, and anyone else materially affected by the winding-up, must do all things necessary to help the winding-up.

Maximum penalty—5 penalty units.

## **78 Winding-up may continue after revocation, cancellation or sale**

The liquidator may continue to wind up the trust even if the—

- (a) dedication of the reserve has been revoked; or



- (b) deed of grant in trust has been cancelled; or
- (c) trust land has been sold by the mortgagee in possession.

## **Division 10            Cemeteries**

### **79            Cemetery registers**

- (1) The trustee of trust land for cemetery purposes must keep a register of all burials in the cemetery.
- (2) The trustees must make the register available for public inspection at all reasonable times.
- (3) If a trust for cemetery purposes is wound up, the register must be sent to the State archivist and held for public access.

### **80            Trustee may remove structures**

- (1) A trustee may repair or remove structures, monuments or tombstones from a cemetery if the repair or removal is necessary for public health and safety.
- (2) Subsection (1) is subject to the *Queensland Heritage Act 1992*.

### **81            Application to close or reopen cemetery**

- (1) The trustee of trust land for cemetery purposes may ask that a cemetery be closed to further burials.
- (2) If the Minister is satisfied the cemetery should be closed, the Minister may close the cemetery by gazette notice.
- (3) Subsection (2) does not affect a right to be buried in the cemetery if the right existed at the time of the closure.
- (4) If asked by the trustees, the Minister, by gazette notice, may reopen the cemetery for burials.
- (5) A cemetery that was closed under an Act that has been repealed may be reopened under this Act.

## **82 Trustees may transfer trust to local government**

The trustees of a cemetery may transfer their trusteeship to a local government—

- (a) if the Minister, the trustee and the local government agree; and
- (b) under the conditions agreed to between the parties.

## **83 Exhumations**

- (1) If a local government has not made a local law about authorising the exhumation of human remains from trust land for cemetery purposes, the Minister, on the written application of a person, may give written approval to the exhumation of the human remains.
- (2) A person improperly deals with human remains under the Criminal Code, section 236 if the person exhumes human remains from trust land for cemetery purposes other than under—
  - (a) an approval of the Minister; or
  - (b) a local law or another Act.
- (3) To avoid any doubt, it is declared that in this section—

*exhume* includes take out of a place of interment, whether above or below ground.

## **Division 11 Other grants for public purposes**

### **84 Surrender of land still needed for a public purpose**

- (1) The trustees of land granted for an estate in fee simple for some community, public or similar purpose may apply to the Minister to surrender the land to the State, and for the issue of a deed of grant in trust under this Act for a community or public purpose, if—

- (a) the land has been used for a public, community or similar purpose; but
  - (b) it is not known under what authority the trust was created over the land.
- (2) If the Minister is satisfied that the trustees are deceased, untraceable, unknown or incapable of acting, a person in the community concerned may make the application.

### **85 Surrender of land no longer needed for a public purpose**

- (1) The Minister is authorised to sign a surrender of land, if the Minister is satisfied—
- (a) the land was granted for an estate in fee simple for some community, public or similar purpose; and
  - (b) the land has been used for the purpose; and
  - (c) the trustees of the land are deceased, untraceable, unknown or incapable of acting; and
  - (d) the land is no longer needed for a public, community or similar purpose.
- (2) The surrendered land may be dealt with as unallocated State land.

### **86 Public notice of proposed surrender**

The Minister may accept the surrender of, or may sign a surrender of, land mentioned in this division if the Minister is satisfied—

- (a) the land is not subject to an encumbrance that would prevent the land from being surrendered or, if the land is encumbered, the encumbrancee has given written approval to the surrender; and
- (b) the interests of any occupiers have been taken into consideration; and

[s 87]

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- (c) notice of the intention to surrender has been adequately advertised in the gazette.

## **87 Effect of surrender**

On the surrender of land under this division—

- (a) the trust is at an end; and
- (b) the land is released from the trust; and
- (c) all appointments of trustees are cancelled; and
- (d) all encumbrances are discharged.

## **88 Dealing with land used as a cemetery**

If land mentioned in this division was granted for cemetery purposes and the land has been used for burials or memorials, the Minister must dedicate the part of the land that has been used for cemetery purposes as a reserve for cemetery purposes.

## **Division 12 Miscellaneous**

### **89 Survey of trust land**

The Minister may require trust land to be surveyed, at the cost of the persons who are to be the trustees, before the land is dedicated or granted.

### **90 Application of Acts to trustees**

The *Trusts Act 1973* and the *Financial Accountability Act 2009* do not and are taken never to have applied to trustees and trusts under this part.

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**91 Trustees taken to be owners for legal proceedings**

A trustee under this part is taken, for legal proceedings, to be the owner of the trust land.

**92 Protection from liability**

- (1) A trustee appointed by the Minister under this part does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to the trustee, the liability attaches instead to the State.
- (3) Subsection (1) does not apply to a statutory or incorporated body.

**Part 2 Roads**

**Division 1 Dedicating and opening roads**

**93 Meaning of *road***

- (1) A *road* means an area of land, whether surveyed or unsurveyed—
  - (a) dedicated, notified or declared to be a road for public use; or
  - (b) taken under an Act, for the purpose of a road for public use.
- (2) The term includes—
  - (a) a street, esplanade, reserve for esplanade, highway, pathway, thoroughfare, track or stock route; and

[s 94]

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- (b) a bridge, causeway, culvert or other works in, on, over or under a road; and
- (c) any part of a road.

#### **94 Dedication of road**

- (1) The Minister may dedicate unallocated State land as a road for public use.
- (2) A person may apply for the dedication of land as a road for public use.
- (3) The Minister may dedicate land as a road for public use without receiving an application under subsection (2).
- (4) Land may be dedicated as a road for public use by the registration of a dedication notice or a plan of subdivision.
- (5) On the day the dedication notice or plan of subdivision is registered—
  - (a) the dedication of the land as a road for public use takes effect; and
  - (b) the land is opened for public use as a road.

#### **95 Roads vest in the State**

The land in all roads dedicated and opened for public use under the following Acts vests in, or remains vested in, the State—

- (a) this Act, or an Act repealed by this Act or repealed by the repealed Act;
- (b) the *Land Title Act 1994*.

#### **96 Roads in existing leases are dedicated**

- (1) If a road is shown on an existing lease or an existing lease mentions a plan and the plan shows a road is excluded from

the lease, the road is taken to have been always dedicated as a road and open for public use.

- (2) If the width of the road is not shown on the lease or plan, the width is taken to be 60m.
- (3) If a better description of the location of a road becomes available, the Minister, by gazette notice, may declare the location of the road is amended by the description stated in the notice.

## 97 Clarification of road status

If there is doubt about whether or not land has been dedicated and opened for public use as a road, the Minister may refer the issue to the court for a decision.

## Division 2 Closing roads

### 97A Definitions for div 2

In this division—

*permanent road closure application* means an application to permanently close a road under section 99(1).

*road closure application* means—

- (a) a permanent road closure application; or
- (b) a temporary road closure application.

*temporary road closure application* means an application to temporarily close a road under section 99(3).

## 98 Closure of road

- (1) If, after inquiry and notice the Minister considers appropriate, the Minister is satisfied a road is not needed, the Minister may—
  - (a) permanently close the road under division 4; or

[s 99]

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- (b) temporarily close the road by gazette notice.
- (2) The Minister may permanently close the road without receiving an application under section 99(1).
- (3) A road is temporarily closed from the day the gazette notice is published.

## **99 Application to close road**

- (1) An entity may apply for the permanent closure of a road if the entity is—
  - (a) a public utility provider; or
  - (b) an adjoining owner for the road.
- (2) However, a public utility provider can not apply for the permanent closure of a road if the provider is a non-core utility provider.
- (3) A person may apply for the temporary closure of a road if the person is—
  - (a) an adjoining owner for the road; or
  - (b) another person, if the closure of the road is only for allowing the person to make the structural improvements mentioned in section 104(b)(ii) or (iii).
- (4) An adjoining owner who makes a permanent road closure application may ask for the road, on its closure, to be amalgamated with the adjoining owner's adjoining land.
- (5) Subsection (6) applies if the adjoining owner under subsection (4) is a registered owner, other than as trustee under a deed of grant in trust, of the adjoining land and other land that would be adversely affected by the permanent closure of the road.
- (6) The adjoining owner may ask in the application that, on the closure of the road, the road, the adjoining land and the other land be amalgamated.
- (7) The Minister may refuse a road closure application if the Minister is satisfied—



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- (a) the road is the only dedicated access to a person's land;  
or
  - (b) the road is, or may be, used regularly by the public as a road or stock route; or
  - (c) the road provides continuity to a road network.

## **100 Public notice of closure**

- (1) If the Minister is satisfied a road closure application should proceed, the Minister must—
  - (a) give appropriate public notice of the application; and
  - (b) make appropriate enquiries about the effect the closure would have.
- (2) Alternatively, the Minister may accept appropriate public notice of the application and appropriate enquiries about the closure, that have been carried out by the applicant.
- (3) However, appropriate public notice of a road closure application is not needed if—
  - (a) the road closure application is to close a no-through road; or
  - (b) the road closure application is to close part of a road by a volumetric format plan of subdivision and the closure will not adversely affect the part of the road being used as a road; or
  - (c) the road closure application is to close part of a road adjoining transport land and the closure will not adversely affect the part of the road being used as a road.
- (4) Appropriate public notice includes the following information—
  - (a) that a person may object to the application;
  - (b) the closing day for objections;
  - (c) where the objection must be lodged.

[s 101]

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(5) In this section—

*appropriate enquiries* includes notifying each registered owner and lessee whose land adjoins the road.

*appropriate public notice* includes—

- (a) notification in the gazette; and
- (b) placing and keeping a notice in a conspicuous place on or near the road.

*no-through road* means a road that—

- (a) is closed at one end; and
- (b) provides access to the land of only 1 adjoining owner for the road.

## **101 Minister to consider objections**

- (1) The Minister must consider all objections properly made to the proposed road closure.
- (2) The Minister may approve the road closure application, with or without conditions, or refuse the application.
- (3) However, the Minister must refuse the road closure application if the Minister is satisfied the road is still needed.

## **102 Changing application**

In deciding an application, the Minister may change a road closure application in the way the Minister considers appropriate.

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## **Division 3                      Road licences for temporarily closed roads**

### **103      Issue of road licence**

- (1) The Minister may issue a road licence over a temporarily closed road only to—
  - (a) an adjoining owner; or
  - (b) another person, if the road licence is only for allowing the person holding the licence to make structural improvements mentioned in section 104(b)(ii) or (iii).
- (2) However, the Minister need not issue the road licence only to the person who applied for the road closure.

### **104      Conditions of issuing road licence**

A road licence is subject to the following conditions—

- (a) it must not contain a covenant, agreement or condition to renew the road licence, or to convert it to another form of tenure, or to buy the land;
- (b) no more structural improvements are permitted on the road temporarily closed, other than the following—
  - (i) boundary fences;
  - (ii) pipes for irrigation purposes that cross the road beneath its surface;
  - (iii) water channels for irrigation purposes that cross the road;
- (c) if the person holding the licence transfers or sells the land for the benefit of which the road licence is issued, the person must—
  - (i) also transfer the road licence to the new registered owner or lessee of the land; or

- (ii) surrender the road licence at the time the sale is settled;
- (d) any other conditions the Minister considers appropriate.

### **105 Cancellation or surrender of road licence**

- (1) The Minister may cancel all or part of a road licence after giving the licensee reasonable notice of the Minister's intention to cancel.
- (2) No compensation is payable for the cancellation of a road licence.
- (3) A licensee, with the Minister's written approval, may surrender all or part of a road licence.
- (4) If a road licence is cancelled or surrendered, any improvements on the road become the property of the State and no compensation is payable.
- (5) However, the Minister may allow the licensee to remove any improvements within the time stated on the cancellation notice or the surrender approval.
- (6) If a road licence is cancelled or surrendered, the road remains temporarily closed.

## **Division 3A           Temporarily closed roads**

### **106 Temporarily closed road still dedicated land**

If a road is temporarily closed, the land comprising the road is still land that is dedicated as a road for public use even though the public can not use the road as a road until it is reopened.

### **107 Reopening a temporarily closed road**

The Minister, by gazette notice, may reopen a temporarily closed road.

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## Division 4                      Permanently closed roads

### 108      Permanent closure of road

- (1) If the Minister permanently closes a road, the road is permanently closed by the registration of a plan of subdivision.
- (2) The permanent closure of the road takes effect on the day the plan of subdivision is registered.

### 109      Closed road may be dealt with as lot or amalgamated with adjoining land

- (1) If the Minister is satisfied a road being permanently closed is of adequate area, having regard to the location of the road and the use made of adjoining land, to be used as a lot, the road—
  - (a) must be shown as a lot on the plan of subdivision; and
  - (b) may be dealt with as unallocated State land.
- (2) If the Minister is not satisfied under subsection (1), the road must be amalgamated with—
  - (a) adjoining unallocated State land; or
  - (b) if there is no adjoining unallocated State land—the land of an adjoining owner for the road.

### 109A    Simultaneous opening and closing of roads—deed of grant

- (1) A registered owner may apply for the simultaneous opening and closing of roads if—
  - (a) a road is being opened in the land (the *relevant land*) the subject of a deed of grant; and
  - (b) at the same time—
    - (i) a road within the boundaries of or adjoining the relevant land is being closed; or

[s 109B]

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- (ii) a road within the boundaries of land (the *additional land*) the subject of another deed of grant is being closed and the additional land and the relevant land adjoin and are owned by the same registered owner; or
  - (iii) a road adjoining land (also the *additional land*) the subject of another deed of grant is being closed and the additional land and the relevant land adjoin and are owned by the same registered owner; and
- (c) the road being opened is a replacement of the road being closed.
- (2) The registered owner may ask that the following be included in a deed of grant issued under section 358—
- (a) any severance of land created by the road being opened;
  - (b) the road being closed.
- (3) A registered owner may appeal against any conditions the Minister imposes under section 420I.
- (4) The *Land Title Act 1994*, section 50, and the provisions of the *Sustainable Planning Act 2009* about reconfiguring a lot do not apply to the replacement of a road under this section.
- (5) In this section—
- close*, a road, means permanently close the road under section 108.
- open*, a road, means open for public use as a road under section 94.

### **109B Simultaneous opening and closure of roads—trust land or lease land**

- (1) A trustee or lessee may apply for the simultaneous opening and closure of roads if—
- (a) a road is being opened in trust land or lease land (the *relevant land*); and

- 
- (b) at the same time a road within the boundaries of or adjoining the relevant land is being closed; and
- (c) the road being opened is a replacement of the road being closed.
- (2) If a trustee makes an application under subsection (1), the trustee may ask that the land in the road being closed be included in—
- (a) if the trustee is the trustee under a deed of grant in trust—a deed of grant in trust issued under section 358; or
- (b) if the trustee is the trustee of a reserve—the land dedicated as a reserve under section 31A.
- (3) If a lessee makes an application under subsection (1), the lessee may ask that the land in the road being closed—
- (a) if the lease is a freeholding lease—be amalgamated with the lease land under section 360(1)(e); or
- (b) if the lease is a term lease, other than a State lease, or a perpetual lease—be amalgamated with the lease land under section 360A(2)(d).
- (4) A trustee or lessee may appeal against any conditions the Minister imposes under section 420I.
- (5) The *Land Title Act 1994*, section 50, and the provisions of the *Sustainable Planning Act 2009* about reconfiguring a lot do not apply to the replacement of a road in a deed of grant in trust under this section.
- (6) In this section—
- close**, a road, means permanently close the road under section 108.
- open**, a road, means open for public use as a road under section 94.

[s 109C]

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### **109C Buying or leasing land if closed road amalgamated with adjoining land**

- (1) This section applies if—
  - (a) land must be amalgamated under section 109(2)(b); or
  - (b) a registered owner has asked for an amalgamation of land under section 109A(2); or
  - (c) a lessee has asked for an amalgamation of land under section 109B(3).
- (2) Before the road is permanently closed, the road must be—
  - (a) sold to 1 or more adjoining owners who are registered owners or lessees who have freeholding leases; or
  - (b) with or without the payment of a premium as the Minister considers appropriate—leased to 1 or more adjoining owners who are lessees, other than lessees of freeholding leases.
- (3) Subsection (2) does not apply to an adjoining owner who is a trustee of trust land.
- (4) The Minister must decide the purchase price or the cash premium in the way prescribed by regulation.

## **Division 5 Building of roads in State developments**

### **110 Minister may build roads**

- (1) The Minister may authorise the building and maintenance of a road serving land made or to be made available under this or another Act.
- (2) The Minister, and a person acting under the Minister's authority, has the same liability, and the same duties, as a local government for a matter under this division.



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- (3) If the Minister authorises a road to be built, it must be built to at least the standard applying to similar roads in the local government area.

### **111 When road comes under local government control**

- (1) After a road, authorised by the Minister, has been built, the Minister may fix a day from which the *Local Government Act 2009* applies to the road.
- (2) From the day fixed—
- (a) a regulation made for a purpose relating to the building of the road stops applying to the road; and
  - (b) the *Local Government Act 2009* applies to the road as if it had been built by the relevant local government.

## **Chapter 4 Land holdings**

### **Part 1 Making land available**

#### **Division 1 Interests in land available by competition**

##### **112 Interests in land available by auction, tender or ballot**

The following interests in land may be made available by public auction, tender or ballot—

- (a) an estate in fee simple;
- (b) a lease of, or permit over, unallocated State land;
- (c) a term lease of, or permit over, a reserve.

### **113 Public notice of availability to be given**

- (1) The Minister must advertise the intention to make an interest in land available by auction, tender or ballot.
- (2) The advertisement must be—
  - (a) before the auction, tender or ballot takes place; and
  - (b) in the gazette (the *sale notice*).

### **114 Information to be included in sale notice**

- (1) The sale notice must include the following information—
  - (a) the conditions of the auction, tender or ballot;
  - (b) the conditions attaching to the interest being made available;
  - (c) any restrictions on eligibility to bid, tender or take part in the ballot;
  - (d) the time and place where the auction will be held;
  - (e) other appropriate information about the auction, tender, ballot or interest.
- (2) If the sale notice is for a ballot or a sale by tender, it must also include the following information—
  - (a) the closing day for applications;
  - (b) the time and place for lodging applications.

### **115 Conditions of sale**

- (1) The following conditions apply to a sale by public auction—
  - (a) the highest bid at auction that is at least the reserve price or the reserve cash premium is the sale price;
  - (b) the deposit and other fees or payments, for survey or improvements, must be paid within the time stated in the sale notice;

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- (c) the buyer must be eligible to hold the interest under this Act and meet all other restrictions stated in the sale notice;
  - (d) the appropriate forms must be completed and lodged within the time stated in the sale notice.
- (2) If the interest sold is a lease or permit—
- (a) the amount bid at auction does not include the rent stated in the sale notice; and
  - (b) the rent stated is payable in the usual way.
- (3) If the interest sold is a lease of rural leasehold land and the Minister is satisfied the land suffers from, or is at risk of, land degradation, the sale notice—
- (a) may include a requirement that the proposed lessee enter into a land management agreement for the lease; and
  - (b) if a requirement as mentioned in paragraph (a) is included—must state that the lease will be issued subject to the condition that the lessee must comply with the agreement.

## **116 Interests in land may be sold after auction**

- (1) If an interest in land is not sold at public auction, the interest may be sold—
- (a) by accepting the best offer made after the auction that is at least the reserve price or reserve cash premium; or
  - (b) by reducing the reserve, advertising the reduced reserve and accepting the best offer that is at least the new reserve price or new reserve cash premium.
- (2) The conditions of sale stated in the sale notice also apply to the sale.
- (3) The advertisement may be made in the same way as the advertisement for the auction.

### **117 Interest may be withdrawn from auction, tender or ballot**

Even if an interest in land has been advertised for ballot or sale by public auction or tender, the interest may be withdrawn from sale by the Minister—

- (a) before it is auctioned, before the closing day of tenders or before a ballot is conducted; or
- (b) if not sold—after the auction.

### **118 Appeal against exclusion from ballot or tender**

- (1) Before a ballot is conducted or a tender concluded, the Minister must give each applicant a notice advising whether or not they are to be included in the ballot or tender.
- (2) If the Minister decides to exclude a person from a ballot or tender, the person must be given notice of the decision and the reasons for the decision.
- (3) An applicant who has been advised he or she is excluded from a ballot or tender may appeal against the decision to exclude the applicant.
- (4) The ballot or tender may proceed—
  - (a) if no appeal has been lodged—after the last day for lodging an appeal; or
  - (b) if an appeal has been lodged—after the appeal has been decided.

### **119 Conduct of ballot**

A ballot must be conducted in the way prescribed under the regulations.

### **120 Offer to winner of ballot or tender**

- (1) The winner of a ballot or tender must be made an offer on the terms stated in the sale notice.

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- (2) If the offer is refused—
    - (a) the applicant's deposit is forfeited to the State; and
    - (b) the Minister may—
      - (i) otherwise deal with the land under this Act; or
      - (ii) if the offer was made because of a ballot—reballot the land.
  - (3) Only the applicants included in the earlier ballot, other than the applicant who refused the offer, are to be included in the rebalot.
  - (4) An applicant who is eligible to be included in the rebalot, by notice to the Minister, may withdraw from the rebalot.

## **Division 2                    Interests in land available without competition**

### **120A    Applying for interest in land without competition**

- (1) A person may apply for an interest in land that, under this division, may be granted without competition.
- (2) If, under this division, the Minister decides to offer the interest, the interest may be offered to the applicant subject to conditions.
- (3) If a conditional offer is made, the offer is accepted only if the applicant complies with all of its conditions.

### **121    Leases of unallocated State land**

- (1) A lease of unallocated State land may be granted without competition if—
  - (a) the land is needed for a public purpose; or
  - (b) the Minister decides—
    - (i) the land is not needed for a public purpose; and

[s 122]

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- (ii) the intended use is the most appropriate use of the land; and
  - (iii) exposure to public competition is inappropriate or 1 or more of the priority criteria apply.
- (2) To remove any doubt, it is declared that a lease may be granted to the State, without competition.

## **122 Deeds of grant of unallocated State land**

- (1) A deed of grant of unallocated State land may be granted without competition if the grant is to MEDQ or if the Minister decides—
- (a) the land is not needed for a public purpose; and
  - (b) the intended use is the most appropriate use of the land; and
  - (c) 1 or more of the priority criteria apply.
- (2) A deed of grant of unallocated State land may be granted without competition to a constructing authority if the Minister decides the land is needed for a public purpose.
- (3) The Minister must decide the purchase price for the land in the way prescribed by regulation.

## **123 Priority criteria**

For sections 121 and 122—

*priority criteria* are—

- (a) the applicant is an adjoining registered owner or lessee, and selling or leasing to anyone else would be considered inequitable; or
- (b) no other persons are likely to be interested in obtaining the land; or
- (c) the applicant held a significant interest in the land before it became unallocated State land; or

*Example of significant interest—*

a deed of grant in trust or a long term lease

- (d) there is no dedicated access and the only practical access is through the applicant's land.

**124 Leases of State forests and national parks**

If land has been surrendered by a person and has been reserved as State forest or dedicated as national park, the person may be granted, without competition, a lease over all or part of the forest or park.

**125 Deeds of grant in trust and leases over reserves**

- (1) A deed of grant in trust may be granted without competition.  
(2) A lease of a reserve may be granted without competition.

**126 Strategic port land**

- (1) If land having a tidal boundary or right line tidal boundary is needed as strategic port land for a port authority, the port authority may be given, without competition, either a lease or deed of grant.  
(2) However, if land that is on the same side of a boundary that is a tidal boundary or right line tidal boundary as the water subject to tidal influence is needed as strategic port land for a port authority, the port authority may be given, without competition, only a lease.

**127 Reclaimed land**

- (1) If a person has reclaimed land under the authority of an Act—  
(a) the Governor in Council may issue to the person, without competition, a deed of grant over all or part of the land; or

[s 127A]

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- (b) the Minister may issue to the person, without competition, a lease over all or part of the land.
- (2) When granting the reclaimed land, the Governor in Council or Minister may amalgamate the land granted with an adjoining tenure held by the person.
- (3) If the reclaimed land is already held under lease, the lease must be surrendered before a new lease or deed of grant is issued.
- (4) If a deed of grant or lease is issued over only part of the reclaimed land, the rest of the land must be dedicated as a reserve or a road.
- (5) If the reclaimed land is dedicated as a reserve and the person who reclaimed the land wishes to be the trustee of the reserve, the Minister must appoint the person as the trustee.
- (6) If a deed of grant is issued, the purchase price is—
  - (a) the purchase price stated in the permission to reclaim the land or in the lease; or
  - (b) if no purchase price is stated—the amount of the unimproved value of the land, on the day the permission to reclaim the land was given, decided by the Minister in the way prescribed by regulation.
- (7) The person may appeal against the Minister’s decision on the amount of the unimproved value.

### **127A Amalgamation may be a condition**

A condition of an offer under this division may be that the land being offered must be amalgamated with or tied to other land already owned by the person to whom the land is offered.

*Note—*

A deed of grant amended because of an allocation without competition is issued under section 358. A lease amended because of an allocation without competition is amended under section 360.



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## **Division 2A            Leases for significant development**

### **128    Meaning of *significant development***

A *significant development* is a development that will—

- (a) have a significant impact on the environment or the economic and social development of a locality, a region or the State; and
- (b) involve a high level of investment, a substantial development period and lease conditions requiring extensive development.

### **129    Lease for significant development**

- (1) This section applies if—
  - (a) an interest in a lease for a significant development is made available to a person under division 1; or
  - (b) under division 2, a person applies for a lease for a significant development.
- (2) Before the lease is granted, the chief executive must obtain an independent assessment of the person's financial and managerial capabilities.
- (3) The person must pay the cost of the assessment.
- (4) The cost is not refundable.
- (5) The lease must not be granted to the person unless the chief executive is satisfied, having regard to the independent assessment, about the person's financial and managerial capabilities.

### **129A   Further dealings with lease land on completion of significant development**

- (1) The Minister may include the following in a lease for significant development—

[s 130]

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- (a) a purchase price, or formula for calculating the purchase price, if the land is converted to freehold land;
  - (b) the term of a new lease for operating and maintaining the significant development, if a new lease is granted.
- (2) If a price, formula or term mentioned in subsection (1) is included in the lease, the lessee may, after the significant development is substantially complete, apply to the Minister to purchase the lease land or enter a new lease to operate and maintain the significant development.
- (3) If the Minister is satisfied the lessee has complied with the terms of the lease, the Minister must—
  - (a) for an application to purchase the land—ask the Governor in Council to grant the land in fee simple to the lessee; or
  - (b) for an application for a new lease—grant the application.
- (4) If a deed of grant or new lease is issued over part of the land the subject of a significant development lease, the rest of the land must be dedicated as a reserve or road.

### **130 Transfer of lease for significant development**

- (1) If a lease issued for a significant development is to be transferred, the Minister may obtain an independent assessment of the transferee's financial and managerial capabilities before considering whether or not the transfer should be approved.
- (2) The transferee must pay the cost of the assessment.
- (3) The cost is not refundable.

### **130A Change of financial and managerial capabilities of lessee of lease for significant development**

- (1) The Minister may make a note under this section in the appropriate register against a lease under this division if—

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- (a) in relation to the lease, there has been an independent assessment of at least 1 of the following—
    - (i) under section 129, an applicant’s financial and managerial capabilities;
    - (ii) under section 130, a transferee’s financial and managerial capabilities; or
  - (b) if paragraph (a) does not apply in relation to the lease—the Minister is satisfied the lease is a lease for a significant development.
- (2) Before acting under subsection (1), the Minister must give the lessee at least 14 days notice of the Minister’s intention to make the note.
  - (3) The lessee of a relevant lease—
    - (a) must notify the Minister in the approved form as soon as practicable after there is a relevant change to the lessee; and
    - (b) must ensure that the notice to the Minister is accompanied by enough information about the relevant change to allow the Minister to decide whether an independent assessment of the financial and managerial capabilities of the lessee should be performed.
  - (4) The Minister may cause an independent assessment of the financial and managerial capabilities of a lessee of a relevant lease to be performed if—
    - (a) the lessee notifies the Minister under subsection (3); or
    - (b) the Minister is satisfied on reasonable grounds that the lessee should have notified the Minister under subsection (3) but has not done so.
  - (5) To remove any doubt, it is declared that, for section 234(c), the lessee of a lease contravenes a provision of this Act in relation to the lease, and the lease may accordingly be forfeited under chapter 5, part 4, if—
    - (a) the lease is a relevant lease; and

- (b) the lessee contravenes subsection (3).
- (6) Further, a lease may be forfeited under chapter 5, part 4 as if the lessee had contravened a provision of this Act in relation to the lease if all of the following circumstances apply—
  - (a) the lease is a relevant lease;
  - (b) an independent assessment of the financial and managerial capabilities of the lessee of the lease is performed under subsection (4);
  - (c) as a result of the assessment, the Minister is satisfied on reasonable grounds that—
    - (i) there has been a relevant change to the lessee; and
    - (ii) the relevant change can reasonably be expected to detrimentally affect the capacity of the lessee of the lease to meet the lessee's obligations under the lease.
- (7) If an independent assessment of the financial and managerial capabilities of a lessee of a relevant lease is performed under subsection (4)—
  - (a) the Minister may give to the person performing the assessment any information given to the Minister under subsection (3)(b) by the lessee; and
  - (b) the lessee must pay the costs of the assessment; and
  - (c) the cost is not refundable.
- (8) If the Minister makes a note under this section against a lease—
  - (a) notice of the decision and the reasons for the decision must be given to the lessee; and
  - (b) the lessee may appeal against the decision.
- (9) The Minister may remove a note made under this section against a lease if, having regard to the significant development to which the lease relates, the Minister considers its removal is appropriate in all the circumstances.

*Example—*

The Minister might remove a note if the Minister considers development required to be undertaken under the lease is complete or substantially complete.

(10) In this section—

***relevant change***, to a lessee of a relevant lease, means a change of substance in the financial and managerial capabilities of the lessee.

*Examples of relevant changes to a lessee—*

- 1 There is a change in the control of the lessee because of a share transaction involving the lessee or a holding company of the lessee, and the persons now directing the operations of the lessee do not have knowledge or experience in the lessee's operations that relate to the relevant lease.
- 2 Receivers are appointed for the lessee.

***relevant lease*** means a lease noted in the register under subsection (1).

## **Division 3                      Availability of additional areas**

### **132      Granting additional areas**

- (1) A registered owner or lessee may be granted, without competition, a perpetual or term lease (an ***additional area***) of unallocated State land for agriculture or grazing if the registered owner or lessee's land is being used for agriculture or grazing.
- (2) Unallocated State land must not be made available as an additional area if the land is more than a living area.

### **133      Who is eligible for additional areas**

A person is eligible for an additional area only if the person—

- (a) has demonstrated a duty of care in the management of their land; and

[s 134]

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- (b) is financially capable of fulfilling the conditions of the lease of the additional area; and
- (c) is otherwise qualified under this Act to hold the additional area; and
- (d) needs the additional area for property build-up.

### **134 Issues the Minister must consider**

The Minister must consider the following issues before making an offer of an additional area—

- (a) who is eligible for the additional area;
- (b) the appropriate size of the additional area;
- (c) any special conditions appropriate to the additional area;
- (d) if more than 1 person meets the criteria—the need for a ballot to decide who should be offered the additional area;
- (e) any related issues.

### **135 Committee of review to help Minister**

The Minister may appoint a committee of review to help in making a decision to offer an additional area.

### **136 Conditions of offer and lease**

- (1) A condition of an offer of an additional area may be that the additional area must be amalgamated or tied with other land already owned by the person to whom the offer is made.
- (2) If a condition of the offer is that the additional area must be tied to freehold land, a condition of the lease for the additional area is that the freehold land must continue to be used for agriculture or grazing.

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- (3) If there are improvements on the additional area, the Minister may require, as a condition of the offer, that the person must buy the improvements.
  - (4) If the person accepts the offer, the person must pay the value of the improvements under section 139.
  - (5) If the Minister is satisfied the additional area suffers from, or is at risk of, land degradation, the Minister may require, as a condition of the offer, that the proposed lessee must enter into a land management agreement for—
    - (a) the additional area; and
    - (b) if the offer includes a condition mentioned in subsection (1) and the condition requires the additional area to be amalgamated or tied with lease land under another lease—the lease land under the other lease.
  - (6) If the offered lease is issued and a condition of the offer is a requirement mentioned in subsection (5), the lease is subject to the condition that the lessee must comply with the land management agreement.

## **Division 4                      Miscellaneous**

### **137      Right to occupy**

- (1) If there are improvements the property of the State, or a previous lessee, on land leased or sold under this Act, the incoming lessee or buyer is not entitled to occupy or enter into possession of the land until—
  - (a) the lessee or buyer has paid the amount of the value of the improvements; or
  - (b) the Minister permits the lessee or buyer to do so.
- (2) If there are no improvements, a lessee or buyer from the State is entitled to occupation and possession of the land from—

[s 138]

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- (a) if a lease—the day the lease starts, or an earlier day allowed by the Minister; or
- (b) the day the sale is completed.

### **138 Default**

- (1) If land has been made available to a person, the person defaults if—
  - (a) the appropriate forms are not completed and lodged within the required time; or
  - (b) the amount to be paid for the interest in the land and the improvements is not paid within the time stated in the offer and in any written agreement under section 140.
- (2) If a person defaults, the deed, lease, licence or permit must not be issued and any amount paid is forfeited.
- (3) However, if the Minister is satisfied there was a reasonable excuse for the default, the Minister may refund the amount paid.

### **138A Restriction on commencement of lease or permit**

A lease or permit under this part must not start until—

- (a) for a lease or permit sold under this part—the buyer complies with all of the conditions of sale; or
- (b) for a lease or permit offered under this part—the offeree complies with all of the conditions of the offer.

### **139 Improvements to be bought by incoming lessee or buyer**

- (1) If there are improvements, the property of the State or a previous lessee, on land to be leased or bought under this Act, the value of the improvements must be stated in the offer or in the sale notice.
- (2) The value of the improvements is the value on the day the offer was made or the sale notice was published.



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- (3) The value of the improvements may be—
    - (a) not negotiable; or
    - (b) negotiable (the *provisional value*).
  - (4) The incoming buyer or lessee must pay the State the value of improvements within the time stated in the offer or the sale notice, whether or not a provisional value is to be negotiated.

#### **140 Provisional value may be negotiated**

- (1) If a provisional value has been stated in an offer or sale notice, the value may be negotiated (the *negotiated value*) between the buyer and previous lessee.
- (2) With the written agreement of the buyer and previous lessee, the negotiated value becomes the amount to be paid for the improvements.
- (3) Any difference between the provisional value and the negotiated value must be paid or refunded within the time stated in the written agreement.
- (4) If the buyer and previous lessee can not agree on a negotiated value, either party may make application to the court to decide the value.
- (5) To decide the value of the improvements, the court must decide each of the following amounts—
  - (a) the amount that fairly represents the value of the improvements to a prudent buyer, having regard to the buyer's proposed use of the land;
  - (b) the amount that fairly represents the cost of constructing the improvements, adjusted to allow for depreciation of the improvements since construction.
- (6) The value mentioned in subsection (5)(a) is the value on the day the offer was made or the sale notice was published.
- (7) The cost mentioned in subsection (5)(b) is the cost on the day the court decides the value of the improvements.

[s 141]

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- (8) If the amount decided under subsection (5)(a) is equal to or less than the amount decided under subsection (5)(b), the value of the improvements is the amount decided under subsection (5)(a).
- (9) If the amount decided under subsection (5)(a) is more than the amount decided under subsection (5)(b), the value of the improvements is the amount decided under subsection (5)(b).
- (10) The value of the improvements decided by the court under subsections (5) to (9) becomes the negotiated value.

#### **141 Payment of survey fee**

If a survey of land has been carried out by the State or will be carried out by the State to make or in making the land available, the State may require the buyer to pay the survey fee stated in the offer or sale notice or to pay the actual cost of survey.

## **Part 2                      Restrictions on eligibility to hold land**

#### **142 Minors not to hold land**

An individual is eligible to apply for, buy or hold land under this Act only if the individual is an adult.

#### **143 Departmental officers not to hold land without approval**

An officer of the department is not eligible to acquire land under part 1 without the Minister's written approval.

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## Part 3 Leases

### Division 1 Preliminary

#### 153 Lease must state its purpose

A lease must state the purpose for which it is issued.

*Note—*

See also sections 16(1) (Deciding appropriate tenure) and 199A (Land may be used only for tenure's purpose).

#### 154 Minister may approve additional purposes

- (1) The Minister may approve an application by a lessee that a lease be used for additional or fewer purposes.
- (2) However, the Minister may approve an application by a lessee that a lease be used for an additional purpose only if—
  - (a) the additional purpose is complementary to, and does not interfere with, the purpose for which the lease was originally issued; or
  - (b) the additional purpose relates to the production of energy from a renewable source, including, for example, the sun or wind.
- (3) If the application is approved, the lessee must be given notice of—
  - (a) the approval; and
  - (b) any change of rental category; and
  - (c) whether or not there will be an increase or decrease in the rental for the remainder of the current rental period; and
  - (d) if additional rent is payable—the time by which the additional rent must be paid; and

[s 155]

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- (e) whether and in what way the lessee should apply under section 210 to change the conditions of the lease, having regard to the proposed purposes for which the lease is to be used.
- (4) The application must be accompanied by the written consent of all persons with a registered interest in the lease.
- (5) However, consent under subsection (4) must not be unreasonably withheld.
- (6) To remove any doubt, it is declared that an application under subsection (1) may be both for the addition of 1 or more purposes and for the removal of 1 or more purposes.
- (7) If the lessee agrees with the matters notified under subsection (3)(b) to (d), and there is no associated change of conditions proposed under section 210, the purposes of the lease, as changed, must be registered.
- (8) If the lessee agrees with the matters notified under subsection (3)(b) to (d), and the Minister and the lessee have agreed under section 210 to any associated change of conditions proposed under that section, the purposes of the lease, as changed, must be registered in conjunction with the registration of the change of conditions.
- (9) A change in the purposes of a lease is binding from the day the purposes, as changed, are registered.

## **Division 1A                      Length of term on issue of term lease**

### **155      Length of term leases**

- (1) A term lease must not be issued for more than 50 years.
- (2) However, a term lease may be issued for up to 100 years if it is for—
  - (a) a significant development or the operation and maintenance of a significant development; or

- (b) a timber plantation; or
- (c) a development that involves existing improvements that in the opinion of the Minister have required a high level of investment.

## **Division 1B                    Extension of particular term leases**

### **155AA Application of div 1B**

- (1) This division applies to a term lease if—
  - (a) the lease is for rural leasehold land; and
  - (b) the lease land is 1000ha or more; and
  - (c) the term is 20 years or more; and
  - (d) there is a land management agreement for the lease; and
  - (e) more than 5 years have passed since the lease was entered into or the land management agreement was first registered, whichever is the later, unless the Minister is satisfied that special circumstances exist; and
  - (f) no more than 80% of the existing term of the lease has expired.
- (2) However, this division does not apply to a rolling term lease whose term has been extended under division 2, subdivision 3.
- (3) In this section—  
*existing term*, of the lease, does not include any extension of the lease granted under section 155A, 155B or 155BA.

### **155A Extensions for a term of up to 40 years**

- (1) This section applies to a lease if—
  - (a) the term of the lease is less than 40 years; and

[s 155B]

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- (b) the land management agreement for the lease contains a commitment by the Minister to extend the lease under this section; and
  - (c) the lease has not already been extended under this section.
- (2) The lessee may apply to extend the lease.
- (3) The Minister may grant the application and extend the lease if the Minister is satisfied—
- (a) the lease land is in good condition; and
  - (b) the lessee has complied with the land management agreement and any requirements under it for the granting of the extension.
- (4) However, the term of the extension—
- (a) can not be for more than 10 years; and
  - (b) must not extend the term of the lease beyond 40 years.

### **155B Extensions for a term of up to 50 years**

- (1) This section applies to a lease if—
- (a) the term of the lease is less than 50 years, including any extension of the term under section 155A; and
  - (b) the land management agreement for the lease contains a commitment by the Minister to extend the lease if either or both of the following circumstances apply—
    - (i) if the Minister considers land (the *relevant land*) that is all or part of the lease should be the subject of a conservation agreement or conservation covenant—a conservation agreement has been entered into, or a conservation covenant exists, for the relevant land;
    - (ii) if the Minister considers it is appropriate for there to be an indigenous cultural interest for all or part

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- of the lease land—the lease land is subject to an indigenous cultural interest; and
- (c) the lease has not already been extended under this section.
- (2) The lessee may apply to extend the lease.
  - (3) The Minister may grant the application and extend the lease if the Minister is satisfied—
    - (a) the lease land is in good condition; and
    - (b) the lessee has complied with any land management agreement and any requirements under it for the granting of the extension; and
    - (c) the lessee has complied with the following for the lease land—
      - (i) any conservation agreement, or conservation covenant;
      - (ii) any approved agreement for an indigenous cultural interest; and
    - (d) the extension is appropriate, having regard to either or both of the following for the lease land—
      - (i) the terms of any conservation agreement or conservation covenant;
      - (ii) the terms of any approved agreement for an indigenous cultural interest.
  - (4) However, the extension—
    - (a) can not be for more than 10 years; and
    - (b) must not extend the term of the lease beyond 50 years.
  - (5) If an extension is granted for a lease under this section at the same time as an extension for the lease is granted under section 155A—
    - (a) for subsection (4)(b), the term of the lease includes the extension granted under section 155A; and

[s 155BA]

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- (b) the extension granted under this section starts on the day after the day the extension granted under section 155A ends.

### **155BA Extensions for a term of up to 75 years**

- (1) This section applies to a lease if—
  - (a) the term of the lease is less than 75 years, including any extension of the term under section 155A or 155B; and
  - (b) the land management agreement for the lease contains a commitment by the Minister to extend the lease if the following circumstances apply—
    - (i) if the Minister considers land (the *relevant land*) that is all or part of the lease should be the subject of a conservation agreement or conservation covenant—a conservation agreement has been entered into, or a conservation covenant exists, for the relevant land;
    - (ii) the lease land is subject to an indigenous cultural interest; and
  - (c) all or part of the lease land (the *declared land*) is an area of international conservation significance under the *Cape York Peninsula Heritage Act 2007*; and
  - (d) the lease has not already been extended under this section.
- (2) The lessee may apply to extend the lease.
- (3) The Minister may grant the application and extend the lease if the Minister is satisfied—
  - (a) the lease land is in good condition; and
  - (b) the lessee has complied with the land management agreement and any requirements under it for the granting of the extension; and



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- (c) the lessee has complied with any conservation agreement or conservation covenant applying to all or part of the lease land; and
  - (d) the lessee has complied with the approved agreement for the indigenous cultural interest for the lease land; and
  - (e) the extension is appropriate, having regard to any or all of the following for the lease land—
    - (i) the terms of any conservation agreement or conservation covenant;
    - (ii) the terms of the approved agreement for the indigenous cultural interest;
    - (iii) the size of the declared land.
- (4) However, the term of the extension—
- (a) can not be for more than 25 years; and
  - (b) must not extend the term of the lease beyond 75 years.
- (5) If an extension is granted for a lease under this section at the same time as an extension is granted for the lease under section 155A or 155B—
- (a) for subsection (4)(b), the term of the lease includes the extension granted under section 155A or 155B; and
  - (b) the extension granted under this section starts on the day after the day all extensions granted under sections 155A and 155B end.

### **155C Registering and taking of effect of extension**

- (1) This section applies if, under section 155A, 155B or 155BA, the Minister extends a term lease.
- (2) The extension must be registered as soon as practicable after it is made.
- (3) The extension has effect from the day it is registered.
- (4) No fee is payable for registering the extension.

## **Division 1C                      Reduction of particular term leases**

### **155CA Non-application of division to particular term leases**

This division does not apply to a rolling term lease whose term has been extended under division 2, subdivision 3.

### **155D    When Minister may reduce**

- (1) This section applies to a term lease for rural leasehold land granted for a term as provided for in repealed section 155(4), (5) or (6) or extended under section 155A, 155B or 155BA, if any of the following happens (each a *relevant circumstance*)—
  - (a) if, when the lease was granted or extended, the Minister was satisfied the land was in good condition—the Minister considers the land is no longer in good condition;
  - (b) if a conservation covenant existed or a conservation agreement had been entered into for the land when the lease was granted or extended—
    - (i) the covenant or agreement ceases to be in effect for the land; or
    - (ii) the Minister considers the lessee has not complied with the terms of the covenant or agreement;
  - (c) if the lease land was subject to an indigenous cultural interest when the lease was granted or extended—
    - (i) the interest ceases to be in effect for the land; or
    - (ii) the Minister considers the lessee has not complied with the terms of the approved agreement for the interest;
  - (d) for a lease granted for a term of up to 75 years under repealed section 155(6) or extended under section 155BA—all or any part of the land ceases being an area of international significance under the *Cape York*

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*Peninsula Heritage Act 2007.*

- (2) Subject to sections 155DA and 155E, the Minister may reduce the term of the lease by the number of years the Minister considers appropriate, having regard to the maximum term for which the lease would have been granted or extended if the relevant circumstance had existed at the time of the grant or extension.
- (3) However, the Minister can not reduce the term by an amount that results in the lease no longer having an unexpired term.
- (4) In this section—

*repealed*, in relation to a provision, means as in force before the commencement of this definition.

*term*, of a lease, includes any extension of the term of the lease under section 155A, 155B or 155BA, whether or not the extended term has commenced.

### **155DA Notice of intention to reduce term**

- (1) This section applies if the Minister proposes to reduce the term of a lease under section 155D.
- (2) However, this section does not apply to a lease if—
  - (a) the lease has been extended under section 155A, 155B or 155BA; and
  - (b) the Minister proposes to reduce the term of the lease by an amount that is no more than the period for which it was extended.
- (3) Before reducing the term, the Minister must give the lessee a notice stating each of the following—
  - (a) that the Minister proposes to reduce the term of the lease;
  - (b) the number of years by which the Minister proposes to reduce the term;

[s 155E]

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- (c) the reasons for the Minister's proposal to reduce the term;
  - (d) that the lessee may, within the reasonable period stated in the notice, make written submissions to show why the term should not be reduced.
- (4) In deciding whether to reduce the term, the Minister must consider any written submissions made by the lessee within the period stated in the notice.

### **155E Provisions about reduction**

- (1) This section applies if—
  - (a) the Minister decides under section 155D to reduce the term of a term lease; and
  - (b) for a reduction to which section 155DA applies—the Minister has complied with that section.
- (2) Notice must be given to the lessee of the decision and the reasons for it.
- (3) The lessee may appeal against the decision.
- (4) The reduction must be registered as soon as practicable after the appeal expiration day for the decision.
- (5) The reduction has effect from the day it is registered.
- (6) No fee is payable for registering the reduction.
- (7) No compensation is payable by the State for the reduction.

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## **Division 2                    Expiry, renewal and extension**

### **Subdivision 1            Expiry**

#### **157    Expiry of lease**

- (1) A lessee's right to possession of lease land ends on the day the lease expires, but does not end if the lease is renewed before it expires or its term is extended.
- (2) Subject to chapter 5, part 5 and the conditions of a lease, the improvements on the lease become the property of the State when the lease expires.

*Note—*

Chapter 5, part 5 is about payments that may be made to outgoing lessees for improvements on a lease.

### **Subdivision 2            Renewal**

#### **157AA Limited application of sdiv 2**

This subdivision does not apply to a rolling term lease.

#### **157A Chief executive's approval required for renewal**

- (1) A term lease may be renewed only if—
  - (a) the lessee has made an application under section 158; and
  - (b) under this subdivision, the chief executive has made an offer of a new lease and the offer has been accepted.
- (2) Subsection (1) is subject to section 434B.

### **158 Application for new lease**

- (1) The lessee of a term lease may apply for an offer of a new lease (a *renewal application*) unless a condition of the lease or this Act prohibits its renewal.
- (2) A renewal application may be made only after 80% of the existing term of the lease has expired unless, in the Minister's opinion, special circumstances exist.
- (3) A renewal application may be rejected without being considered under section 159 if—
  - (a) the applicant has made an earlier renewal application and the application was refused; and
  - (b) there is no relevant change in circumstances from the earlier application.
- (4) In this section—

*existing term*, of the lease, does not include an extension under division 1B of the term of the lease.

### **159 General provisions for deciding application**

- (1) The chief executive must consider the following before deciding whether or not to offer a new lease, the conditions of the offer or the imposed conditions of the new lease—
  - (a) the interest of the lessee;
  - (b) whether part of the lease land should be set apart and declared as State forest under the *Forestry Act 1959*;
  - (c) whether the public interest could be adversely affected, other than for an issue mentioned in paragraph (b), if the lease were renewed;
  - (d) whether part of the lease land is needed for environmental or nature conservation purposes;
  - (e) the condition of the lease land;
  - (f) the extent to which the lease land suffers from, or is at risk of, land degradation;

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- (g) whether the lessee has complied with, or to what extent the lessee has complied with, the following—
    - (i) the conditions of the lease;
    - (ii) any land management agreement for the lease;
    - (iii) any conservation agreement or conservation covenant applying to all or part of the lease land;
    - (iv) any approved agreement for an indigenous cultural interest for the lease land;
  - (h) whether part of the lease land has a more appropriate use from a land planning perspective;
  - (i) whether part of the lease land is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like issues make it special;
  - (j) whether part of the lease land is needed for a public purpose;
  - (k) whether a new lease is the most appropriate form of tenure for the lease land;
  - (l) the lessee's record of compliance with this Act;
  - (m) the natural environmental values of the lease land.
- (2) To remove any doubt, it is declared that, to the extent the lease land is in an urban area, the chief executive need not consider any issue that is not relevant to an urban environment.

*Example of an issue not relevant to an urban environment—*

whether part of the lease land should be set apart and declared as State forest

- (3) In considering the natural environmental values of the lease land, the matters to which the chief executive must have regard include any advice about the values the chief executive receives from the NCA department.

### **159A Provisions for decision about most appropriate form of tenure**

- (1) In deciding, under section 159(1)(k), whether a new lease is the most appropriate form of tenure for the lease land the subject of a renewal application, section 16 applies—
  - (a) as if a reference in the section to an allocation were a reference to the decision; and
  - (b) with other necessary changes.
- (2) If the lease is over a reserve, the chief executive must, before making the decision, consult with the trustee for the reserve.
- (3) If the decision is that another form of tenure is a more appropriate form of tenure than a new lease, the chief executive may elect to treat the application as a conversion application for the other form of tenure.
- (4) On the making of the election—
  - (a) the renewal is taken to be a conversion application for the other form of tenure; and
  - (b) division 3 applies to the conversion application.
- (5) Subsections (3) and (4) apply despite any provision contained in the lease.

### **160 Notice of chief executive's decision**

- (1) If the chief executive decides to offer a new lease, the applicant must be given notice of the conditions on which the offer is made and to which the lease will be subject.
- (2) If the chief executive decides to refuse the renewal application, the applicant must be given notice of the reasons for the decision.
- (3) The applicant may appeal against the chief executive's decision to refuse the renewal application if the only reason for the refusal was that the applicant had not fulfilled the conditions of the lease.



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## 161 When offer has been accepted

An offer has not been accepted until the lessee fulfils the conditions of the offer.

## 162 Issuing of new lease

- (1) On acceptance of the offer, the Minister may issue a lease (the *new lease*) in accordance with the terms of the accepted offer.
- (2) The new lease must be issued for the same purpose as the lease (the *old lease*) the subject of the renewal application.
- (3) For working out the purpose of the old lease, the Minister may have regard to its rental category and conditions.
- (4) Additional unallocated State land may be included in the new lease, if chapter 4, part 1, division 2 is complied with.

*Note—*

Chapter 4, part 1, division 2 is about interests available in land without competition.

- (5) The new lease is issued subject to all relevant registered interests to which the old lease was subject, and in the same priorities.
- (6) On the registration of the new lease, the old lease is taken to have been wholly surrendered.
- (7) The surrender must be registered.

## 163 Land not included in the offer

If the offer is for only a part of the lease, the land not included in the offer, on surrender of the lease—

- (a) if the lease was over a reserve—remains a reserve; or
- (b) otherwise—becomes unallocated State land.

## Subdivision 3 Extensions of rolling term leases

### 164 What is a *rolling term lease*

- (1) A term lease is a *rolling term lease* if any of the following circumstances apply to it—
- (a) it is a lease for tourism purposes for land on a regulated island;
  - (b) it is a lease used for agriculture, grazing or pastoral purposes, and if the lease land is rural leasehold land, the lease land is 100ha or more in area;
  - (c) it is a lease used for agriculture, grazing or pastoral purposes, the lease land is rural leasehold land less than 100ha in area and the Minister has approved the lease as a rolling term lease;
  - (d) another provision of this Act provides the lease is a rolling term lease.

*Example for paragraph (d)—*

Under section 176A(3), if a rolling term lease over 100ha in area is subdivided into 2 or more new leases, each new lease that is issued is a rolling term lease even if its lease land is less than 100ha in area.

- (2) However, a State lease is not a *rolling term lease* if the lease land is used for agriculture, grazing or pastoral purposes.

### 164A Approval of lease as a rolling term lease

The Minister may approve a lease used for agriculture, grazing or pastoral purposes as a rolling term lease under section 164(1)(c) only if the Minister is satisfied the most appropriate use for the lease land is for agriculture, grazing or pastoral purposes as the case may be.

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### **164B Identification of lease as a rolling term lease**

- (1) The identification, under this subdivision, of a lease as a rolling term lease, including because of the Minister's approval of the lease as a rolling term lease under section 164(1)(c)—
  - (a) allows the provisions of this subdivision relating to the extension of rolling term leases to be applied to the lease; and
  - (b) does not affect any aspect of the lease, including any conditions of the lease.
- (2) The chief executive must ensure the particulars recorded in the leasehold land register for each term lease that, under this subdivision, is a rolling term lease, include that the lease is a rolling term lease.
- (3) The recording of a lease as a rolling term lease as mentioned in subsection (2) must be done—
  - (a) for a lease in existence immediately before the commencement of this section—as soon as practicable after the commencement of this section; and
  - (b) for a lease that is granted after the commencement of this section and is a rolling term lease immediately it is granted—when the particulars of the lease are first recorded in the leasehold land register; and
  - (c) for a lease that becomes a rolling term lease because of the Minister's approval of the lease as a rolling term lease under section 164(1)(c)—as soon as practicable after it becomes a rolling term lease.

### **164C Making extension application or giving expiry advice**

- (1) The Minister must grant an extension of the term of a rolling term lease if the lessee makes an application, in the approved form, to the chief executive to have the lease extended (an *extension application*), and making the application is not prevented under section 164D.

[s 164D]

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- (2) The Minister must not grant an extension of the term of a rolling term lease if the lessee advises the chief executive, in the approved form, that the lessee wishes to allow the lease to expire at the end of its term (an *expiry advice*).
- (3) Despite subsection (1), if the rolling term lease is issued under this Act or the repealed Act, but on the authority of another Act, the Minister may grant an extension of the lease only with the agreement of a person whose agreement to the extension is required under the other Act.
- (4) An agreement mentioned in subsection (3) may be given subject to a requirement for changing the conditions of the lease, and when the extension of the lease is granted, the conditions of the lease must be changed in the way required.
- (5) An extension application may be made—
  - (a) at any time in the last 20 years of the term of the lease;  
or
  - (b) at an earlier time approved by the Minister if the Minister is satisfied special circumstances exist.
- (6) An expiry advice may be given at any time in the last 5 years of the term of the lease.
- (7) If the Minister refuses to extend a lease for which an extension application is made, the lessee may appeal against the Minister's decision.

#### **164D When extension application or expiry advice may not be made or given**

A lessee may not make an extension application for a rolling term lease if the lessee has entered into an agreement with the Minister under section 327A to surrender the whole of the lease.

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### 164E Length of extension

- (1) This section provides for granting an extension of the term of a rolling term lease on an extension application being made under this subdivision.
- (2) The length of the extension granted must be—
  - (a) for lease to which section 164C(3) applies—the term advised by a person whose agreement is required for the extension; or
  - (b) otherwise—the original term of the lease.

- (3) In this section—

***original term***, of a lease, means the term of the lease—

- (a) if the lease was issued because of a renewal under the renewal provisions—as provided for when the lease was issued as a new lease under those provisions; or
- (b) otherwise—as provided for when the lease was issued;

and does not include any period by which the term of the lease has been extended under any provision of this Act, whether before or after the commencement of this definition, or under the repealed Act.

***renewal provisions*** includes provisions of the repealed Act providing for renewals of term leases.

### 164F Effect of extension

- (1) If a rolling term lease is extended under this subdivision—
  - (a) the lease continues in force for the term of the extension; and
  - (b) the term of the extension commences immediately after the lease would otherwise have expired.
- (2) Without limiting subsection (1), on the commencement of the term of the extension (the ***extension commencement***) of a rolling term lease under this subdivision—

[s 164F]

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- (a) a condition of the lease that, immediately before the extension commencement, was or was taken to be, under this Act, an imposed condition of the term lease, continues as an imposed condition of the term lease as extended; and
- (b) the term lease as extended is a lease for the same purposes as the purposes of the term lease immediately before the extension commencement; and
- (c) the rent payable for the term lease immediately before the extension commencement continues to be the rent payable for the lease as extended, subject to adjustments applying from time to time under this Act; and
- (d) the lease as extended is subject to all relevant registered interests, and to all advices and notings in the land registry, to which the lease was subject immediately before the extension commencement, and in the same priorities; and
- (e) all acts done or omissions made in relation to the lease before the extension commencement have effect in relation to the term lease as extended.

*Example for paragraph (e)—*

A remedial action notice could be given after the extension commencement in relation to something done before the extension commencement.

- (3) The granting of an extension of a term lease under this subdivision does not stop the taking of action under this Act in relation to the lease, including, for example, action to end the lease, before the term of the extension commences or would otherwise have commenced.
- (4) The term of a rolling term lease may be extended under this subdivision regardless of how many times it has previously been extended under this subdivision or under other provisions of this Act or the repealed Act providing for extensions.

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### **164G Notice of expiry**

- (1) The chief executive must give the lessee of a rolling term lease notice advising when the lease is due to expire.
- (2) The notice must be given not later than 2 years before the lease is due to expire.
- (3) The notice need not be given if the chief executive has already received an extension application or expiry advice from the lessee, or if section 164D applies.

## **Subdivision 4 Possible extension instead of renewal**

### **164H Application for term lease renewal may become extension application**

- (1) This section applies if—
  - (a) a renewal application for a term lease that is not a rolling term lease is made under the renewal provisions; and
  - (b) before the renewal application is finalised under those provisions, the lessee advises the chief executive that the lessee agrees to the lease becoming a rolling term lease; and
  - (c) the lease is the subject of an approval of the Minister under 164(1)(c) and becomes a rolling term lease.
- (2) The renewal application for the lease is taken to be an extension application for the lease, and must be dealt with under subdivision 3.

## **Division 3 Conversion of tenure**

### **165 Application of division**

This division does not apply—

[s 165A]

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- (a) to a lease over a reserve; and
- (b) to a licence or permit; and
- (c) if the conditions of a lease or the conditions of a class of lease or this Act do not allow an application for conversion to be made or a particular type of conversion to be made.

### **165A Chief executive's approval required for conversion**

A lease may be converted under this division only if—

- (a) the lessee has made an application under section 166; and
- (b) under this division, the chief executive has made an offer to convert the lease and the offer has been accepted.

### **166 Application to convert lease**

(1) A lessee may apply to convert (a *conversion application*)—

- (a) a perpetual lease to freehold land; and
- (b) a term lease to freehold land; and
- (c) a term lease to a perpetual lease, but only if the term lease is—
  - (i) a lease for pastoral purposes; or
  - (ii) a lease for tourism purposes for land on a regulated island.

(2) A conversion application may be rejected without consideration under section 167 if—

- (a) the applicant has made an earlier conversion application and the application was refused; and
- (b) there is no relevant change in circumstances from the earlier application.



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## 167 Provisions for deciding application

- (1) The chief executive must consider the following in deciding whether or not to offer to convert a lease, the conditions on which the offer is made and, if the offer is for a lease, its imposed conditions—
  - (a) whether part of the lease land needs to be set apart and declared as State forest under the *Forestry Act 1959*;
  - (b) whether part of the lease land 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;
  - (c) whether the public interest could be adversely affected, other than about an issue mentioned in paragraph (a) or (b), if the lease were converted;
  - (d) whether part of the lease land is needed for environmental or nature conservation purposes;
  - (e) the condition of the lease land;
  - (f) the extent to which the lease land suffers from, or is at risk of, land degradation;
  - (g) whether the lessee has complied with, or to what extent the lessee has complied with, the conditions of the lease and with any land management agreement for the lease;
  - (h) whether part of the lease land has a more appropriate use from a land planning perspective;
  - (i) whether part of the lease land is on an island or its location, topography, geology, accessibility, heritage importance, aesthetic appeal or like issues make it special;
  - (j) whether part of the lease land is needed for a public purpose;
  - (k) the most appropriate form of tenure for the lease land;
  - (l) the lessee's record of compliance with this Act;

- (m) the natural environmental values of the lease land.
- (2) Subsection (1) does not apply if the conversion application relates to a lease for development purposes and the lease states that conversion of the lease will be considered on fulfilment of the conditions stated in the lease.
- (3) Also, subsection (1)(d) applies only if the NCA department has given the chief executive—
  - (a) a notice stating the environmental or nature conservation purposes for which the part of the lease land is required; and
  - (b) either—
    - (i) a map showing the required particulars for a map of the part; or
    - (ii) a description of the boundary of the part by reference to Map Grid of Australia 1994 coordinates and zone references for the area.
- (4) To remove any doubt, it is declared that, to the extent the lease land is in an urban area, the chief executive need not consider any issue that is not relevant to an urban environment.

*Example of an issue not relevant to an urban environment—*

whether part of the lease land should be set apart and declared as State forest
- (5) In considering the natural environmental values of the lease land, the matters to which the chief executive must have regard include any advice about the values the chief executive receives from the NCA department.
- (6) For subsection (1)(k), section 16 applies, with necessary changes, as if a reference in the section to an allocation were a reference to a decision mentioned in subsection (1).

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## 168 Notice of chief executive's decision

- (1) If the chief executive decides to offer a new lease or a deed of grant, the applicant must be given notice of the conditions on which the offer is made.
- (1A) However, if the application is for the conversion to freehold land of a lease for tourism purposes for land on a regulated island, the chief executive may offer a deed of grant only if the Governor in Council has first approved the conditions on which the offer is made.
- (1B) If the land the subject of the proposed lease or deed of grant is to include a forest consent area—
  - (a) the proposed lease or deed of grant must be referred to the chief executive under the *Forestry Act 1959* to decide conditions to be included in the offer; and
  - (b) the offer must include any conditions decided under paragraph (a).
- (2) If the offer is for a lease, the offer must state the conditions to which the lease will be subject.
- (3) The offer may be for a smaller size area of land or a different tenure to that applied for.
- (4) If the chief executive decides to refuse the conversion application, the applicant must be given notice of the reasons for the decision.
- (5) The applicant may appeal against the chief executive's decision to refuse the conversion application if the only reason for the refusal was that the applicant had not fulfilled the conditions of the lease.

## 169 Conditions of freehold offer

If an offer is for a deed of grant, including a freeholding lease, the offer may include 1 or more of the following conditions—

- (a) that the lessee enter into a conservation agreement;
- (b) that either—

[s 170]

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- (i) the lessee enter into a forest consent agreement in relation to the land; or
  - (ii) the deed of grant or freeholding lease includes a forest entitlement area;
- (c) that the purchase price for the conversion be paid in full.

### **170 Purchase price if deed of grant offered**

- (1) Unless a price or formula has already been stated in the lease to be converted, the purchase price is the amount decided by the chief executive in the way prescribed by regulation.
- (2) The lessee may appeal against the chief executive's decision on the purchase price.
- (3) Without limiting subsection (1), the regulation must provide for the purchase price to include the market value of any commercial timber that is the property of the State on the lease land, other than forest products the subject of a forest consent agreement.

### **171 When offer has been accepted**

- (1) An offer has not been accepted until the lessee fulfils the conditions of the offer.
- (2) If the conditions of an offer include a requirement to enter into a forest consent agreement, the chief executive under the *Forestry Act 1959* must have advised the chief executive under this Act that the forest consent agreement has been entered into before the conditions of the offer may be taken to be fulfilled.

### **172 Issuing of new tenure**

- (1) On acceptance of the offer a tenure (the *new tenure*) may be issued by—
  - (a) if the new tenure is a deed of grant or freeholding lease—the Governor in Council; or

- 
- (b) if the new tenure is a term or perpetual lease—the Minister.

*Note—*

See also section 153 (Lease must state its purpose).

- (2) The new tenure must be issued in accordance with the terms of the accepted offer.
- (3) Additional unallocated State land may be included in the new lease, if chapter 4, part 1, division 2 is complied with.

*Note—*

Chapter 4, part 1, division 2 is about interests available in land without competition.

- (4) If the new tenure is a lease, it must be issued for the same purpose as the lease (the *old lease*) the subject of the conversion application.
- (5) The new tenure is issued subject to all relevant registered interests to which the old lease was subject, and in the same priorities.
- (6) On the registration of the new tenure, the old lease is taken to have been wholly surrendered.
- (7) The surrender must be registered.

### **173 Land not included in the offer**

If the offer is for only a part of the lease, the land not included in the offer, on surrender of the lease, becomes unallocated State land.

## **Division 4 Subdividing leases**

### **175 When lease may be subdivided**

A lease may be subdivided only if—

[s 176]

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- (a) this Act or a condition of the lease does not prohibit its subdivision; and
- (b) the lease is not, by a registered covenant or tied condition, tied to another lease or freehold land; and
- (c) the chief executive has, on an application made under this division, approved the subdivision; and
- (d) the requirements under this division for the subdivision have been complied with.

## **176 Application to subdivide**

- (1) A lessee of a lease (the *existing lease*) may apply for approval to subdivide the lease.
- (2) The application must be accompanied by—
  - (a) a statement of the applicant's reasons for seeking the proposed subdivision; and
  - (b) a statement by the relevant local government of its views on the proposed subdivision; and
  - (c) the written consent of all persons with a registered interest in the lease land.
- (3) However, consent under subsection (2)(c) must not be unreasonably withheld.

## **176A General provisions for deciding application**

- (1) The chief executive must decide whether to approve the proposed subdivision.
- (2) If the chief executive decides to grant the approval, the chief executive must decide an offer (the *subdivision offer*) of new leases to the applicant for the lease land.
- (3) If the existing lease was a rolling term lease, each new lease is a rolling term lease under this Act, even if the lease land for the new lease is rural leasehold land of less than 100ha.

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- (4) The subdivision offer must state—
    - (a) the imposed conditions of each of the new leases; and
    - (b) for each new lease to be issued as a term lease—the term of the lease.
  - (5) The subdivision offer may be made subject to conditions.

*Example—*

a condition that a plan of survey for the proposed subdivision, approved by the chief executive and capable of registration, be lodged

- (6) The term of a new lease may be longer than the unexpired term of the existing lease.

### **176B Criteria for deciding application**

In deciding the matters under section 176A the chief executive must consider—

- (a) whether the proposed subdivision—
  - (i) is appropriate, taking into account State, regional and local planning strategies and the objects of this Act; and
  - (ii) will require dedication of part of the lease land as a road for access to the subdivided land; and
- (b) the matters mentioned in section 159(1) to the extent they are relevant to the proposed subdivision and the term of any new leases to be offered.

### **176C Specific grounds for refusal**

The chief executive may refuse to give the approval if—

- (a) the applicant has made an earlier application for approval to subdivide the existing lease; and
- (b) the earlier application was refused; and
- (c) there is no relevant change in circumstances from the earlier application.

[s 176D]

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### **176D Notice of decision**

- (1) If the chief executive decides to grant the approval, the applicant must be given a notice stating the subdivision offer.
- (2) If the chief executive decides to refuse the approval, the applicant must be given a notice of the decision and the reason for it.

### **176E Appeal against refusal**

If—

- (a) the chief executive decides to refuse the approval; and
  - (b) the only reason for the refusal was that the applicant had not complied with the conditions of the existing lease;
- the applicant may appeal against the decision.

### **176F Acceptance of subdivision offer**

The subdivision offer is accepted only if the applicant complies with its conditions.

### **176G Issuing of new leases**

- (1) On acceptance of the subdivision offer—
  - (a) any plan of subdivision required under a condition of the offer to be lodged must be registered; and
  - (b) the designated person may issue the new leases in accordance with the terms of the accepted offer.

*Note—*

See also section 153 (Lease must state its purpose).

- (2) The new leases are issued subject to all relevant registered interests to which the existing lease was subject with the same priorities.
- (3) On registration of the new leases, the existing lease is taken to have been wholly surrendered.



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- (4) The surrender must be registered.

**176I Power to waive fees if chief executive requested application**

If the application was made at the chief executive's request and the subdivision offer is made, the chief executive may waive all or part of any charge or fee for the application, the registration of any relevant plan of subdivision or the issue of the new leases.

**Division 5 Amalgamating leases**

**176J When leases may be amalgamated**

- (1) Two or more leases may be amalgamated only if—
- (a) the lease land is not a reserve or State forest; and
  - (b) this Act or a condition of the lease does not prohibit the amalgamation; and
  - (c) there is no registered mortgage over only part of the lease land; and
  - (d) the chief executive has, on an application made under this division, approved the amalgamation; and
  - (e) the requirements under this division for the amalgamation have been complied with.

- (2) In this section—

*lease land* means the lease land for all of the leases.

**176K Application to amalgamate**

- (1) The lessee of 2 or more leases (the *existing leases*) may apply for approval to amalgamate them only if—
- (a) the lessee is the lessee of all of them; and

[s 176L]

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- (b) they are of the same tenure type; and
  - (c) the lease land for the existing leases is contiguous.
- (1A) For subsection (1)(b), 2 or more leases are taken to be of the same tenure type if—
- (a) each lease is for land on a regulated island, and is either a term lease for tourism purposes or a perpetual lease for tourism purposes; or
  - (b) each lease is either a term lease for pastoral purposes or a perpetual lease for pastoral purposes.

*Example—*

Two leases would be taken to be of the same tenure type for subsection (1)(b) if they were both for pastoral purposes even though one lease was a term lease and the other was a perpetual lease.

- (2) If the lessee comprises 2 or more persons, each person must be a party to the application.
- (3) The application must be accompanied by—
  - (a) a statement of the applicant's reasons for seeking the proposed amalgamation; and
  - (b) a statement by the relevant local government of its views on the proposed amalgamation; and
  - (c) the written consent of all persons with a registered interest in the lease land for the existing leases.
- (4) However, consent under subsection (3)(c) must not be unreasonably withheld.

### **176L General provisions for deciding application**

- (1) The chief executive must decide whether to approve the proposed amalgamation.
- (2) If the chief executive decides to grant the approval, the chief executive must decide an offer (the *amalgamation offer*) of an

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amalgamated lease to the applicant for the lease land of the existing leases.

- (3) However, if the proposed amalgamation is an amalgamation of a term lease and a perpetual lease, the amalgamation offer must be for a perpetual lease.
- (4) The amalgamation offer must state the term and the imposed conditions of the amalgamated lease.
- (5) The amalgamation offer may be made subject to conditions.

*Example—*

a condition that a plan of survey for the proposed amalgamation, approved by the chief executive and capable of registration, be lodged

- (6) The term of the amalgamated lease may be longer than the unexpired term of all or any of the existing leases.

### **176M Criteria for deciding application**

In deciding the matters under section 176L the chief executive must consider—

- (a) whether the proposed amalgamation is appropriate, taking into account State, regional and local planning strategies and the objects of this Act; and
- (b) the matters mentioned in section 159(1) to the extent they are relevant to the proposed amalgamation and the term of any amalgamated lease to be offered.

### **176N Roads**

- (1) This section applies if there is a road within the external boundaries of the lease land of any of the existing leases.
- (2) The chief executive must consider—
  - (a) whether the road is still needed for public use; and
  - (b) if the road were to be closed—whether it should be included within the external boundaries of the lease land of the proposed amalgamated lease.

[s 176O]

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- (3) If the applicant or the chief executive proposes to close the road and include its area in the lease land of any amalgamated lease, the chief executive must—
- (a) seek the opinion of the relevant local government on the proposal; and
  - (b) comply with chapter 4, part 1, division 2.

### **176O Specific grounds for refusal**

The chief executive may refuse to give the approval if—

- (a) the applicant has made an earlier application for approval to amalgamate the existing leases; and
- (b) the earlier application was refused; and
- (c) there is no relevant change in circumstances from the earlier application.

### **176P Notice of decision**

- (1) If the chief executive decides to grant the approval the applicant must be given a notice stating the amalgamation offer.
- (2) If the chief executive decides to refuse the approval the applicant must be given a notice of the decision and the reasons for it.

### **176Q Appeal against refusal**

If—

- (a) the chief executive decides to refuse the approval; and
- (b) the only reason for the refusal was that the applicant had not complied with the conditions of 1 or more of the existing leases;

the applicant may appeal against the decision.

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**176R Acceptance of amalgamation offer**

The amalgamation offer is accepted only if the applicant complies with its conditions.

**176S Issuing of amalgamated lease**

- (1) On acceptance of the amalgamation offer—
  - (a) any plan of amalgamation required under a condition of the offer to be lodged must be registered; and
  - (b) the designated person may issue the amalgamated lease in accordance with the terms of the accepted offer.

*Note—*

See also section 153 (Lease must state its purpose).

- (2) The amalgamated lease is issued subject to all relevant registered interests to which the existing leases were subject with the same priorities.
- (3) On registration of the amalgamated lease, the existing leases are taken to have been wholly surrendered.
- (4) The surrenders must be registered.

**176T Power to waive fees if chief executive requested application**

If the application was made at the chief executive's request and the amalgamation offer is made, the chief executive may waive all or part of any charge or fee for the application, the registration of any relevant plan of amalgamation or the issue of the amalgamated lease.

## **Division 6                      Land management agreements**

### **176U Making and registration of agreement about land management**

- (1) The Minister may, for the State, make or amend a written agreement with a lessee about the management and use of the lease land.
- (2) However the agreement or amendment has effect only if it is registered.

*Note—*

For registration of land management agreements, see section 279.

### **176UA Power to require land management agreement in particular circumstances**

- (1) This section applies for a term or perpetual lease if—
  - (a) the lease is for rural leasehold land; and
  - (b) the Minister is satisfied—
    - (i) the lease land suffers from, or is at risk of, land degradation; or
    - (ii) the lessee is using the lease land in a way that is not fulfilling the lessee's duty of care for the land, under section 199.
- (2) The Minister, by notice, may require a land management agreement to be entered into for the lease land.
- (3) If a land management agreement is entered into under this section the lease is subject to a condition that the lessee must comply with the agreement.

### **176V Purposes of a land management agreement**

The purposes of a land management agreement for a lease are to do each of the following to the extent they are relevant to the lease land—

- (a) identify and describe the natural and physical attributes of the lease land, including its known indigenous and other cultural heritage and significant natural environmental values;
- (b) record the condition of the lease land at a particular point in time;
- (c) improve or maintain its condition so that it is, or will be, at least in good condition;
- (d) identify any land degradation issues relating to the land;
- (e) establish the agreed management outcomes for the identified land degradation issues and the associated management strategies to address them;
- (f) identify measures to protect the known indigenous and other cultural heritage and the identified significant natural environmental values;
- (g) establish a monitoring and reporting program;
- (h) establish a process to verify the performance of the lessee in relation to the outcomes;
- (i) establish a dispute resolution process;
- (j) establish a review process to maintain the relevance and effectiveness of the agreement.

### **176W Content of land management agreement**

- (1) A land management agreement for a lease may include any matter the Minister considers appropriate to achieve the purposes of a land management agreement.
- (2) The chief executive may issue guidelines about the content and preparation of land management agreements.

### **176X Reviewing land management agreement**

The Minister must, at least once every 10 years, review each land management agreement for a lease to assess the lessee's

[s 176XA]

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performance in relation to the management outcomes under the agreement.

*Note—*

See also section 211(1) (Reviewing imposed conditions of lease).

### **176XA Cancellation of land management agreement**

The Minister may, with the agreement of the lessee, cancel a land management agreement registered on a lease.

## **Division 7                      Miscellaneous provisions**

### **176Y Part does not affect amounts owing relating to lease**

To remove any doubt, it is declared that the following do not limit or otherwise affect a lessee's obligation to pay rent or another amount owing in relation to a lease—

- (a) an application under this part about the lease, other than an application under section 154;
- (b) the ending, under this part, of the lease.

### **176Z When payment obligations end if lease ends under part**

If a lease ends under this part, an obligation to pay future rent and other amounts that may become payable in relation to the lease stops on the day before the day on which the lease ends.

### **176ZA Overpayments relating to former lease**

- (1) This section applies if a lease ends under this part and, because of section 176Z, an amount has been overpaid for rent or another amount relating to the former lease.
- (2) If a new lease is issued under this part in relation to the former lease, the amount must be credited to rent or other amounts payable under the new lease.



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- (3) Otherwise, the amount must be refunded to the person who made the payment.

## **Part 4                      Permits to occupy particular land**

### **177      Chief executive may issue permit**

- (1) The chief executive may issue a permit to occupy unallocated State land, a reserve or a road.
- (2) The permit may be issued for the purpose, and on the terms, the chief executive decides are appropriate to the land and the purpose of the permit.
- (3) If there is a trustee of the reserve, the chief executive must consult the trustee before the permit is issued.
- (4) If the purpose of the permit is inconsistent with the purpose of the reserve, no improvements, other than boundary fences, are to be built by the permittee.
- (5) The permit may be issued for 2 or more reserves if the reserves—
  - (a) have been dedicated for the same purpose; and
  - (b) are held by the same trustee.
- (6) A permit may not be transferred, sublet or mortgaged.
- (7) A permit may be issued only if it is for 1 type of land mentioned in subsection (1).
- (8) A permit for a term of not more than 12 months need not be registered.
- (9) If a permit for a term of 12 months or more is issued for unallocated State land or a reserve, the chief executive must keep a record of its issue in the appropriate register.

[s 177A]

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- (10) The chief executive may issue a permit without receiving an application under section 177A.

### **177A Applying for permit**

- (1) A person may apply for a permit to occupy unallocated State land, a reserve or a road.
- (2) However, before applying, the person must give notice of the person's intention to apply to the following and to any other entity with a registered interest in the proposed permit land—
- (a) for a permit for a reserve—the trustee of the reserve;
  - (b) for a permit for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered;
  - (c) for a permit for a road that is under the control of the a local government—the local government.
- (3) In this section—

***State-controlled road*** means a road or land, or part of a road or land, declared under the *Transport Infrastructure Act 1994* to be a State-controlled road.

### **177D Notice of permit**

- (1) If the chief executive issues a permit, notice of its issue must be given to each entity given a notice about the proposed permit under section 177A.
- (2) If the permit is for a term of 12 months or more, the notice must state the day the permit was registered.

### **178 Permits for land in area of tidal influence**

A permit for land that is on the same side of a boundary that is a tidal boundary or right line tidal boundary as the water subject to tidal influence may be issued only if—

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- (a) it would not unduly affect safe navigation and sound development of the State's waterways and ports; and
  - (b) its impact on marine infrastructure has been considered; and
  - (c) it would not have a detrimental effect on coastal management; and
  - (d) it would not be inconsistent with the intent of any relevant State management plan.

## **179 Fencing**

- (1) If an existing fence of a property not owned by an applicant for a permit is to be used as a boundary fence for the permit, a written agreement on conditions about the maintenance of the fence must be given to the chief executive before the permit is issued.
- (2) The agreement must be signed by the owner of the fence and the applicant for the permit.

## **180 When permit may be cancelled or surrendered**

- (1) A permit may be cancelled if—
  - (a) the permittee contravenes a provision of this Act in relation to the permit; or
  - (b) the permittee has more than 1 conviction, not including any spent convictions, for a vegetation clearing offence, regardless of whether any of the offences were committed on the permit land; or
  - (c) the chief executive, having evaluated the land under section 16, considers the permit is not consistent with the most appropriate tenure and use for the land; or
  - (d) for a permit for a reserve—the chief executive considers it appropriate for the trustee of the reserve to manage the reserve free of the permit; or

[s 180A]

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- (e) for a permit for a State-controlled road—the chief executive considers it appropriate for the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered to control the road free of the permit; or
  - (f) for a permit for a road that is under the control of a local government—the chief executive considers it appropriate for the local government to control the road free of the permit; or
  - (g) the chief executive considers the cancellation is in the interests of the State, having regard to the public interest.
- (2) A permittee may surrender a permit—
- (a) on terms agreed to between the chief executive and the permittee; and
  - (b) with the chief executive’s written approval.

### **180A Applying to cancel or surrender permit**

- (1) A relevant entity for a permit may apply to cancel the permit.
- (2) However, before applying, the relevant entity must give notice of the entity’s intention to apply to—
  - (a) the permittee; and
  - (b) any other entity with a registered interest in the permit land.
- (3) Also, a relevant entity for a permit can not apply to cancel the permit if the relevant entity is a non-core utility provider.
- (4) The relevant entity may also give notice to any other entity the relevant entity considers has an interest in the permit land.
- (5) A permittee may apply to surrender the permit.
- (6) In this section—  
*relevant entity*, for a permit, means all of the following—

- (a) a public utility provider;
- (b) if the permit land is a reserve—the trustee of the reserve;
- (c) if the permit land is a road—an adjoining owner of land adjoining the road.
  - (i) that the entity given the notice may make a submission against the proposed cancellation to the chief executive;
  - (ii) that the submission must be in the approved form;
  - (iii) the closing day for the submission;
  - (iv) the place where or the way the submission must be lodged.

#### **180D When cancellation or surrender is effective**

- (1) A permit may be cancelled by registering a cancellation notice for the permit.
- (2) A permit may be surrendered by registering a surrender notice for the permit.
- (3) The cancellation or surrender takes effect on the day the cancellation notice or surrender notice is registered.

#### **180E Notice about cancellation or surrender**

- (1) The chief executive must give notice about the cancellation or surrender of a permit to—
  - (a) if the permit is cancelled—
    - (i) the applicant; and
    - (ii) each entity given a notice under section 180A; and
  - (b) if the permit is surrendered—each entity with a registered interest in the permit land.
- (2) The notice under subsection (1) must state all of the following—

[s 180F]

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- (a) the day the cancellation or surrender has effect;
  - (b) that the permit is ended and the permittee is divested of any interest in the permit land;
  - (c) if the notice is about the cancellation of a permit—no compensation is payable for the cancellation;
  - (d) if there are improvements on the permit land owned by the permittee—that the permittee may apply to remove the improvements.
- (3) If the chief executive decides not to cancel or surrender a permit, notice of the fact must be given to—
- (a) the permittee; and
  - (b) if the application was to cancel the permit—each entity given a notice under section 180A.

### **180F Effect of cancellation or surrender**

On the cancellation or surrender of a permit—

- (a) the permit ends; and
- (b) the permittee is divested of any interest in the permit land; and
- (c) if the permit is cancelled—no compensation is payable for the cancellation.

### **180G Permittee to give up possession on cancellation or surrender**

- (1) On the cancellation or surrender of a permit, the permittee must immediately vacate the permit land.
- (2) If the permittee does not give up possession under subsection (1), and is not otherwise entitled to be in possession, the permittee is a person who is unlawfully occupying the land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

### **180H Dealing with improvements**

- (1) A permittee for a permit that is cancelled or surrendered may apply to remove the permittee's improvements on the permit land.
- (2) The permittee may remove the improvements only—
  - (a) with the written approval of the chief executive; and
  - (b) within the period stated in the approval.
- (3) The improvements become the property of the State unless they are removed under subsection (2).

## **Chapter 5 Matters affecting land holdings**

### **Part 2 Conditions**

#### **Division 1 General mandatory conditions**

##### **198C Operation of div 1**

- (1) This division provides for particular conditions of leases, licences and permits.
- (2) Each condition under this division or under another provision mentioned in schedule 1A, that applies to a lease, licence or permit is a *mandatory condition* of the lease, licence or permit.
- (3) This division does not limit the conditions that the designated officer may, under division 2 or another provision of this Act, impose on a lease, licence or permit, or that are regulated conditions of a lease, licence or permit under division 3A.

[s 198D]

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### **198D Mandatory conditions need not be registered**

To remove any doubt, it is declared that a mandatory condition of a lease, licence or permit binds the lessee, licensee or permittee even though the condition is not registered.

### **199 Duty of care condition**

- (1) All leases, licences and permits are subject to the condition that the lessee, licensee or permittee has the responsibility for a duty of care for the land.
- (2) If a lease is issued for agricultural, grazing or pastoral purposes, the lessee's duty of care includes that the lessee must take all reasonable steps to do the following in relation to the lease land—
  - (a) avoid causing or contributing to land salinity that—
    - (i) reduces its productivity; or
    - (ii) damages any other land;
  - (b) conserve soil;
  - (c) conserve water resources;
  - (d) protect riparian vegetation;
  - (e) maintain pastures dominated by perennial and productive species;
  - (f) maintain native grassland free of encroachment from woody vegetation;
  - (g) manage any declared pest;
  - (h) conserve biodiversity.

### **199A Land may be used only for tenure's purpose**

- (1) Licence land or permit land may be used only for the purpose for which the licence or permit was issued.
- (2) Lease land may be used only for—



- (a) the purpose for which the lease was originally issued; or
  - (b) if the purpose is changed under section 154, the purpose of the lease as changed.
- (3) Lease land the subject of a term lease for pastoral purposes may be used only for agricultural or grazing purposes, or both.
- (4) Despite subsections (2) and (3) lease land may be used under an approved agreement for an indigenous cultural interest for the lease land.

## **200 Noxious plants condition**

- (1) All leases, licences and permits are subject to the condition that the lessee, licensee or permittee must keep noxious plants on the land under control.
- (2) If a person does not comply with subsection (1), the Minister may bring the noxious plants under control.
- (3) The Minister's cost of bringing the noxious plants under control is a debt owing to the State and may be recovered from the person in a court of competent jurisdiction.

## **201 Information condition**

All leases, licences and permits are subject to the condition that the lessee, licensee or permittee must give the Minister the information the Minister asks for about the lease, licence or permit.

## **202 Improvement condition**

A term lease for pastoral purposes is subject to the condition that the lessee not make improvements or carry out development work on the lease within 2 years of the expiry of the lease, without the Minister's written approval.

[s 202AA]

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### **202AA Notice to transferee if lease land subject to indigenous cultural interest**

- (1) This section applies if—
  - (a) a lease is transferred; and
  - (b) the lease land is subject to an indigenous cultural interest.
- (2) The lease is subject to the condition that the lessee must, within 28 days after registration of the transfer, give notice of the transfer, and the effect of section 373ZK(2), to—
  - (a) if the approved agreement for the indigenous cultural interest is an indigenous access and use agreement—the indigenous parties for the interest; or
  - (b) if the approved agreement for the indigenous cultural interest is an indigenous land use agreement—
    - (i) the native title parties to the agreement, at their address as recorded in the Commonwealth ILUA register; and
    - (ii) the native title registrar.

### **202AB Notice to sublessee if lease land is or is to be subject to indigenous cultural interest**

- (1) Subsection (2) applies if—
  - (a) a proposed sublease is to be over lease land; and
  - (b) the lease land is subject to an indigenous cultural interest.
- (2) The lessee for the lease land must give the sublessee a copy of the approved agreement for the indigenous cultural interest at least 28 days before the start of the sublease.  
Maximum penalty—50 penalty units.
- (3) Subsection (4) applies if—
  - (a) a sublease is over lease land; and

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- (b) the lease land is to be subject to an indigenous cultural interest.
- (4) The lessee for the lease land must give the sublessee a copy of the approved agreement for the indigenous cultural interest at least 28 days before the indigenous cultural interest is registered.

Maximum penalty—50 penalty units.

## **Division 2            Imposed conditions**

### **202A    Operation of div 2**

- (1) This division provides for conditions that may be imposed on leases, licences and permits.
- (2) Each condition decided as a condition of a lease, licence or permit under this division, division 3, section 159, 167, 176A, 176L, 214E or a transition to sale agreement is an *imposed condition* of the lease, licence or permit.
- (3) An imposed condition of a lease, licence or permit binds the lessee, licensee or permittee as well as any mandatory condition or regulated condition of the lease, licence or permit.
- (4) This section is subject to section 202B.

### **202B    Imposed condition must be registered**

A condition decided under this division, section 159, 167, 176A, 176L, 214E or a transition to sale agreement becomes an imposed condition of a lease, licence or permit and binds the lessee, licensee or permittee only if the condition is registered.

### **203    Typical conditions**

A lease may be subject to any of the following conditions—

[s 204]

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- (a) about improvements or development on or to the land;
- (b) about the care, sustainability and protection of the land;
- (c) about the conversion or renewal of the lease;
- (d) about the transfer or sublease of the lease;
- (e) about the provision of reasonable services, roads and infrastructure external to but servicing the land;
- (f) about time frames and milestones for finishing conditions over the term of the lease;
- (h) other conditions the Minister considers appropriate.

#### **204 Survey condition**

- (1) A lease, licence or permit may be subject to a condition (a *survey condition*) that the land must be surveyed under the *Survey and Mapping Infrastructure Act 2003* by, and at the cost of, the lessee, licensee or permittee.
- (2) A survey condition may set a time within which the survey plan must be lodged in the land registry.
- (3) If the person is able to demonstrate a good reason for not fulfilling a survey condition within the time stated, the Minister may extend the time.
- (4) If a person does not comply with subsection (2), the Minister may arrange for the survey to be carried out or finished and charge the person the cost of the survey.

#### **205 Tied condition**

- (1) A lease may be subject to a condition (a *tied condition*) that it is tied to other land.
- (2) Subsection (1) may apply even if both parcels of land are different tenures.
- (3) It is a breach of condition of the lease if the lease or the other land are disposed of independent of each other.

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**206 Personal residence condition**

- (1) A lease may be subject to a condition (a *personal residence condition*) that the lessee personally lives on the lease for the first 7 years of its term.
- (2) A personal residence condition applies to leases—
  - (a) obtained at ballot; and
  - (b) to which the Minister considers it should apply; and
  - (c) if the lease was issued under the repealed Act and the lease or opening notification contained a personal residence condition.
- (3) A personal residence condition does not apply for the first 3 months of a lease.
- (4) A lessee must not transfer a lease still subject to a personal residence condition.
- (5) A lessee may not sublease a lease during the first 3 years that the lease is subject to a personal residence condition.
- (6) After the first 3 years, the lessee may sublease the lease only if the lessee continues with the personal residence condition.
- (7) The Minister, by separate notice, may cancel or temporarily suspend a personal residence condition.

**207 Another person may complete personal residence condition**

- (1) If, while a personal residence condition still applies to a lease—
  - (a) a lessee dies—the condition may be performed by a person beneficially interested in the lease, or by a person appointed by the executor of the estate of the lessee; or
  - (b) an administrator under the *Guardianship and Administration Act 2000* is appointed for a lessee—the condition may be performed by a family member or the administrator; or

[s 208]

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- (c) a lessee becomes bankrupt—the condition may be performed by a person appointed by the trustee in bankruptcy; or
  - (d) the lease comes under the control of or is vested in the public trustee—the condition may be performed by a person appointed by the public trustee.
- (2) A person fulfilling a personal residence condition must be eligible to be a lessee under this Act.
  - (3) If a lessee carrying out a personal residence condition is a joint tenant or holder of a joint interest in common, another of the joint tenants or holders of the joint interest in common may perform the condition.

## **208 Resumption condition**

- (1) A lease may be subject to a condition that—
  - (a) all or part of the lease may be resumed by giving the lessee 6 months notice; and
  - (b) if all or part of the lease is resumed—compensation will be paid only for improvements on the part of the lease resumed.
- (2) To remove any doubt, it is declared that no compensation is payable for the part of the lease resumed.

## **209 Performance security condition**

- (1) A lease, licence and permit may include a condition that the lessee, licensee or permittee give performance security for failure to comply with conditions under the lease, licence or permit.
- (2) The Minister may approve a change of the amount of the performance security during the term of the lease, licence or permit.

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## Division 3                      Changing and reviewing imposed conditions

### 210      Power to change imposed condition of lease, licence or permit by agreement

- (1) The designated officer for a lease, licence or permit may, with the lessee's, licensee's or permittee's agreement, change an imposed condition of the lease, licence or permit.
- (2) A lessee, licensee or permittee may apply for a change under this section.
- (3) The application must be accompanied by the written consent of all persons with a registered interest in the lease land.
- (4) However, consent under subsection (3) must not be unreasonably withheld.
- (5) A change made under this section must be registered.
- (6) The change has no effect until it is registered.
- (7) Once the change is registered, the imposed condition is taken to be the condition as amended by the change.
- (8) No fee is payable for registering the change.
- (9) In this section—

*change*, an imposed condition, includes extending the period within which the condition must be complied with.

### 211      Reviewing imposed conditions of lease

- (1) If, under section 176X, the Minister is reviewing a land management agreement for a lease, the Minister must also review the imposed conditions of the lease.
- (2) If there is no land management agreement for a lease, the Minister must consider whether to carry out a review (a *standard review*) of the imposed conditions of the lease at least once every 15 years after the lease started.

[s 212]

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- (3) However, a standard review must not be made within 10 years after the lease started or after its last standard review.
- (4) A review under this section must be carried out in consultation with the lessee.

## **212 Minister may change imposed conditions after review**

- (1) After reviewing a lease, the Minister may decide, with or without the lessee's agreement, to change an imposed condition (a *review change*) about the protection and sustainability of the lease land.
- (2) The lessee must be given notice of the decision and the reasons for the decision.
- (3) The lessee may appeal against the decision if the lessee considers the change is not necessary to protect or help the sustainability of the lease land.
- (4) On the first business day after the appeal expiration day for the decision, the change must be lodged for registration.
- (5) The change has no effect until it is registered.
- (6) Once the change is registered, the imposed condition is taken to be the condition as amended under the change.
- (6A) No fee is payable for registering the change.
- (7) No compensation is payable by the State for a review change.

## **Division 3A Regulated conditions**

### **212A Operation of div 3A**

- (1) This division provides for particular conditions of leases, licences or permits that are provided for under a regulation.
- (2) Each condition that a regulation states is a condition of a lease, licence or permit is a *regulated condition* of the lease, licence or permit.



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- (3) A regulated condition of a lease, licence or permit binds the lessee, licensee or permittee as well as any mandatory condition or imposed condition of the lease.

### **212B Regulation may impose conditions**

- (1) A regulation may impose a condition on a category of leases, licences or permits.
- (2) If a lease is of a category of leases to which a regulated condition applies, the lease becomes subject to that regulated condition when, under this Act—
- (a) it is first granted; or
  - (b) if it is a term lease—
    - (i) it is granted as a renewed lease; or
    - (ii) its term is extended, other than for an extension under section 434B.
- (3) If a licence or permit is of a category of licences or permits to which a regulated condition applies, the licence or permit becomes subject to that regulated condition when it is issued under this Act.
- (4) If a lease, licence or permit is subject to a regulated condition (the *original condition*) and the regulation is amended to change or omit the original condition, the lease, licence or permit continues to be subject to the original condition as if it had not been changed or omitted.
- (5) However, the designated officer for the lease, licence or permit may, if considered appropriate, and with the agreement of the lessee, licensee, or permittee—
- (a) omit the original condition from the lease, licence or permit if the regulated condition is omitted from the regulation; or
  - (b) change the original condition if the regulated condition is changed in the regulation.

[s 212C]

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- (6) Without limiting subsection (1), a category of leases may be identified for the purposes of a regulation under this section having regard to any of the following—
- (a) whether the leases are freeholding leases, perpetual leases or term leases;
  - (b) their rental categories;
  - (c) what area of Queensland they are located in;
  - (d) a combination of any of the matters mentioned in paragraphs (a) to (c).

### **212C Regulated conditions need not be registered**

To remove any doubt, it is declared that a regulated condition of a lease, licence or permit binds the lessee, licensee or permittee even though the condition is not registered.

## **Division 4 Compliance with conditions**

### **213 Obligation to perform conditions**

- (1) A lessee, licensee or permittee must perform all of the conditions of the person's tenure, to the satisfaction of the designated officer for the type of tenure.
- (2) If the lessee, licensee or permittee does not comply with subsection (1) the tenure may be cancelled or forfeited.
- (3) However, if the tenure is a lease, subsection (2) does not apply to a failure to comply with a land management agreement for the lease.

*Note—*

A breach of a condition of a lease that the lessee comply with a land management agreement for the lease may be dealt with by a remedial action notice.

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- (4) To remove any doubt, it is declared that if no action is taken on a breach of condition of the tenure, it is not a waiver of, authorisation of or excuse for the breach.
- (5) In this section—
- conditions*, of a tenure, means all of its mandatory conditions, imposed conditions and regulated conditions.
- tenure* means—
- (a) for a lessee—the lessee’s lease; or
  - (b) for a licensee—the licensee’s licence; or
  - (c) for a permittee—the permittee’s permit.

## Division 5 Remedial action

### 214 Minister’s power to give remedial action notice

- (1) The Minister may give a lessee or licensee a notice (a *remedial action notice*) to take stated remedial action, within the reasonable time stated in the notice, if—
- (a) a ground for giving the notice exists; and
  - (b) section 214A has been complied with.
- (2) For subsection (1)(a) a ground for giving the notice is that—
- (a) the Minister is satisfied the lessee or licensee is—
    - (i) using the lease land or licence land—
      - (A) in a way that is not fulfilling the lessee’s or licensee’s duty of care for the land, under section 199; or
      - (B) in a way that is likely to cause, or that has caused, land degradation; or
    - (ii) breaching a condition of the lease or licence, other than a condition that there must be a land management agreement for the lease; or

*Note—*

A lease may be forfeited under section 234(b) for breach of a condition of the lease that there must be a land management agreement for the lease.

- (iii) in contravention of a provision of this Act in relation to the lease or licence; or
- (b) the Minister has carried out a review under section 176X and, because of the review, the Minister considers that the stated remedial action is necessary or desirable.
- (3) If the notice relates to a lease and there is a land management agreement for the lease, the remedial action may include requiring the lessee to enter into an amended or a new land management agreement for the lease that includes stated provisions.
- (4) The lessee or licensee must be given a notice of the decision to give the remedial action notice and the reasons for the decision.

#### **214A Steps required before giving remedial action notice**

- (1) This section applies if the Minister proposes to give a lessee or licensee a remedial action notice.
- (2) The Minister must give the lessee or licensee a notice (a **warning notice**) stating each of the following—
  - (a) that the Minister proposes to give the lessee or licensee a remedial action notice;
  - (b) the remedial action under the proposed remedial action notice;
  - (c) the grounds for giving the proposed remedial action notice;
  - (d) the facts and circumstances that are the basis for the grounds;
  - (e) that the lessee or licensee may, within the reasonable period stated in the warning notice, make written

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submissions to show why the proposed remedial action notice should not be given.

- (3) The submissions may include a plan (a *remedial action plan*) for the taking of action to remedy the ground for the giving of the remedial action notice.
- (4) The Minister must consider any written submissions made under subsection (3) within the stated period.
- (5) The Minister may give the remedial action notice if, after complying with subsection (4), the Minister still believes the notice ought to be given.
- (6) Without limiting subsection (5), the Minister may give the remedial action notice if the lessee or licensee does not, at any time, comply with any remedial action plan included in the submissions.
- (7) The remedial action required under the remedial action notice may be different to the remedial action stated in the warning notice.

#### **214B Appeal against decision to give remedial action notice**

A lessee or licensee to whom a remedial action notice has been given may appeal against the decision to give the notice.

#### **214C Additional condition of lease or licence to take required remedial action**

- (1) This section applies if a lessee or licensee is given a remedial action notice.
- (2) The notice must be registered.
- (3) On registration of the notice, it is a condition of the lease or licence the subject of the notice that the lessee or licensee must, from the day the notice is given, take the action required under the notice.
- (4) However, if any appeal against the decision to give the notice is upheld—

[s 214D]

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- (a) the notice is cancelled and it is taken never to have been registered or to have had any effect; and
  - (b) the cancellation must be registered; and
  - (c) the condition is taken never to have been a condition of the lease.
- (5) No compensation is payable by the State in relation to the condition or anything required to be done under the notice before its cancellation.
- (6) No fee is payable for registration under this section.

#### **214D Failure to comply with remedial action notice**

- (1) A lessee or licensee to whom a remedial action notice has been given must comply with the notice unless the lessee or licensee has a reasonable excuse.

Maximum penalty—400 penalty units.

*Note—*

This provision is an executive liability provision—see section 431J.

- (2) If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order (a **remedial action order**) the person to comply with all or part of the remedial action notice.

#### **214E Power to reduce term of lease or impose additional conditions**

- (1) This section applies if a lessee is convicted of an offence against section 214D(1), whether or not a remedial action order is made.
- (2) The Minister may decide to do all or any of the following—
- (a) reduce the term of the relevant lease;
  - (b) impose additional conditions on the lease;

- (c) require a land management agreement to be entered into for the lease land.
- (3) However, the Minister can not reduce the term by an amount that results in the lease no longer having an unexpired term.

*Note—*

Under section 234(f), a breach of a remedial action order is a ground for forfeiting a lease.

- (4) If the relevant lease is a perpetual lease, the reduction may be made by changing the lease to a term lease of a stated term.

#### **214F Provisions about reduction or additional conditions**

- (1) This section applies if, under section 214E(2), the Minister decides to reduce the term of, or impose additional conditions on, a lease.
- (2) The lessee must be given a notice of the decision and the reasons for it.
- (3) The lessee may appeal against the decision.
- (4) The decision does not take effect until the first business day after the appeal expiration day for the decision.
- (5) As soon as practicable after the decision takes effect, the reduction or additional conditions must be registered.
- (6) The reduction or additional conditions have effect from their registration.
- (7) No fee is payable for registration under this section.
- (8) No compensation is payable by the State for the reduction or the imposition of the additional conditions.

## **Part 3                      Resumption and compensation**

### **Division 1                      Resumption of a lease or easement**

#### **215      Application of division**

- (1) This division applies to the resumption of a lease and the taking or cancellation of an easement.
- (2) However, the division does not apply to—
  - (a) the resumption of a lease under a condition of the lease;  
or  
*Note—*  
See division 2.
  - (b) the resumption of possession of part of a lease subject to a reservation.  
*Note—*  
See division 3.

#### **216      Resumption of lease**

- (1) A lease or part of a lease may be resumed by order in council.
- (2) If an easement over a lease is adequate for a purpose, an order in council may take an easement over the lease instead of resuming the lease.
- (3) The taking of an easement is a resumption under this division.
- (4) An order in council under this part is not subordinate legislation.

#### **217      Resumption of an easement**

- (1) An easement over unallocated State land or a reserve may be cancelled by order in council.



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- (2) The cancellation of an easement is a resumption under this division.

## **218 Resumption for constructing authorities**

- (1) A resumption may be for a constructing authority other than the State.
- (2) The costs incurred by the State for the resumption must be paid by the constructing authority.
- (3) The costs incurred are payable even if the resumption is discontinued.
- (4) Costs outstanding are a debt payable to the State and may be recovered by the State from the constructing authority in a court of competent jurisdiction.
- (5) This section is subject to the *Acquisition of Land Act 1967*, section 5(3).

*Note—*

Under the *Acquisition of Land Act 1967*, section 5(3) the resumption must be for a purpose for which a constructing authority may take land.

## **219 Effect of resumption**

- (1) If a lease or part of a lease is resumed under this division, the land the subject of the interest comprising the lease or the part of the lease is free of any interest or obligation arising under the lease.
- (2) If an easement is taken, the rights in the easement vest—
- (a) in the State; or
  - (b) if the resumption is made for a constructing authority—in the constructing authority.
- (3) Every person who has a lawful interest in—
- (a) a resumed lease, or part of a resumed lease; or
  - (b) part of a lease affected by the taking of an easement; or

[s 220]

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- (c) an easement cancelled by order in council;  
(a *compensation claimant*) has a right to claim compensation as prescribed by the *Acquisition of Land Act 1967*.

## **220 Service of order in council**

- (1) The Minister must serve a copy of the order in council on each person who has a registered interest in—
  - (a) the lease affected by the resumption; or
  - (b) the easement cancelled.
- (2) The copy must be served immediately after notification of the order in council in the gazette.
- (3) Failure to comply with subsection (1) or (2) does not affect the validity of the order in council.

## **221 Application of Acquisition of Land Act 1967**

- (1) The *Acquisition of Land Act 1967*, part 4 applies to a claim for compensation for a resumption under this division with the following changes—
  - (a) a reference to a constructing authority is a reference to the State;
  - (b) a reference to the owner of land is a reference to the lessee of the lease affected by the resumption;
  - (c) the compensation claimant refers the claim for compensation to the court by filing in the office of the registrar of the court—
    - (i) copies of the claim given by the claimant to the State; and
    - (ii) a copy of the order in council that effected the resumption;
  - (d) all other necessary changes and any changes prescribed under the regulations.

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*Note—*

The *Acquisition of Land Act 1967*, part 4 is about the assessment and payment of compensation.

- (2) If a resumption is made of a freeholding lease that has been converted from a perpetual lease, the compensation payable must not be less than the compensation that would have been payable had the conversion not happened.

## **222 Revoking a resumption**

- (1) A resumption may be revoked by repealing the order in council effecting the resumption.
- (2) The revocation may be made only before compensation has been paid or decided by the court.
- (3) On repeal of the order in council, the resumption is taken not to have happened.
- (4) However, a compensation claimant is entitled to claim compensation only for loss, reasonable costs and expenses incurred by the claimant in relation to the resumption before it was revoked.
- (5) The Minister must decide the amount of the loss, costs and expenses.
- (6) The compensation claimant may appeal against the Minister's decision.

## **Division 2 Resumption of a lease under a condition of the lease**

### **223 Application of division**

This division applies to a lease containing a condition that all or part of the lease may be resumed.

## **224 Resumption of lease**

- (1) A lease or part of a lease may be resumed by the Minister.
- (2) However, the resumption must be in accordance with the condition in the lease allowing the resumption.

## **225 Effect of resumption**

- (1) If a lease or part of a lease is resumed under this division, the land the subject of the interest comprising the lease or the part of the lease is free of any interest or obligation arising under the lease.
- (2) The owner of lawful improvements on the lease has the right to claim the compensation allowed under this division.
- (3) To remove any doubt, it is declared that the lessee is the owner of improvements made to the lease by the State only if the lessee has paid for the improvements.

## **226 Compensation limited to improvements**

- (1) Compensation for a resumption under this division is payable only for lawful improvements on the lease or part of the lease resumed.
- (2) The compensation is the value of the improvements on the day the resumption takes effect.
- (3) The Minister must decide the compensation payable.
- (4) The value of the improvements must be assessed as their market value in a sale of the lease if the lease had not been resumed.
- (5) The lessee may appeal against the Minister's decision.

## **227 Development work an improvement**

For this division, development work is taken to be an improvement.

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## **Division 3                      Resumption of a reservation for a public purpose**

### **228      Application of division**

This division applies to a lease, a deed of grant or a deed of grant in trust, containing a reservation for a public purpose and states the area of land reserved.

### **229      Resumption of reservation**

- (1) Possession of the area or part of the area of a lease, deed of grant or deed of grant in trust reserved for a public purpose may be resumed by order in council.
- (2) If the reservation area is identified by description, the resumption may apply only to the land described.
- (3) If the reservation area is not identified by description, possession of any part of the lease, deed of grant or deed of grant in trust, up to the total area of the reservation, may be resumed.

### **230      Effect of resumption of possession**

- (1) If possession of all or part of the reservation is resumed, the resumed area becomes unallocated State land free of any interest or obligation.

*Note—*

See, however—

- (a) the *Geothermal Energy Act 2010*, sections 350A and 350B in relation to geothermal interests under that Act; and
- (b) the *Greenhouse Gas Storage Act 2009*, sections 369A and 369B in relation to GHG interests under that Act; and
- (c) the *Mineral Resources Act 1989*, sections 10AAA and 10AAB in relation to mining tenement interests under that Act; and
- (d) the *Petroleum Act 1923*, sections 124A and 124B in relation to 1923 Act petroleum interests under that Act; and

[s 231]

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- (e) the *Petroleum and Gas (Production and Safety) Act 2004*, sections 30AA and 30AB in relation to petroleum interests under that Act.
- (2) An owner of lawful improvements on the resumed area has a right to claim the compensation allowed under this division.
- (3) To remove any doubt, it is declared that the lessee, trustee or registered owner is the owner of improvements made by the State on the resumed area only if the lessee, trustee or registered owner has paid for the improvements.

### **231 Application of Acquisition of Land Act 1967**

The *Acquisition of Land Act 1967*, part 4 applies to a claim for compensation for a resumption of possession under this division with the following changes—

- (a) a reference to a constructing authority is a reference to the State;
- (b) a reference to the owner of land is a reference to the owner of improvements affected by the resumption;
- (c) the owner of improvements refers the claim for compensation to the court by filing in the office of the registrar of the court—
  - (i) copies of the claim given by the owner of improvements to the State; and
  - (ii) a copy of the order in council effecting the resumption;
- (d) all other necessary changes and any changes prescribed by the regulations.

*Note—*

The *Acquisition of Land Act 1967*, part 4 is about the assessment and payment of compensation.

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## **232 Compensation limited to improvements**

- (1) Compensation for a resumption of possession under this division is payable only for lawful improvements on the resumed area.
- (2) The compensation is the value of the improvements on the day the resumption takes effect.
- (3) The Minister must decide the compensation payable.
- (4) The value of the improvements must be assessed as their market value in a sale of the land if possession of the land had not been resumed.
- (5) The owner of the improvements may appeal against the Minister's decision.

## **233 Development work an improvement**

For this division, development work is taken to be an improvement.

# **Part 4 Forfeiture**

## **Division 1 Grounds for forfeiture**

### **234 When lease may be forfeited**

A lease may be forfeited—

- (a) if the lessee defaults in the payment of an amount payable to the State under this Act for the lease; or

*Note—*

A rent and instalment regulation may allow the Minister to take action for non-payment.

[s 234A]

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- (b) if the lessee breaches a condition of the lease, other than a condition that the lessee comply with a land management agreement for the lease; or

*Note—*

A breach of the condition that the lessee comply with a land management agreement for the lease may be dealt with by a remedial action notice.

- (c) if the lessee contravenes a provision of this Act in relation to the lease; or
- (d) if the lessee is found by a court of competent jurisdiction to have acquired the lease by fraud; or
- (f) if the lessee fails to comply with a remedial action order relating to the lease.

## **Division 2                      Forfeiture of leases for non-payment**

### **234A    Application of div 2**

This division applies to the forfeiture of a lease under section 234(a).

### **235    Notice of forfeiture for outstanding amounts**

- (1) Before a lease is forfeited because of non-payment of an amount payable to the State under this Act for the lease, the Minister must give the lessee, any mortgagee and any relevant local government at least 28 days notice of the Minister's intention to forfeit the lease.
- (2) The notice must state the amount outstanding and the amount of any interest accruing each day.



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**236 Designated person's options if amount unpaid**

If the amount outstanding, and any interest, is not paid at the expiry of the notice, the designated person may forfeit the lease or allow any mortgagee, any relevant local government or the chief executive to sell the lease under division 3A.

**237 Minister may reinstate lease if payment made**

If a lease is forfeited because of the non-payment of an amount payable to the State under this Act for the lease, the Minister may reinstate the lease if—

- (a) the lessee makes payment of all amounts owing; and
- (b) the Minister is satisfied the lessee had a reasonable excuse for not complying with the payment requirements.

**Division 2A Forfeiture of leases by referral to court or for fraud**

**237A Application of div 2A**

This division applies to the forfeiture of a lease under section 234(b), (c), (d) or (f).

**238 Application to the court for forfeiture**

- (1) This section does not apply to the forfeiture of a lease under section 234(d).
- (2) Before the lease is forfeited, the Minister must refer the matter to the court to decide whether the lease may be forfeited.
- (3) The Minister must give the lessee, any mortgagee and any relevant local government at least 28 days notice of the Minister's intention to refer the matter to the court.

[s 239]

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- (4) The notice must state the grounds on which the Minister considers the lease may be forfeited.
- (5) A copy of the notice must be filed in the court at the same time as the Minister refers the matter to court.

### **239 Designated person's options**

- (1) This section applies—
  - (a) if the court decides the lease may be forfeited under section 238; or
  - (b) for a lease that may be forfeited under section 234(d).
- (2) The designated person may—
  - (a) forfeit the lease; or
  - (b) decide not to forfeit the lease, but instead to—
    - (i) allow the lease to continue but subject to the conditions the designated person considers appropriate; or
    - (ii) allow the lessee to convert the lease to a lease of a lesser tenure, for the same or a lesser area, and subject to the conditions the designated person considers appropriate; or
    - (iii) allow the lessee to sell the lease within a time decided by the designated person; or
    - (iv) allow any mortgagee, any relevant local government or the chief executive to sell the lease under this part.
- (3) A mortgagee of a term or a perpetual lease may appeal against a decision under subsection (2)(b)(iv) to allow an entity other than the mortgagee to sell the lease.
- (4) A relevant local government of a term or a perpetual lease may appeal against a decision under subsection (2)(b)(iv) to allow an entity other than the relevant local government to sell the lease.

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## **Division 3A            Sale of lease instead of forfeiture**

### **Subdivision 1        Sale by lessee**

#### **240E    Sale by lessee**

- (1) After receiving a notice under section 235(1) or 238(3), a lessee of a lease may make written application for permission to sell the lease.
- (2) If the Minister approves the sale of the lease by the lessee, the Minister must give notice of the Minister's approval to any mortgagee and any relevant local government.

### **Subdivision 2        Sale by mortgagee**

#### **240F    Sale by mortgagee instead of forfeiture**

- (1) After receiving a notice under section 235(1) or 238(3), a mortgagee of a lease may make written application for permission to sell the lease.

*Note—*

Section 235 is about forfeiture of a lease for outstanding amounts.  
Section 238 is about applying to the court for forfeiture.

- (2) If the Minister approves the sale of the lease by the mortgagee, the Minister must give notice of the Minister's approval to the mortgagee and the lessee.
- (3) After receiving the notice approving the sale, the mortgagee must sell the lease as a mortgagee in possession under chapter 6, part 4, division 4.

*Note—*

Chapter 6, part 4, division 4 is about registering dealings about mortgages.

### **Subdivision 3      Sale by local government**

#### **240G    Application**

- (1) After receiving a notice under section 235(1) or 238(3), a relevant local government may apply to the Minister for approval to sell a lease.
- (2) However, a relevant local government may only apply to sell a lease under subsection (1) if the lessee of the lease has overdue rates and charges payable to the relevant local government for the lease land.
- (3) If the Minister approves the sale of the lease by the local government, the Minister must give notice of the Minister's approval to the lessee and any mortgagee.
- (4) In this section—  
*overdue rates and charges* has the meaning given by the *Local Government Act 2009*.

#### **240H    Notice of approval**

- (1) If the Minister approves the sale of the lease by the relevant local government under this subdivision, notice of the approval must be given to the lessee, the local government and any mortgagee.
- (2) The notice must state the required period within which the local government must start the procedures for selling the lease.

#### **240I    Sale of lease**

- (1) This section applies if a relevant local government has been given notice under section 240H.
- (2) Subject to subsections (3) to (5), the *Local Government Act 2009*, to the extent that Act provides for the sale of land to

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recover overdue rates and charges relating to the land, applies to the sale of a lease under this subdivision.

- (3) The local government must start the process of selling a lease under this subdivision within the required period stated in the notice under section 240H(2).
- (4) The local government must set a reserve price for the sale of the lease by auction, or a price for the sale of the lease under an agreement, that is at least the total of all charges owing to the State under this Act relating to the lease.
- (5) The local government must use the proceeds of the sale of the lease to pay the State the amount of all charges owing to the State under this Act relating to the lease before using the proceeds to pay any amount owing to the local government.

## **Subdivision 4      Sale by chief executive**

### **240J    Application of sdiv 4**

This subdivision applies to a lease if the chief executive is allowed to sell the lease under section 236 or 239(2)(b)(iv).

### **240K    Notice that chief executive may sell**

- (1) The chief executive must give notice to each person who has a registered interest in the lease land that the chief executive is allowed to sell the lease under this subdivision.
- (2) The notice must state either—
  - (a) that the chief executive proposes to enter into possession of the lease and sell the lease under this subdivision; or
  - (b) that the chief executive proposes that the lessee and the chief executive enter into an agreement (a ***transition to sale agreement***) that will apply until the lease is sold under this subdivision.
- (3) The notice must advise the matters mentioned in—

[s 240L]

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- (a) if the notice states the matter mentioned in subsection (2)(a)—section 240L; or
  - (b) otherwise—sections 240L, 240M and 240N.
- (4) If the notice states that the chief executive proposes that the lessee and the chief executive enter into a transition to sale agreement, the notice must require the lessee to advise the chief executive, within the time stated in the notice, of whether the lessee wishes to enter into a transition to sale agreement.

#### **240L Entry into possession and sale**

- (1) This section applies if the chief executive enters into possession of the lease to sell the lease under this subdivision.
- (2) The chief executive must advise the lessee that the chief executive is entering into possession.
- (3) The lessee must, in the lessee's capacity as lessee, immediately vacate the lease land.
- (4) The chief executive enters into possession of the lease to the exclusion of the lessee's interests under the lease.
- (5) If the lessee does not vacate the lease land under subsection (3), and is not otherwise entitled to possession, the lessee is a person who is unlawfully occupying the lease land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

- (6) Until the chief executive sells the lease, the chief executive may act in the place of the lessee for all matters in relation to the administration of the lease, including for example for all matters concerning the holders of any subleases over the lease.
- (7) The Minister may, for the proper administration of the lease until it is sold, change the imposed conditions as they apply to the lease, and may take action to have the changed conditions registered.

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- (8) Despite subsection (6), the chief executive does not become liable to pay any amounts payable by the lessee in relation to the lease.
  - (9) Without limiting subsection (8), the chief executive is not liable to pay any amount payable by the lessee to the holder of any registered interest in the lease.
  - (10) While the chief executive is in possession, any amounts otherwise payable to the lessee by any person in relation to the lease, including rent payable by a sublessee, must be paid to the chief executive.
  - (11) The chief executive must execute the transfer of the lease.

#### **240M Transition to sale agreement**

- (1) This section applies if the lessee and the chief executive enter into a transition to sale agreement.
- (2) Until the chief executive sells the lease, the following apply—
  - (a) the Minister may carry out a review of the imposed conditions of the lease as they apply to the lessee;
  - (b) the Minister may, for the proper administration of the lease until it is sold, change the imposed conditions as they apply to the lessee, and may take action to have the changed conditions registered;
  - (c) the lessee must not, without the Minister's written approval, further deal with the lease;
  - (d) to the extent stated in the agreement—
    - (i) the lessee continues to pay rent payable under the lease; and
    - (ii) the lessee continues to receive rent and other amounts otherwise payable to the lessee in the lessee's capacity as lessee; and
    - (iii) the lessee remains in possession of the lease land; and

[s 240N]

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- (iv) the chief executive and other persons authorised by the chief executive may enter the lease land, including for purposes connected with the chief executive's sale of the lease; and
  - (v) improvements may be dealt with, and development work may be performed, by the lessee or the chief executive; and
  - (vi) the lessee must perform tasks directed to the ongoing day-to-day administration of the lease, including the maintenance of the lease land;
- (e) the remedies for or consequences of a breach of the agreement are those stated in the agreement.
- (3) The chief executive must execute the transfer of the lease.
- (4) When the transfer of the lease is registered, the chief executive must cancel the registration of the transition to sale agreement.
- (5) If the lessee is in possession of the lease when the transfer of the lease is registered, subject to the transition to sale agreement, the lessee must immediately vacate the lease land.
- (6) If the lessee does not vacate the lease land under subsection (5), and is not otherwise entitled to possession, the lessee is a person who is unlawfully occupying the lease land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

## **240N Advice about entering transition to sale agreement**

- (1) This section applies if the notice under section 240K (the **240K notice**) states that the chief executive proposes that the lessee and the chief executive enter into a transition to sale agreement, and within the time stated in the 240K notice by the chief executive—
- (a) the lessee does not give notice that the lessee wishes to enter into a transition to sale agreement; or



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- (b) the lessee advises the chief executive that the lessee does not wish to enter into a transition to sale agreement.
- (2) This section also applies if—
- (a) the 240K notice states that the chief executive proposes that the lessee and the chief executive enter into a transition to sale agreement; and
  - (b) within the time stated in the 240K notice, the lessee gives notice that the lessee wishes to enter into a transition to sale agreement; and
  - (c) the chief executive and the lessee—
    - (i) within the time stated for this subparagraph in the 240K notice or a longer time approved by the chief executive, do not execute a transition to sale agreement; or
    - (ii) earlier agree that the chief executive and the lessee are unable to agree on the terms of a transition to sale agreement.
- (3) The chief executive may enter into possession of the lease and sell the lease under this subdivision unless the Minister or designated person takes action under subsection (4) or (5).
- (4) If the lease was allowed to be sold by the chief executive under section 236, the Minister may withdraw the Minister's decision to allow the chief executive to sell the lease, and may take other action under section 236.
- (5) If the lease was allowed to be sold by the chief executive under section 239(2)(b)(iv), the designated person may withdraw the designated person's decision to allow the chief executive to sell the lease, and may take other action under section 239.

## **240O Making and registration of transition to sale agreement**

- (1) The chief executive may enter into a transition to sale agreement, including any amendment of a transition to sale agreement, only with the Minister's approval.

[s 240P]

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- (2) A transition to sale agreement, including any amendment of a transition to sale agreement, has effect only if it is registered.

*Note—*

For registration of transition to sale agreements, see section 279.

## **240P Auction or sale of lease**

- (1) This section states requirements that apply for the sale of the lease by the chief executive under this subdivision.
- (2) The chief executive must first offer the lease for sale by public auction.
- (3) However, the chief executive may with the Minister's written approval sell the lease by private contract.
- (4) Sections 114(1), 115, 116 and 117 apply, with the necessary changes, to a sale by the chief executive under this subdivision.

*Note—*

Transfers for the sale of a lease by the chief executive are dealt with under chapter 6, part 4, division 1.

- (5) The lease must not be offered for sale by public auction, and the chief executive must not enter into a contract of sale under subsection (3), until at least 28 days after the chief executive has published a sale notice under applied section 114.
- (6) The imposed conditions that are to apply to the lease after its sale and that are stated in the sale notice may be different from the imposed conditions applying to the lease before the sale.
- (7) The consent of the holder of any registered interest in the lease is not required for the registration of the transfer of the lease.
- (8) The imposed conditions that are to apply to the lease after the sale must be registered when the transfer is registered.
- (9) If the sale of the lease is not completed within 2 years after this subdivision starts to apply to the lease—

- (a) if the lease was allowed to be sold by the chief executive under section 236—the Minister may withdraw the Minister’s decision to allow the chief executive to sell the lease, and may forfeit the lease under section 236; or
- (b) if the lease was allowed to be sold by the chief executive under section 239(2)(b)(iv)—the designated person may withdraw the designated person’s decision to allow the chief executive to sell the lease, and may forfeit the lease under section 239.

#### **240Q Disposal of proceeds of sale**

The chief executive must apply the proceeds of sale of the lease as follows—

- (a) firstly, to payment to the State of all costs properly incurred by the chief executive for the sale or any attempted sale;
- (b) secondly, to payment to the State of all debts owing to the State under section 438;
- (c) thirdly, to payment to the State of all costs properly incurred by the chief executive to rectify any damage caused to the land by the lessee;
- (d) fourthly, to payment to the State of all costs properly incurred by the chief executive—
  - (i) if there was a transition to sale agreement—in the administration of the agreement; or
  - (ii) otherwise—in the administration of the lease;
- (e) fifthly, to payment to the relevant local government of overdue rates payable to the local government under the *Local Government Act 2009*;
- (f) lastly, to payment to the lessee.

[s 240R]

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## **240R Protection from liability**

- (1) The chief executive, and any person acting under the authority of the chief executive, does not incur civil liability for an act done, or omission made, honestly and without negligence under this subdivision.
- (2) If subsection (1) prevents a civil liability attaching to a person, the liability attaches instead to the State.

## **Division 4 Forfeiture**

### **240S Notice of forfeiture**

- (1) If the designated person forfeits a lease, the Minister must give the lessee and any mortgagee or relevant local government notice that the lease is forfeited.
- (2) A notice that a lease is forfeited must be published in the gazette.
- (3) A lease is forfeited by the registration of a forfeiture notice.
- (4) The forfeiture notice must include the particulars of the gazette notice forfeiting the lease.
- (5) The forfeiture of the lease takes effect on the day the forfeiture notice is registered.
- (6) In this section—

*forfeiture notice* means a notice in the approved form requesting the registrar to register the forfeiture of a lease under this Act.

### **241 Effect of forfeiture**

On forfeiture of a lease—

- (a) the lease ends; and
- (b) the lessee is divested of any interest in the lease; and

- (c) the lease land is free of any encumbrance; and
- (d) the lease land—
  - (i) if the lease was a State lease—remains a reserve;  
or
  - (ii) otherwise—becomes unallocated State land.

## **242 Lessee to give up possession on forfeiture**

- (1) On forfeiture of a lease, any person occupying the lease must immediately vacate the land.
- (2) A person who fails to give up possession under subsection (1) is taken to be a person who is unlawfully occupying unallocated State land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

## **243 Improvements on forfeited lease**

- (1A) The lessee of a forfeited lease may apply to remove the lessee's improvements on the lease.
  - (1) The lessee may remove the improvements only with the written approval of, and within a time stated by, the Minister.
  - (2) The improvements are forfeited to the State if—
    - (a) the Minister has not given written approval for their removal; or
    - (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.
  - (3) The lessee has a right to payment for the improvements under part 5 unless the improvements become the property of the State for a lease forfeited because the—
    - (a) lessee acquired the lease by fraud; or
    - (b) lessee was not eligible to acquire or hold the lease.

[s 245]

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**245 Effect of forfeiture of lease issued without competition for development purposes**

If a lease issued without competition for development purposes is forfeited, all project plans, feasibility studies and the results of investigations for the lease that have been given to the chief executive by the lessee become the property of the State.

## **Part 5 Payment for improvements**

### **Division 1 Payment for improvements by incoming lessee etc.**

**246 Application of division**

This division applies to land—

- (a) that has been the subject of a lease that—
  - (i) has been forfeited; or
  - (ii) has been surrendered absolutely; or
  - (iii) has expired; or
- (b) that has been the subject of an occupation licence that—
  - (i) has been cancelled; or
  - (ii) has been surrendered absolutely; or
- (c) that has been set aside as a reserve if—
  - (i) the dedication of the reserve has been revoked; and
  - (ii) the improvements on the reserve have been made by the trustee of the reserve, or by a person with the trustee's authority; or
- (d) that has been the subject of a deed of grant in trust if—

- (i) the deed of grant in trust has been cancelled or surrendered absolutely; and
- (ii) the improvements on the land have been made by the trustee or a person with the trustee's authority.

**247 Application of payment for improvements by incoming lessee or buyer**

- (1) If the State receives payment from an incoming lessee or buyer for the improvements and development work on land to which this division applies, the State must pay the amount to—
  - (a) for a lease—the previous lessee; or
  - (b) for an occupation licence—the previous licensee; or
  - (c) for a reserve—the person who owned the improvements on the reserve; or
  - (d) for a deed of grant in trust—the person who owned the improvements on the land.
- (2) However, no amount is payable by the State to the person who was the registered lessee of the lease, if the lease was forfeited because the lessee acquired the lease by fraud or was not eligible to acquire or hold the lease.

**248 Unclaimed improvement amounts**

If the chief executive can not find the person entitled to receive payment for the improvements or the person does not collect the amount from the State within 6 years from the day the State received the amount, the amount is forfeited to the State.

## **Division 2                      Payment by the State for improvements**

### **249      Payment by the State for improvements**

- (1) If a relevant term lease expires or is surrendered absolutely, or a perpetual lease for grazing or agricultural purposes is surrendered, and the State—
  - (a) sets aside any land, that was a part of the lease, as a reserve for a community purpose; or
  - (b) dedicates any land, that was a part of the lease, as a road; the State must pay, to the person who was the lessee, the value of any lawful improvements on the part of the land set aside or dedicated.
- (2) The value is the value of the improvements on the day of the expiry or surrender.
- (3) The Minister must decide the amount payable.
- (4) The value of the improvements must be assessed as their market value in a sale of a lease of the same term and tenure as the expired or surrendered lease.
- (5) The lessee may appeal against the Minister's decision.
- (6) To remove any doubt, it is declared that the lessee is the owner of improvements made to a lease by the State only if the lessee has paid for the improvements.
- (7) In this section—

***extension provisions*** means chapter 4, part 3, division 1B and division 2, subdivision 3.

***relevant term lease*** means—

- (a) a term lease for pastoral purposes; or
- (b) a term lease for agricultural or grazing purposes if—
  - (i) the lease is for rural leasehold land; and



- (ii) the lease land is 1000ha or more; and
- (iii) the term is 20 years or more; and
- (iv) it was granted under the renewal provisions or extended under the extension provisions.

## **Division 3                    General**

### **250    Amounts owing to the State to be deducted**

If a lessee or other person is entitled to payment under this part, the State may deduct the following amounts from the amount payable to the lessee or other person—

- (a) an amount in payment of expenses incurred by the State to rectify damage caused to the land by the lessee;
- (b) any amount owing to the State under this Act.

### **251    Payment to mortgagee**

If a lease was subject to a registered mortgage and payment is later made for improvements on the land, the Minister may deduct from the amount of the payment and pay to the mortgagee all or part of any amount owing to the mortgagee by the lessee under the mortgage on the day the lease ended.

## **Part 6                            Protection of monitoring sites**

### **252    Prohibition on interfering with monitoring marker or device**

- (1) This section applies if, under section 400, a monitoring site has been established on lease land, licence land or permit land.

[s 253]

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- (2) A person must not interfere with any of the following the existence of which the person knows or ought reasonably to know unless the person has a reasonable excuse—
- (a) a marker for the monitoring site;
  - (b) a monitoring device that, under section 400, has been installed or placed at the monitoring site.

Maximum penalty—100 penalty units.

- (3) For subsection (2), a person is taken to know of the existence of a marker for the monitoring site and any monitoring device at the site if the marker—
- (a) is made of steel or other durable material; and
  - (b) protrudes above the surface of the ground so as to be clearly visible; and
  - (c) has attached to it a tag bearing clearly legible words as follows, or words to the effect of the words ‘Monitoring site marker. Interfering with this marker or any device at this site is an offence’.

- (4) In this section—

*interfere with* includes damage, deface or tamper with.

### **253 Evidentiary provision for proceedings under s 252**

In a proceeding for an offence against section 252(2), a certificate, purporting to be signed by an authorised person, and stating any of the following matters is evidence of the matters stated—

- (a) that stated land was, at a stated time, or during a stated period, a monitoring site established on stated lease land, licence land or permit land;
- (b) that, at the time or during the period, all or any of the following applied—
  - (i) a marker for the monitoring site was installed or placed at the monitoring site;

- (ii) the marker complied with section 252(3)(a), (b) and (c);
- (iii) a monitoring device was installed or placed at the monitoring site.

## **Chapter 6            Registration and dealings**

### **Part 1                Land registry and registers**

#### **Division 1           Land registry**

##### **275    Registers comprising land registry**

The land registry includes the following registers—

- (a) the leasehold land register;
- (b) a register of reserves;
- (c) a register of State forests and timber reserves;
- (d) a register of nature conservation areas;
- (e) a register of specified national parks;
- (f) a register of land that has been vested in fee simple;
- (g) a register of licences and permits;
- (h) a register of unallocated State land;
- (i) a register of State housing leases;
- (j) registers about land prescribed under a regulation under this Act;
- (k) registers about land required or permitted by an Act to be kept by the chief executive;

[s 276]

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- (l) other registers about land required or permitted by an Act to be included in the land registry.

## **Division 2                      Registers**

### **276      Registers to be kept by chief executive**

The chief executive must keep the following registers—

- (a) the leasehold land register;
- (b) a register of reserves;
- (c) a register of State forests and timber reserves;
- (d) a register of nature conservation areas;
- (e) a register of specified national parks;
- (f) a register of land that has been vested in fee simple;
- (g) a register of licences and permits;
- (h) a register of unallocated State land;
- (i) a register of State housing leases;
- (j) registers about land prescribed under a regulation;
- (k) registers about land required or permitted by an Act to be kept by the chief executive;
- (l) other registers about land required or permitted by an Act to be included in the land registry.

### **277      Form of registers**

- (1) A register kept by the chief executive may be kept in the form (whether or not in a documentary form) the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may change the form in which a register or part of a register is kept.

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**277A Registration of document evidencing tenure**

- (1) If any of the following tenures are granted under this Act—
  - (a) a lease;
  - (b) a licence;
  - (c) a permit for a term of 12 months or more;the tenure document for the tenure must be registered.
- (2) If a reserve is dedicated under this Act, the document evidencing the dedication must be registered.

**278 Particulars that must be registered**

The chief executive must register the particulars necessary to identify—

- (a) every interest registered; and
- (b) the name of the person who holds, and the name of each person who has held, the registered interest; and
- (c) all documents registered in the register and when they were lodged and registered; and
- (d) anything else required or needed to be registered under this or another Act.

**279 Registration of land management agreements and transition to sale agreements**

- (1) This section applies if a land management agreement or transition to sale agreement in relation to a lease is made or amended.
- (2) The following must be registered while the lease continues in force—
  - (a) the agreement;
  - (b) any amendment of the agreement from time to time;
  - (c) any cancellation or other ending of the agreement.

[s 279A]

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- (3) A registered land management agreement is a relevant registered interest under the following—
- (a) section 162(5);
  - (b) section 172(5), but only if the new tenure is a term lease or perpetual lease;
  - (c) section 176G(2);
  - (d) section 176S(2).

### **279A Registration of documents lodged or matters notified under particular Acts**

- (1) If a document is lodged with the chief executive under a provision of the *Forestry Act 1959* or *Nature Conservation Act 1992*, the chief executive must register the document in the appropriate register.
- (2) If the chief executive is notified of a matter under a provision of the *Forestry Act 1959* or *Nature Conservation Act 1992* that affects land registered in the land registry, the chief executive must record the matter in the appropriate register.

### **280 Particulars that may be recorded**

The chief executive may record in a register anything the chief executive considers should be recorded to ensure the register is an accurate, comprehensive and useable record of the relevant land and dealings.

### **280A Particulars that must be recorded for specified national parks**

- (1) This section applies to land within a specified national park, the particulars of which are registered in more than 1 appropriate register.
- (2) The chief executive must record in each appropriate register particulars sufficient to identify the information kept in each of the other appropriate registers relating to the land.

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**281 Other information may be kept**

- (1) The chief executive may keep separately from a register information the chief executive considers necessary or desirable for the effective or efficient operation of the register.
- (2) The information may include information given to the chief executive by another entity.
- (3) A relevant entity is not civilly liable for an act done, or omission made, honestly and without negligence in relation to the giving or keeping of information under this section.
- (4) Without limiting subsection (3), a relevant entity other than the chief executive is not civilly liable in relation to the giving or keeping of inaccurate information under this section if the relevant entity did not give the information to the chief executive for keeping under this section.
- (5) In this section—  
*relevant entity* means—
  - (a) the chief executive; or
  - (b) the Minister; or
  - (c) the State.

**282 Chief executive's procedures on lodgement and registration of document**

- (1) When a document is lodged in the land registry, the chief executive must note on the document—
  - (a) the date and time of lodgement; and
  - (b) an identifying reference.
- (2) When the document is registered, the chief executive must record the information mentioned in subsection (1)(a) and (b) in the appropriate register.

**283 Documents form part of a register**

- (1) A registered document is part of the register to which it relates.
- (2) A registered document forms part of the register from when it is lodged.

**284 Entitlement to search a register**

- (1) A person may, on payment of the fee prescribed under a regulation—
  - (a) search and obtain a copy of—
    - (i) the particulars recorded about a lease, licence, permit or reserve; or
    - (ii) a registered document; or
    - (iii) a document that has been lodged but is not registered (whether or not it has been cancelled); or
    - (iv) information kept under section 281; and
  - (b) obtain a copy of the particulars recorded about a lease, licence, permit or reserve, or a registered document, certified by the chief executive to be an accurate copy.
- (2) Subsection (1)(a)(iii) does not apply to a document destroyed by the chief executive.
- (3) A search under subsection (1) may be carried out at, or a copy mentioned in subsection (1) obtained from, an office of the land registry during office hours on a day the land registry is open for business.
- (4) Also, a search under subsection (1) may be carried out by, or a copy mentioned in subsection (1) obtained from, an entity engaged by the chief executive for the purpose of allowing persons to search the land registry or obtain copies of particulars, documents or other information kept in the registry.



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- (5) The chief executive may allow a person to carry out a search under subsection (1)(a) for—
- (a) only part of the particulars recorded about a lease, licence, permit or reserve; or
  - (b) only part of a document lodged or deposited in the land registry; or
  - (c) only part of the information about a document lodged or deposited in the land registry.
- (6) The chief executive may enter into an agreement with another department allowing the department to carry out a search, or obtain a copy, under this section without payment of the fee mentioned in subsection (1).
- (7) However, the chief executive may enter into an agreement under subsection (6) only if the chief executive is reasonably satisfied the information obtained from the search or the copy will not be—
- (a) used for a commercial purpose, including, for example, the marketing or sale of the information or other information; or
  - (b) included in another database of information, in any form, other than with approval from the chief executive.

**284A Fee required to produce document under subpoena etc.**

- (1) This section applies if a fee is payable under section 284(1) for a person to obtain a copy of a document and—
- (a) a subpoena requires the document to be produced; or
  - (b) a person has applied under the *Evidence Act 1977*, section 134A for the document to be produced for inspection.
- (2) Despite any other law or rule of court, the chief executive is not required to produce, or provide a copy of, the document until the fee mentioned in section 284(1) is paid.

[s 285]

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- (3) Subsection (2) does not apply if a department is not required to pay a fee for the document under an agreement mentioned in section 284(6).

## **285 Evidentiary effect of certified copies of documents**

- (1) A document purporting to be a certified copy of the particulars recorded about a lease, licence, permit or reserve obtained under section 284(1)(b) is evidence of the particulars recorded.
- (2) A document purporting to be a certified copy of a registered document obtained under section 284(1)(b) is evidence of the registered document.

### **285A Supply of statistical data**

- (1) The chief executive may enter into an agreement to supply statistical data derived from documents or information kept in the land registry.
- (2) If the chief executive supplies statistical data under subsection (1)—
- (a) the fees and charges applying for the supply of the data are the fees and charges agreed to in the agreement; and
  - (b) without limiting paragraph (a), the agreement may also state—
    - (i) how the fees and charges are to be calculated; and
    - (ii) how payment of the fees and charges is to be made.
- (3) Without limiting subsection (1), an agreement for the supply of statistical data may limit the use to which the data supplied may be put.
- (4) An agreement for the supply of statistical data must include—
- (a) a provision allowing the chief executive to exclude particulars from data supplied under the agreement, if the chief executive is satisfied, on reasonable grounds,

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that inclusion of the particulars may result in the particulars being inappropriately disclosed or used; and

- (b) a provision allowing the chief executive to prohibit disclosure, or limit distribution or use, of data supplied under the agreement.
- (5) An agreement under this section must not provide for the obtaining of information or anything else that may be obtained under a search under section 284, other than section 284(1)(a)(iv).
- (6) The chief executive must exclude land particulars and personal information from data supplied under the agreement.
- (7) Subsection (6) applies despite anything in the agreement.
- (8) In this section—

*land particulars* means particulars from any instrument or information kept by the chief executive that may allow a person to identify land to which the instrument or information relates.

*personal information* means a particular from any instrument or information kept by the chief executive that may allow a person to identify a person to whom the instrument or information relates.

## **Division 3                      General requirements for documents in registers**

### **286      Form of documents**

- (1) A document lodged by a person or issued by the chief executive must be in the appropriate form.
- (2) A document required or permitted to be executed must be in the appropriate form when it is executed.
- (3) In this Act, a reference to a particular type of document is a reference to the document completed in the appropriate form.

## **286A Land practice manual**

- (1) The chief executive may keep a manual of land practice (by whatever name called) in the way the chief executive considers appropriate, for the information and guidance of land registry staff and persons dealing with the land registry.
- (2) The manual may include—
  - (a) directions given by the chief executive under section 287(1)(b); and
  - (b) directions given by the registrar under the *Land Title Act 1994*, section 10(1)(b); and
  - (c) practices developed in the land registry, before or after the commencement of this section, for the depositing and lodging of documents, including practices directed at ensuring—
    - (i) there is consistency and efficiency in land registry processes; and
    - (ii) each register under this Act is an accurate, comprehensive and useable record; and
    - (iii) the integrity of the registers included in the land registry is supported and maintained to the greatest practicable extent.
- (3) The manual may include statements about additional information a person may be required to produce, or additional documents a person may be required to deposit, under section 305.
- (4) The manual may provide for the chief executive's approval of the form of an electronic conveyancing document for the Electronic Conveyancing National Law (Queensland), section 7(1)(a).
- (5) The chief executive must make the manual available to the public in the way the chief executive considers appropriate.

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- (6) Without limiting subsection (5), the chief executive must ensure an up-to-date copy of the manual is available to be read free of charge at each office of the land registry.

### **286B Requiring plan of survey to be lodged**

- (1) The chief executive may—
- (a) require a trustee of trust land who proposes to lease or otherwise deal with all or part of the land to lodge a plan of survey of the land; or
  - (b) require a lessee who proposes to sublease or otherwise deal with the lease or part of the lease to lodge a plan of survey of the lease land.
- (2) The plan of survey must comply with the *Survey and Mapping Infrastructure Act 2003* and must be certified as accurate by a cadastral surveyor within the meaning of the *Surveyors Act 2003*.

### **287 Registered documents must comply with particular requirements**

- (1) A document may be registered only if—
- (a) the document is in the appropriate form and correctly executed; and
  - (b) the document complies with the directions of the chief executive about—
    - (i) how the appropriate form must be completed; and
    - (ii) how information to be included in or given with the document must be included or given; and
  - (c) if the Minister's approval is needed—the Minister has given written approval to the transaction to which the document relates.
- (2) However, if a document is not in the appropriate form, it may be registered if the chief executive is satisfied it is not

[s 288]

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reasonable to require the document to have been executed in the appropriate form.

- (3) Also, a document that does not comply with a direction mentioned in subsection (1)(b) may be registered if the chief executive is satisfied it is reasonable to not require the compliance.
- (4) Subsections (2) and (3) do not apply to an electronic conveyancing document.

## **288 Certain documents must be signed**

- (1) A document transferring a lease, sublease or licence or creating an interest in a lease or sublease must be signed by—
  - (a) the transferor or the person creating the interest; and
  - (b) the transferee or the person in whose favour the interest is to be created or a lawyer authorised by the transferee or person.
- (2) A total or partial discharge or release of mortgage need only be signed by the mortgagee.
- (3) For a document that is an electronic conveyancing document, subsections (1) and (2) apply subject to the form approved for the document under the Electronic Conveyancing National Law (Queensland), section 7.

## **288A Original mortgagee to confirm identity of mortgagor**

- (1) This section applies to—
  - (a) the mortgaging of a lease or sublease; and
  - (b) an amendment of a mortgage mentioned in paragraph (a).
- (2) Before the mortgage or amendment is lodged for registration, the mortgagee under the mortgage (the *original mortgagee*) must take reasonable steps to ensure the person who is the mortgagor under the mortgage or amendment is identical with

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the person who is, or who is about to become, the lessee of the lease or sublessee of the sublease.

- (2A) For subsection (2), a person is the mortgagor under a mortgage or amendment of mortgage if the person executes the mortgage or amendment as mortgagor, including, if the mortgage or amendment is an electronic conveyancing document, through a subscriber digitally signing the document under the Electronic Conveyancing National Law (Queensland).
- (2B) Also, for subsection (2), a person is the mortgagor under a mortgage or amendment of mortgage if the mortgage or amendment is an electronic conveyancing document and the person signs, as mortgagor, a document that under the participation rules under the Electronic Conveyancing National Law (Queensland)—
- (a) is required as a supporting document for the mortgage or amendment of mortgage; and
  - (b) is required to be kept by the original mortgagee.
- (3) Without limiting subsection (2), the original mortgagee takes reasonable steps under the subsection if the original mortgagee complies with practices included in the manual of land title practice under section 286A(2)(c) for the verification of identification of mortgagors.
- (4) The original mortgagee must, for 7 years after the mortgage or amendment is registered, and whether or not there is registered a transfer of the mortgage—
- (a) keep, in the approved form, a written record of the steps taken under subsection (2); or
  - (b) keep originals or copies of the documents and other evidence provided to or otherwise obtained by the original mortgagee in complying with subsection (2).

Maximum penalty—20 penalty units.

- (5) The chief executive may, whether before or after the registration of the mortgage or amendment, and whether or

[s 288B]

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not there has been registered a transfer of the mortgage, ask the original mortgagee—

- (a) to advise the chief executive about the steps taken by the original mortgagee under subsection (2); and
  - (b) to produce for the chief executive's inspection the written record mentioned in subsection (4)(a) or the originals or copies mentioned in subsection (4)(b).
- (6) The original mortgagee must comply with a request under subsection (5) unless the original mortgagee has a reasonable excuse.

Maximum penalty—20 penalty units.

- (7) This section applies to a mortgage only if it is executed after the commencement of this section.

### **288B Mortgage transferee to confirm identity of mortgagor**

- (1) This section applies to the transfer of the mortgage of a lease or a sublease.
  - (2) Before the transfer is lodged for registration, the transferee under the transfer (the *mortgage transferee*) must take reasonable steps to ensure that the person who was the mortgagor under the mortgage was identical with the person who, when the mortgage was registered, was the lessee of the lease or sublessee of the sublease.
- (2A) For subsection (2), a person was the mortgagor under a mortgage if the person executed the mortgage as mortgagor, including, if the mortgage is an electronic conveyancing document, through a subscriber digitally signing the document under the Electronic Conveyancing National Law (Queensland).
- (2B) Also, for subsection (2), a person was the mortgagor under a mortgage if the mortgage is an electronic conveyancing document and the person signed, as mortgagor, a document that under the participation rules under the Electronic Conveyancing National Law (Queensland)—



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- (a) was required as a supporting document for the mortgage; and
  - (b) was required to be kept by the original mortgagee mentioned in section 288A(2).
- (3) Without limiting subsection (2), the mortgage transferee takes reasonable steps under the subsection if the mortgage transferee complies with practices included in the manual of land title practice under section 286A(2)(c) for the verification of identification of mortgagors.
- (4) The mortgage transferee must, for 7 years after the transfer of the mortgage is registered, and whether or not there is registered a further transfer of the mortgage—
- (a) keep, in the approved form, a written record of the steps taken under subsection (2); or
  - (b) keep originals or copies of the documents and other evidence provided to or otherwise obtained by the mortgage transferee in complying with subsection (2).

Maximum penalty—20 penalty units.

- (5) The chief executive may, whether before or after the registration of the transfer of the mortgage, and whether or not there has been registered a further transfer of the mortgage, ask the mortgage transferee—
- (a) to advise the chief executive about the steps taken by the mortgage transferee under subsection (2); and
  - (b) to produce for the chief executive's inspection the written record mentioned in subsection (4)(a) or the originals or copies mentioned in subsection (4)(b).
- (6) The mortgage transferee must comply with a request under subsection (5) unless the mortgage transferee has a reasonable excuse.

Maximum penalty—20 penalty units.

- (7) This section applies to a transfer of a mortgage only if the transfer is executed after the commencement of this section.

[s 288C]

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- (8) However, this section applies in relation to a mortgage whenever executed.

### **288C Effect of registration of mortgage under Land Title Act 1994**

- (1) This section applies if a mortgage (the *relevant mortgage*) to which section 288A(2) applied, or that was the subject of a transfer to which section 288B(2) applied, becomes registered under the *Land Title Act 1994* on the issue of a deed of grant under this Act.

*Example—*

Under section 458(2), a deed of grant is issued subject to a mortgage to which section 288A(2) applied.

- (2) Sections 288A and 288B continue to have effect in relation to the mortgage or transfer as if the mortgage were still registered under this Act.
- (3) However, the *Land Title Act 1994*, sections 185(1A) and 189(1)(ab) have effect in relation to the mortgage.
- (4) For applying subsection (3)—
- (a) the references in the *Land Title Act 1994*, section 185(1A)(a) and (b) to the instrument of mortgage or amendment of mortgage are taken to be references to the relevant mortgage; and
  - (b) the references in the *Land Title Act 1994*, sections 185(1A)(a) and 189(1)(ab) to sections 11A(2) and 11B(2) of that Act are taken to be references to sections 288A(2) and 288B(2) respectively of this Act; and
  - (c) the reference in the *Land Title Act 1994*, section 185(1A)(b) to the registered proprietor of the lot or the interest in a lot is taken to be a reference to the lessee of the lease or the sublessee of the sublease.

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**289 Giving consent for dealings**

- (1) Subject to subsections (2) to (4), if the consent of a person is required or permitted for a dealing with a lease, sublease or licence, the consent must be—
  - (a) written on the document for the dealing (the *relevant document*); or
  - (b) if the chief executive considers it appropriate—deposited with the relevant document.
- (2) If the relevant document is an electronic conveyancing document, the person is taken to have complied with subsection (1) if the consent—
  - (a) is in the form of an electronic conveyancing document; and
  - (b) is deposited with the relevant document.
- (3) Subsection (4) applies if the relevant document is lodged or deposited in an electronic form by an electronic communication under—
  - (a) this Act or another law, other than the Electronic Conveyancing National Law (Queensland); and
  - (b) the *Electronic Transactions (Queensland) Act 2001*.
- (4) The person is taken to have complied with subsection (1) if—
  - (a) a method is used to identify the person and to indicate the person's consent; and
  - (b) having regard to all the relevant circumstances when the method was used, the method was as reliable as was appropriate for the purposes for which the consent was communicated; and
  - (c) the chief executive consents to the requirement being met by using the method.

## **290 Offence not to use appropriate form**

If there is an appropriate form for a document, a person must not knowingly use a form for the document that is not the appropriate form.

Maximum penalty—20 penalty units.

## **Division 3A Format of plans of survey**

### **290A Available formats for plans**

- (1) A plan of survey may be in a standard or volumetric format.
- (2) The format to be used in the plan depends on how the plan is to define the land to which it relates.

### **290B Standard format plan**

A *standard format* plan of survey defines land using a horizontal plane and references to marks on the ground.

*Example of marks—*  
posts in the ground

### **290C Volumetric format plan**

A *volumetric format* plan of survey defines land using 3 dimensionally located points to identify the position, shape and dimensions of each bounding surface.

## **Division 3B Explanatory format plans**

### **290D Explanatory format plan**

- (1) Despite section 286, the chief executive may approve the lodging of a plan relating to an interest in land other than a plan of survey (an *explanatory format plan*) if the chief

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executive is satisfied the land to which the interest relates may be accurately defined using—

- (a) information already held in the land registry; or
  - (b) other information the chief executive considers gives a high level of accuracy about the extent of the interest.
- (2) Lodging an explanatory format plan, approved under this section, is sufficient compliance with a requirement under this Act to lodge a plan of survey.

## **Division 3C Plans of subdivision**

### **290E Meaning of *plan of subdivision***

A *plan of subdivision* is a plan of survey providing for 1 or more of the following—

- (a) the division of 1 or more lots;
- (b) the amalgamation of 2 or more lots to create a smaller number of lots;
- (c) the dedication of land to public use;
- (d) the redefinition of a lot on a resurvey.

### **290F Plan of subdivision may be registered**

- (1) A plan of subdivision may be registered in the appropriate register in the land registry.
- (2) The plan takes effect immediately it is registered.

*Example—*

A lot defined in the plan is created as a lot when the plan is registered.

- (3) The registration of a plan of subdivision does not limit anything the Governor in Council or Minister may do under this Act.

[s 290G]

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- (4) On the registration of a plan of subdivision of transport land, the description of the land is amended as provided by the plan of subdivision.
- (5) Subsection (4) is not limited by section 360 or 360A.

### **290G Standard format plan of subdivision**

A standard format plan of subdivision may only divide a standard format lot.

### **290H Volumetric format plan of subdivision**

A volumetric format plan of subdivision may divide a lot on a standard or volumetric format plan of subdivision.

### **290I Division of lot on standard format plan of subdivision**

- (1) This section applies if a volumetric format plan of subdivision divides a standard format lot, creating 2 or more lots.
- (2) If, after the division, a created lot continues to be defined using a horizontal plane and references to marks on the ground, the created lot is a standard format lot.

### **290J Requirements for registration of plan of subdivision**

- (1) A plan of subdivision must—
  - (a) show all proposed lots marked with separate and distinct numbers; and
  - (b) show all proposed easements marked with separate and distinct letters; and
  - (c) distinctly show all roads, parks, reserves and other proposed lots that are to be public use land; and
  - (d) if it provides for any proposed public use land to be a reserve—state the community purpose of the reserve; and

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- (e) comply with the *Survey and Mapping Infrastructure Act 2003*; and
  - (f) be certified as accurate by a cadastral surveyor within the meaning of the *Surveyors Act 2003*; and
  - (g) if any land the subject of the plan of subdivision is the subject of a lease issued under this Act, include a statement agreeing to the plan by—
    - (i) if there is a mortgagee in possession of the lease—the mortgagee in possession; or
    - (ii) otherwise—the lessee of the lease; and
  - (h) if any land the subject of the plan of subdivision is the subject of an occupation licence under this Act and the licensee is surrendering all or part of the licence—include a statement agreeing to the plan by the licensee; and
  - (i) if a road is permanently closed under section 108—show the road as permanently closed; and
  - (j) if a road permanently closed is amalgamated with land under section 109(2)—show the amalgamation; and
  - (k) be consented to by the Minister; and
  - (l) be consented to by—
    - (i) each person whose interests as a registered mortgagee are affected by the plan; and
    - (ii) each person whose interests as a registered sublessee are affected by the plan; and
    - (iii) each person whose interests as a registered grantee of an easement or profit a prendre are affected by the plan; and
  - (m) include a statement identifying each lot created by the plan of subdivision that is to remain subject to the title reference for any lease, licence, reserve or unallocated State land affected by the plan.

[s 290JA]

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- (2) If the plan of subdivision defines the boundaries of a lease, or part of a lease, or another interest in land less than freehold, that is acquired by resumption under the authority of an Act—
  - (a) subsection (1)(g), (h), (k) and (l) does not apply; and
  - (b) the plan must be consented to by the acquiring entity.
- (3) If the plan of subdivision relates only to transport land, the plan of subdivision need not be consented to by the Minister as otherwise would be required under subsection (1).
- (4) If the plan of subdivision is needed to effect the absolute or partial revocation of a reserve or the absolute or partial cancellation of an occupation licence, subsection (1)(l) does not apply.
- (5) Subsection (6) applies, despite subsection (1), if—
  - (a) the land the subject of the subdivision is in a priority development area; and
  - (b) the plan of subdivision has been consented to by MEDQ.
- (6) The plan must be registered without the consent of the Minister or anyone else whose consent would otherwise have been required for the plan if it otherwise complies with this section.

### **290JA Dedication of public use land in plan**

- (1) This section applies to the dedication of land to public use in a registered plan of subdivision.
- (2) On the coming into effect of the plan, without anything further—
  - (a) if the dedication is for a reserve—the land is dedicated as a reserve for the community purpose or purposes stated in the plan; or
  - (b) if the dedication is for a road—the road is opened as a road; or



- (c) if the dedication is for a non-tidal watercourse or a lake—the plan is taken to be the source material for the land for the *Survey and Mapping Infrastructure Act 2003*, section 99; or

*Note—*

The *Survey and Mapping Infrastructure Act 2003*, section 99 defines when a boundary of land is a non-tidal boundary (watercourse) or non-tidal boundary (lake). See section 13A of this Act for provisions about the ownership of land on the watercourse side or lake side of one of these boundaries.

- (d) otherwise—the land becomes unallocated State land.
- (3) Subsection (4) applies to an easement over a lot if—
    - (a) the easement is an easement for providing access or a right of way, including a public thoroughfare easement; and
    - (b) the lot or a part of the lot is dedicated for a road under subsection (2).
  - (4) The easement is extinguished to the extent it is over the lot or the part of the lot dedicated for the road.

### **290JB Access for public use land**

A plan of subdivision providing for the dedication of a lot to public use, other than as a road, non-tidal watercourse or a lake, may be registered only if—

- (a) on the registration and coming into effect of the plan, access to the lot will be available through a road or a public thoroughfare easement; or
- (b) the Minister has approved that the plan of subdivision may be registered without access to the lot being available.

[s 290K]

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### **290K Particulars to be recorded when registered plan takes effect**

In registering a plan of subdivision, the chief executive must record in the appropriate register—

- (a) if the boundaries of land affected by the plan of subdivision are changed on the coming into effect of the plan—any new description as identified on the reverse of the plan; and
- (b) if all or part of land affected by the plan of subdivision becomes a reserve on the coming into effect of the plan—the particulars of the reserve; and
- (c) if all or part of land affected by the plan of subdivision becomes public use land other than a reserve or road—the particulars of the unallocated State land.

### **290L Lodged plan that is withdrawn and relodged**

If a plan of subdivision is withdrawn and relodged under section 308, it must be treated for the purposes of section 283 and section 298 to have been lodged when it was first lodged.

### **290M Division excluding road or watercourse**

- (1) A lot may be divided by a plan of subdivision, even though there is a road or watercourse within the boundaries of the lot that is not part of the lot.
- (2) However, the road or watercourse is not included in any lot created by the plan of subdivision, even though it may be within the boundaries of the lot.

### **290N Pre-examination of plans**

- (1) Nothing in this Act prevents the chief executive from examining a plan of survey and related instruments deposited before the plan is lodged for registration.

- (2) Section 305 applies to a plan and related instruments deposited under subsection (1).

## **Division 3D            Electronic conveyancing documents**

### **2900 Reference to a particular type of document includes its electronic conveyancing form**

A reference in this Act to a document of a type that may be lodged or deposited under this Act includes a reference to the document in the form of an electronic conveyancing document.

### **290P What is an *electronic conveyancing document***

- (1) An *electronic conveyancing document* is a document under the Electronic Conveyancing National Law (Queensland) that—
- (a) is of a type mentioned in schedule 6, definition *document*, paragraphs (a) to (g); and
  - (b) is lodged electronically under section 7 of the Law, in the land registry.

*Note—*

Under the Electronic Conveyancing National Law (Queensland), schedule 1, section 12(1), definition *document*, a document includes any record of information that exists in a digital form and is capable of being reproduced, transmitted, stored and duplicated by electronic means.

- (2) Subsection (3) applies to a document that is lodged or deposited in an electronic form by an electronic communication under—
- (a) this Act or another law, other than the Electronic Conveyancing National Law (Queensland); and
  - (b) the *Electronic Transactions (Queensland) Act 2001*.

[s 290Q]

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- (3) To remove any doubt, it is declared that the document is not an electronic conveyancing document.

### **290Q Signing or executing an electronic conveyancing document**

If this Act provides for a document to be signed or executed and the document is an electronic conveyancing document, the document must be digitally signed as provided for under the Electronic Conveyancing National Law (Queensland).

## **Division 4 Powers of the chief executive**

### **291 Chief executive may correct registers**

- (1) The chief executive may correct a register mentioned in section 276 if the chief executive is satisfied—
  - (a) the register is incorrect; and
  - (b) the correction will not prejudice the rights of the holder of an interest in the relevant lease, licence, permit or reserve.
- (2) The chief executive's power to correct a register includes power to correct a particular in the register or a document forming part of the register.
- (3) If a register is corrected, the chief executive must record in the register—
  - (a) the state of the register before the correction; and
  - (b) the time, day and circumstances of the correction.
- (4) A register corrected by the chief executive under this section has the same effect as if the incorrect recording had not been made.

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## 291A Correction for omitted easement

- (1) Despite section 291(1)(b), the chief executive may otherwise act under section 291 to correct the leasehold land register to include the particulars of an easement (*easement particulars*) that have been omitted from the register in relation to a lease.
- (2) For subsection (1), easement particulars are taken to have been omitted from the leasehold land register in relation to a lease only if—
  - (a) the easement was in existence when the particulars of the lease were first registered, but the easement particulars have never been recorded in the leasehold land register against the lease; or
  - (b) the easement particulars have previously been recorded in the leasehold land register, but the current particulars in the leasehold land register about the lease do not include the easement particulars, other than because the easement has been extinguished in relation to the lease; or
  - (c) the document providing for the easement was lodged for registration but, because of an error of the chief executive, has never been registered.
- (3) Subsection (2) applies whether or not the lease has at any time been transferred or otherwise dealt with.
- (4) In subsection (2)(b)—  
*extinguished* includes surrendered.

## 292 Lot-on-plan description

The chief executive may simplify the description of land registered in a register by amending the existing description to a lot-on-plan description.

[s 294]

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**294 Chief executive may require public notice to be given of certain proposed action**

- (1) This section applies if a person (the *applicant*) asks the chief executive to register a transmission of a registered interest.
- (2) The chief executive, by notice, may require the applicant to give public notice of the request.
- (3) The chief executive may specify in the notice to the applicant—
  - (a) what must be included in the public notice; and
  - (b) how many times the public notice must be published; and
  - (c) how and when the public notice must be published.
- (4) The applicant must satisfy the chief executive that the public notice has been given as required by the chief executive.

**Part 1A Building management statements**

**Division 1 Application**

**294A Application**

This part applies only to transport land.

**Division 2 Building management statements**

**294B Building management statement may be registered**

- (1) A building management statement may be registered.
- (2) A *building management statement* is a document that—

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- (a) identifies lots to which it applies; and
  - (b) contains provisions benefiting and burdening the lots to which it applies; and
  - (c) otherwise complies with the requirements of this division for a building management statement.
- (3) Each lot to which a building management statement applies must be a lot entirely or partly contained in, or entirely or partly containing, 1 or more buildings.
  - (4) However, a building management statement that otherwise complies with subsection (3) may also apply to a lot that is not entirely or partly contained in, and does not entirely or partly contain, 1 or more buildings if the lot is the subject of a building development approval.
  - (5) If a lot to which a building management statement applies is the subject of a plan of subdivision, the statement applies to each lot created by the registration of the plan.
  - (6) However, the registration of a building management statement does not limit anything the designated person may do, or the chief executive must do, under section 360 or 360A.
  - (7) In this section—  
*building development approval* means a development approval or compliance permit, under the *Sustainable Planning Act 2009*, for development relating to a proposed building or buildings.

### **294BA Single area for lots to which building management statement applies**

- (1) The lots to which a building management statement applies must form a single, continuous area of land.
- (2) A number of lots are taken to form a single, continuous area of land even if there is a road or watercourse within the external boundaries of the area comprising of the lots.

[s 294C]

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- (3) Despite subsection (1), a building management statement may apply to lots that do not form a single, continuous area of land if the chief executive is satisfied, on reasonable grounds, that all the lots are located within an area that is sufficiently limited to ensure the effective and efficient application of the provisions of this division.

### **294C Circumstances under which building management statement may be registered**

- (1) A building management statement may be registered only if the statement is signed by the lessees of all lots to which the statement applies.
- (2) The lots to which a building management statement applies must comprise—
  - (a) 2 or more volumetric format lots; or
  - (b) 1 or more volumetric format lots, and 1 or more standard format lots.

### **294D Content of building management statement**

- (1) A building management statement must contain provisions about the following—
  - (a) the supply of services to lots;
  - (b) rights of access to lots;
  - (c) rights of support and shelter;
  - (d) insurance arrangements.
- (2) A building management statement may contain provisions about the following—
  - (a) the establishment and operation of a management group;
  - (b) the imposition and recovery of levies, how levy amounts are to be kept and how levy amounts are to be spent;



- (c) property maintenance;
  - (d) architectural and landscaping standards;
  - (e) dispute resolution;
  - (f) rules for common services and facilities;
  - (g) administrative arrangements;
  - (h) arrangements for accomplishing the extinguishment of the statement;
  - (i) proposed future development.
- (3) To remove doubt, it is declared that a right of access, support or shelter, or other right in the nature of an easement, under a building management statement may operate according to its terms, and may be effective, despite the absence of a formal registered easement establishing the right.
- (4) A dispute resolution provision under a building management statement may operate to require the referral of a dispute arising under the statement other than to a court.
- (5) However, the provision is ineffective to the extent that it purports to operate to stop final determination of the dispute in a court of competent jurisdiction.

### **294E Registration of building management statement**

- (1) When registering a building management statement, the chief executive must record a reference to the statement in the particulars for the lease in the appropriate register.
- (2) However, the chief executive, though not obliged to examine, may examine a building management statement for its validity, including, in particular, its consistency with any plan of subdivision, or its compliance with the requirements for a building management statement.

[s 294F]

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### **294F Amending a building management statement**

- (1) A building management statement may be amended by registering an instrument of amendment of the building management statement.
- (2) The instrument of amendment must be signed by the lessees of all lots to which the building management statement applies.
- (3) The instrument of amendment must not change the lots to which it applies.

### **294G Building management statement if lots owned by 1 lessee**

A building management statement may be registered even if all the lots to which it applies have the same lessee.

### **294H One person becoming lessee of all lots**

If the same person becomes the lessee of all lots to which a building management statement applies, the building management statement is extinguished only if the lessee asks the chief executive to extinguish it.

### **294I Extinguishing a building management statement**

- (1) A building management statement may be extinguished by registering a document of extinguishment of the building management statement.
- (2) A building management statement may be extinguished in part to remove a lot that is not contained in, or does not contain, a building or a part of a building, by registering an instrument of partial extinguishment of the building management statement.
- (3) The instrument of extinguishment or partial extinguishment must be signed by the lessees of all lots to which the building management statement applies.

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- (4) However, a building management statement may be extinguished or partially extinguished only if—
- (a) for a partial extinguishment—all registered mortgagees of a lot to be removed consent to the partial extinguishment; or
  - (b) otherwise—all registered mortgagees of lots to which the building management statement applies consent to the extinguishment.

**294J Building management statement affecting freehold and non-freehold land**

- (1) If a building management statement benefits or burdens both freehold and non-freehold land, the building management statement must be registered in the appropriate registers.
- (2) Further dealings affecting the building management statement must also be registered in the appropriate registers.
- (3) If a lot subject to a building management statement, including a lot under the *Land Title Act 1994*, is surrendered to the State to be dealt with under this Act, the building management statement continues over the resulting unallocated State land only if the Minister approves the continuation.
- (4) In considering whether to approve the continuation of the building management statement, the Minister may consider if it is reasonably necessary to benefit the lots, including the unallocated State land, the subject of the building management statement.
- (5) If a building management statement continues over unallocated State land, the continuation must be recorded in the appropriate register.
- (6) If unallocated State land, over which there is a building management statement, is dealt with under this Act—
  - (a) the Minister may approve the building management statement continue; and

- (b) if approved—the continuation of the building management statement must be recorded in the appropriate register.

## **Part 2                      Registration and its effect**

### **Division 1                Registration of documents**

#### **295     Right to have interest registered**

- (1) If a person lodges a document transferring or creating an interest in land under this Act, the chief executive must register the document if—
  - (a) the document has been correctly executed; and
  - (b) the person lodges the document and all other documents needed by the chief executive to effect registration of the document; and
  - (c) the document appears on its face to be capable of registration; and
  - (d) the person has otherwise complied with this Act for the registration of the document; and
  - (e) the document is not inconsistent with another Act or law; and
  - (f) if the document is a plan of survey—it is not inconsistent with another plan of survey.
- (2) If the document is a plan of survey and it is inconsistent with another plan of survey, the chief executive may—
  - (a) give a notice to a person holding an interest in a lot that may be affected by registration of the plan of survey; or

- (b) require the person who lodged the document to give a notice, in the way the registrar requires, to a person mentioned in paragraph (a).
- (3) However, subsection (1) does not prevent the person from withdrawing the document before it is registered.

### **297 Order of registration of documents**

- (1) Documents about a single parcel of land must be registered in the order they are lodged.
- (2) Subsection (1) is subject to section 308.

*Note—*

Section 308 is about withdrawing lodged documents before they are registered.

### **298 Priority of registered documents**

- (1) Registered documents have priority according to when each of them was lodged and not according to when each of them was executed.
- (2) A document is taken to be lodged on the day and at the time endorsed on the document by the chief executive as the day and time of the lodgement unless the contrary is proved.
- (3) Subsection (1) is not affected by actual, implied or constructive notice.

### **299 When a document is registered**

- (1) A document is registered when the particulars about the document are recorded in the relevant register.
- (2) This section applies subject to section 299A.

**299A No registration in absence of required approval or consent of Minister**

- (1) A document is not registered, even though the particulars about the document are recorded in the relevant register, if—
- (a) under this Act, the Minister’s approval or consent, however described, is required for the document, including any aspect of the document, but the approval or consent has not been obtained; or

*Examples—*

- a plan of subdivision that has not been consented to by the Minister
  - a transfer document if the Minister has not given written approval to the transfer
- (b) the terms of the document are inconsistent with the terms of any approval or consent, however described, given by the Minister in relation to the document, including any aspect of the document.
- (2) If under subsection (1) a document is not registered, the chief executive may correct the particulars included in the appropriate register in relation to the document.
- (3) Subsection (1) applies to an approval or consent, however described, in relation to a document, whether or not the approval or consent is required to be endorsed on the document.
- (4) Subsection (1) does not affect the operation of a provision of this Act providing for the Minister to give a general authority.

*Example—*

Subsection (1) does not affect the operation of a lessee’s authority, given under section 333 (General authority to lessee for particular dealings), to sublease without seeking the Minister’s approval.

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## **Division 2                      Consequences of registration**

### **300      Benefits of registration**

The benefits of this division apply to a document whether or not valuable consideration has been given.

### **301      Interest in land not transferred or created until registration**

A document does not transfer a lease or licence or create a legal interest in a lease until it is registered.

### **302      Effect of registration on interest**

- (1) On registration of a document expressed to transfer or create an interest in land, the interest—
  - (a) is transferred or created in accordance with the document; and
  - (b) is registered; and
  - (c) vests in the person identified in the document as the person entitled to the interest.
- (2) The person holds the interest subject to—
  - (a) all other interests in the land previously registered; and
  - (b) all rights and interests of the State in the land, other than interests subsequently registered.

### **303      Evidentiary effect of recording particulars in the register**

In all proceedings, the particulars of a registered document recorded in the register are conclusive evidence of—

- (a) the registration of the document; and
- (b) the contents of the document; and

[s 304]

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- (c) all things stated or implied in it by this or another Act;  
and
- (d) when the document was lodged and registered.

## Part 3 Documents

### Division 1 General

#### 304 Correcting unregistered documents

- (1) The chief executive may correct an obvious error in a lodged document by noting the correction—
  - (a) on the document; or
  - (b) if the document is in electronic form—in the appropriate register.
- (2) The chief executive may correct an obvious error in a lodged document only if the chief executive is satisfied the document is incorrect and the correction will not prejudice the rights of a person.
- (3) A document corrected by the chief executive under this section has the same effect as if the relevant error had not been made.

#### 305 Requisitions

- (1) The chief executive, by notice (the *requisition*) given to a person who has lodged or deposited a document, or to another person who reasonably appears to the chief executive to be relevantly associated with the document, may require a person to—



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- (a) re-execute, complete or correct the document if it appears to the chief executive to be wrong, incomplete or defective; or
  - (b) produce to the chief executive stated information, or deposit a stated document, in support of the application to register a document.
- (2) The chief executive may require the document or information to be verified by statutory declaration or affidavit.
  - (3) The requisition may—
    - (a) state when, and where, it must be complied with; and
    - (b) if it relates to an electronic conveyancing document, be accompanied by a copy of the document.
  - (4) The chief executive may extend the time for complying with a requisition.
  - (5) The chief executive may refuse to deal with a document lodged or deposited (and any document depending on it for registration) until the requisition is complied with.

### **305A Electronic communication of statutory declaration or affidavit**

- (1) A person is taken to have complied with a requirement under section 305(2) to give the chief executive a statutory declaration or affidavit (the *verifying document*) if the person gives a signed electronic form of the verifying document by electronic communication and—
  - (a) having regard to all the relevant circumstances when the communication was sent, the method of generating the electronic form of the verifying document provided a reliable way of maintaining the integrity of the information it contained; and
  - (b) when the communication was sent, it was reasonable to expect the information contained in the electronic form of the verifying document would be readily accessible so as to be useable for subsequent reference; and

[s 306]

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- (c) the chief executive consents to the electronic form of the verifying document being given by electronic communication.
- (2) The person is taken to have signed the electronic form of the verifying document if—
  - (a) a method is used to identify the person and to indicate the person's approval of the information communicated; and
  - (b) having regard to all the relevant circumstances when the method was used, the method was as reliable as was appropriate for the purposes for which the information was communicated; and
  - (c) the chief executive consents to the electronic form of the verifying document being signed by using the method mentioned in paragraph (a).

### **306 Rejecting document for failure to comply with requisition**

- (1) If a requisition is not complied with by a person within the time stated or extended by the chief executive, the chief executive may reject the document to which the requisition relates and any document depending on it for registration.
- (2) A document rejected under subsection (1) loses its priority under section 298.
- (3) If the chief executive rejects a document under subsection (1) the chief executive must—
  - (a) give a written notice of the rejection to the person to whom the chief executive gave the requisition for the document; and
  - (b) if the document is in paper form—return the document to the person who lodged or deposited it.
- (4) A memorandum recording the rejection of a document may be endorsed on the rejected document or recorded in a separate record kept in the relevant register.

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- (5) An electronic conveyancing document that has been rejected under subsection (1) can not be relodged.
  - (6) Subject to subsection (5), this section does not prevent relodgement of a rejected document after the requisition has been complied with.

**307 Borrowing lodged or deposited document before registration**

- (1) The chief executive may permit any of the following persons to borrow a document lodged or deposited in paper form before the document is registered or used for the purpose for which it was deposited—
  - (a) the person who lodged or deposited the document;
  - (b) a person for whom the document was lodged or deposited;
  - (c) an agent of a person mentioned in paragraph (a) or (b).
- (2) The person must return the document within the time stated or extended by the chief executive, unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—50 penalty units.

**308 Withdrawing lodged document before registration**

- (1) The chief executive may withdraw a document, or permit a document to be withdrawn, if the chief executive is satisfied—
  - (a) the document will not give effect to the intention expressed in it or a related document because of the order in which the document has been lodged in relation to other documents; or
  - (b) the document should not have been lodged.
- (2) A document withdrawn by the chief executive under subsection (1) remains in the land registry, unless the document is a document that should not have been lodged.

[s 309]

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- (3) The chief executive may relodge a document that has been withdrawn by the chief executive.
- (4) On receiving a written application, the chief executive may permit the applicant to relodge a document that the chief executive has permitted to be withdrawn.
- (5) A document withdrawn under subsection (1) loses its priority and is taken to have been lodged on the day and at the time endorsed on it by the chief executive on its relodgement.

### **309 Chief executive may call in document for correction or cancellation**

The chief executive, by notice, may require a person to deposit a document for correction or cancellation.

### **310 Execution of documents**

- (1) For a corporation, a document is validly executed if—
  - (a) it is executed in a way permitted by law; or
  - (b) the document is sealed with the corporation's seal in accordance with the *Property Law Act 1974*, section 46.
- (2) For an individual, a document is validly executed if—
  - (a) it is executed in a way permitted by law; and
  - (b) the execution is witnessed by a person prescribed under the regulations.
- (3) However, the chief executive may, in exceptional circumstances, register a document executed by an individual even though the execution was not witnessed or was not witnessed by a person prescribed under the regulations.
- (4) The witnessing of a document may be proved in any way permitted by law.
- (5) This section does not apply to a plan of survey.

*Note—*

Under the Electronic Conveyancing National Law (Queensland), section 9(3)(b), if a registry instrument is digitally signed in accordance with the participation rules applicable to the instrument, the requirements of any other Queensland law relating to the execution, signing, witnessing, attestation or sealing of documents must be regarded as having been fully satisfied.

### **311 Witnessing documents for individuals**

A person who witnesses a document signed by an individual must—

- (a) first be satisfied the individual is the person entitled to sign the document; and
- (b) have the individual sign the document in the presence of the person; and
- (c) not be a party to the document.

### **313 Delivery of paper documents**

- (1) This section applies if the chief executive is required or permitted to return—
  - (a) a document that has been lodged or deposited in paper form; or
  - (b) a document in paper form that is a representation of an electronic conveyancing document.
- (2) The chief executive may return the document by leaving it at a place designated for the purpose in the land registry.

### **314 Dispensing with production of paper document**

- (1) The chief executive may dispense with the production of a document in paper form.
- (2) Before the chief executive dispenses with the production of a document, the chief executive may require evidence that a person seeking to deal with a lease or licence is entitled to

[s 315]

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deal with the lease or licence, and that the document that can not be produced—

- (a) has been lost or no longer exists; and
  - (b) is not deposited as security or for safe custody.
- (3) The chief executive must record in the register that production of the document has been dispensed with and the day production of it was dispensed with.

### **315 Destroying document in certain circumstances**

- (1) The chief executive may destroy part of a register or a document held in the office of the land registry if the part or the document—
- (a) is not evidence of an existing interest; or
  - (b) is evidence of an existing interest for which there is accurate evidence in another part of the register; or
  - (c) will not be needed for registering the effect of a transaction.
- (2) The chief executive may authorise a person to destroy a document held in a place other than an office of the department if the document—
- (a) was lodged at the place for evidencing, in the land registry, an interest; and
  - (b) is evidence of an existing interest for which there is accurate evidence in the land registry.
- (3) Before destroying part of a register or a document under subsection (1), the chief executive must copy it in whatever way the chief executive considers appropriate.
- (4) However, the chief executive, or person acting under an authority given under subsection (2), must not destroy an original will.

- (5) The chief executive may return a suitably perforated cancelled tenure document to the person who, immediately before its cancellation, was entitled to it.
- (6) The chief executive's powers under subsections (1) and (2) are subject to the *Public Records Act 2002*.

### **316 Transferor must do everything necessary**

A person who, for valuable consideration, signs a document to transfer or create an interest in a lease must do everything necessary to give effect to the matters stated in the document or implied by this or another Act.

## **Division 2 Documents forming part of standard terms documents**

### **317 Meaning of *standard terms document* in division**

In this division—

*standard terms document* means a document containing provisions treated as terms of a further document to which it must apply or applies.

### **317A References to registered standard terms document**

In sections 319 and 320, a reference to a registered standard terms document includes a standard terms document that has been, or is taken to be, registered under the *Land Title Act 1994*.

### **318 Standard terms document may be registered**

The chief executive or anyone else may lodge a standard terms document and may amend the standard terms document by lodging a further document.

[s 318A]

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### **318A Minister may lodge mandatory standard terms document**

- (1) The Minister may act under section 318 to lodge or amend a standard terms document containing terms the Minister considers are necessary inclusions in the terms of a document creating an interest of any type under this Act.
- (2) The document may state that it is a mandatory standard terms document.
- (3) This section does not limit section 318.

### **319 Standard terms document part of a further document**

All or part of a registered standard terms document, or an amended registered standard terms document, forms part of a document if the document—

- (a) says it forms part of the document; and
- (b) belongs to a class identified in the standard terms document as a document to which the standard terms document applies.

### **320 Document not limited to that contained in standard terms document**

- (1) As well as the provisions in a registered standard terms document, a document may include a provision incorporating other terms into the document.
- (2) If there is a conflict between the standard terms document and terms included in another document, the other document prevails.

### **320A Conflict with mandatory standard terms document**

- (1) Section 320(2) does not apply to a standard terms document if the document is a mandatory standard terms document.



- (2) If there is a conflict between a mandatory standard terms document and the terms included in another document, the mandatory standard terms document prevails.
- (3) Subsection (2) applies whether the other document is the document of which the mandatory standard terms document forms part or is some other document.

### **321 Withdrawal or cancellation of standard terms document**

- (1) The chief executive may withdraw a registered standard terms document if asked to withdraw it by the person who lodged it.
- (2) The chief executive may cancel a registered standard terms document lodged by the Minister or the chief executive after giving 1 month's notice in the gazette.
- (3) The chief executive must keep and, if asked, produce for inspection a copy of a standard terms document cancelled or withdrawn under this section.
- (4) Withdrawal or cancellation of a standard terms document, under this section or the *Land Title Act 1994*, does not affect a document already registered or executed within 7 days after its withdrawal or cancellation.

## **Part 4 Dealings affecting land**

### **Division 1 Transfers**

#### **322 Requirements for transfers**

- (1) A lease, licence or sublease may be transferred—
  - (a) to a person only if the person is eligible to hold the lease, licence or sublease under this Act; and

[s 322]

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- (b) only if the Minister has given written approval to the transfer.
- (1A) However, a lease, licence or sublease may not be transferred if a provision of this Act or a condition of the lease, licence or sublease prohibits the transfer.
- (1B) A lessee, licensee or the holder of a sublease may apply for approval to transfer a lease, licence or sublease.
  - (2) The Minister's approval lapses unless the transfer is lodged in the land registry within 6 months after the Minister's approval.
  - (3) The Minister may extend the time mentioned in subsection (2).
  - (4) The Minister's approval may be given on the conditions the Minister states, including—
    - (a) that all rent and charges owing to the State on the lease or licence are paid before the transfer is lodged; and
    - (b) that the lodgement of the transfer must be accompanied by a statutory declaration signed by the incoming lessee or licensee stating the incoming lessee or licensee is aware of—
      - (i) the condition of the land; and
      - (ii) the level of compliance with the conditions of the lease and any land management agreement for the lease, or the licence; and
      - (iii) any current property vegetation management plans affecting the lease or licence; and
      - (iv) any current agreements under an Act affecting the lease, including any land management agreement, or the licence; and
      - (v) if, were the transfer to be registered, section 325(4) and (5) would apply—the provisions of section 202AA.

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- (5) If the Minister decides not to approve a transfer, the transferor must be given notice of the decision and the reasons for the decision.
  - (6) The transferor may appeal against the Minister's decision.
  - (7) To remove any doubt, it is declared that the Minister's approval is not needed to transfer a mortgage.
  - (8) If a lessee holds a general authority under section 333, the authority is taken to be an approval under this section for any transfer in relation to a sublease of the lease.
  - (9) In this section—  
*transfer*, of a lease, licence or sublease, includes, if it is held by persons as tenants in common, a transfer by 1 or more of the tenants in common of all or part of their interest in the lease, licence or sublease to someone else.

### **322A Severing joint tenancy by transfer**

- (1) This section applies if a lease, licence or sublease (the *tenure*) is subject to a joint tenancy.
- (2) Subject to section 322, any of the joint tenants of the tenure (the *severing party*), may unilaterally sever the joint tenancy by registration of a transfer to the severing party.
- (3) The transfer need only be executed by the severing party.
- (4) The chief executive may register the transfer only if the chief executive is satisfied the severing party has given, or made a reasonable attempt to give, each other joint tenant the following—
  - (a) if the transfer is an electronic conveyancing document—notice of the severing party's intention to sever the joint tenancy under subsection (2);
  - (b) otherwise—a copy of the transfer.
- (5) On registration of the transfer, the severing party becomes entitled as a tenant in common with the other persons who were joint tenants immediately before the transfer.

[s 323]

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- (6) If, before registration of the transfer, there were more than 2 joint tenants of the tenure, the joint tenancy of the other persons is not affected.

### **323 Transfers must be registered**

- (1) If a lease, licence, sublease or a mortgage is transferred, the transfer must be registered.
- (2) An interest in a mortgage may not be transferred.

### **324 Transfer of lands sold in possession or in execution**

If a lease or sublease is sold under a power of sale or a registered writ of execution—

- (a) the mortgagee in possession; or
- (b) the sheriff, registrar or clerk of the court of the relevant court;

must sign a transfer to a buyer eligible to hold the lease or sublease under this Act.

### **325 Effect of registration of transfer**

- (1) On registration of a transfer—
  - (a) all the rights, powers, privileges and liabilities of the transferor vest in the transferee; and
  - (b) the transferee holds the interest in the land subject to the registered interests affecting the interest.
- (2) If a land management agreement applies to a lease being transferred, on registration of the transfer—
  - (a) the transferee is taken to be a party to the agreement in place of the transferor; and
  - (b) the rights and responsibilities of the transferor under the agreement become the rights and responsibilities of the transferee; and

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- (c) the lease continues to be subject to the following conditions—
- (i) there must be a current land management agreement for the lease;
  - (ii) the lessee must comply with the agreement.

### **326 Transferee to indemnify**

If a lease or a sublease, subject to a registered mortgage, is transferred, the transferee is liable to indemnify the transferor against liability under the mortgage and under this or another Act.

### **326A Disclosure of information to proposed transferee of lease or licensee**

- (1) This section applies if an application has been made under section 322 for approval of a transfer.
- (2) The Minister may give the proposed transferee under the transfer any information the Minister considers appropriate about rent or instalments paid or payable for the lease.
- (3) However, the Minister must not disclose to the transferee the residential or business address or other personal details of the transferor.

## **Division 2 Surrender**

### **327 Absolute surrender of freehold land**

A registered owner may surrender, absolutely, freehold land—

- (a) on terms agreed to between the Minister and the registered owner; and
- (b) with the Minister's written approval.

### **327A Surrender of lease**

A lessee may surrender, absolutely or conditionally, all or part of a lease—

- (a) on terms agreed to between the Minister and the lessee; and
- (b) with the Minister's written approval.

### **327B Applying to surrender freehold land**

A registered owner may apply to surrender freehold land.

### **327C Applying to surrender lease**

- (1) A lessee may apply to surrender all or part of a lease.
- (2) However, before applying, the lessee must give notice of the lessee's intention to apply to any other person with a registered interest in the lease.
- (3) The lessee may also give notice to any other person the lessee considers has an interest in the lease.

### **327E Registration surrenders lease**

- (1) All or part of a lease may be surrendered by registering a surrender notice or plan of subdivision.
- (2) However, if the surrender relates to only part of a lot, the surrender may only be made by registering a plan of subdivision.
- (3) The surrender of all or part of a lease takes effect on the day the surrender notice or plan of subdivision is registered.

### **327F Notice of surrender**

- (1) The chief executive must give notice of the surrender of a lease to the lessee and each person given notice about the

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proposed surrender under section 327 (either a *relevant person*).

- (2) The notice under subsection (1) must include all of the following—
  - (a) the date of the surrender;
  - (b) the effect, under section 327G, of the surrender;
  - (c) if there are improvements on the lease land owned by the person receiving the notice—a statement that the person may apply to remove the improvements.
- (3) If the surrender of a lease is not registered, notice of the fact must be given to each relevant person.

### **327G Effect of surrender**

On the surrender of all or part of a lease, the land the subject of the surrender—

- (a) if the lease was a State lease—remains a reserve; or
- (b) otherwise—becomes unallocated State land.

### **327H Person to give up possession on surrender**

- (1) On the surrender of all or part of a lease, a person occupying the land the subject of the surrender must immediately vacate the land.
- (2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying unallocated State land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

### **327I Dealing with improvements**

- (1) An owner of improvements on a lease that has been surrendered may apply to remove the owner's improvements on the lease.
- (2) The owner may remove the improvements only with the written approval of, and within a time stated by, the Minister.
- (3) The improvements become the property of the State if—
  - (a) the Minister has not given written approval for their removal; or
  - (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.
- (4) However, if the lease the subject of surrender is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.
- (5) In this section—

*owner*, of improvements, means—

  - (a) if the lessee owned the improvements—the lessee; or
  - (b) a person who—
    - (i) made the improvements on the land the subject of the surrender with the lessee's authority; and
    - (ii) owned the improvements.

### **328 Surrender of subleases**

- (1) A registered sublease may be wholly or partly surrendered by operation of law or by registering an instrument of surrender of the sublease executed by the sublessor and the sublessee.
- (2) If a sublease or part of a sublease is surrendered, the surrender must be registered.



- (3) However, a surrender of a sublease may be registered only if each registered mortgagee and registered sub-sublessee has given written agreement to the surrender.
- (4) If an instrument of surrender of lease is lodged, the chief executive may register the instrument and record the date of surrender stated in the instrument in the leasehold land register.
- (5) On registration of a surrender of a registered sublease, the interest of the sublessee vests in the sublessor.
- (6) Subsection (2) does not apply to a surrender or disclaimer under a law about bankruptcy.

### **329 Notice of surrender needed**

- (1) If a lessee is absolutely surrendering a lease under section 327A, the lessee must give 1 year's notice of the intention to surrender or pay 1 year's rent in advance at the time of surrender.
- (2) However, the Minister may waive the giving of 1 year's notice or paying 1 year's rent in appropriate circumstances.

### **330 Requirements for effective surrender**

A surrender of a lease may be registered only if—

- (a) the Minister gives written approval to the surrender; and
- (b) if the lease is subject to a mortgage or sublease—the mortgagee or sublessee gives written approval to the surrender; and
- (c) any grantee of an easement or profit a prendre whose interest will be adversely affected by the surrender gives written approval to the surrender.

### **331 Effect of surrender on existing interests**

- (1) If a lease or part of a lease is surrendered, other than absolutely, all interests in the lease or part of the lease at the time of surrender continue in the new lease or deed of grant.
- (2) If a lease or freehold land is absolutely surrendered, all interests are extinguished from the day the surrender is registered.

## **Division 3 Subleases**

### **332 Requirements for subleases**

- (1) A lease issued under this Act may be subleased only—
  - (a) if—
    - (i) the Minister has given written approval to the sublease; or
    - (ii) the lessee holds a general authority to sublease; or
    - (iii) a stated mandatory standard terms document forms part of the sublease; and
  - (b) to a person who is eligible to hold the sublease under this Act.
- (2) A lessee or sublessee may seek the Minister's approval even though subsection (1)(a)(ii) or (iii) applies to the sublease.
- (3) A copy of the proposed sublease must accompany an application seeking the Minister's approval.
- (4) The Minister may—
  - (a) refuse to approve a sublease; or
  - (b) approve the sublease on the conditions the Minister considers appropriate, including, for example, that a stated mandatory standard terms document form part of the sublease; or
  - (c) approve the sublease unconditionally.

- (5) The Minister's approval lapses unless the sublease is lodged in the land registry within 6 months after the Minister's approval.
- (6) The Minister may extend the time mentioned in subsection (5).
- (7) If the Minister decides not to approve a sublease, the sublessor must be given notice of the decision and the reasons for the decision.
- (8) The sublessor may appeal against the Minister's decision.
- (9) Without limiting subsection (4)(a), the Minister may refuse to approve a sublease of a lease if the Minister is satisfied that the subleasing would be inappropriate, having regard to the purpose and conditions of the lease.

### **333 General authority to lessee for particular dealings**

- (1) If the Minister considers it appropriate, the Minister may issue to the lessee of a lease issued under this Act an authority to agree to and as appropriate give effect to 1 or more of the following without seeking the Minister's approval—
  - (a) subleasing of the lease;
  - (b) transferring a sublease of the lease;
  - (c) amending a sublease of the lease;
  - (d) creating an easement that burdens or benefits a sublease of the lease;
  - (e) transferring a public utility easement that burdens a sublease of the lease;
  - (f) amending an easement that burdens or benefits a sublease of the lease.
- (2) The authority applies only to the lease identified, and to the lessee named, in the authority.
- (3) In acting under the authority, the lessee must comply with any requirements prescribed under a regulation for this section.

[s 334]

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- (4) The authority may include the conditions the Minister considers appropriate, and may be withdrawn at any time.
- (5) The authority is cancelled immediately either of the following dealings are registered in the leasehold land register—
  - (a) the transfer of the lease;
  - (b) a transmission of the lessee's interest in the lease under a law about bankruptcy.
- (6) For subsection (1)(d), (e) or (f), a reference to a sublease of a lease must not be taken to include a reference to a sub-sublease of a sublease of a lease.

### **334 When subleasing is totally prohibited**

A lessee may not sublease a lease issued under this Act if this Act forbids subletting, or the lease contains a condition specifically forbidding subletting.

### **334A Application to sub-subleases**

In sections 332 to 334, for applying schedule 6, definition *sublease*, a reference to a lease issued under this Act may be taken to be a reference to a sublease of a lease issued under this Act, and correspondingly, a reference to a lessee may be taken to be a reference to a sublessee of a lease issued under this Act.

### **335 Subleases must be registered**

- (1) If a lease issued under this Act is subleased, the sublease must be registered.
- (2) If the sublease is for part of a lease, the appropriate form for the sublease must also include—
  - (a) a sketch plan identifying the land being subleased, drawn to a standard to the chief executive's satisfaction;or

- (b) if required by the chief executive—a plan of survey identifying the land being subleased.
- (3) However, the chief executive may allow the land being subleased to be identified by a description alone if the chief executive is satisfied the land is adequately identified by the description in the document.

### **336 Amending a sublease**

- (1) A registered sublease may be amended by registering an amendment of the sublease.
- (2) However, the document of amendment must not—
  - (a) increase or decrease the area subleased; and
  - (b) add or remove a party to the sublease; and
  - (c) increase the term of the sublease.
- (3) Sections 332 and 333 apply to an amendment of a sublease as if the amendment were a sublease.
- (4) Before an amendment of a sublease is registered, the amendment must be endorsed with, as appropriate—
  - (a) the Minister's approval under section 332, as applied; or
  - (b) the Minister's general authority to amend under section 333, as applied.

### **337 Lessee continues to be responsible for primary obligations**

The lessee of a lease that is sublet, in whole or in part, continues to be liable for all the conditions to which the lease is subject.

[s 338]

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### **338 Validity of sublease or amendment of sublease against mortgagee**

A sublease or amendment of a sublease executed after the registration of a mortgage is valid against the mortgagee only if the mortgagee agreed to the sublease or amendment before its registration.

### **339 Re-entry by sublessor**

- (1) If a sublessor under a registered sublease lawfully re-enters and takes possession under the sublease, the sublessor may lodge a request for the chief executive to register the re-entry.
- (2) The interest of the sublessee ends on the registration of the request for the re-entry.

## **Division 3A Mediation for disputes about terms of particular subleases**

### **339A Application of div 3A**

This division applies to a sublease, other than a sublease of trust land or transport land, if—

- (a) there is a dispute between any or all of the parties to the sublease about its terms; and
- (b) the dispute can not be dealt with under a dispute resolution process, under another Act, that specifically provides for dealing with disputes of that type; and

*Examples of another Act—*

- *Residential Tenancies and Rooming Accommodation Act 2008*
  - *Retail Shop Leases Act 1994*
- (c) the sublease does not include a dispute resolution process that is capable of being used to resolve the dispute.

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### **339B Mediation**

- (1) A party to the sublease may ask the chief executive to refer the dispute to mediation.
- (2) After consulting with the persons the chief executive reasonably considers are a party to the dispute, and having regard to the nature of the dispute, the chief executive may refer it to mediation.
- (3) If the chief executive refers the dispute to mediation—
  - (a) the mediation must be conducted by—
    - (i) a person agreed to by the parties to the dispute; or
    - (ii) if the parties can not agree—an appropriately qualified mediator appointed by the chief executive; and
  - (b) the mediation must be conducted in the way decided by the mediator and the parties; and
  - (c) the parties must participate in the mediation in good faith to attempt to resolve the dispute; and

*Examples of participating in the mediation in good faith—*

  - attending meetings that the parties have agreed to attend
  - complying with mediation procedures agreed to by the mediator and the parties
  - disclosing relevant information as appropriate for the mediation
  - ensuring a party's agent at a mediation is authorised to reach agreement for the party
  - (d) the parties must pay the mediator the costs of the mediation in the proportions agreed by the mediator and the parties.
- (4) For subsection (3), a party to the dispute may be represented by an agent appointed by the party if the mediator is satisfied the appointment will facilitate the conduct of the mediation.
- (5) If a lessee who is a party to the dispute, in relation to a sublease of the lessee's lease, contravenes subsection (3)(c),

[s 340]

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the lessee is taken to have contravened a provision of this Act in relation to the lease.

- (6) Nothing in this section affects any rights or remedies to which a party to the dispute may be entitled.
- (7) Evidence of anything done or said, or an admission made, at a mediation about the dispute is admissible at the trial of the dispute or in another civil proceeding only if all parties who participated in the mediation agree.
- (8) For a proceeding under this Act about a lessee's contravention of this Act under subsection (5), evidence about the lessee's participation in a mediation may include evidence about the steps taken by the lessee to prepare for the mediation.

- (9) In this section—

*appropriately qualified*, for a mediator, means having the qualifications or experience appropriate to conduct the mediation.

*civil proceeding* does not include a proceeding under this Act about a lessee's contravention of this Act under subsection (5).

## Division 4                      Mortgages

### 340      Registering a mortgage

- (1) A lease or a sublease may be mortgaged by registering a mortgage.
- (2) If the mortgagor is registered as a trustee, a document stating the details of the trust, or the document creating the trust, must be deposited with the mortgage, unless—



- (a) a document has already been produced for the trust under section 374(2) or deposited under section 375(2) with a transfer; and
- (b) the details of the trust have not since changed.

### **341 Effect of a mortgage**

A registered mortgage of a lease or sublease operates only as a charge on the lease or sublease for the debt or liability secured by the mortgage.

### **342 Releasing a mortgage**

- (1) If a release of mortgage is lodged, the chief executive may register the release to the extent shown in the release.
- (2) The release of mortgage may release the debt or liability secured for—
  - (a) all or part of the mortgage; or
  - (b) 1 or more of the mortgagors.
- (3) On registration of a release of mortgage, the mortgage is discharged, and the lease is released from the mortgage, to the extent shown in the release.

### **343 Amending a mortgage**

- (1) A registered mortgage may be amended only by registering an amendment of the mortgage.
- (2) However, the document of amendment must not add or remove a party to the mortgage.

### **344 Amending priority of mortgages**

- (1) The priority of registered mortgages may be amended by registering a document amending priority.
- (2) The document amending priority must—

[s 345]

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- (a) state the order of priority of all affected registered mortgages; and
  - (b) be executed by all mortgagees affected by the amendment.
- (3) On registration of the document amending priority, the mortgages have priority in the order stated in the document.

### **345 Mortgagee in possession may sell**

- (1) A mortgagee is entitled to sell a lease if—
- (a) the lessee defaults under a mortgage; and
  - (b) the mortgagee has entered into possession of the mortgaged lease or is exercising a power of sale under the mortgage; and
  - (c) the mortgagee complies with this division.
- (2) The mortgagee must notify the Minister within 28 days of entering into possession of the mortgaged lease.

Maximum penalty—5 penalty units.

### **346 Sale of mortgaged lease**

- (1) The mortgagee must first offer the lease for sale by public auction or with the Minister's written approval may sell the lease by private contract.
- (2) The lease must not be offered for sale by public auction or a contract of sale entered into until at least 28 days after the mortgagee has published a notice, in a newspaper circulating generally in the locality of the lease, that the lease is for sale.
- (3) A sale by a mortgagee must be to a person qualified under this Act to hold the lease.
- (4) The lodgement of the transfer must be accompanied by a statutory declaration signed by the incoming lessee stating the incoming lessee is aware of—

- (a) the condition of the land; and
- (b) the level of compliance with the conditions of the lease and any land management agreement for the lease; and
- (c) any current property vegetation management plan affecting the lease; and
- (d) any current agreement under an Act affecting the lease including any land management agreement.

### **347 Land to be sold within 2 years**

- (1) The mortgagee must arrange to sell the lease within 2 years of entering into possession of the lease.
- (2) The mortgagee may apply to the Minister to extend the 2 years.
- (3) The application under subsection (2) must be made within the 2 year period.
- (4) If the Minister decides not to extend the time, the mortgagee must be given notice of the decision and the reasons for the decision.
- (5) The mortgagee may appeal against the Minister's decision.
- (6) If the mortgagee does not sell the lease within 2 years of entering into possession of the lease or an appeal to extend the time is unsuccessful, the chief executive may sell the mortgaged lease.

### **348 Disposal of proceeds of sale**

The mortgagee must apply the proceeds of sale as follows—

- (a) firstly, to the payment of all costs, charges and expenses properly incurred by the mortgagee for the sale or any attempted sale;
- (b) secondly, to payment of charges on the lease, including all debts owing to the State under section 438;

[s 349]

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- (c) thirdly, to payment of any amount owing to a mortgagee or, if more than 1 mortgagee, according to their priorities;
- (d) fourthly, if the mortgagee is selling in possession under section 240F, to payment of expenses incurred by the State to rectify any damage caused to the land by the lessee;
- (e) lastly, to the lessee.

### **349 Liability of mortgagee in possession**

A mortgagee who enters into possession under a lease or sublease (whether by taking the rents or profits or in another way) is liable under the lease or sublease to the same extent as the lessee or sublessee was liable under the lease or sublease before the mortgagee entered into possession.

### **350 Effect of transfer after sale by mortgagee**

If a transfer executed by a registered mortgagee after the exercise of the power of sale under the mortgage is registered, registration of the document vests the mortgagor's interest that is transferred in the transferee, free from liability under the mortgage and any other mortgage registered after it.

## **Division 7 Correcting and changing deeds of grant and leases**

### **358 Changing deeds of grant—change in description or boundary of land**

- (1) A registered owner or trustee may surrender the land contained in the registered owner's deed of grant or trustee's deed of grant in trust if the description of the land is no longer correct because of—
  - (a) an exchange of land under chapter 2, part 1; or

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- (b) a sale or disposal of all or part of a reservation under chapter 2, part 2; or
  - (c) the addition of land under chapter 3, part 1, division 3; or
  - (d) a boundary correction or amendment under chapter 3, part 1, division 4; or
  - (e) the opening or closing of a road, through or adjoining any land held in fee simple, under section 109(2)(b), 109A or 109B; or
  - (f) a sale without competition under chapter 4, part 1, division 2.
- (2) A registered owner or trustee, with the Minister's written approval, may surrender the land contained in the registered owner's deed of grant or trustee's deed of grant in trust if, on resurvey of the land, the boundaries of the land do not agree with the boundaries described in the existing deed or appropriate plan, and no doubt exists about the boundaries of the land.
- (3) On the surrender of the land—
- (a) the deed of grant or deed of grant in trust is cancelled; and
  - (b) a new deed must be issued containing the land to which the registered owner or trustee is entitled.
- (4) When issuing any new deed under this section, the Governor in Council may amend or change the description of the land.
- (5) The registrar of titles must register the new deed and must record on the deed all mortgages, leases, easements or other transactions that were recorded on the deed surrendered.

**358A Amendment of leasehold land register or freehold land register for omitted acquired easement**

- (1) This section applies if all of the following circumstances apply—

[s 358A]

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- (a) before the commencement of this section, action was taken under an acquisition Act to acquire an easement, over freehold or non-freehold land (the *relevant land*);
- (b) there is no outstanding issue of substance in relation to the payment of compensation under the acquisition Act for the acquisition;

*Examples—*

- 1 All compensation payable under the acquisition Act for the acquisition was paid to the person entitled to it.
  - 2 The issue of compensation payable under the acquisition Act for the acquisition was never pursued because any amount payable would have been negligible.
- (c) the particulars of the acquisition have never been recorded in the appropriate register for the relevant land;
  - (d) the rights acquired under the acquisition have never been extinguished;
  - (e) the entity currently entitled to the rights acquired under the acquisition is a public utility provider;
  - (f) the Minister is satisfied, to the greatest practicable extent on the basis of documentary evidence, that the matters mentioned in paragraphs (a) to (e) are true.

*Example of documentary evidence—*

a copy of a gazette notice under the acquisition Act declaring the easement to be taken

- (2) The Governor in Council may, by gazette notice, direct the chief executive or registrar of titles to amend the current particulars about the relevant land in the leasehold or freehold land register to record the current particulars of the easement.
- (3) The gazette notice is authority for the chief executive or registrar to make the amendment in the register.
- (4) Without limiting subsections (2) and (3), the chief executive or registrar of titles must, in recording the particulars of the easement, record in the register copies of the following—

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- (a) the plan of survey used for identifying the easement when the easement was acquired, and any subsequent plan of survey relevant to identifying the easement;
  - (b) any gazette notice forming part of the acquisition process under the acquisition Act.
- (5) For this section, it does not matter whether the relevant land was freehold land or leasehold land when the easement was created, or whether the relevant land is freehold land or leasehold land when the gazette notice mentioned in subsections (2) and (3) is published.
  - (6) An amendment of a register may not be made under this section if 10 years have elapsed after the commencement of this section.
  - (7) In this section—

*acquisition Act* means this Act, the repealed Act, the *Acquisition of Land Act 1967* or another Act providing for the compulsory acquisition of land.

*extinguished* includes surrendered.

### **358B Compensation not payable to any person for action under s 358A**

A person is not entitled to compensation from the State under this Act, the *Land Title Act 1994* or the *Acquisition of Land Act 1967*, or otherwise, for deprivation of an interest in land, or for loss or damage of any kind, arising out of the recording of the particulars of an easement under section 358A.

### **358C Correction of minor error in deed of grant**

- (1) This section applies if—
  - (a) a deed of grant is incorrect because of an error in issuing it; and

[s 359]

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- (b) the registrar of titles certifies that the correction of the deed of grant will not prejudice any person who holds an interest in the deed of grant.

*Example—*

The registrar of titles would be likely to certify that a correction will not prejudice any person if the deed of grant has been issued with its lot and plan correctly described, but with its parish name incorrect.

- (2) The registrar of titles must record the correction in the freehold land register.
- (3) The corrected deed of grant operates as if it had originally been issued that way.
- (4) In this section—  
*deed of grant* includes a deed of grant in trust.

### **359 Correcting or cancelling deeds of grant**

- (1) A notice of intention to correct, or cancel, a deed of grant must be published in the gazette if it appears that the deed of grant—
  - (a) is incorrect because of an error in issuing it; or
  - (b) should not have been issued.
- (2) If the Minister considers it appropriate, the Minister may—
  - (a) apply to the Supreme Court for directions; or
  - (b) state a case for decision by the Supreme Court.
- (3) If the Governor in Council is satisfied the deed of grant is incorrect or should not have been issued, the Governor in Council may publish a gazette notice correcting the error or cancelling the deed of grant.
- (4) On the publication of the notice, the registrar of titles must record the correction or cancellation in the appropriate register.



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- (5) The corrected deed of grant operates as if it had been originally issued that way.
  - (6) The cancelled deed of grant is taken never to have been issued.
  - (7) This section does not apply to the correction of a deed of grant if the correction has been made under section 358C.
  - (8) In this section—  
*deed of grant* includes a deed of grant in trust.

### **360 Governor in Council may change freeholding leases**

- (1) The Governor in Council may, by gazette notice, amend the description or anything else in a freeholding lease if—
  - (a) on resurvey of the lease land, the boundaries of the land do not agree with the boundaries described in the lease or appropriate plan, and no doubt exists about the boundaries of the land; or
  - (b) the lease is defective because of an error or omission in its preparation; or
  - (d) the Governor in Council has approved of the mutual exchange, after agreement by the lessees of adjoining leases, of areas adjoining a common boundary between the leases; or
  - (e) the Governor in Council has approved that an area of unallocated State land be included in the lease; or
  - (f) the Governor in Council considers it necessary for another reason to correct the lease.
- (2) The chief executive must register the amendment.
- (3) An amended freeholding lease operates as if it had been originally issued or executed as amended.

**360A Minister may change term leases, other than State leases, or perpetual leases**

- (1) This section applies to a term lease, other than a State lease, or a perpetual lease.
- (2) The Minister may, by approving a plan of subdivision, amend the description or anything else in the lease if—
  - (a) the boundaries of the lease land are not stated in the lease with adequate certainty or do not agree with the boundaries shown on the relevant plan; or
  - (b) a survey of the land gives more accurate knowledge of the lease; or
  - (c) if the Minister has approved of a mutual exchange of areas adjoining a common boundary between leases and—
    - (i) none of the areas adjoining the common boundary are subject to a freeholding lease; and
    - (ii) the lessees of the adjoining leases have agreed to the mutual exchange; or
  - (d) the Minister has approved that an area of unallocated State land be included in the lease; or
  - (e) the Minister has approved that a reservation no longer needed be absorbed by the lease.
- (3) The Minister may, by adjustment notice, amend the description or anything else in the lease if—
  - (a) the lease is defective because of an error or omission in its preparation; or
  - (b) the court has made a decision under section 435 on a dispute about the boundaries; or
  - (c) the Minister has approved that an area of unallocated State land be included in the lease; or
  - (d) the Minister considers it necessary for another reason to correct the lease.

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- (4) The chief executive must register the amendment.
  - (5) An amended lease operates as if it had been originally issued or executed as amended.

### **360B Minister may change State lease**

- (1) The Minister may, by registering an adjustment notice, amend the description or anything else in a State lease if—
  - (a) the boundaries of the lease land are not stated in the lease with adequate certainty or do not agree with the boundaries shown on the relevant plan; or
  - (b) a survey of the land gives more accurate knowledge of the lease; or
  - (c) the Minister has approved of a mutual exchange of areas adjoining a common boundary between State leases that are within the boundaries of 1 reserve, and the lessees of the leases agree to the exchange; or
  - (d) the Minister has approved that an area of trust land be included in the lease; or
  - (e) the State lease is defective because of an error or omission in its preparation; or
  - (f) the Minister considers it necessary for another reason to correct the State lease.
- (2) The chief executive must register the amendment.
- (3) An amended State lease operates as if it had been originally issued or executed as amended.

### **360C Applying to amend description of lease**

- (1) A lessee or a person acting for the lessee may apply to amend the description in a freeholding lease if the description of the lease may be amended under section 360(1)(a) or (d).
- (2) A lessee or a person acting for the lessee may apply to amend the description in a term lease, other than a State lease, or a

[s 360D]

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perpetual lease if the description of the lease may be amended under section 360A(2)(a), (b) or (c).

- (3) A lessee or a person acting for the lessee may apply to amend the description in a State lease if the description of the lease may be amended under section 360B(1)(a), (b), (c) or (d).

### **360D Notice of intention to apply to amend lease**

- (1) This section applies if a lessee or a person acting for the lessee (each *an applicant*) intends to make an application under section 360C to amend the description of a lease.
- (2) Before applying, the applicant must give notice of the applicant's intention to apply to any other person with a registered interest in the lease land.
- (3) The applicant may also give notice to any other person the applicant considers has an interest in the lease.

### **360F Notice of registration of amendment of lease**

- (1) If an amendment of a lease is registered under section 360(2), 360A(4) or 360B(2), the chief executive must give notice to the lessee of the lease and each person given notice about the proposed amendment under section 360D (either a *relevant person*).
- (2) The notice must include both of the following—
  - (a) the date of registration of the amendment;
  - (b) the particulars of the amendment.
- (3) If the designated person does not approve of an amendment to the description of a lease, notice of the fact must be given to each relevant person.

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## Division 8                      Easements

### 361      Definitions for div 8

In this division—

*full supply level* see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

*public thoroughfare easement* means a public utility easement provided for under section 369(4).

*public utility easement* means an easement in favour of a public utility provider.

### 362      Easements may be created only by registration

- (1) With the Minister's written approval, an easement may be created over land granted in trust or non-freehold land (including any lease of non-freehold land or sublease of a lease of non-freehold land), other than a road, by registering the document creating the easement in the appropriate register.
- (2) The document must state—
  - (a) the nature of the easement and its terms; and
  - (b) the land to be benefited, and the land to be burdened, by the easement.
- (3) However, it is not necessary to state the land benefited in a public utility easement that is not attached to, or used or enjoyed with, other land.
- (4) An easement may be limited wholly or partly in height or depth.
- (5) A public utility easement for water storage may be created only for water storage—
  - (a) for a weir—on land upstream of the weir and within or outside the storage area at full supply level; or

[s 363]

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- (b) for a dam—on land upstream of the barrier of the dam and outside the storage area at full supply level.
- (6) The document creating the easement must show the part of the land over which water may be stored.

### **363 Registration of easement**

- (1) A document creating an easement may be registered only if—
  - (a) a plan of survey designating the easement is also registered; and
  - (b) it is signed by—
    - (i) the owner of the land to be burdened; and
    - (ii) the owner of the land to be benefited by the easement or the public utility provider; and
  - (c) the Minister has given written approval to the easement.
- (2) A plan of survey is not necessary if the chief executive considers it is unnecessary because of exceptional circumstances.
- (3) Subsections (1)(b) and (c) do not apply to an easement compulsorily acquired by the State.
- (4) In this section, the State is taken to be the owner of unallocated State land and reserves.
- (5) In subsection (1)—  
*owner of the land* includes a registered owner, trustee of land granted in trust, lessee and licensee.

### **364 Registration of plan showing proposed easement**

- (1) A plan designating a proposed easement may be registered only if the designation includes the words ‘proposed easement’.
- (2) Registration of the plan does not create an easement.

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**365 Particulars to be registered**

- (1) When an easement is registered, the following particulars must be recorded in the appropriate registers—
  - (a) the land burdened by the easement;
  - (b) any land benefited by the easement;
  - (c) any registered sublease (or, if the land is freehold land, registered lease) benefited or burdened by the easement.
- (2) To remove any doubt, it is declared that subsection (1) applies even if the appropriate registers are for both freehold and non-freehold land.
- (2A) A public utility easement for water storage burdens the whole of the land any part of which may be affected by the storage.
- (3) Further dealings affecting the easement must also be registered in the appropriate registers.

**366 Rights and liabilities created on registration of document**

- (1) On the registration of the document creating the easement, the proposed easement shown on the plan is created and, without anything further, vests in the person entitled to the benefit of it.
- (2) If the easement is a public utility easement and is not a public thoroughfare easement, the lessee of the land burdened by the easement may recover from the public utility provider a reasonable contribution towards the cost of keeping the part of the land affected by the easement in a condition appropriate for enjoyment of the easement.
- (3) The liability under subsection (2) may be amended or excluded by agreement.

**367 Easement benefiting and burdening land of same person**

An easement may be registered even if—

[s 368]

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- (a) the land benefited and the land burdened by the easement are owned by the same person; or
- (b) the owner of the land benefited by the easement holds an interest in the land burdened by the easement.

**368 Same person becoming trustee, lessee or licensee of benefited and burdened lands**

- (1) An easement is not extinguished merely because the trustee, lessee or licensee of the land benefited by the easement acquires an interest, or a greater interest, in the land burdened by the easement.
- (2) If the same person becomes the trustee, lessee or licensee of the land benefited and the land burdened by an easement, the easement is extinguished only if—
  - (a) the trustee, lessee or licensee asks the chief executive to extinguish the easement; or
  - (b) the land benefited and the land burdened are amalgamated.

**369 Public utility easements**

- (1) A public utility easement may be registered even though it is not attached to, or used or enjoyed with, other land.
- (2) A public utility easement may be registered only for the following—
  - (a) a right of way;
  - (b) drainage or sewerage;
  - (c) the supply of water, gas, electricity, telecommunication facilities or another public utility service;
  - (d) water storage;
  - (e) an infrastructure corridor;
  - (f) a purpose mentioned in the *State Development and Public Works Organisation Act 1971*, section 125(1);



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- (g) in the case of a cane railway easement in favour of a mill owner—a purpose for which a cane railway easement may be granted under the *Sugar Industry Act 1999*.
- (3) Also, a public utility easement may be registered in favour of a person mentioned in schedule 6, definition *public utility provider* paragraph (g), only if the easement is for the public utility service mentioned in the paragraph.
- (4) Further, a public utility easement may be registered for a right of way for the public only if—
- (a) the public utility provider under the easement is the State or a local government; and
  - (b) use of the easement is limited to the following—
    - (i) pedestrians;
    - (ii) cyclists;
    - (iii) vehicles reasonably necessary for the building and maintenance of the easement.
- (5) A registered public thoroughfare easement is taken not to be registered under this Act to the extent it—
- (a) is inconsistent with the relevant provisions for the easement; or
  - (b) purports to provide other than for a public thoroughfare easement.
- (6) Subsection (5) has effect only in relation to public utility easements registered after the commencement of this subsection.
- (7) The chief executive may refuse to register a document purporting to create a public thoroughfare easement if the chief executive is satisfied it—
- (a) is to any extent inconsistent with the relevant provisions for the easement; or
  - (b) purports to any extent to provide other than for a public thoroughfare easement.

[s 369A]

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(8) In this section—

*infrastructure corridor* means an infrastructure corridor under the *State Development and Public Works Organisation Act 1971*, section 82(8).

*pedestrian* includes—

- (a) anyone who is a pedestrian within the meaning of the *Transport Operations (Road Use Management) Act 1995*; and
- (b) anyone or anything else whose use of an area is commonly associated with pedestrian use of the area.

*Examples for paragraph (b)—*

a child being pushed in a pram, an animal being taken on a leash  
*relevant provisions*, for a public thoroughfare easement, means the provisions about public thoroughfare easements included in—

- (a) if the public utility provider under the easement is a local government—the *Local Government Act 2009*; or
- (b) if the public utility provider under the easement is the State—the *Transport Infrastructure Act 1994*.

### **369A Transfer of public utility easements**

- (1) With the Minister's written approval, a public utility easement may be transferred to another public utility provider.
- (2) The transfer must be recorded in the appropriate register.

### **369B Transfer of benefited land**

- (1) This section applies if—
  - (a) land burdened by an easement is unallocated State land or a reserve; and
  - (b) the document creating the easement includes a provision (the *power of attorney provision*) appointing the grantor

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of the easement the attorney of the grantee of the easement, including for the purpose of surrendering the easement if circumstances stated in the document happen; and

- (c) since the easement was created, the person (the *original owner*) who was the owner of the land benefited by the easement when the easement was created has not always been the owner of the land, whether or not the original owner is now the owner of the land.
- (2) The power of attorney provision binds the current owner of the land benefited by the easement, whether or not, since the easement was created, the current owner of the land has always been the owner of the land.

- (3) In this section—

*current owner*, of land, means the person who is now the owner of the land.

*owner*, of land, includes—

- (a) for land granted in trust—the trustee of the land; and
- (b) otherwise—a registered owner, lessee or licensee of the land.

### **370 Amending an easement**

- (1) A registered easement may be amended by registering a document amending the easement.
- (2) However, the document of amendment must not—
  - (a) change the location of the easement; or
  - (b) increase or decrease the area of land affected by the easement; or
  - (c) change a party to the easement.
- (3) Section 363 applies to this section.

*Note—*

Section 363 is about how an easement may be registered.

### **371 Surrendering an easement**

- (1) An easement may be surrendered (wholly or partly) only if a document surrendering the easement is registered in the appropriate registers for the land benefited and burdened.
- (2) The document of surrender may be signed by the—
  - (a) owner of the land benefited by the easement and the owner of the land burdened by the easement; or
  - (b) owner of the land benefited by the easement; or
  - (c) public utility provider in whose favour the easement is registered.
- (3) A document surrendering an easement may be registered only if all persons who have a registered interest in the land benefited by the easement agree to the surrender.
- (4) Subsection (3) does not apply to a sublessee or lessee who does not receive a benefit from the easement.
- (5) In this section, the State is taken to be the owner of unallocated State land and reserves.
- (6) In subsection (2)—

*owner of the land* includes a registered owner, trustee of land granted in trust, lessee and licensee, and also includes a mortgagee in possession.

### **372 End and continuation of easements**

- (1) An easement over land granted in trust, a lease, a licence or a reserve ends when the deed of grant in trust, lease or licence ends or the dedication of the reserve is revoked.
- (2) However, with the Minister's written approval, a public utility easement may continue over unallocated State land when the deed of grant in trust, lease or licence ends or the dedication of the reserve is revoked.
- (3) An easement over a sublease ends when the sublease ends.

- (4) If freehold land is subject to a public utility easement and the land is surrendered, the easement may continue, with the Minister's written approval, over the resulting unallocated State land.
- (5) If a public utility easement continues over unallocated State land, the continuation must be recorded in the appropriate register.
- (6) If unallocated State land, over which there is a public utility easement, is dealt with under this Act—
  - (a) the Minister may approve the easement continue; and
  - (b) if approved—the continuation of the easement must be recorded in the appropriate register.

### **373 Court may modify or extinguish an easement**

The *Property Law Act 1974*, section 181 applies to an easement under this Act.

*Note—*

The *Property Law Act 1974*, section 181 is about modifying and extinguishing easements and restrictive covenants.

### **373AA Particular matters about easements and permit land**

- (1) An easement may be created over permit land without the permittee's consent.
- (2) If permit land is subject to an easement, the rights of the grantee under the easement prevail, to the extent of any inconsistency, over the occupation rights comprising the permit.

## Division 8A                      Covenants

### 373A Covenant by registration

- (1) Non-freehold land (other than a road for which a person does not hold a road licence) may be made the subject of a covenant by the registration of the document creating the covenant in the appropriate register.
- (2) A document creating a covenant may be registered under this division only if the covenantee under the document is the State or another entity representing the State, or a local government.
- (2A) A document creating the covenant may be registered even if the covenantor under the instrument is the same entity as the covenantee.
- (3) Subject to subsection (4), a covenant to which non-freehold land is subject must be only for ensuring that the land may be transferred to a person only if there is also transferred to the person—
  - (a) other non-freehold land that is also the subject of the covenant; or
  - (b) a lot that, under the *Land Title Act 1994*, is the subject of the covenant; or
  - (c) non-freehold land mentioned in paragraph (a) together with a lot mentioned in paragraph (b).
- (4) If non-freehold land is the subject of a lease, other than a trustee lease, or is land over which a person holds a road licence, a covenant to which the land is subject may—
  - (a) relate to the use of—
    - (i) the land or part of the land; or
    - (ii) a building, or building proposed to be built, on the land; or
  - (b) be aimed directly at preserving—

- 
- (i) a native animal or plant; or
    - (ii) a natural or physical feature of the land that is of cultural or scientific significance.
  - (5) A covenant under this division—
    - (a) may be a positive covenant or a negative covenant; and
    - (b) is binding on the covenantor and the covenantor's successors in title.
  - (6) The covenant must not prevent a person from—
    - (a) registering an interest under this Act; or
    - (b) exercising the person's rights under a registered interest; or
    - (c) releasing or surrendering a registered interest.
  - (7) The covenant must not—
    - (a) secure the payment of money or money's worth payable under a condition of a development approval, compliance permit or an infrastructure agreement under the *Sustainable Planning Act 2009*; or

*Note—*

See also, the *Sustainable Planning Act 2009*, sections 87 and 349.

- (b) provide for anything capable of being the subject of a document creating an easement.
- (8) For subsection (4)(a), the covenant relates to the use of the land, a part of the land, a building on the land or a building proposed to be built on the land, only if it provides for—
  - (a) a purpose for which the land, the part or the building must be used; or

*Examples of covenants for paragraph (a)—*

- that a building on the land must be used for educational purposes
- that the land must be used for noise attenuation purposes

[s 373A]

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- (b) a purpose that is the only purpose for which the land, the part or the building may be used; or

*Examples of covenants for paragraph (b)—*

- that a building on the land may be used only for residential purposes
- that the land may be used only for organic farming

- (c) a purpose for which the land, the part or the building must not be used.

*Examples of covenants for paragraph (c)—*

- that a building on the land must not be used for a stated commercial purpose
- that the land must not be used for industrial purposes

- (9) For subsection (4)(a), the covenant does not relate to the use of the land, a part of the land, a building on the land or a building proposed to be built on the land, to the extent it provides for—

- (a) an architectural, construction or landscaping standard for the land or building; or
- (b) a statement, acknowledgement or obligation relating to the use of other land; or

*Examples—*

- an acknowledgement that the land is in the vicinity of other land and that the other land is used for industrial purposes
- a statement that the occupier of other land can not be made the subject of any proceedings relating to the occupier's use of that land

- (c) a condition that must be complied with before the land can be used for a stated purpose or any purpose; or

*Example—*

a condition that a residence can not be built on the land until stated utility services are connected

- (d) regulation of the conduct of the owner of the land, if the conduct is unrelated to, or is ancillary to, use of the land.



*Examples for paragraph (d)—*

- an obligation not to start proceedings in relation to activities happening on other land
- an obligation not to use the land for residential purposes unless a rainwater tank is installed

(10) In this section—

***building*** means a fixed structure that is wholly or partly enclosed by walls and is roofed, and includes a part of a building.

### **373AB Compliance with s 373A**

- (1) A registered document of covenant is taken not to be registered under this Act to the extent it is inconsistent with section 373A.
- (2) Subsection (1) has effect only in relation to documents of covenant registered after the commencement of this section.
- (3) The chief executive may refuse to register a document creating or purporting to create a covenant if the chief executive is satisfied it is to any extent inconsistent with section 373A.

### **373B Requirements of document creating covenant**

- (1) A document creating a covenant may be registered only if—
  - (a) it is validly executed; and
  - (b) it includes a description adequate to identify the land to be the subject of the covenant; and
  - (c) it includes a description of the covenant; and
  - (d) the Minister has given written approval to the covenant.
- (2) Subsection (1) does not limit the matters that the appropriate form for a document creating a covenant may require to be included in the form.

[s 373C]

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### **373C Amending document creating covenant**

- (1) A covenant may be amended by registering a document amending the covenant.
- (2) The amending document may be registered only if—
  - (a) it is validly executed; and
  - (b) the Minister has given written approval to the amendment.
- (3) However, the amending document must not—
  - (a) increase or decrease the area of land the subject of the covenant; or
  - (b) add or remove a party to the covenant.

### **373D Releasing a covenant**

- (1) A registered covenant may be wholly or partly discharged by registering a document releasing the covenant.
- (2) The document must be signed by the covenantee.
- (3) On lodgement of the document, the registrar may register the release to the extent shown in the document.
- (4) On registration of the document, the covenant is discharged, and the land is released from the covenant, to the extent shown in the document.

## **Division 8B Profits a prendre**

### **373G Profit a prendre by registration**

- (1) With the Minister's written approval, a lease may be made the subject of a profit a prendre by registering the document creating the profit a prendre over the lease.
- (2) However, the Minister's approval is not required if the profit a prendre is a forest consent agreement.

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### **373H Profit a prendre affecting freehold land and a lease**

- (1) This section applies if a document creating a profit a prendre is registered under section 373G in relation to a lease and the profit a prendre also—
  - (a) benefits another lease; or
  - (b) benefits freehold land; or
  - (c) burdens another lease; or
  - (d) burdens freehold land; or
  - (e) has effect in any combination of paragraphs (a) to (d).
- (2) The document must be registered in the appropriate registers.
- (3) Further dealings affecting the profit a prendre must also be registered in the appropriate registers.

### **373I Requirements of document creating profit a prendre**

- (1) A document creating a profit a prendre must—
  - (a) be validly executed; and
  - (b) include a description sufficient to identify the lease the subject of the profit a prendre; and
  - (c) include a description of the profit a prendre to which the lease is subject, including the period for which the profit a prendre is to be enjoyed.
- (2) Subsection (1) does not limit the matters that the appropriate form for a document creating a profit a prendre may require to be included in the document.
- (3) The period mentioned in subsection (1)(c) must not be longer than the term of the lease.

### **373J Particulars to be registered**

When a document creating a profit a prendre is registered, the following particulars must be recorded in the appropriate registers—

[s 373K]

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- (a) the lease burdened by the profit a prendre;
- (b) any lease benefited by the profit a prendre;
- (c) any freehold land benefited or burdened by the profit a prendre.

**373K Profit a prendre benefiting and burdening same person's lease or freehold land**

A document creating a profit a prendre may be registered even if—

- (a) the lease or freehold land benefited and the lease burdened by the profit a prendre are owned by the same person; or
- (b) the lessee of the lease, or registered owner of the freehold land, benefited by the profit a prendre holds an interest in the lease burdened by the profit a prendre.

**373L Same person becoming lessee of benefited and burdened leases**

If the same person becomes the lessee of the lease benefited and the lease burdened by a profit a prendre, the profit a prendre is extinguished only if—

- (a) the lessee asks the chief executive to extinguish the profit a prendre; or
- (b) the leases are amalgamated under chapter 4, part 3, division 5.

**373M Owner of benefited lease acquiring interest in burdened lease**

If a lease is benefited by a profit a prendre, the profit a prendre is not extinguished only because the lessee of the lease acquires an interest, or a greater interest, in the lease burdened by the profit a prendre.

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**373N Amending a profit a prendre**

- (1) A profit a prendre may be amended by registering a document amending the profit a prendre.
- (2) However, the document must not—
  - (a) increase or decrease the area of land the subject of the profit a prendre; or
  - (b) add or remove a party to the profit a prendre.

**373O Releasing or removing a profit a prendre**

- (1) On lodgement of a document releasing a profit a prendre to which a lease is subject, the chief executive may register the release to the extent shown in the document.
- (2) On registration of the document, the profit a prendre is discharged, and the lease is released from the profit a prendre, to the extent shown in the document.
- (3) Also, the chief executive may remove a profit a prendre from a lease if a request to remove the profit a prendre is lodged, and the request clearly establishes that—
  - (a) the period of time for which the profit a prendre was intended to subsist has ended; or
  - (b) the event upon which the profit a prendre was intended to end has happened.

**373P Effect of surrender of lease on profit a prendre**

- (1) If a lease subject to a profit a prendre is surrendered, other than absolutely, the profit a prendre is an interest in the lease that continues under section 331(1).
- (2) If a lease subject to a profit a prendre is surrendered absolutely, the profit a prendre is an interest that, under section 331(2), is extinguished from the day the surrender is registered.

[s 373Q]

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### **373Q Dealing with a profit a prendre**

- (1) A profit a prendre over a lease may be sold, mortgaged, given to another person or pass by will or intestacy to a beneficiary.
- (2) Divisions 1 and 4 and sections 377 to 380 apply, with necessary changes, to a dealing with a profit a prendre under subsection (1) as if the profit a prendre were a lease.

*Note—*

Sections 377 to 380 are provisions relating to deceased estates.

- (3) Without limiting subsection (2), for applying the provisions mentioned to a profit a prendre, a reference to a lessee is a reference to the holder of the benefit of a profit a prendre.

## **Division 8C Carbon abatement interests**

### **Subdivision 1 Preliminary**

#### **373R Definitions for div 8C**

In this division—

*carbon abatement interest*, for land, means an interest in the land consisting of the exclusive right to the economic benefits associated with carbon sequestration on the land.

*carbon abatement product* means all or any of the following—

- (a) living biomass;
- (b) dead organic matter;
- (c) soil;
- (d) carbon sequestration by, and carbon stored in, a carbon abatement product mentioned in paragraphs (a) to (c).

*carbon sequestration*, for living biomass, dead organic matter or soil, includes—

- 
- (a) the process by which the biomass, matter or soil removes and stores carbon dioxide from the atmosphere; and
  - (b) the use of the biomass, matter or soil to avoid, reduce or eliminate greenhouse gas emissions.

***owner***—

- (a) of freehold land, means the registered owner of the land; or
- (b) of land vested in fee simple—the vested person for the land; or
- (c) of non-freehold land, means the State and any of the following—
  - (i) if the land is the subject of a lease other than a State lease—the lessee of the land; or
  - (ii) if the land is a reserve—the trustee of the reserve; or
  - (iii) if the land is the subject of an occupation licence—the licensee.

## **Subdivision 2      Creation and registration**

### **373S    Creation only by registration**

- (1) A carbon abatement interest for land—
  - (a) is created by registering the document creating the interest in the appropriate register; and
  - (b) can not be created other than under this division.
- (2) A document creating a carbon abatement interest must—
  - (a) be validly executed; and
  - (b) include—

[s 373T]

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- (i) a description adequate to identify the land the subject of the interest; and
  - (ii) the terms of the interest, including the right to use the land; and
  - (iii) the period for which the interest is granted.
- (3) If the carbon abatement interest relates to a part of a lot, the document may only be registered if—
  - (a) a plan of survey has been registered, designating the part of the lot as being the subject of a carbon abatement interest; and
  - (b) the document includes a description identifying the part of the lot designated on the registered plan of survey.
- (4) This section does not limit the matters that the appropriate form for a document creating a carbon abatement interest may require to be included in the document.

### **373T Consent of relevant Minister required**

- (1) A document creating a carbon abatement interest for land must not be registered without the consent of the following (each a *relevant Minister*)—
  - (a) if the land is within a State forest, timber reserve or forest entitlement area—the Minister administering the *Forestry Act 1959*;
  - (b) if the land is within a nature conservation area or specified national park—the Minister administering the *Nature Conservation Act 1992*;
  - (c) if the land is unallocated State land, trust land, lease land or licence land—the Minister.
- (2) In deciding whether to consent to the registration of a carbon abatement interest, the relevant Minister must consider whether the land will, or is likely to, be used or dealt with in a way that is inconsistent with the proposed carbon abatement interest.



- (3) Consent by a relevant Minister under this section may be given subject to conditions.

### **373U Requirements for registration**

The chief executive may register a document creating a carbon abatement interest for land only if—

- (a) the proposed grantor of the interest is an owner of the land; and
- (b) the chief executive is satisfied the proposed grantor is the holder of the right to deal with carbon abatement product on the land; and
- (c) all holders of a registered interest in the land whose interest may be affected by the proposed carbon abatement interest consent to the proposed grant; and
- (d) there are no existing carbon abatement interests registered for the part of land to which the proposed carbon abatement interest relates.

### **373V Additional requirements if granted by lessee of term lease**

- (1) This section applies if—
- (a) an owner who is the lessee of a term lease proposes to grant a carbon abatement interest for land; and
  - (b) the proposed interest is for a period greater than the remaining term of the term lease.
- (2) The document creating the interest may be registered only if the State—
- (a) is a party to the interest; and
  - (b) has approved the terms of the document.

[s 373W]

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### **373W Grantor and grantee may be the same**

A carbon abatement interest may be registered even though the proposed grantor and proposed grantee of the interest are the same.

## **Subdivision 3 Amendments and dealings**

### **373X Amending interest**

- (1) A carbon abatement interest may be amended only by registering a document amending the carbon abatement interest.
- (2) However, the amendment can not—
  - (a) increase or decrease the area of land the subject of the interest; or
  - (b) add or remove a party to the interest.

### **373Y Surrendering or removing interest**

- (1) On lodgement of a document surrendering a carbon abatement interest to which land is subject, the chief executive may register the surrender to the extent shown in the document.
- (2) On registration of the document the interest is surrendered to the extent shown in the document.
- (3) Also, the chief executive may remove a carbon abatement interest from land if—
  - (a) a request to remove the carbon abatement interest is lodged that establishes—
    - (i) the period of time for which the interest was intended to exist has ended; or
    - (ii) an event upon which the interest was intended to end has happened; or

- 
- (b) the chief executive receives a request to remove the interest under an Act of the Commonwealth.

### **373Z Continuation of interest**

- (1) This section applies if—
- (a) a change happens for land or an interest in land registered in an appropriate register (a **registration change**), resulting in—
- (i) the cancellation of the particulars for the land or interest in the appropriate register; and
- (ii) if the change relates to land—the registration of the particulars in another appropriate register; and

*Examples of a registration change for land—*

- a national park is revoked under the *Nature Conservation Act 1992*, resulting in the removal of the particulars of the land from the register of nature conservation areas, and the registration of the particulars in the register of unallocated State land
  - a deed of grant in trust is surrendered, resulting in the removal of the particulars of the interest from the freehold land register, and registration of the particulars in the register of unallocated State land
- (b) a carbon abatement interest is registered for the land or interest.
- (2) However, this section does not apply in relation to a carbon abatement interest to which the State is a party under section 373V(2).
- (3) If a registration change happens for land or an interest in land, the relevant Minister for the land may give written approval for the interest to continue.
- (4) If the carbon abatement interest is continued under subsection (3), the continuation must be recorded in the appropriate register.

### **373ZA Dealing with a carbon abatement interest**

- (1) The holder of a carbon abatement interest for land may transfer, mortgage or pass to a beneficiary the holder's interest over the land.
- (2) However, before dealing with the interest the grantee must obtain the consent of the relevant Minister for the land.
- (3) Divisions 1 and 4 and sections 377 to 380 apply to a dealing with a carbon abatement interest—
  - (a) as if the interest were a lease; and
  - (b) as if a reference to a lessee were a reference to the holder of the interest; and
  - (c) with other necessary changes.

## **Division 8D Indigenous cultural interests**

### **Subdivision 1 Preliminary**

#### **373ZB Definitions for div 8D**

In this division—

*approved agreement*, for an indigenous cultural interest, means either of the following agreements if approved by the Minister under section 373ZD for the interest—

- (a) an indigenous access and use agreement;
- (b) an indigenous land use agreement.

*indigenous access and use agreement*—

- (a) means an agreement between a lessee and Aboriginal people or Torres Strait Islanders that allows the Aboriginal people or Torres Strait Islanders to carry out the following activities on the lease land as agreed to by the lessee and the Aboriginal people or Torres Strait Islanders—

- (i) activities for traditional purposes of the Aboriginal people or Torres Strait Islanders;

*Examples of activities for subparagraph (i)—*

- camping, fishing, gathering or hunting
- performing rites or other ceremonies
- visiting sites of significance

- (ii) activities incidental to an activity mentioned in subparagraph (i); and

*Examples of activities for subparagraph (ii)—*

- controlling pests
- teaching rites or other ceremonies
- preserving sites of significance

- (b) does not include an indigenous land use agreement.

***indigenous cultural interest***, for land, means an interest in the land that consists of the right to access and use the land under an approved agreement for the interest.

***indigenous land use agreement*** means an indigenous land use agreement recorded in the Commonwealth ILUA register.

***mandatory terms*** see section 373ZC(1).

***set format*** see section 373ZC(3).

## Subdivision 2      **Mandatory terms**

### **373ZC Mandatory terms for approved agreements**

- (1) The Minister may fix the terms (the ***mandatory terms***) to be included in indigenous access and use agreements, or indigenous land use agreements, proposed to be approved agreements for indigenous cultural interests.
- (2) However, the mandatory terms can not be inconsistent with—

[s 373ZD]

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- (a) for indigenous access and use agreements—the requirements stated in schedule 3, part 1, items 1 to 7; or
  - (b) for indigenous land use agreements—the requirements stated in schedule 3, part 2, items 1 to 7.
- (3) The Minister may fix the format (the *set format*) to be complied with for indigenous access and use agreements, or indigenous land use agreements, proposed to be approved agreements for indigenous cultural interests.
- (4) The Minister may fix the mandatory terms and the set format by reference to 1 or more templates for indigenous access and use agreements and indigenous land use agreements.
- (5) A decision of the Minister under subsection (1) or (3) takes effect on the day notice of the decision is published in the gazette.
- (6) The department must publish the mandatory terms on its website.

### **Subdivision 3      Creation and registration**

#### **373ZD Creation only by registration**

- (1) An indigenous cultural interest for land—
  - (a) is created by registering the document creating the interest in the appropriate register; and
  - (b) can not be created other than under this division.
- (2) An indigenous cultural interest for land can not be registered unless the indigenous access and use agreement, or the indigenous land use agreement, for the interest is approved by the Minister.
- (3) The Minister may approve the indigenous access and use agreement, or the indigenous land use agreement, only if—

- (a) the party to the agreement who is a lessee is proposing to have registered an indigenous cultural interest relating to the agreement; and
  - (b) the Minister is satisfied the agreement—
    - (i) includes the mandatory terms for the agreement; and
    - (ii) complies with the set format for the agreement; and
  - (c) the Minister is satisfied the conditions for the exercise of traditional activities under the agreement are appropriate having regard to the following—
    - (i) the types of the activities;
    - (ii) the size of the area to which the agreement applies;
    - (iii) the reasonableness of any restrictions imposed;
    - (iv) another matter the Minister considers relevant.
- (4) The Minister's approval may be given subject to conditions.
- (5) In this section—
- traditional activities* means—
- (a) activities for traditional purposes; and
  - (b) activities incidental to an activity mentioned in paragraph (a).

### **373ZE Requirements for registration**

- (1) The chief executive may register a document creating an indigenous cultural interest for land only if the document—
  - (a) is validly executed; and
  - (b) includes—
    - (i) a description and map adequate to identify the part of the lease land the subject of the interest; and

[s 373ZF]

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- (ii) the terms of the interest, including the right to access and use the land; and
  - (c) is accompanied by a copy of the Minister's approval under section 373ZD.
- (2) This section does not limit the matters that the appropriate form for a document creating an indigenous cultural interest may require to be included in the document.

## **Subdivision 4 Amendments and dealings**

### **373ZF Amending interest**

- (1) An indigenous cultural interest may be amended only by registering a document amending the interest.
- (2) However, the amendment can not—
  - (a) increase or decrease the area of the land the subject of the indigenous cultural interest; or
  - (b) add or remove a party to the interest.
- (3) Also, if the amendment relates to an amendment or replacement of the approved agreement for the indigenous cultural interest, the amendment of the interest must be approved by the Minister before the document amending the interest is registered.
- (4) The Minister may approve an amendment relating to an amendment or replacement of the approved agreement for the indigenous cultural interest only if—
  - (a) the Minister is satisfied the proposed amended agreement or replacement agreement—
    - (i) includes the mandatory terms for the agreement; and
    - (ii) complies with the set format for the agreement;



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- (b) the Minister is satisfied the conditions for the exercise of traditional activities under the proposed amended agreement or replacement agreement are appropriate having regard to the following—
- (i) the types of the activities;
  - (ii) the size of the area to which the agreement applies;
  - (iii) the reasonableness of any restrictions imposed;
  - (iv) another matter the Minister considers relevant.
- (5) The Minister's approval may be given subject to conditions.
- (6) In this section—
- traditional activities* means—
- (a) activities for traditional purposes; and
  - (b) activities incidental to an activity mentioned in paragraph (a).

### **373ZG When amendment or replacement of approved agreement ends interest**

- (1) Registration of an indigenous cultural interest ends if the approved agreement for the interest is amended or replaced and the Minister refuses to approve the change under section 373ZF.
- (2) If an indigenous cultural interest ends under subsection (1), the chief executive must remove the interest from the appropriate register as soon as the chief executive becomes aware of its ending.
- (3) No compensation is payable by the State for removal of the interest.

### **373ZH Surrendering or removing interest**

- (1) On lodgement of a document surrendering an indigenous cultural interest for land, the chief executive may register the surrender to the extent shown in the document.

[s 373ZI]

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- (2) However, a document surrendering an indigenous cultural interest for land may be registered only with the approval of the Minister.
- (3) On registration of the document, the indigenous cultural interest is surrendered to the extent shown in the document.
- (4) The chief executive may remove an indigenous cultural interest for land from the appropriate register if—
  - (a) a request to remove the interest is lodged and the request establishes that an event on which the interest was intended to end has happened; or
  - (b) the chief executive receives a request to remove the interest under an Act of the Commonwealth.

### **373ZI Notice of end of approved agreement**

- (1) This section applies if an approved agreement for an indigenous cultural interest ends.
- (2) If the approved agreement is an indigenous access and use agreement, the lessee for the lease land subject to the indigenous cultural interest relating to the approved agreement must notify the Minister of the ending of the agreement within 10 business days of its ending.
- (3) If the approved agreement is an indigenous land use agreement, the lessee for the lease land subject to the indigenous cultural interest must notify the Minister of the ending of the agreement within—
  - (a) if the agreement ends because of a determination of native title—28 business days after the determination; or
  - (b) otherwise—10 business days after the agreement ending.

### **373ZJ Continuation of interest**

- (1) Subsection (2) applies if—

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- (a) an indigenous cultural interest is removed from the leasehold land register because a lease ends; and
  - (b) immediately before the lease ends, the lease land was subject to the interest.
- (2) The relevant Minister for the land after the lease ends may give written approval for the interest to continue unless the land is freehold land.
- (3) If an indigenous cultural interest is continued under subsection (2)—
- (a) the continuation must be recorded in the appropriate register; and
  - (b) for this Act—
    - (i) the State is taken to be a party to the approved agreement for the indigenous cultural interest in place of the lessee; and
    - (ii) the rights and responsibilities of the lessee under the approved agreement become the rights and responsibilities of the State; and
  - (c) this division continues to apply to the interest with necessary changes.
- (4) In this section—

***relevant Minister***, for land, means—

- (a) if the land is within a State forest, timber reserve or forest entitlement area—the Minister administering the *Forestry Act 1959*; or
- (b) if the land is within a nature conservation area or specified national park—the Minister administering the *Nature Conservation Act 1992*; or
- (c) if the land is unallocated State land, trust land or licence land—the Minister.

***specified national park*** means the following under the *Nature Conservation Act 1992*—

[s 373ZK]

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- (a) a national park (Aboriginal land);
- (b) a national park (Torres Strait Islander land);
- (c) a national park (Cape York Peninsula Aboriginal land);
- (d) an indigenous joint management area.

### **373ZK Transfer of lease affecting interest**

- (1) This section applies if—
  - (a) lease land is subject to an indigenous cultural interest; and
  - (b) a transfer of the lease for the lease land is registered.
- (2) For this Act—
  - (a) the transferee is taken to be a party to the approved agreement for the indigenous cultural interest in place of the transferor; and
  - (b) the rights and responsibilities of the transferor under the approved agreement become the rights and responsibilities of the transferee.

### **373ZL Reviewing approved agreements for indigenous cultural interests**

- (1) The Minister may review the approved agreement for an indigenous cultural interest to assess—
  - (a) the compliance of the parties to the agreement with their obligations under the agreement; or
  - (b) whether the agreement has been changed or has ended.
- (2) A lessee of land that is subject to an indigenous cultural interest must give the Minister a written report about the matters mentioned in subsection (1) when asked to do so by the Minister.
- (3) Also, the lessee must give the Minister a written report about the matters mentioned in subsection (1) every 10 years after—



### **375 Document of transfer to trustee**

- (1) A transfer of an interest to be held in trust may be registered only if—
  - (a) the transferee is eligible, under this Act, to hold the land on trust; and
  - (b) a certified copy of either of the following is deposited with the transfer—
    - (i) a document stating details of the trust;
    - (ii) the document creating the trust.
- (2) The document deposited with the transfer does not form part of the register.

### **375A Document to vest in trustee**

- (1) A request to vest an interest in a person as trustee may be registered only if—
  - (a) the person is eligible, under this Act, to hold the land on trust; and
  - (b) the request to vest gives effect to an order (the *vesting order*) made under the *Trusts Act 1973* or another Act.
- (2) The vesting order, and all other documents (the *other documents*) stating details of the trust subject to which the interest is vested in the trustee, must be deposited with the request to vest.
- (3) The other documents do not form part of the register.
- (4) The registrar must keep certified copies of the other documents and return the originals to the person who deposited them.

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**376 Deed of grant or lease may issue in name of deceased person**

- (1) The Governor in Council may issue a deed of grant or freeholding lease, and the Minister may issue a term or perpetual lease, in the name of a deceased person—
  - (a) if the person was entitled to its issue on the day of the person's death; or
  - (b) on the happening of an event after the person's death that would otherwise entitle the person to its issue.
- (2) The deed of grant or lease issued—
  - (a) is as valid as it would have been if the person had been alive when it was issued; and
  - (b) has the same effect, as between the persons entitled to the land contained in the deed of grant or lease, as if the person had died immediately after its issue.

**377 Registering personal representative**

- (1) A person may lodge an application to be registered as personal representative of a deceased lessee, sublessee, licensee or mortgagee.
- (2) The chief executive may register the person as personal representative only if—
  - (a) if the person has obtained a grant of representation, or the resealing of a grant of representation, in Queensland—the grant or resealing, or an office copy of the grant or resealing issued by the Supreme Court, is deposited; or
  - (b) if paragraph (a) does not apply and the lessee, sublessee, licensee or mortgagee died without a will—
    - (i) letters of administration of the deceased person's estate have not been granted in Queensland within 6 months after the death; and

[s 377]

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- (ii) the gross value of the deceased person's Queensland estate at the day of death was no more than the amount prescribed under the regulations or, if no amount is prescribed, \$300000; and
    - (iii) the chief executive is of the opinion the person would succeed in an application for a grant of representation; or
  - (c) if paragraph (a) does not apply and the lessee, sublessee or licensee died leaving a will—
    - (i) the person is, or is entitled to be, the deceased's personal representative; or
    - (ii) the chief executive considers the person would succeed in an application for a grant of representation; or
    - (iii) the person has obtained a grant of representation other than in Queensland and the chief executive considers the person would succeed in an application for the resealing of the grant in Queensland.
- (3) A person registered as personal representative without a grant of representation has the same rights, powers and liabilities as if a grant of representation had been made to the person.
- (4) The validity of an act done or payment made in good faith by a person registered as personal representative is not affected by a later grant of representation.
- (5) If the grantee of a grant of representation is different from the person registered as personal representative, the person must—
  - (a) account to the grantee for all property of the deceased person controlled by the person before the grant; and
  - (b) take all action necessary to divest from the person and vest in the grantee all property of the deceased person remaining under the person's control.



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**378 References in documents to a person with an interest in land includes personal representatives etc.**

- (1) In a document made or executed under this Act, a reference to a person as registered owner, transferor, transferee, mortgagor, mortgagee, lessor, lessee, trustee or as having an interest in land includes a reference to the person's personal representatives, successors and assigns.
- (2) The application of this section may be displaced, wholly or partly, by a contrary intention appearing in the document.

**379 Registering beneficiary**

- (1) A person who is beneficially entitled under a will to a lease, sublease or licence of a deceased lessee, sublessee or licensee may apply to the chief executive to be registered as lessee, sublessee or licensee.
- (2) However, the chief executive may register the person only if—
  - (a) the person who is, or is entitled to be, the deceased's personal representative gives written approval; and
  - (b) the person satisfies the chief executive the person is beneficially entitled to the lease, sublease or licence.

**380 Applying for Supreme Court order**

- (1) This section applies to—
  - (a) the Attorney-General; or
  - (b) a trustee or beneficiary under a trust; or
  - (c) a personal representative, a beneficiary or anyone else interested in—
    - (i) a lease, sublease or licence of a deceased person; or
    - (ii) a trust involving a lease, sublease or licence of a deceased person.

[s 381]

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- (2) A person to whom this section applies may apply to the Supreme Court for an order that a named person be registered as lessee, sublessee or licensee.
- (3) The Supreme Court may make 1 or more of the following orders—
  - (a) that a person be registered as lessee, sublessee or licensee;
  - (b) that a person be removed from the appropriate register as lessee, sublessee or licensee;
  - (c) that a person advertise in a particular way;
  - (d) that costs be paid by any person or out of any property.
- (4) The chief executive must register particulars of an order if a request to register the order is lodged and an office copy of the order is deposited.
- (5) An order does not vest an interest in the lease, sublease or licence until it is registered.

### **381 Transmission on bankruptcy**

The chief executive may register a transmission of an interest in a lease, sublease or licence under a law about bankruptcy only if a request to register the transmission is lodged.

### **382 Disclaimer in bankruptcy**

The chief executive may register a disclaimer of an interest in land under this Act under a law about bankruptcy only if notice of the disclaimer and a request to register the disclaimer is lodged.

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## Division 10 Powers of attorney and disabilities

### 383 Power of attorney

- (1) A power of attorney that allows dealings with land under this Act must be registered in the powers of attorney register under the *Land Title Act 1994*.
- (2) A power of attorney registered under the *Land Title Act 1994*—
  - (a) is taken to be a power of attorney registered for this Act; and
  - (b) authorises the donee to deal with any interest in land that may be dealt with by the donor under the power of attorney and this Act.
- (3) However, an individual who is a trustee of trust land can not, under a power of attorney, authorise a person to deal with an interest in the trust land that may be dealt with by the individual as trustee.

*Example—*

An individual who is the trustee of a reserve could not, under a power of attorney, authorise another person to act on the trustee's behalf to enter into a trustee lease with a third person.

### 385 Acts in relation to substitute decision makers

- (1) An act may be done by a person who is responsible by law for the management and care of someone else's interests if—
  - (a) the act is required or permitted to be done by or for the other person under this Act; and
  - (b) the person has a mental illness or is incapable of managing their own affairs.
- (2) If—
  - (a) an act is required or permitted to be done in relation to a person under this Act; and

[s 386]

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- (b) the person has a power of attorney that gives an attorney power to deal with land;
- the act may be done in relation to the attorney.

## **Division 11                      Writs of execution**

### **386      Registering a writ of execution**

The chief executive may register a request to record a writ of execution only if an office copy of the writ is lodged with the request.

### **387      Effect of registering a writ of execution**

For buyers, sublessees, mortgagees and creditors, until a writ of execution is registered—

- (a) it does not bind or affect a lease, whether or not there is actual or constructive notice of the writ; and
- (b) binds or affects a lease only if the writ is executed and put in force within—
  - (i) 6 months of its lodgement; or
  - (ii) the extended time allowed by the court where the writ is filed and notified to the chief executive.

### **388      Cancellation of registration of a writ of execution**

Registration of a writ of execution may be cancelled if a request to cancel it is lodged and the chief executive is satisfied the time, or extended time, for executing and putting the writ into force has ended.

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**389 Discharging or satisfying writ of execution**

Discharge or satisfaction of a writ of execution may be registered if a request to register it is lodged and the chief executive is satisfied the writ has been discharged or satisfied.

**389A Effect on writ of execution of transfer after sale by mortgagee**

- (1) Subsection (2) applies if—
  - (a) a mortgage is registered over a lease; and
  - (b) a writ of execution is later registered in relation to the lease.
- (2) If the mortgagee of the lease signs a transfer of the lease after exercising power of sale under the mortgage—
  - (a) registration of the writ of execution does not prevent registration of the transfer; and
  - (b) on registration of the transfer, the chief executive must cancel registration of the writ of execution.

**389B Effect on writ of execution of transfer after sale by chief executive**

- (1) This section applies if—
  - (a) a writ of execution has been registered in relation to a lease; and
  - (b) the chief executive has sold the lease under chapter 5, part 4, division 3A, subdivision 4.
- (2) If the chief executive executes a transfer of the lease for the purposes of the sale—
  - (a) the registration of the writ of execution does not prevent registration of the transfer; and
  - (b) on registration of the transfer, the chief executive must cancel registration of the writ of execution.

## **Division 11A      Caveats**

### **Subdivision 1      Caveats generally**

#### **389C    Requirements of caveats**

- (1) A caveat in relation to a lease or licence must be signed by or for the caveator.
- (2) The caveat must state—
  - (a) the name of the caveator; and
  - (b) an address where documents can be served on the caveator; and
  - (c) unless the chief executive dispenses with it, the name and address of—
    - (i) the lessee or licensee affected by the caveat; and
    - (ii) anyone else having the right to deal with the lease or licence affected by the caveat; and
  - (d) the registered interest affected by the caveat; and
  - (e) the interest claimed by the caveator; and
  - (f) the grounds on which the interest is claimed.
- (3) This section applies to caveats under this division other than a caveat prepared and registered by the chief executive under section 389L(1).

#### **389D    Lodging caveat**

- (1) A caveat may be lodged by the following—
  - (a) the chief executive under section 389L(1);
  - (b) a person to whom an Australian court has ordered that an interest in a lease or licence be transferred;

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- (c) a person who has the benefit of a subsisting order of an Australian court in restraining a lessee from dealing with a lease or licensee from dealing with a licence.
  - (2) An office copy of a court order mentioned in subsection (1) must be deposited when a caveat is lodged under subsection (1).

### **389E Notifying caveat**

The chief executive must give notice of lodgement of a caveat under this division to each person whose interest or whose right to registration of a document is affected by the caveat.

### **389F Effect of lodging caveat**

- (1) A caveat lodged under this division prevents registration of a document affecting the tenure over which the caveat is lodged from the date and time endorsed by the chief executive on the caveat as the caveat's date and time of lodgement.
- (2) Subsection (1) has effect for a caveat until the caveat is cancelled, rejected, removed or withdrawn.
- (3) However, lodgement of a caveat under this subdivision does not prevent registration of the following—
  - (a) a document stated in the caveat as a document to which the caveat does not apply;
  - (b) a document if the caveator consents to its registration;
  - (c) a document executed by a mortgagee whose interest was registered before lodgement of the caveat if—
    - (i) the mortgagee has power under the mortgage to execute the document; and
    - (ii) the caveator claims an interest in the lease as security for the payment of money or money's worth;

[s 389G]

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- (d) a document of transfer of mortgage executed by a mortgagee whose interest was registered before lodgement of the caveat;
  - (e) another interest that, if registered, will not affect the interest claimed by the caveator.
- (4) Also, lodgement of a caveat under section 389L(1) does not prevent registration of the following—
- (a) a document stated in the caveat as a document to which the caveat does not apply;
  - (b) a document if the chief executive consents to its registration.
- (5) Lodgement of a caveat does not create in the caveator an interest in the tenure affected by the caveat.

### **389G Withdrawing caveat**

A caveator may withdraw a caveat lodged under this division by lodging a request to withdraw it.

### **389H Removing caveat**

- (1) A caveatee may at any time apply to the Supreme Court for an order that a caveat lodged under this division be removed.
- (2) The Supreme Court may make the order whether or not the caveator has been served with the application, and may make the order on the terms it considers appropriate.

### **389I Cancelling caveat**

- (1) This section does not apply to a chief executive's caveat prepared and registered under section 389L(1).
- (2) The chief executive may cancel a caveat if a request to cancel the caveat is lodged and the chief executive is satisfied that—
  - (a) the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn; or



- (b) the claim of the caveator has been settled by agreement or otherwise satisfied; or
  - (c) the nature of the interest claimed does not entitle the caveator to prevent registration of a document that has been lodged.
- (3) The chief executive must notify the caveator of the chief executive's intention to cancel the caveat at least 7 days before cancelling it.
  - (4) If a document that has been lodged will, on registration, give full effect to an interest claimed in a caveat, the chief executive may remove the caveat immediately before registering the document.

### **389J Further caveat**

- (1) This section applies if a caveat is lodged under this division (the *original caveat*) in relation to an interest.
- (2) A further caveat with the same caveator can never be lodged in relation to the interest on the same, or substantially the same, grounds as the grounds stated in the original caveat unless the leave of a court of competent jurisdiction to lodge the further caveat has been granted.
- (3) However, subsection (2) does not apply if the original caveat is a caveat prepared and registered by the chief executive under section 389L.

### **389K Notices to the caveator**

- (1) A notice to a caveator under this subdivision is sufficiently served if left at or sent to the address mentioned in section 389C(2)(b).
- (2) If the chief executive is satisfied that a notice under this subdivision will not reach the caveator if served in the way mentioned in subsection (1), the notice may be served in a way stated in a written direction by the chief executive.

[s 389L]

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- (3) If the chief executive is informed in writing, and is satisfied, that the name or address of the caveator has changed, the chief executive must note on the caveat details of the new name or address.
- (4) A new name or address noted under subsection (3) becomes the name or address for service of a notice on the caveator.

## **Subdivision 2 Chief executive's caveat**

### **389L Chief executive may prepare and register caveat**

- (1) The chief executive may prepare and register a caveat over a relevant tenure in favour of the State.
- (2) The chief executive may act under subsection (1) to prevent a dealing with a relevant tenure that may prejudice—
  - (a) the Commonwealth, a State or a relevant local government; or
  - (b) a person who is intellectually or mentally impaired or is incapable of managing the person's own affairs; or
  - (c) a person who is absent from the State; or
  - (d) a person because of—
    - (i) misdescription of the tenure; or
    - (ii) fraud or forgery; or
  - (e) a person to whom a notice has been given, or has been required to be given, under section 295(2); or
  - (f) a person, other than a person mentioned in any of paragraphs (a) to (e), who has an interest in the relevant tenure.
- (3) Also, the chief executive may act under subsection (1) to prevent a dealing with a relevant tenure—
  - (a) if the relevant tenure is to be extinguished; or

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- (b) to give effect to an order of a court of competent jurisdiction directed to the chief executive.
  - (4) Subsection (2)(f) applies only if the chief executive is satisfied, because of the nature or urgency of particular circumstances, there is no practicable alternative to registering the caveat.
  - (5) In this section—

*dealing*, with a relevant tenure, does not include registering a document to extinguish a relevant tenure.

*extinguish* means extinguish for the purposes of—

- (a) for a freeholding lease—an amalgamation, forfeiture, resumption, subdivision or surrender of, or the registration of a deed of grant over, the lease land; or
- (b) for a lease other than a freeholding lease—an amalgamation, conversion, forfeiture, renewal, resumption, subdivision or surrender of the lease; or
- (c) for a licence—a cancellation or surrender of the licence; or
- (d) for an operational reserve—the registration of a deed of grant over the operational reserve; or
- (e) for a reserve other than an operational reserve—the revocation of the dedication of the reserve.

## Division 12            Liens

### 390    Vendor does not have equitable lien

A vendor of a lease or licence does not have an equitable lien on the lease or licence because of the buyer's failure to pay all or part of the purchase price for the lease or licence.

## **Division 13                      Miscellaneous**

### **390A    Special provision for transport related land**

- (1) This section applies to any of the following dealings affecting land—
  - (a) a transfer under section 322 of a sublease;
  - (b) a sublease under section 332;
  - (c) an amendment under section 336 of a sublease;
  - (d) the creation under section 362 of an easement;
  - (e) the registration under section 363 of an easement;
  - (f) a transfer under section 369A of a public utility easement;
  - (g) an amendment under section 370 of a registered easement;
  - (h) the creation under section 373B of a covenant;
  - (i) the amendment under section 373C of a covenant.
- (2) If land affected by the dealing is transport land, or is lease land under a perpetual lease to the State for marine facility purposes, despite a provision mentioned in subsection (1), the Minister's approval is not required for the dealing or the registration of a document for the dealing.

### **390B    Particular dealing with prescribed land**

- (1) This section applies if the chief executive of the department under which the *Transport Infrastructure Act 1994* is administered applies for the issue of a deed of grant for a part of prescribed land.
- (2) If the Governor in Council issues the deed of grant for the part of the prescribed land—
  - (a) the deed of grant takes effect on the day it is registered;  
and

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- (b) the lot the subject of the deed of grant stops being lease land under the perpetual lease for the prescribed land when the deed of grant is registered; and
  - (c) the chief executive must amend the leasehold land register to show the particulars of the perpetual lease after the deed of grant is issued.
- (3) The deed of grant is subject to the registered interests affecting the lot before its issue.
  - (4) In this section—

*busway land* means land declared as busway land under the *Transport Infrastructure Act 1994*, chapter 9.

*light rail land* means land declared as light rail land under the *Transport Infrastructure Act 1994*, chapter 10.

*prescribed land* means—

- (a) busway land; or
- (b) light rail land; or
- (c) rail land.

## Chapter 7      General

### Part 1            Administration

#### Division 1        Ministerial administration

#### 391      Administration of Act

This Act is to be administered by the Minister and, subject to the Minister, by the chief executive.

### **391A General provision about approvals**

- (1) If this Act permits or requires the Minister or chief executive to give approval for a matter or thing, the approval may be given subject to the conditions the Minister or chief executive considers appropriate.
- (2) If a document requires the Minister's approval to be registered, the Minister may tell the person seeking to register it that the approval will be given subject to conditions the Minister considers appropriate for the document.
- (3) An advice under subsection (2) may be considered to be an 'in principle' approval.
- (4) When the conditions are complied with, the Minister may give the approval by executing the appropriate form.

### **392 Delegation by Minister**

- (1) The Minister may delegate the Minister's powers under this Act or another Act administered by the Minister to the chief executive or to an officer or employee of the department.
- (2) The Minister may delegate the Minister's powers about matters connected with the public business of the State administered by the Minister (whether the powers arise under an Act or otherwise) to—
  - (a) another Minister; or
  - (b) the chief executive or the chief executive of another department; or
  - (c) an officer or employee of the public service.
- (2A) The Minister may, for a lease held by the State to perform functions under another Act, delegate the Minister's functions under this Act to the chief executive or an officer of the public service of the department in which the other Act is administered.
- (3) The Minister may delegate the Minister's powers under this Act about roads and trust land to a local government.

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- (4) Despite subsections (1) to (3), the following functions of the Minister can not be delegated—
- (a) granting a lease;
  - (b) dispensing with the need to obtain the Minister's approval for trustee leases;
  - (c) extending the term of a lease for a year if the term has already been extended;
  - (d) granting an extension of a term of a lease under chapter 4, part 3, division 1B;
  - (e) reducing the term of a lease, under section 155D or 214E;
  - (f) imposing an additional condition, under section 214E.
- (4A) To remove any doubt, it is declared that other than the power to grant an extension of a lease, the Minister may delegate any of the Minister's other functions under chapter 4, part 3, division 1B to the chief executive or an officer or employee of the department.
- (5) In this section—  
*functions* includes powers.

### **393 Delegation by chief executive**

- (1) The chief executive may delegate the chief executive's powers under this Act or another Act administered by the Minister to an officer or employee of the department.
- (2) The chief executive may delegate the chief executive's powers about matters connected with the public business of the State administered by the Minister (whether the powers arise under an Act or otherwise) to an officer or employee of the public service.
- (3) The chief executive may delegate the chief executive's powers under this Act about roads and trust land to a local government.

[s 393A]

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- (4) The chief executive may delegate to a port authority the chief executive's powers to issue a permit to occupy land—
  - (a) that is on the same side of a boundary that is a tidal boundary or right line tidal boundary as the water subject to tidal influence and that is within the limits of a port; and
  - (b) having a tidal boundary or right line tidal boundary, if the land adjoins the limits of a port and is needed as strategic port land.
- (4A) Despite subsection (1), the chief executive must not delegate the chief executive's power to appoint a person as a mediator under section 339B(3)(a)(ii).
- (5) If the chief executive delegates powers about the land registry to the registrar of titles, the registrar may subdelegate the powers to an officer or employee of the department under the control of the registrar.
- (6) A person acting under a subdelegation given under subsection (5) may act under the title 'registrar of titles'.

### **393A Departmental officer may give notices for this Act**

If a provision of this Act requires a notice to be given for any purpose and the provision does not state who is to give the notice, it is sufficient if the notice is given by an officer of the department.

### **394 Committees**

- (1) The Minister must establish a committee (the *advisory committee*) to advise the Minister about the management and use of rural leasehold land.
- (2) The Minister may—
  - (a) establish—
    - (i) a committee of review to help the Minister with the administration of this Act; and



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- (ii) regional committees to support the advisory committee; and
  - (b) decide the functions or terms of reference of a committee established under paragraph (a); and
  - (c) decide the following for any committee established under this section—
    - (i) its membership;
    - (ii) how it is to operate.
  - (3) A member of a committee established under this section is entitled to be paid the fees and allowances decided by the Governor in Council.

**394A Ministerial guidelines about what constitutes a good condition for lease land**

- (1) The Minister may make guidelines about what constitutes a good condition for lease land.
- (2) Before making proposed guidelines, the Minister must seek advice from the advisory committee under section 394 about the appropriateness of the guidelines.
- (3) If the advice sought is not given within a reasonable period, the Minister may make the guidelines without receiving the advice.
- (4) The Minister must make the guidelines available to the public in the way the Minister considers appropriate.
- (5) Without limiting subsection (4), the Minister must ensure an up-to-date copy of the guidelines is available to be read free of charge at each office of the department.
- (6) If, under this Act, the Minister may consider or must be satisfied that lease land for a particular lease is in good condition, the Minister may have regard to the guidelines.

## **Division 2                      Appointment of authorised persons and other matters**

### **395      Appointment of authorised persons**

- (1) The chief executive may appoint any of the following persons as authorised persons—
  - (a) officers and employees of the public service;
  - (b) other persons prescribed under the regulations.
- (2) The chief executive may appoint a person as an authorised person only if—
  - (a) the chief executive considers the person has the necessary expertise or experience to be an authorised person; or
  - (b) the person has satisfactorily finished training approved by the chief executive.

### **396      Authorised person's appointment conditions**

- (1) An authorised person holds office on the conditions stated in the instrument of appointment.
- (2) An authorised person—
  - (a) if the instrument is for a term—ceases to hold office at the end of the term; and
  - (b) may resign by signed notice of resignation given to the chief executive; and
  - (c) if the conditions of appointment provide—ceases holding office as an authorised person on ceasing to hold another office stated in the appointment conditions (the *main office*).
- (3) However, an authorised person may not resign from the office of authorised person (the *secondary office*) under subsection (2)(b) if a term of the authorised person's employment to the

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main office requires the authorised person to hold the secondary office.

### **397 Authorised person's identity card**

- (1) The chief executive must give each authorised person an identity card.
- (2) The identity card must—
  - (a) contain a recent photograph of the authorised person; and
  - (b) be signed by the authorised person; and
  - (c) identify the person as an authorised person under this Act; and
  - (d) include an expiry date.
- (3) A person who ceases to be an authorised person must return the person's identity card to the chief executive within 15 business days after the person ceases to be an authorised person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

- (4) This section does not prevent the giving of a single identity card to a person for other Acts or purposes.
- (5) If a police officer is appointed as an authorised person, the police officer's existing identification card or badge is taken to be an identity card for this part.

### **398 Production of identity card**

- (1) An authorised person may exercise a power in relation to someone else (the *other person*) only if the authorised person—
  - (a) first produces his or her identity card for the other person's inspection; or

[s 399]

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- (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.
- (3) This section does not apply to a police officer.

### **399 Protection from liability**

- (1) An authorised person does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an authorised person, the liability attaches instead to the State.

## **Division 3 Inspection powers**

### **400 Power to enter land, generally**

- (1) An authorised person may do any 1 or more of the following, with or without assistants, and only for a purpose of this Act or the *Vegetation Management Act 1999*—
  - (a) enter on land at any reasonable time;
  - (b) inspect the land and the uses made of the land;
  - (c) photograph or film anything on the land;
  - (d) take samples of or from anything on the land;
  - (e) for lease land, licence land or permit land for agricultural, grazing or pastoral purposes, establish on the lease land, licence land or permit land sites (each a *monitoring site*) to monitor compliance with—
    - (i) this Act; or
    - (ii) the lease, licence or permit; or

- 
- (iii) a land management agreement; or
  - (iv) a remedial action notice; or
  - (v) a remedial action order;
  - (f) place a marker to show where a monitoring site is;
  - (g) install or place at a monitoring site a device (a *monitoring device*) to carry out the monitoring;
  - (h) read a monitoring device;
  - (i) check the accuracy of, or repair or replace, a monitoring device;
  - (j) do anything reasonable and necessary to exercise a power under any of paragraphs (a) to (i).
- (2) The authorised person must enter freehold land only with the agreement of the occupier or, if there is no occupier, the registered owner.
- (3) Before entering non-freehold land, the authorised person must—
- (a) obtain the agreement of the occupier or, if there is no occupier, the lessee, licensee, permittee or trustee; or
  - (b) give at least 14 days notice to the person mentioned in paragraph (a) of—
    - (i) the authorised person's intention to enter on the land; and
    - (ii) the proposed purpose in entering on the land; and
    - (iii) the day and time when the person proposes to enter the land.
- (4) Subsections (2) and (3) do not apply if—
- (a) the land is trust land, land in a lease, licence or permit or freehold land containing a reservation for a public purpose; and
  - (b) the authorised person believes, on reasonable grounds, that the terms or conditions of the trust, lease,

reservation, permit or licence applying to the land or this Act are not being complied with.

- (5) In exercising a power under subsection (1), an authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.
- (6) To remove any doubt, it is declared that this section does not authorise the entry of a building or other structure used for residential purposes.
- (7) In this section—

*non-freehold land* includes freehold land containing a reservation for a public purpose or a deed of grant in trust.

*occupier* of a place includes a person who reasonably appears to be the occupier, or in charge, of the place.

## **Division 5                      Other provisions about authorised persons**

### **401      Authorised person to give notice of damage**

- (1) This section applies if an authorised person, or a person assisting an authorised person, damages anything in the exercise of a power under this part.
- (2) The authorised person must promptly give notice of the particulars of the damage to the person who appears to be the thing's owner.
- (3) However, if for any reason it is not practicable to comply with subsection (2), the authorised person must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.
- (4) In this section—

*owner* of a thing includes the person in possession or control of the thing.

- (5) If the authorised person believes the damage was caused by a latent defect in the thing or other circumstances beyond the authorised person's control, the authorised person may state this in the notice.
- (6) This section does not apply to damage the authorised person believes, on reasonable grounds, is trivial.

## **402 Compensation**

- (1) A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this division.
- (2) Compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction; or
  - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) The regulations may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

## **403 Impersonation of authorised person**

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

## **403A False or misleading statements**

- (1) A person must not state anything to an authorised person that the person knows is false or misleading in a material particular.

[s 403B]

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Maximum penalty—50 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading.

### **403B False or misleading documents**

- (1) A person must not give an authorised person a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
  - (a) tells the authorised person, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.

## **Division 6 Public notices other than gazette notices**

### **403C Publication of particular public notices on department's website**

- (1) This section applies if an official is required under this Act to give a public notice, unless the notice is a gazette notice.
- (2) This section applies even if this Act provides for a particular way in which the notice must be given.
- (3) The official must publish the notice on the department's website for a total of at least 10 business days.



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- (4) The 10 business days may be, but need not necessarily be, consecutive.
- (5) Subsection (3) does not prevent the official from also giving the notice in another way the official considers appropriate.
- (6) In deciding to give the notice in another way, the official must consider the intended audience for the notice.
- (7) In this section—  
*give*, for a notice, includes advertising it.  
*notice* includes an advertisement.  
*official* means—
- (a) the Minister; or
  - (b) the chief executive; or
  - (c) a person performing functions or exercising powers under this Act for the Minister or the chief executive.
- public notice* means a notice of a public nature that is not required only to be given, or only intended for, a particular person or group of persons.

## Part 2                      Unlawful occupation of non-freehold and trust land

### Division 1                  Unlawful occupation of non-freehold and trust land

#### 404      No trespassing

- (1) A person must not unlawfully, do any of the following things (a *trespass related act*) in relation to non-freehold or trust land—

[s 405]

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- (a) occupy or live on it;
- (b) enclose it;
- (c) build, place or maintain any structure, improvement, work or thing on it;
- (d) clear, dig up or cultivate it;
- (e) depasture stock or cause stock to be depastured on it.

Maximum penalty—400 penalty units.

- (1A) To remove any doubt, it is declared that the mere making of an offer under this Act in relation to non-freehold or trust land does not make it lawful for the offeree to do a trespass related act in relation to the land.
- (2) If a person is found guilty by a Magistrates Court of an offence against subsection (1), the court may make any further order the court may make in a proceeding by the chief executive under division 2.
- (3) Subsection (2) does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other Act.

## **Division 2                      Action to deal with unlawful occupation**

### **405      Application of division**

This division applies to unallocated State land, trust land and roads.

### **405A    Exercise of chief executive's powers under division**

- (1) This section applies in relation to the chief executive's powers under this division for land to which this division applies.
- (2) The chief executive's powers are in addition to, and do not limit or otherwise affect, the corresponding powers of any trustee of, or the relevant local government for, the land.

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- (3) The chief executive may decide not to exercise the chief executive's powers if the chief executive considers it is more appropriate for the trustee or local government to exercise the corresponding powers.
  - (4) Subsection (3) is subject to subsection 405B(2).
  - (5) In this section—  
*corresponding powers*, of a trustee or local government, means the trustee's or local government's powers under an Act about the unlawful occupation of the land.

#### **405B Occupation fee for unlawful occupation by offeree until grant of tenure**

- (1) This section applies if—
  - (a) the chief executive is satisfied a person is or has been unlawfully occupying land; and
  - (b) the person has, under this Act, been made an offer of a tenure in relation to the land; and
  - (c) the person has accepted the offer, whether or not the tenure has been granted.
- (2) The chief executive may, for the State, by notice to the person, charge the person a fee for the person's occupation of the land for the period from when the chief executive is reasonably satisfied the person started to unlawfully occupy the land to when the tenure starts.
- (3) A notice may be for all or a stated part of the period.
- (4) The fee must be reasonable.
- (5) The fee is taken to be reasonable if it represents an amount that would have been payable by the person to the State had the person held the tenure, or a tenure of that type for the land, during the period.
- (6) The amount of the fee is a debt owing by the person to the State.

**406 Notice to person to leave land, remove structures etc.**

- (1) If the chief executive is satisfied a person is unlawfully occupying land or has unlawfully done a trespass related act on land, the chief executive may give the person a notice (a *trespass notice*).
- (2) However, the chief executive must give the person a trespass notice if—
  - (a) the person has, under this Act, been made an offer of a tenure in relation to the land; and
  - (b) the person has rejected the offer or the offer has lapsed.
- (3) The trespass notice may require the person—
  - (a) to leave the land; or
  - (b) to remove from the land, improvements, goods (including stock) or anything else; or
  - (c) not to remove from the land, improvements, goods (including stock) or anything else; or
  - (d) to remove anything enclosing the land; or
  - (e) to do anything necessary to restore the land to its state before the person occupied the land or did anything to the land.
- (4) The trespass notice must state—
  - (a) a time (the *required time*) to comply with the notice; and
  - (b) that failure to comply with the notice—
    - (i) is an offence; and
    - (ii) may result in proceedings in the Magistrates Court being started against the person.
- (5) The required time must be at least the number of days prescribed under a regulation after the day the trespass notice is given to the person.

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**407 Person must comply with notice**

A person who is given a trespass notice must comply with the notice, unless the person starts a proceeding under this division or has a reasonable excuse.

Maximum penalty—400 penalty units.

**408 Improvements etc. forfeited**

If a person to whom a trespass notice is given does not, either comply with the notice or start a proceeding under this division, then, at the end of the required time, the improvements, goods (including stock) or anything else belonging to the person that is on the land, the subject of the notice, is forfeited to the State.

**409 Person may start proceeding in Magistrates Court**

- (1) A person who receives a trespass notice may start a proceeding in the Magistrates Court nearest to the land the subject of the notice.
- (2) The proceeding must be started by the person within the required time.
- (3) The person starts the proceeding by—
  - (a) filing a notice (a *proceeding notice*) with the registrar of the Magistrates Court stating the orders sought in relation to the trespass notice; and
  - (b) filing a copy of the trespass notice; and
  - (c) giving to the chief executive a copy of the proceeding notice.
- (4) The proceeding notice must state the grounds on which the orders of the court are sought.

#### **410 Chief executive may start proceeding**

- (1) If the chief executive is satisfied a person is unlawfully occupying land, or has unlawfully done a trespass related act on land, the chief executive may start a proceeding in the Magistrates Court.
- (2) The chief executive may start a proceeding whether or not a trespass notice has been given to a person.
- (3) The proceeding must be started in the Magistrates Court nearest to the land the subject of the proceeding.
- (4) The chief executive starts the proceeding by—
  - (a) filing a notice (a *proceeding notice*) with the registrar of the Magistrates Court stating the orders sought by the chief executive; and
  - (b) giving a copy of the proceeding notice to the person mentioned in subsection (1).
- (5) The proceeding notice must state the grounds on which the orders of the court are sought.
- (6) However, if a trespass notice has been given to a person, a proceeding may be started by the chief executive only if—
  - (a) the required time has expired and the person has not started a proceeding under this division about the trespass notice; or
  - (b) the person has started, but has discontinued or not continued a proceeding under this division about the trespass notice.

#### **411 Defence may be filed**

- (1) A person who receives a proceeding notice may defend the proceeding by filing a notice (a *defence notice*) with the registrar of the Magistrates Court within 14 days of receiving the proceeding notice.
- (2) The defence notice must state—

- (a) the grounds on which the proceeding is defended; and
- (b) the orders sought by the chief executive or the person.

**412 State may carry out work**

- (1) If a person does not comply with a trespass order, within a reasonable time, the State may carry out work stated in the order.
- (2) If the State carries out work stated in a trespass order, the cost of the work is a debt owing by the person to the State.

**413 Powers of officers and employees of the department**

Officers and employees of the department may exercise the powers and force reasonable and necessary to enforce a trespass order.

**Division 3 Action by lessee, licensee, permittee or trustee**

**414 Application of division**

This division applies to a lease, licence, permit and trust land.

**415 Lessee, licensee, permittee or trustee may start proceeding**

- (1) A trustee of trust land and a lessee, licensee or permittee may start a proceeding in the Magistrates Court if the trustee, lessee, licensee or permittee believes, on reasonable grounds, another person is unlawfully occupying the trust land, lease, licence or permit or has unlawfully done a trespass related act on the trust land, lease, licence or permit.
- (2) The proceeding must be started in the Magistrates Court nearest to the trust land, lease, licence or permit.

[s 416]

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- (3) A trustee, lessee, licensee or permittee may start a proceeding by—
  - (a) filing a notice (a *proceeding notice*) with the registrar of the Magistrates Court stating the orders sought by the trustee, lessee, licensee or permittee; and
  - (b) giving a copy of the proceeding notice to the other person mentioned in subsection (1) and the chief executive.
- (4) The proceeding notice must state the grounds on which the orders of the court are sought.

#### **416 Defence may be filed**

- (1) A person who receives a proceeding notice may defend the proceeding by filing a notice (a *defence notice*) with the registrar of the Magistrates Court within 14 days of receiving the proceeding notice.
- (2) The defence notice must state—
  - (a) the grounds on which the proceeding is defended; and
  - (b) the orders sought by the person.

### **Division 4 Court matters**

#### **417 Hearing procedures**

In a proceeding in a Magistrates Court under this part, the court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the proceeding in court or chambers.



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**418 Discretion of Magistrates Court about orders**

- (1) In a proceeding under this part, the Magistrates Court may make any order (a *trespass order*) it considers appropriate.
- (2) Without limiting subsection (1), the court may order that—
  - (a) a person leave the land and not return; or
  - (b) a person remove from the land improvements, goods (including stock) or anything else; or
  - (c) a person not remove from the land improvements, goods (including stock) or anything else; or
  - (d) a person remove anything enclosing the land; or
  - (e) improvements, goods (including stock) or anything else be forfeited to the State or someone else; or
  - (f) work be performed on the land by a person to rectify damage to the land by the person; or
  - (g) the cost of the work to be performed on the land be a debt owing by the person to the State or someone else.

**419 Order of the Magistrates Court must be complied with**

A person must comply with a trespass order.

Maximum penalty—400 penalty units.

**420 Appeal to District Court on questions of law only**

A party dissatisfied with a trespass order may appeal to the District Court, but only on a question of law.

## **Part 2A**                      **General provisions for applications**

### **420A Application of pt 2A**

- (1) This part applies for the making and deciding of applications under this Act.
- (2) This part does not limit or otherwise affect a requirement under another provision of this Act about the making or deciding of a particular application.

### **420B Application guidelines**

- (1) The chief executive may keep guidelines (by whatever name called) about the making of applications, in the way the chief executive considers appropriate, for the information and guidance of departmental staff and persons dealing with the department.
- (2) The guidelines may include directions by the chief executive about all or any of the following—
  - (a) practices developed in the department about the making of applications;
  - (b) how application forms must be filled in;
  - (c) how information required to be included in or given with applications must be included or given.
- (3) The chief executive must make the guidelines available to the public in the way the chief executive considers appropriate.
- (4) Without limiting subsection (3), the chief executive must ensure an up-to-date copy of the guidelines is available to be read free of charge at each office of the department.

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## 420C Requirements for making an application

- (1) An application is made only if it complies with the following (the *application requirements*) and any particular requirements under this Act for making it—
  - (a) it must be made to the chief executive;
  - (b) it must be in the appropriate form;
  - (c) it must comply with all relevant guideline directions;
  - (d) it must be accompanied by the fee prescribed under a regulation;
  - (e) if the particular requirements under this Act for making the application include a notification provision—it must be accompanied by a copy of the notice of the applicant's intention to make the application given to each entity under the notification provision.
- (2) Subsection (1)(a) applies even if the chief executive is not the person who may or must decide the application.
- (3) The chief executive must refuse to receive or process a purported application not made in accordance with the application requirements.
- (4) However, subsection (3) does not apply if—
  - (a) the only noncompliance with the application requirements is a noncompliance with a guideline direction; and
  - (b) the chief executive considers that it is not reasonable in the circumstances to require compliance with the direction.
- (4A) Also, the chief executive may refuse to process an application relating to a lease if payment of rent under the lease is in arrears.
- (5) A lawyer acting for a person who wishes to make an application may sign and make the application for the person.
- (6) In this section—

[s 420CA]

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***guideline direction*** means a direction given under section 420B(2).

***notification provisions***, for an application, means a requirement or discretion for the person making the application to give notice of the person's intention to make the application to a particular person or entity.

### **420CA Requirements for giving notice of intention to apply**

- (1) This section applies if a person is required or permitted to give notice of the person's intention to make an application (the ***proposed application***) under this Act.
- (2) The notice must—
  - (a) be in the approved form; and
  - (b) state the following—
    - (i) the purpose of the proposed application;
    - (ii) that the entity given the notice may make a submission against the proposal to the person or to the chief executive;
    - (iii) that the submission must be in the approved form;
    - (iv) the closing day for the submission;
    - (v) the place or places where, or the way or ways, the submission must be lodged.

### **420CB Submissions**

- (1) An entity given a notice about a proposed application mentioned in section 420CA may make a submission against the proposed application to—
  - (a) the person who gave the entity the notice; or
  - (b) the chief executive.
- (2) The submission must—
  - (a) be in the approved form; and

- (b) be received by the closing day for the submission stated in the notice; and
  - (c) be lodged at a place or in a way stated in the notice.
- (3) The person who may or must decide the proposed application must, before deciding the application, consider all submissions received—
- (a) under this section; or
  - (b) with the application.

#### **420D Refusal of frivolous or vexatious applications**

- (1) An application may be refused on the ground that it is frivolous or vexatious.
- (2) Subsection (1) does not limit any other ground for refusing the application.

#### **420E Request to applicant about application**

- (1) The chief executive may, by notice, ask an applicant to—
  - (a) complete or correct the application if it appears to the chief executive to be incorrect, incomplete or defective; or
  - (b) give the chief executive—
    - (i) stated information, in support of the application; or
    - (ii) a statutory declaration verifying any information included in the application or any additional information required under subparagraph (i).
- (2) The request may state the period within which it must be complied with.
- (3) If no period is stated, it is 30 days after the making of the request.
- (4) The chief executive may extend the period for complying with the request.

[s 420F]

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- (5) The person who may or must decide the application may refuse to decide it until the request is complied with.
- (6) This section does not limit section 420C(3).
- (7) In this section—  
*information* includes a document.

#### **420F Refusing application for failure to comply with request**

If—

- (a) a request under section 420E has been made; and
- (b) the period under section 420E for complying with the request has ended; and
- (c) the request has not been complied with to the satisfaction of the person who made it;

the person who may or must decide the application the subject of the request may refuse the application.

#### **420FA Regard may be had to information and advice**

A person who may or must decide an application may, in making the decision, have regard to information and advice obtained in the way the person considers appropriate.

*Example—*

If the Minister is making a decision under section 23A or 24 about a reservation for road purposes, the Minister might decide to seek advice from the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered.

#### **420G Particular criteria generally not exhaustive**

- (1) This section applies if another provision of this Act permits or requires a person who may or must decide an application to consider particular criteria in making the decision.

- (2) To remove any doubt, it is declared that the person may, in making the decision, consider any other criteria the person considers relevant.
- (3) However, subsection (2) does not apply if the provision otherwise provides.
- (4) In this section—  
*criteria* includes issues and matters.

#### **420H Particular grounds for refusal generally not exhaustive**

- (1) This section applies if another provision of this Act provides for particular grounds on which a person may refuse an application.

*Example of a provision of this Act for subsection (1)—*  
section 420F

- (2) To remove any doubt, unless the other provision otherwise provides, the person may refuse the application on another reasonable and relevant ground.
- (3) In this section—  
*refuse*, an application, includes to refuse the thing the subject of the application.

#### **420I General power to impose conditions**

A power to decide an application includes a power to—

- (a) grant the application subject to conditions that must be complied with before the application is granted; or
- (b) approve or grant the thing the subject of the application subject to conditions that must be complied with before the thing is approved or granted.

*Example for paragraph (b)—*

An application is made under section 322 for approval of a transfer of a lease. The Minister may approve the transfer subject to a condition that all outstanding rent relating to the lease must be paid.

## **Part 3                      Review of decisions and appeals**

### **Division 1                Right of appeal**

#### **421      Notice of right of appeal to be given**

- (1) A person who has a right to appeal against a decision under this Act must be given notice of the person's right to appeal against the decision and how the appeal is started.
- (2) The notice must be given when notice of the decision and the reasons for the decision are given to the person.

### **Division 2                Internal review of decisions**

#### **422      Appeal process starts with internal review**

Every appeal against an original decision must be, in the first instance, by way of an application for internal review.

#### **423      Who may apply for review etc.**

A person who has a right to appeal against an original decision may apply to the Minister for a review of the decision.

#### **424      Applying for review**

- (1) An application by a person for review of a decision must be made within 42 days after notice of the decision was given to the person.
- (2) The Minister may extend the period for making an application for review.



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- (3) An application for review must be written and state in detail the grounds on which the applicant seeks review of the decision.

#### **425 Stay of operation of decision etc.**

- (1) If an application is made under this part for review of a decision, the applicant may immediately apply for a stay of the decision to the court.
- (2) The court may stay the decision to secure the effectiveness of the review and any later appeal to the court.
- (3) A stay—
  - (a) may be given on conditions; and
  - (b) operates for the period stated by the court; and
  - (c) may be revoked or amended by the court.
- (4) The period of a stay under this section must not extend past the time when the Minister reviews the decision and any later period the court allows the applicant to enable the applicant to appeal against the decision.
- (5) The making of an application under this part for review of a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

#### **426 Decision on reconsideration**

- (1) After reviewing the original decision, the Minister must make a further decision (the *review decision*) to confirm the original decision, amend the original decision or substitute a new decision.
- (2) The chief executive must immediately give the applicant notice of the decision.
- (3) The notice must state—
  - (a) the day the notice is given to the applicant (the *review notice day*); and

[s 427]

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- (b) if the review decision is not the decision sought by the applicant—
  - (i) the reasons for the decision; and
  - (ii) that the applicant may appeal against the decision to the court within 42 days after the review notice day.

## **Division 3                      Appeals**

### **427      Who may appeal**

A person who has applied for the review of a decision under division 2 and is dissatisfied with the review decision, may appeal to the court against the decision.

### **428      Procedure for an appeal to the court**

- (1) An appeal to the court is started by filing notice of appeal with the registrar of the court.
- (2) A copy of the notice must be served on the chief executive.
- (3) The notice of appeal must be filed within 42 days after the review notice day under section 426.
- (4) However, a regulation may provide a different period for particular decisions.
- (5) The court may, whether before or after the time for filing the notice of appeal ends, extend the period for filing the notice of appeal.
- (6) The notice of appeal must state fully the grounds of the appeal.

### **429      Powers of court on appeal**

- (1) In deciding an appeal, the court has the same powers as the decision maker.

- (2) An appeal is by way of rehearing.
- (3) The court may—
  - (a) confirm the review decision; or
  - (b) set aside the review decision and substitute another decision; or
  - (c) set aside the review decision and return the issue to the Minister with directions the court considers appropriate.

#### **430 Effect of decision of court on appeal**

If the court substitutes another decision, the substituted decision is, for the relevant provision of this Act, taken to be the decision maker's decision.

#### **431 Jurisdiction of the court**

The court has jurisdiction to hear and decide matters referred to the court by the Minister.

## **Part 3A Proceedings generally**

### **Division 1 Preliminary**

#### **431A Application of pt 3A**

This part applies to a proceeding under this Act.

## **Division 2                      Evidence**

### **431B Evidentiary provisions**

- (1) The appointment or power of the chief executive or authorised person must be presumed unless a party, by reasonable notice, requires proof of—
  - (a) the appointment; or
  - (b) the power to do anything under this Act.
- (2) A signature purporting to be the signature of the Minister, the chief executive or an authorised person is evidence of the signature it purports to be.
- (3) A certificate purporting to be signed by the Minister stating any of the following matters is evidence of the matter—
  - (a) that land is or was, at a time or day mentioned in the complaint, a deed of grant in trust or non-freehold land;
  - (b) that, for a deed of grant in trust or non-freehold land, a person, at a time or day mentioned in the certificate—
    - (i) occupied or lived on it; or
    - (ii) enclosed it; or
    - (iii) built, placed or maintained any structure, improvement, work or thing on it; or
    - (iv) cleared, dug up or cultivated it; or
    - (v) depastured stock or caused stock to be depastured on it.
- (4) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.

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### **431C Further evidentiary aids**

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a stated document is one of the following things made, given, or issued under this Act—
  - (i) an appointment;
  - (ii) a decision;
- (b) a stated document is a copy of a thing mentioned in paragraph (a);
- (c) on a stated day, or during a stated period, a person's appointment as an authorised person was, or was not, in force;
- (d) on a stated day, a stated requirement was made of a stated person;
- (e) that on a stated day, or during a stated period, a stated notice was published on the department's website.

### **431D Instruments, equipment and installations**

- (1) An instrument, equipment or installation prescribed under a regulation that is used in accordance with any conditions prescribed under a regulation is taken, in the absence of evidence to the contrary—
  - (a) to be accurate and precise; and
  - (b) to have been used by an appropriately qualified person.
- (2) A party to the proceeding intending to challenge a matter mentioned in subsection (1)(a) or (b), must give at least 28 days notice of the party's intention to adduce relevant evidence.

[s 431E]

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### **431E Certificate or report about remotely sensed image**

- (1) A signature on a certificate or report purporting to be the signature of an appropriately qualified person who gave the certificate or report is evidence of the signature it purports to be.
- (2) A statement of any of the following matters in the certificate or report is evidence of the matters stated in the absence of evidence to the contrary—
  - (a) the person's qualifications;
  - (b) a stated document is a remotely sensed image, or a copy of a remotely sensed image, of a stated area;
  - (c) the date on which a stated remotely sensed image was produced;
  - (d) the person's stated conclusions drawn from a stated remotely sensed image;
  - (e) the location of a stated area;
  - (g) whether a stated area is or is likely to be an area of remnant vegetation.
- (3) A party to the proceeding intending to challenge the statement must give at least 28 days notice of the party's intention to adduce relevant evidence.
- (4) In this section—

*remnant vegetation* means remnant vegetation within the meaning of the Vegetation Management Act.

## **Division 3 Starting proceedings**

### **431G Offences are summary offences**

An offence against this Act is a summary offence.

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### **431H Limitation on time for starting offence proceedings**

A proceeding for an offence against this Act must start within—

- (a) 1 year after the offence is committed; or
- (b) 1 year after the offence comes to the complainant's knowledge, but within 5 years after the offence is committed.

## **Division 4 Other matters about proceedings**

### **431J Liability of executive officer—offence committed by corporation against s 214D(1)**

- (1) An executive officer of a corporation commits an offence if—
  - (a) the corporation commits an offence against section 214D(1); and
  - (b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of section 214D(1) by an individual.

- (2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—
  - (a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against section 214D(1); and
  - (b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against section 214D(1); and
  - (c) any other relevant matter.
- (3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not

[s 431L]

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the corporation has been proceeded against for, or convicted of, the offence against section 214D(1).

- (4) This section does not affect—
- (a) the liability of the corporation for the offence against section 214D(1); or
  - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against section 214D(1).
- (5) In this section—

*executive officer*, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

### **431L Recovery of costs of investigation**

- (1) If a court convicts a person of an offence against this Act, the court may order the person to pay the department's reasonable costs of investigating the offence, including reasonable costs of preparing for the prosecution of the offence.

*Examples of reasonable costs—*

- 1 obtaining and analysing remotely sensed images
  - 2 costs of travelling for departmental officers and experts
- (2) This section does not limit the orders for costs the court may make.

### **431M Representation of departmental officer in court**

- (1) Any departmental officer may appear for and represent another departmental officer in the court in a proceeding brought by the other officer under this Act.
- (2) In this section—



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*departmental officer* means a public service officer employed in the department.

#### **431N Ability to prosecute under other Acts**

Nothing in this Act prevents a person from being prosecuted for any of the following offences in relation to the clearing of trees—

- (a) a development offence under the *Sustainable Planning Act 2009*;
- (b) a vegetation clearing offence under the *Vegetation Management Act*;
- (c) an offence against a following provision of the *Environmental Protection Act 1994*—
  - section 437(1)
  - section 437(2)
  - section 438(1)
  - section 438(2).

## **Part 4 Miscellaneous**

#### **432 Pasturage rights for travelling stock**

- (1) Stock being driven on foot along a stock route through a term lease for pastoral purposes or occupation licence, from which the stock route is not fenced out, must not be depastured on land further than 800m from the centre line of the stock route.
- (2) However, if there is a fence or stock proof barrier on 1 side of the road within 800m of the centre line of a stock route, stock must not be depastured on land on the other side of the stock route further than 1.6km from the fence.

[s 434]

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- (3) Despite subsections (1) and (2), stock must not be depastured—
  - (a) within an enclosed garden or paddock under cultivation;  
or
  - (b) within 1.6km of a principal homestead or head station;  
or
  - (c) on land lawfully separated from the stock route by a fence or stock proof barrier.
- (4) A person in charge of stock being driven on foot along a stock route must not contravene this section.

Maximum penalty for subsection (4)—100 penalty units.

#### **434 Meaning of *tourism purposes***

- (1) For this Act, a lease is a lease for *tourism purposes* if it is a lease for, or is ancillary to, a major tourist facility or a major resort development.
- (2) Without limiting subsection (1), if a lease expressly states that it is a lease for a major tourist facility or a major resort development it is taken to be a lease for *tourism purposes* for this Act.

#### **434A Establishing an island as a regulated island**

- (1) A regulation may declare an island, or a part of an island, is a regulated island.
- (2) The Minister may recommend a regulation under subsection (1) only if the Minister is satisfied the island or the part, if held under a lease for tourism purposes, should not be the subject of a conversion to freehold land unless the Governor

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in Council has first approved the conditions on which the offer for the conversion is made.

**434B Availability of short-term extension in particular circumstances**

- (1) This section applies if a term lease is the subject of an application under this Act for renewal, extension, conversion, subdivision or amalgamation.
- (2) If it appears the term lease will expire before the application is finalised, the Minister may extend the term of the lease, for periods of no longer than 2 years, until the application is fully dealt with.
- (3) A lease may be extended under subsection (1) for 2 or more periods having regard to the same circumstances or different circumstances each time it is extended.

**434C Change of status of particular land**

- (1) This section applies to a term lease issued under this Act or the repealed Act, on the authority of another Act (the *original Act*), over land (the *relevant land*) set apart and declared, or dedicated, under the original Act.
- (2) If the relevant land ceases to be administered under the original Act and becomes an area set apart and declared, or dedicated, under another Act (the *new Act*), the lease continues to be a term lease under this Act and the new Act.
- (3) However, the term lease ends if the new Act states that any interest in the relevant land is ended.

**435 Minister may refer matters to the court**

- (1) The Minister may refer a matter about the administration of this Act to the court for inquiry and report.

[s 436]

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- (2) The Minister may refer a dispute about the boundary of a term lease for pastoral purposes to the court for decision, even if the Minister is not a party to the dispute.

#### **436 Auctioneer's licence not necessary**

A person authorised by the chief executive may auction land for this or another Act administered by the Minister without being the holder of an auctioneer's licence.

#### **437 Changing county or parish boundaries**

- (1) The Governor in Council may change a county or parish boundary if the Governor in Council considers it appropriate because of something done under this Act.
- (2) Any change to a boundary must be notified in the gazette.

#### **438 What are debts owing to the State**

All rents, instalments, penalties, interest and fees that have become payable under this Act are debts owing to the State.

#### **439 Words and expressions used in documents under Act**

- (1) Words and expressions used in this Act and in documents made or executed under this Act have the same respective meanings in the documents as they have in this Act.
- (2) Subsection (1) may be wholly or partly displaced if a contrary intention appears in the document.

#### **440 Obstruction of officers etc.**

A person must not obstruct an authorised person, an officer of the department, or a person helping an authorised person or an officer of the department, in the exercise of a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—400 penalty units.

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#### **441 Protection from liability**

- (1) An officer or employee of the department does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an officer or employee, the liability attaches instead to the State.

#### **441A Requirement for making conditional offers**

- (1) This section applies if an offer is proposed to be made under this Act and the offer is subject to conditions.
- (2) The offer must state—
  - (a) that, for it to be accepted, the conditions must be complied with before the offer period ends; and
  - (b) that it lapses if the conditions are not complied with within the offer period.
- (3) In this section—

*offer period* means the length of time stated in the offer, or if does not state a length of time, the 3 months provided for under section 442(1).

#### **442 Lapse of offer**

- (1) If an offer has been made under this Act, the offer is valid for the length of time stated in the offer or, if no time is stated, for 3 months.
- (2) A offer must be accepted in writing.
- (3) If an offer is not accepted or rejected in writing within the stated time, the offer lapses.
- (4) The person to whom the offer was made (the *offeree*) may, before the offer lapses, apply to the person who made the offer (the *offeror*) to extend the time stated in the offer or that otherwise applies under subsection (1).
- (5) Subsections (6) to (9) apply if the time has passed.

[s 443]

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- (6) The offeree may apply to the offeror to extend the time.
- (7) However, the application may be made only within 42 days after the time has passed.
- (8) The offeror may extend the time only if the offeror considers that exceptional circumstances exist.
- (9) If the offer included a purchase price or cash premium not fixed by a particular date, the offeror may, in extending the time, amend the offer by changing the price or premium to a price or premium decided by the offeror in the way prescribed by regulation.
- (10) If the time is extended under subsection (4) or (8) the time stated in the offer is, for subsection (3), taken to be, and to have always been, the extended time.

**443 No deed of grant until fees paid**

The appropriate fees prescribed under this Act for the issue of a deed of grant must be paid before a deed of grant is issued.

**444 Chief executive may approve forms**

The chief executive may approve forms for use under this Act.

**448 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following matters—
  - (a) the lodgement and registration of forms and other documents;
  - (b) fees payable under this Act;
  - (c) how fees are to be paid and may be recovered, including the provision of credit facilities to persons approved by the chief executive;

- (d) additional information to be supplied with a form or other document;
  - (e) transitional arrangements if a new form is approved;
  - (f) the execution of documents;
  - (g) anything else about a form or document;
  - (h) the payment and collection of rent and instalments under this Act;
  - (j) the closure of roads;
  - (k) the building and maintenance of roads under chapter 3, part 2, division 5.
- (3) Schedule 1B provides for matters that may be included in a regulation under subsection (2)(h).
- (4) Subsection (3) does not limit subsection (2)(h).
- (5) A regulation may create offences and prescribe penalties of not more than 100 penalty units for the offences.

#### **448A Application of GST to rents**

If rent payable under this Act is for a supply for which GST is payable, the rent payable is the total of—

- (a) the rent that would have been payable if the rent were not for a supply for which GST is payable; and
- (b) 10% of the rent that would have been payable if the rent were not for a supply for which GST is payable.

#### **448B Application of GST to purchase price for leases**

- (1) Subsection (2) applies—
- (a) to all leases issued under this Act; and
  - (b) whether the lease was issued before or after the commencement of this section; and
  - (c) despite any provision contained in the lease.

- (2) If the purchase price payable for freeholding the lease is for a supply for which GST is payable, the purchase price payable is the total of—
  - (a) the purchase price that would have been payable if the purchase price were not for a supply for which GST is payable; and
  - (b) 10% of the purchase price that would have been payable if the purchase price were not for a supply for which GST is payable.

## **Chapter 8            Continued rights and tenures**

### **Part 1                Reserves, deeds of grant in trust and roads**

#### **Division 1           Reserves**

##### **449    Existing reserves and purposes continue**

- (1) All existing reserves are taken to be reserves under this Act for the purpose for which they were reserved.
- (2) Subsection (1) applies even if the purpose for which the land was reserved is not a community purpose under this Act.
- (3) If, under subsection (1), land is taken to be reserved for cemetery purposes, the land is taken also to be reserved for crematorium and mortuary purposes.



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**450 Trustees continue**

An existing trustee of a reserve is taken to be a trustee of the reserve under this Act.

**Division 2 Deeds of grant in trust**

**451 Existing deeds of grant in trust and purposes continue**

- (1) All existing deeds of grant in trust are taken to be deeds of grant in trust under this Act for the purpose for which they were granted.
- (2) Subsection (1) applies even if the purpose for which the land was granted is not a community purpose under this Act.
- (3) If, under subsection (1), land is taken to be granted for cemetery purposes, the land is taken also to be granted for crematorium and mortuary purposes.

**452 Trustees continue**

An existing trustee of a deed of grant in trust is taken to be a trustee of the deed of grant in trust under this Act.

**452A Land granted for Aboriginal or Islander inhabitants**

- (1) Any person who, at the time when land was granted in trust under the repealed Act for the benefit of Aboriginal or Islander inhabitants, occupies any building or structure as the person's residence, as an authorised resident on the land, shall, notwithstanding the grant in trust, be entitled to continue the person's occupation of the building or structure upon the same terms and conditions as the person occupied it at the time of the grant until—
  - (a) the trustee of the land determines otherwise and terminates the person's right to occupy the building or structure; or

[s 453]

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- (b) the trustee of the land and that person agree to new terms and conditions for the person's occupation of the building or structure.
- (2) No permit, claim, licence or lease under the *Mineral Resources Act 1989* is to be granted or exist in respect of land granted in trust under the repealed Act for the benefit of Aboriginal or Islander inhabitants unless the approval of the Governor in Council thereto has first been obtained.
- (3) In considering whether or not to approve a permit, claim, licence or lease in respect of land referred to in subsection (1) the Governor in Council shall have regard to the views of and any recommendation made by the trustee of the land in question.

### **Division 3                      Existing trustee leases**

#### **453      Existing trustee leases and licences continue**

- (1) All existing trustee leases are taken to be trustee leases under this Act, even if the terms of the lease would not be approved under this Act.
- (2) All existing licences issued under section 350 of the repealed Act are taken to be trustee permits under this Act, even if the terms of the licence would not be approved under this Act.

### **Division 4                      Roads**

#### **454      Existing roads continue**

All roads dedicated and set apart under the repealed Act are taken to be dedicated roads under this Act.

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**455 Existing road licences continue**

All existing road licences are taken to be road licences under this Act.

**Part 2 Freeholding leases**

**Division 1 Pre-Wolfe freeholding leases**

**456 Existing leases continue**

A pre-Wolfe freeholding lease is taken to be a lease under this Act.

**457 Terms of pre-Wolfe freeholding leases**

- (1) The following provisions also apply to pre-Wolfe freeholding leases—
- (a) the length of the term of the lease and purchase price (including commercial timber) for which a pre-Wolfe freeholding lease was issued continue to apply;
  - (b) lease payments are instalments that pay out the purchase price of the land;
  - (c) instalments do not attract interest;
  - (d) if the remaining purchase price is paid in cash during a lease, a discount, prescribed under the regulations, applies;
  - (e) regulations may prescribe minimum instalments for all but the final payment;
  - (f) the length of the term of a lease may increase or decrease because of changes to minimum instalments or hardship concessions or deferrals;

[s 458]

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- (g) the land must be surveyed, at the lessee's expense, for inclusion in the freehold land register;
  - (h) the Minister may require the preparation of a compiled plan before the deed of grant is issued;
  - (i) the final payment must include the appropriate fees prescribed under the *Land Title Act 1994* for the issue of a deed of grant.
- (2) To remove any doubt, it is declared that the purchase price for a pre-Wolfe freeholding lease is not reduced by any deferral for hardship that may apply under a rent and instalment regulation.
- (3) The discount mentioned in subsection (1)(d) does not apply to the amount of the remaining purchase price that, in the records of the department about the payment of the purchase price, is attributable to the value of commercial timber.

#### **458 Deed of grant to issue**

- (1) A deed of grant must be issued for land contained in a pre-Wolfe freeholding lease when—
- (a) the conditions of the lease have been fulfilled; and
  - (b) the purchase price and all relevant fees have been paid; and
  - (c) if needed—a survey plan has been lodged in the land registry.
- (2) The deed of grant is issued subject to all the encumbrances to which the lease was subject and in the same priorities.

#### **459 Residential hardship concessions**

- (1) The Minister may reduce an instalment to less than the instalment normally applying to a pre-Wolfe freeholding lease, if—

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- (a) the lease is used exclusively for the lessee's own residential use; and
  - (b) the lessee is suffering hardship and meets the criteria prescribed under the regulations.
- (2) If the Minister considers the lessee's financial circumstances have changed to the extent that a concession should be amended or cancelled, the Minister may, for future instalments, amend or cancel the amount of the concession.
  - (3) If a lease is transferred, a concession applying to the lease does not apply from the day of the transfer.
  - (4) To remove any doubt, it is declared that a hardship concession does not reduce the purchase price of a pre-Wolfe freeholding lease.

## **Division 2                      Post-Wolfe freeholding leases**

### **460      Existing leases continue**

A post-Wolfe freeholding lease is taken to be a lease under this Act.

### **461      Terms of existing post-Wolfe freeholding leases continue**

The length of the term of the lease and purchase price (including commercial timber) for which an existing post-Wolfe freeholding lease was issued continue to apply.

### **462      Terms of post-Wolfe freeholding leases**

- (1) The following provisions apply to post-Wolfe freeholding leases—
  - (a) lease payments are instalments that pay out the purchase price of the land;
  - (b) instalments attract a rate of interest prescribed under the regulations;

[s 463]

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- (c) if the remaining purchase price is paid in cash during a lease, no discount applies;
- (d) regulations may prescribe minimum instalments for all but the final payment;
- (e) the length of the term of a lease may increase or decrease because of changes to minimum instalments or hardship deferral;
- (f) the land must be surveyed, at the lessee's expense, for inclusion in the freehold land register;
- (g) the Minister may require the preparation of a compiled plan before the deed of grant is issued;
- (h) the final payment must include the appropriate fees prescribed under the *Land Title Act 1994* for the issue of a deed of grant.

*Note—*

These terms apply to both *existing* post-Wolfe freeholding leases and post-Wolfe freeholding leases issued under this Act.

- (2) To remove any doubt, it is declared that the purchase price for a post-Wolfe freeholding lease is not reduced by any deferral for hardship that may apply under a rent and instalment regulation.

### **463 Deed of grant to issue**

- (1) A deed of grant must be issued for land contained in a post-Wolfe freeholding lease when—
  - (a) the conditions of the lease have been fulfilled; and
  - (b) the purchase price and all relevant fees have been paid; and
  - (c) if needed—a survey plan has been lodged in the land registry.
- (2) The deed of grant is issued subject to all the encumbrances to which the lease was subject and in the same priorities.

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## **Division 3                      Grazing homestead freeholding leases**

### **464      Existing leases continue**

A grazing homestead freeholding lease is taken to be a lease under this Act.

### **465      Terms of existing grazing homestead freeholding leases continue**

The length of the term of the lease and purchase price (including commercial timber) for which an existing grazing homestead freeholding lease was issued continue to apply.

### **466      Terms of grazing homestead freeholding leases**

- (1) The following provisions apply to grazing homestead freeholding leases—
  - (a) lease payments are instalments that pay out the purchase price of the land;
  - (b) instalments attract a rate of interest prescribed under the regulations;
  - (c) if the remaining purchase price is paid in cash at any stage during a lease, and the lease is used for grazing or agricultural purposes, a discount, prescribed under the regulations, applies;
  - (d) regulations may prescribe a minimum instalment for all but the final payment;
  - (e) the length of the term of a lease may increase or decrease because of changes to minimum instalments or hardship deferral;
  - (f) the land must be surveyed, at the lessee's expense, for inclusion in the freehold land register;

[s 467]

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- (g) the Minister may require the preparation of a compiled plan before the deed of grant is issued;
- (h) the final payment must include the appropriate fees prescribed under the *Land Title Act 1994* for the issue of a deed of grant.

*Note—*

These terms apply to both *existing* grazing homestead freeholding leases and grazing homestead freeholding leases issued under this Act.

- (2) To remove any doubt, it is declared that the purchase price for a grazing homestead freeholding lease is not reduced by any deferral for hardship that may apply under a rent and instalment regulation.
- (3) The discount mentioned in subsection (1)(c) does not apply to the amount of the remaining purchase price that, in the records of the department about the payment of the purchase price, is attributable to the value of commercial timber.

#### **467 Deed of grant to issue**

- (1) A deed of grant must be issued for land contained in a grazing homestead freeholding lease when—
  - (a) the conditions of the lease have been fulfilled; and
  - (b) the purchase price and all relevant fees have been paid; and
  - (c) if needed—a survey plan has been lodged in the land registry.
- (2) The deed of grant is issued subject to all the encumbrances to which the lease was subject and in the same priorities.



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## **Part 3                      Perpetual leases**

### **Division 1                      Grazing homestead perpetual leases**

#### **468      Existing leases continue**

- (1) A grazing homestead perpetual lease is taken to be a perpetual lease for grazing or agricultural purposes issued under this Act.
- (2) To remove any doubt, it is declared that the perpetual lease may be used for either or both of the purposes.

#### **469      Right to a grazing homestead freeholding lease**

- (1) The lessee of a grazing homestead perpetual lease who has an application for conversion to freehold approved under section 168 may elect in writing to pay the purchase price by a single payment or by instalments.

*Note—*

Under section 168, the chief executive must give notice of the chief executive's decision on a conversion application.

- (2) If a lessee elects to pay the purchase price by a single payment, the lessee is entitled to the discount prescribed under the regulations.
- (3) If a lessee elects to pay the purchase price by instalments—
  - (a) the Governor in Council may issue a grazing homestead freeholding lease for a maximum term of 30 years; and
  - (b) the lessee may pay the market value of the commercial timber by instalments on terms stated by the Minister; and
  - (c) the conditions, purpose and encumbrances of the existing grazing homestead perpetual lease transfer to the grazing homestead freeholding lease.

[s 470]

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- (4) The conditions mentioned in subsection (3)(c) do not include conditions that—
  - (a) the Minister is satisfied are redundant in the context of the grazing homestead freeholding lease; and
  - (b) are expressly or impliedly excluded from the grazing homestead freeholding lease when it is issued.

## **Division 2                      Non-competitive leases**

### **470      Existing leases continue**

A non-competitive lease is taken to be a perpetual lease issued under this Act for the purpose for which it was issued.

### **471      Right to a post-Wolfe freeholding lease**

- (1) The lessee of a non-competitive lease who has an application for conversion to freehold approved under section 168 may elect in writing to pay the purchase price by instalments.
- (2) If a lessee elects to pay the purchase price by instalments—
  - (a) the Governor in Council may issue a post-Wolfe freeholding lease for a maximum term of 30 years; and
  - (b) the lessee may pay the market value of the commercial timber by instalments on terms stated by the Minister; and
  - (c) the conditions, purpose and encumbrances of the non-competitive lease transfer to the post-Wolfe freeholding lease.
- (3) The conditions mentioned in subsection (2)(c) do not include conditions—
  - (a) the Minister is satisfied are redundant in the context of the post-Wolfe freeholding lease; and

- (b) are expressly or impliedly excluded from the post-Wolfe freeholding lease when it is issued.

## **Part 4                      Term leases**

### **Division 1                      Pastoral, preferential pastoral, pastoral development, and stud holdings**

#### **472      Existing leases continue**

A pastoral lease is taken to be a term lease for pastoral purposes issued under this Act.

#### **473      Covenant for a new term lease**

An existing covenant in a pastoral lease, under the repealed Act, part 6, division 2, for a new lease at the expiry of the existing lease is taken to be a covenant to offer a new term lease for pastoral purposes, of a maximum of a living area, on the conditions that could be imposed on a term lease under this Act.

#### **474      Uses of stud holdings**

A stud holding is not limited to stud purposes but must be used for grazing or agricultural purposes.

#### **475      Restrictions on ownership of preferential pastoral holdings**

- (1) To remove any doubt, it is declared that restrictions under the repealed Act about the ownership of preferential pastoral holdings do not apply under this Act.

- (2) However, any restrictions under this Act about the ownership of term leases for pastoral purposes apply to a preferential pastoral holding.

## **Division 2                      Special and development leases**

### **476      Existing leases continue**

- (1) A development lease or a special lease is taken to be a term lease issued under this Act for the purpose (if any) for which it was issued.
- (2) In this division—

*development lease* means an existing development lease issued under the repealed Act, part 9, division 1.

*special lease* means an existing special lease issued under the repealed Act, part 8, division 1.

### **477      Change of purpose for special lease**

Despite section 154(2), the lessee of a special lease may apply to change the purpose of the lease.

*Note—*

Section 154(2) requires the purpose of a lease to be complementary to, and not interfere with, the purpose for which a lease was originally issued.

### **478      Right to a post-Wolfe freeholding lease**

- (1) The lessee of a special lease who has an application for conversion to freehold approved under section 168 may elect in writing to pay the purchase price by instalments.
- (2) If a lessee elects to pay the purchase price by instalments—
  - (a) the Governor in Council may issue a post-Wolfe freeholding lease for a maximum term of 30 years; and

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- (b) the lessee may pay the market value of the commercial timber by instalments on terms stated by the Minister; and
  - (c) the conditions, purpose and encumbrances of the special lease transfer to the post-Wolfe freeholding lease.
- (3) The conditions mentioned in subsection (2)(c) do not include conditions—
- (a) the Minister is satisfied are redundant in the context of the post-Wolfe freeholding lease; and
  - (b) are expressly or impliedly excluded from the post-Wolfe freeholding lease when it is issued.

**479 Development leases not to be sublet**

The lessee of a development lease must not sublease all or part of the lease.

## **Part 5 Licences and permits**

### **Division 1 Occupation licences**

**480 Occupation licences continue**

An occupation licence is taken to be a licence issued under this Act.

**481 Cancellation**

The Minister may cancel all or part of an occupation licence, if—

[s 481A]

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- (a) the licensee defaults in the payment of an amount payable to the State under this Act for the occupation licence; or

*Note—*

A rent and instalment regulation may allow the Minister to take action for non-payment.

- (b) the licensee breaches a condition of the occupation licence; or
- (c) the licensee contravenes a provision of this Act in relation to the occupation licence; or
- (d) the licensee acquired the occupation licence by fraud; or
- (e) the licensee has more than 1 conviction, not including any spent convictions, for a vegetation clearing offence, regardless of whether any of the offences were committed on the land the subject of the occupation licence; or
- (f) the Minister considers the cancellation of the licence is in the interests of the State.

#### **481A Absolute surrender**

A licensee may surrender, absolutely, all or part of an occupation licence—

- (a) on terms agreed to between the Minister and the licensee; and
- (b) with the Minister's written approval.

#### **481B Application to cancel or surrender**

- (1) A public utility provider (an *applicant*) may apply to cancel all or part of an occupation licence.
- (2) However, an applicant mentioned in subsection (1) can not apply to cancel all or part of an occupation licence if the applicant is a non-core utility provider.

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- (3) A licensee (also an *applicant*) may apply to surrender, absolutely, all or part of an occupation licence.
  - (4) However, before applying, an applicant must give notice of the applicant's intention to apply to each of the following—
    - (a) if the applicant is not the licensee of the occupation licence—the licensee;
    - (b) any other person with a registered interest in the occupation licence;
    - (c) if the occupation licence is a designated occupation licence—the chief executive of the department having responsibility for the administration of the forest reserve, national park, State forest or timber reserve the subject of the designated occupation licence.
  - (5) The applicant may also give notice to any other person the applicant considers has an interest in the occupation licence.

#### **481E Registration cancels occupation licence**

- (1) All or part of an occupation licence may be cancelled by registering a cancellation notice or plan of subdivision.
- (2) However, if the cancellation relates to only part of a lot, the cancellation may only be made by registering a plan of subdivision.
- (3) The cancellation of all or part of an occupation licence takes effect on the day a cancellation notice or plan of subdivision is registered.

#### **481F Registration surrenders occupation licence**

- (1) All or part of an occupation licence may be surrendered, absolutely, by registering a surrender notice or plan of subdivision.
- (2) However, if the surrender relates to only part of a lot, the surrender may only be made by registering a plan of subdivision.

[s 481G]

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- (3) The surrender of all or part of an occupation licence takes effect on the day a surrender notice or plan of subdivision is registered.

### **481G Notice of cancellation or absolute surrender**

- (1) The chief executive must give notice of a cancellation or absolute surrender of all or part of an occupational licence to the applicant and each person given a notice about the proposed cancellation or surrender under section 481B (either a *relevant person*).
- (2) The notice must—
  - (a) be in the approved form; and
  - (b) state the following—
    - (i) the date of the cancellation or surrender;
    - (ii) the effect, under section 481H, of the cancellation or surrender;
    - (iii) if there are improvements on the land the subject of the occupation licence owned by the person receiving the notice—a statement that the person may apply to remove the improvements.
- (3) If the cancellation or absolute surrender of an occupation licence is not registered, notice of the fact must be given to each relevant person.

### **481H Effect of cancellation or absolute surrender**

On the cancellation or absolute surrender of all or part of an occupation licence, all of the following apply in relation to the land the subject of the cancellation or surrender—

- (a) the occupation licence ends;
- (b) the licensee is divested of any interest in the occupation licence;



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- (c) if the occupation licence is cancelled—no person has a right to compensation from the Minister or the State for the cancellation;
  - (d) the land the subject of the occupation licence—
    - (i) if the land was subject to a designated occupation licence—remains a forest reserve, national park, State forest or timber reserve; or
    - (ii) otherwise—becomes unallocated State land.

**481I Person to give up possession on cancellation or absolute surrender**

- (1) On the cancellation or absolute surrender of all or part of an occupation licence, a person occupying the land the subject of the cancellation or surrender must immediately vacate the land.
- (2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying the land the subject of the cancellation or surrender.

**481J Improvements**

- (1) A licensee of an occupation licence that is cancelled or surrendered absolutely, may apply to remove the licensee's improvements on the licence.
- (2) The licensee may remove the licensee's improvements only with the written approval of, and within a time stated by, the Minister.
- (3) The improvements are forfeited to the State if—
  - (a) the Minister has not given written approval for their removal; or
  - (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.

[s 482]

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- (4) However, if the land the subject of the cancellation or absolute surrender is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.

#### **482 Approval needed for improvement and development work**

The licensee of an occupation licence may carry out improvements or development work on the licence only with the Minister's written approval.

### **Division 1A Permits**

#### **483 Existing permits continue**

An existing permit issued under the repealed Act, part 13, division 1 is taken to be a permit issued under this Act.

### **Division 2 Fencing use licences**

#### **484 Existing fencing use licences continue**

- (1) An existing licence (a *fence licence*) issued under the repealed Act, section 113 continues to apply.
- (2) A fence licence does not give the licensee a right to use the land comprising the road enclosed.

#### **485 Minister may cancel licence for breach of condition**

The Minister, by notice to the holder of a fence licence, may cancel the licence if the licensee breaches a condition of the licence.

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## Part 6 Continued tenures generally

### 486 Existing conditions continue

To remove any doubt, it is declared that all existing conditions contained in a lease, licence or permit document, schedule to a lease, licence or permit document or a sale notification for a lease, licence or permit issued under an Act repealed by this Act continue to apply and the lessee, licensee and permittee must comply with the conditions.

### 487 Existing concessions continue

- (1) A lessee who was entitled to a concessional rent or instalment under the repealed Act is entitled to the same benefits under this Act.
- (2) Subsection (1) has effect subject to any provisions of a rent and instalment regulation relating to changes of a lessee's circumstances.

### 488 Fencing conditions and exemptions

- (1) The conditions mentioned in subsection (2) continue to apply to—
  - (a) pre-Wolfe freeholding leases applied for before 5 February 1990 and issued under the repealed Act, part 4, division 5; and
  - (b) grazing homestead freeholding leases; and
  - (c) grazing homestead perpetual leases.
- (2) The lessee must—
  - (a) within 3 years after the lease starts, enclose the land with a good and substantial fence of the standard stated in the opening notification or imposed by the Minister or have an existing and substantial fence in good repair; and

[s 489]

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- (b) keep the land fenced in the way mentioned in paragraph (a).
- (3) If the lessee is the owner of adjoining land, the lessee need not enclose the lease if the lease and the adjoining land are wholly enclosed with a good and substantial fence.
- (4) The Minister may exempt a lessee who applies for exemption from fencing conditions of a lease.
- (5) The exemption may be for a stated time and may be conditional.
- (6) An exemption granted under subsection (5) may be withdrawn after giving reasonable notice of the intention to withdraw the exemption.

#### **489 Amalgamating or subdividing existing leases**

- (1) If 2 leases of the same type issued under the repealed Act are amalgamated, the new lease is taken to be an existing lease of the same type unless otherwise agreed by the lessee and the Minister.
- (2) If a lease issued under the repealed Act is subdivided, the new lease is taken to be an existing lease of the same type unless otherwise agreed by the lessee and the Minister.
- (3) The following leases can not be subdivided—
  - (a) an auction perpetual lease that is a perpetual country, suburban or town lease issued under the repealed Act, part 7, division 2;
  - (b) a perpetual lease selection issued under the repealed Act, part 4, division 2;
  - (c) an agricultural farm issued before 31 December 1991 under the repealed Act, part 4, division 1;
  - (d) a freeholding lease that has less than the amount prescribed under the regulations to be paid before the deed of grant may issue.

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## Part 7                      Tenures under other Acts

### Division 1                      Sale to Local Authorities Land Act 1882

#### 490      Existing deeds of grant continue

The conditions and reservations on which a deed of grant was issued under the *Sale to Local Authorities Land Act 1882* (a *conditional deed*) continue to apply to the deed of grant.

#### 491      Conditions and reservations still applying

An existing conditional deed continues to be subject to the following provisions—

- (a) the land must continue to be used for the public purpose for which it was granted;
- (b) the land must not be leased, mortgaged or sold without the Governor in Council's approval;
- (c) the term of a lease must not be longer than 14 years with a covenant for renewal for up to a further 7 years;
- (d) the lease must be consistent with the purpose for which it was granted.

#### 492      Application for new tenure under this Act

- (1) If land contained in a conditional deed is still needed for the public purpose, the local government may apply to exchange the conditional deed for a reserve or deed of grant in trust with the local government as trustee or a lease issued under this Act.
- (2) If land contained in a conditional deed is exchanged for a reserve or deed of grant in trust, the public purpose for which the conditional deed was issued may be changed to another public purpose.

[s 493]

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- (3) An exchange of tenure under this section is subject to all the encumbrances to which the existing conditional deed was subject and in the same priorities, unless the parties involved agree otherwise.

### **493 Automatic issue of new tenure under this Act**

- (1) A conditional deed becomes a deed of grant in trust under this Act for the same public purpose for which it was granted, with the local government as trustee, if within 5 years of the commencement—
  - (a) the local government does not apply to exchange the conditional deed; or
  - (b) an application by the local government has been refused and no other application has been made.
- (2) If the land contained in a conditional deed was subject to a lease, the lease becomes a trustee lease on the terms originally granted.
- (3) A deed of grant in trust mentioned in subsection (1) is subject to all the encumbrances to which the conditional deed was subject and in the same priorities.

## **Division 2 Miners homesteads**

### **494 Objective**

The object of this division is to transfer miners homesteads to tenures under the *Land Act 1962*.

### **495 Definitions for div 2**

In this division—

***current miners homestead application*** is an application to freehold a miners homestead that—

- (a) was lodged before 1 January 1995; and

- (b) has not been rejected; and
- (c) for which a notice of approval to freehold has not lapsed or been accepted.

***miners homestead*** means any of the following held under the *Miners' Homestead Leases Act 1913*—

- (a) miner's homestead lease;
- (b) miner's homestead perpetual lease;
- (c) business area;
- (d) market garden area;
- (e) residence area;

and, to remove any doubt, it is declared that it includes a special perpetual mining purposes lease issued under the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*, the *Alcan Queensland Pty. Limited Agreement Act 1965* or the *Aurukun Associates Agreement Act 1975*.

***offer*** means a notice of approval to freehold under the repealed miners homestead Acts.

***repealed miners homestead Acts*** means the repealed *Miners' Homestead Leases Act 1913* and the repealed *Mining Titles Freeholding Act 1980*.

## 496 Current applications

- (1) All current miners homestead applications and all dealings with a miners homestead, the subject of a current miners homestead application, must be dealt with as if the repealed miners homestead Acts had not been repealed.
- (2) If a miners homestead is transferred while it is the subject of a current miners homestead application, the application continues and is taken to have been made by the transferee.

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- (3) A current miners homestead application ceases to be a current miners homestead application on the day it is rejected, or on the day the offer lapses.

#### **497 Refusal or lapsing of current miners homestead application**

- (1) If a current miners homestead application is refused on or after 1 January 1995, it is taken that no current miners homestead application was made and section 499 applies from the day of the refusal.
- (2) If a current miners homestead application results in an offer being made, or if an offer has already been made, and the offer lapses under section 498, it is taken that no current miners homestead application was made and section 499 applies from the day the offer lapses.

#### **498 Time in which offer must be accepted**

- (1) An offer made before 1 January 1995 lapses on 31 March 1995.
- (2) An offer made on or after 1 January 1995 lapses 90 days after it is made.
- (3) The Minister may extend the time during which an offer may be accepted.

#### **499 Automatic issue of new tenure**

- (1) If there is no current miners homestead application for a miners homestead, the miners homestead becomes a perpetual town lease (non-competitive lease) under the *Land Act 1962*, section 210.
- (2) A lease under subsection (1) is also subject to the following provisions—



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- (a) all the conditions and encumbrances of the miners homestead that existed on 31 December 1994 continue to apply to the lease with the same priority;
  - (b) the first rental period for the lease is from 1 January 1995 to 30 June 1995 and annual rental periods apply after that;
  - (c) subsection (1) applies despite the *Land Act 1962*, section 210(1);
  - (d) the lease is not subject to the conditions of the *Land Act 1962*, section 210(2);
  - (e) if the miners homestead was a miner's homestead lease on 31 December 1994—the lease is subject to a special condition that, if freeholding of the lease is ever approved, the purchase price is an amount prescribed under the regulations;
  - (f) trees and quarry materials continue to belong to the lessee;
  - (g) arrears of rent on a miners homestead become arrears of rent on the lease.

### **500 Application of prepaid rent**

- (1) If a current miners homestead application is approved, rent paid for the period after the application was lodged, is credited to the cost of freeholding, or, if the rent paid is more than the cost, the overpaid amount must be refunded to the lessee together with interest at the rate prescribed under the regulations.
- (2) The interest is payable from the day the excess rent was received to the day the amount of the excess is refunded.

### **501 Replacement miners homestead documents**

- (1) This section applies to miners homesteads that become leases under section 499(1).

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- (2) As soon as practicable after the commencement, the chief executive must issue a new lease document to replace each existing miners homestead document.
- (3) The new lease is subject to all the encumbrances to which the existing miners homestead was subject and in the same priorities.
- (4) When the new lease is issued, the replaced document is no longer valid.
- (5) The new lease must be sent to the person who is entitled to possession of the document being replaced.
- (6) The replaced document must be returned to the chief executive for cancellation when the new lease is issued.
- (7) A lessee may ask for the return of the replaced document suitably marked as cancelled.

## **502 Replacement mining titles freeholding leases**

- (1) As soon as practicable after the commencement, the chief executive must issue a new lease document to replace each existing mining titles freeholding lease document.
- (2) The new lease is subject to all the encumbrances to which the existing lease was subject and in the same priorities.
- (3) When the new lease is issued, the old lease is no longer valid.
- (4) The new lease must be sent to the person who is entitled to the possession of the old lease.
- (5) The old lease must be returned to the chief executive for cancellation when the new lease is issued.
- (6) A lessee may ask for the return of the old lease suitably marked as cancelled.
- (7) This section also applies if there is an entitlement to a mining titles freeholding lease but the lease has not been issued.

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**503 Approvals continue**

An approval given under the repealed miners homestead Acts to deal with an existing miners homestead is taken to be an approval for the same purpose under the *Land Act 1962*.

**Division 2A Further opportunity to convert certain perpetual town leases, that were previously miners homesteads, to freehold**

**503A Objective**

The object of this division is to give an opportunity to lessees of certain perpetual town leases (non-competitive leases), to convert their tenures to freehold.

**503B Definitions for div 2A**

In this division—

*miners homestead* has the meaning given in division 2 but does not include a special perpetual mining purposes lease that commenced on or after 1 January 1995.

*repealed miners homestead Acts* has the meaning given in division 2.

*special perpetual mining purposes lease* means a special perpetual mining purposes lease issued under the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*, the *Alcan Queensland Pty. Limited Agreement Act 1965* or the *Aurukun Associates Agreement Act 1975*.

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### **503C Who may apply under this division**

- (1) This section applies to a perpetual town lease (non-competitive lease) that was previously a miners homestead.
- (2) The lessee may apply to convert the lease to freehold.

### **503D Time within which application must be made**

The application must be given to the chief executive before 1 February 1998.

### **503E How application is dealt with**

- (1) The application must be dealt with as if—
  - (a) the repealed miners homestead Acts had not been repealed; and
  - (b) the application were made under the *Mining Titles Freeholding Act 1980*; and
  - (c) the lease were a miners homestead.
- (2) However, if a mining titles freeholding lease would have issued under the repealed miners homestead Acts a pre-Wolfe freeholding lease is to be issued instead.
- (3) A perpetual town lease (non-competitive lease) that was previously a miners homestead is to be treated as a miners homestead for the purposes only of an application under subsection (1).

### **503F Lapse of offer**

- (1) An offer to convert the lease to freehold is valid for 3 months.
- (2) An offer must be accepted in writing.
- (3) If an offer is not accepted or rejected in writing within the stated time, the offer lapses.

- (4) The Minister, before or after the offer lapses, may extend the time stated in the offer.

### **503G Surrender of existing lease**

If a lessee accepts an offer to convert to freehold, the lessee must surrender the existing lease before the new tenure is issued.

### **503H Existing encumbrances**

The new tenure is subject to all encumbrances to which the existing lease was subject and in the same priorities.

### **503I Credit for rent paid**

- (1) If an application to convert to freehold is approved, the following amounts are credited to the cost of freeholding—
- (a) rent paid on the perpetual town lease (non-competitive lease) in excess of the amount that would have been payable if the lease had remained a miners homestead;
  - (b) rent paid for the period after the application was lodged.
- (2) If the rent paid is more than the cost of freeholding, the overpaid amount must be refunded to the lessee together with interest at the rate prescribed under a regulation.
- (3) The interest is payable from the date the excess rent was received to the day the amount of the excess is refunded.

## **Division 2B                      Treatment of special perpetual mining purposes leases under certain Acts**

### **503J    Special perpetual mining purposes leases become perpetual leases**

- (1) A special perpetual mining purposes lease issued under the agreement Act on or after 1 January 1995 and in existence immediately before the commencement of this section, becomes, on the commencement of this section, a perpetual lease under this Act.
- (2) A special perpetual mining purposes lease issued under the agreement Act on or after the commencement of this section becomes a perpetual lease under this Act immediately after it is issued.
- (3) Subsections (1) and (2) have effect despite anything in the agreement Act.
- (4) In this section—

*agreement Act* means the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

### **503K    Replacement documents**

- (1) This section applies if a special perpetual mining purposes lease (the *old lease*) becomes a perpetual lease (the *new lease*) under section 503J.
- (2) If the old lease becomes the new lease under section 503J(1), the chief executive must, as soon as practicable, issue a lease document for the new lease to replace the lease document for the old lease.
- (3) If the old lease becomes the new lease under section 503J(2), the chief executive must, as soon as practicable after the old lease is issued, issue a lease document for the new lease to replace the lease document for the old lease.

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- (4) The new lease is subject to all the encumbrances to which the old lease was subject and in the same priorities.
  - (5) When the lease document for the new lease is issued, the lease document for the old lease is no longer valid.
  - (6) The lease document for the new lease must be given to the person who is entitled to possession of the lease document for the old lease.
  - (7) The lease document for the old lease must be returned to the chief executive for cancellation when the lease document for the new lease is issued.
  - (8) The lessee under the new lease may ask for the return of the lease document for the old lease suitably marked as cancelled.

## **Division 3                      Port and harbour lands**

### **504      Changing tenures of port lands**

- (1) The Governor in Council, by order in council, may approve that all or part of land owned, vested in, leased or managed by a port authority or port lessor and surrendered to the State be dedicated or reallocated, without competition, to the port authority or port lessor or another body in the way stated in the order in council.
- (1A) An order in council under subsection (1) may set the rent for a lease of the land.
- (1B) Without limiting subsection (1A), rent set under this section may be set at zero dollars in total or for a rental period.
- (1C) A rent and instalment regulation does not apply to the lease until the order in council ceases to apply to it.
- (2) The port authority, port lessor or other body and the State must take all necessary action to fulfil the changes approved in the order in council.

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- (3) All interests over the land at the time of the surrender continue until the interest ends and are not affected by the change of tenure, even though the interests may not be interests that would be granted or issued under this Act.
- (4) Registration fees are not payable for a change of tenure under this section.
- (5) An order in council under this section is not subordinate legislation.

## **505 Changing tenures of harbour land**

- (1) The Governor in Council, by order in council, may approve that land that became an asset of the State because of the *Transport Infrastructure Act 1994*, section 231(1) be dedicated or allocated, without competition, to a local government or another body in the way stated in the order in council.

*Editor's note—*

The *Transport Infrastructure Act 1994*, section 231 expired 1 July 1997. The *Acts Interpretation Act 1954*, section 20A applies.

- (2) Before land can be dedicated or allocated, the local government or other body must agree to the dedication or allocation.
- (3) If land is allocated or dedicated to a local government or other body, the local government or body takes the place of the State as a party to an interest in the land held by someone else.
- (4) An interest in the land is not affected by the allocation or dedication, even though the interest may not be an interest that would be granted or issued under this Act.
- (5) Registration fees are not payable for an allocation or dedication mentioned in this section.
- (6) An order in council under this section is not subordinate legislation.



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## **Division 4 Cemetery Act 1865**

### **506 Existing cemeteries continue**

- (1) To remove any doubt, it is declared that all reserves and deeds of grant in trust for cemetery purposes under the *Cemetery Act 1865* are reserves and deeds of grant in trust for cemetery purposes under this Act.
- (2) All existing rules and regulations made by trustees under the *Cemetery Act 1865* for the purpose of a reserve or deed of grant in trust for cemetery purposes under the *Cemetery Act 1865* continue, as by-laws for the land comprising the reserve or deed of grant in trust for cemetery purposes under this Act, for a period of 3 years from the commencement.

## **Chapter 9 Transitional and repeal provisions**

### **Part 1 Transitional provisions for original Act (No. 81 of 1994)**

#### **508 Interests under repealed Act continue**

- (1) On the commencement—
  - (a) each interest in land held by a person immediately before the commencement, and recorded under an Act repealed by this Act, is taken to be an interest held by the person, under this Act, in the land registry; and
  - (b) each document or duplicate document issued under an Act repealed by this Act before the commencement is taken to be a document issued under this Act.

[s 509]

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- (2) The chief executive must do everything necessary or desirable to ensure that the particulars of each interest mentioned in subsection (1) are fully and accurately recorded in the land registry.
- (3) To remove any doubt, it is declared that all reservations in existing deeds of grant, deeds of grant in trust and leases continue.

### **509 Registration of documents lodged before commencement**

- (1) The chief executive may register a document after the commencement, if—
  - (a) the document was lodged, but not registered, before the commencement; and
  - (b) the registrar of titles had power to register the document when it was lodged.
- (2) In registering a document under subsection (1), the chief executive must exercise the powers the registrar of titles had when the document was lodged.

### **510 Offers made before commencement**

If an offer was made under the repealed Act and had not lapsed before the commencement, but is accepted on or after the commencement—

- (a) the offer must be dealt with as if the repealed Act had not been repealed; and
- (b) the tenure issued is taken to be an existing tenure.

### **511 References in Acts and documents**

A reference in an Act or document to—

- (a) the Land Administration Commission, the chief commissioner of lands or the secretary, Land

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- Administration Commission may, if the context permits, be taken to be a reference to the chief executive; and
- (b) a land commissioner, assistant land commissioner, deputy land commissioner, land agent or land inspector may, if the context permits, be taken to be a reference to an officer of the department; and
  - (c) Crown land and State land as defined in the repealed Act may, if the context permits, be taken to be a reference to unallocated State land; and
  - (d) a holding within the meaning of, or as defined in, the repealed Act may, if the context permits, be taken to be a reference to a lease under this Act; and
  - (e) a reservation for irrigation works or purposes may, if the context permits, be taken to be a reference to a reservation for a public purpose under this Act; and
  - (f) the registrar of titles may, if the reference is about a register or the registration of a document under this Act and the context otherwise permits, be taken to be a reference to the chief executive; and
  - (g) a stud advisory committee in an existing tenure document may, if the context permits, be taken to be a reference to the Minister; and
  - (h) a licensee under a particular type of licence under the repealed Act may, if the context permits, be taken to be a reference to a licensee under this Act; and
  - (i) a permission to occupy under the repealed Act may, if the context permits, be taken to be a reference to a permit to occupy under this Act; and
  - (j) the repealed Act, or the *Land Act 1897*, the *Land Act 1902* or the *Land Act 1910*, may, if the context permits, be taken to be a reference to this Act; and
  - (k) a section of the repealed Act, or the *Land Act 1897*, the *Land Act 1902* or the *Land Act 1910*, may, if the context

permits, be taken to be a reference to the corresponding section in this Act.

## 512 Harbour matters

If a lease is transferred to the Minister under the *Transport Infrastructure Act 1994*, section 232(2), a reference in the lease to the Harbours Corporation is taken to be a reference to the Minister.

*Editor's note—*

The *Transport Infrastructure Act 1994*, section 232, expired 31 December 2000. The *Acts Interpretation Act 1954*, section 20A applies.

## 513 Casino matters

- (1) If the *Breakwater Island Casino Agreement Act 1984*, the *Brisbane Casino Agreement Act 1992* or the *Cairns Casino Agreement Act 1993* (the **Casino Act**) requires or permits the State or a person to do a thing to fulfil its or the person's obligations under the Casino Act, and to fulfil the obligation, it is necessary to take action allowed under the repealed Act, the action may be taken under this Act whether or not the action would be allowed under this Act.
- (2) If there is any inconsistency between this Act and any Casino Act, the Casino Act prevails to the extent of the inconsistency.

*Examples—*

- 1 If under a Casino Act it was agreed that the State would arrange for a lease over a reserve of 75 years duration (the maximum allowable under the repealed Act), a lease for 75 years may be issued under this Act even though the maximum allowable under this Act is 30 years.
- 2 If a Casino Act has particular rent, termination, subleasing and transfer provisions, the provisions override this Act in that respect.

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**514 Closure of Brigalow Fund**

- (1) All amounts in the Fitzroy Brigalow Land Development Trust Fund, established under the *Brigalow and Other Lands Development Act 1962*, immediately before the commencement is transferred to and becomes part of the consolidated fund.
- (2) On and from the commencement, all amounts to be paid to or from the Fitzroy Brigalow Land Development Trust Fund must be paid to or from the consolidated fund.

**516 Existing by-laws**

All existing by-laws made by trustees under the repealed Act continue for a period of 3 years from the commencement.

**518 Existing powers of attorney**

A power of attorney forms part of the power of attorney register under the *Land Title Act 1994* if it was—

- (a) registered under the repealed Act; or
- (b) lodged before the commencement and was capable of registration under the repealed Act.

**519 Things done under repealed Acts**

- (1) In this section—  
*done* includes issued, recorded, entered, kept, granted, declared, registered, lodged, deposited, produced, transferred, created, served, given, acquired, required, executed, removed, noted, sealed, imprinted, witnessed, advertised and anything else prescribed under the regulations for this definition.

[s 520]

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- (2) Everything done under an Act repealed by this Act, is as effective as if it had been done for the same purpose under this Act.

*Editor's note—*

The Acts repealed by this Act include the following—

- *Irrigation Areas (Land Settlement) Act 1962*
- *Land Act 1962*
- *Miners' Homestead Leases Act 1913*
- *Mining Titles Freeholding Act 1980*
- *Sale to Local Authorities Land Act 1882.*

- (3) An approval given under an Act repealed by this Act for a matter is taken to be an approval for the same purpose under this Act.

## **520 Effect of repeal by this Act**

The repeal of the following sections of the repealed Act is limited in the following way—

- (a) section 334F continues to apply to deeds of grant in trust granted for the benefit of Aboriginal or Islander inhabitants before this Act commenced;
- (b) section 361A continues to apply to deeds of grant in trust granted before this Act commenced.

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## **Part 1A**                      **Transitional provision for Natural Resources and Other Legislation Amendment Act 2000**

### **521A Lease of land under repealed Act, section 269(1)**

- (1) This section applies if—
  - (a) a lease (an *additional lease*) was issued under the repealed Act, section 269(1) to a lessee of a grazing homestead perpetual lease or pastoral lease; and
  - (b) on the commencement of this section, the additional lease is an interest in land held under this Act.
- (2) The additional lease is taken to have been issued on condition that the land the subject of the lease is tied to the land held under the grazing homestead perpetual lease or pastoral lease.
- (3) The condition is a tied condition under section 205.

## **Part 1B**                      **Transitional provisions for Guardianship and Administration Act 2000**

### **521B Performance of condition under previous s 207(1)(b) possible for 1 year**

Without limiting the operation of section 207(1)(b) as in force immediately after the commencement of this section, section 207(1)(b) as in force immediately before the commencement of this section also continues to have effect for 1 year after the commencement of this section as if the section had not been amended by the *Guardianship and Administration Act 2000*.

[s 521C]

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### **521C Authorisation under repealed s 384 continues for 1 year**

An authorisation under section 384 that is in force immediately before the repeal of the section continues to have effect for 1 year after the repeal as if the section had not been repealed.

## **Part 1C Transitional provision for Audit Legislation Amendment Act 2006**

### **521D Persons appointed to perform certain audits before commencement**

- (1) This section applies if, before the commencement, the trustee of trust land appointed a person mentioned in pre-amended section 47(1)(a) or (b) to audit the trustee's books of account—
  - (a) for the 2004–2005 financial year and the person has not performed the audit; or
  - (b) for the 2005–2006 financial year.
- (2) For the purpose of the person performing the audit, pre-amended section 47(1)(a) or (b) continues to apply as if the *Audit Legislation Amendment Act 2006* had not commenced.
- (3) In this section—

***commencement*** means commencement of this section.

***pre-amended***, in relation to section 47(1)(a) or (b), means the provision as in force before the commencement.



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## **Part 1D**                      **Transitional provisions for Land and Other Legislation Amendment Act 2007**

### **521E Divesting and vesting trust land**

- (1) This section applies if a trustee of trust land is a trustee—
  - (a) mentioned in section 44(2)(c) or (e) as in force immediately before the commencement of this section; and
  - (b) represents the State.
- (2) On the commencement of this section, the trust land is vested in the State as trustee of the land.
- (3) The chief executive must register the vesting.

### **521F Existing leases exempted from particular amendments**

The following provisions inserted under the *Land and Other Legislation Amendment Act 2007* do not apply for a lease that started before the commencement of this section—

- section 115(3) to (5)
- section 136(5) to (7)
- sections 155A to 155E, 160A, 162A and 168A.

### **521G Offer of additional area**

Section 136(5) to (7) does not apply to an offer of an additional area made under chapter 4, part 1, division 3 before the commencement of this section.

### **521H Forfeiture for outstanding amount**

If the Minister has given a lessee or mortgagee notice of the Minister's intention to forfeit a lease under section 235(1) or

[s 521I]

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238(2) as in force immediately before the commencement of this section, the provisions of chapter 5, part 4 as in force immediately before the commencement of this section continue to apply to the forfeiture of the lease.

### **521I Requirements for plan of subdivision**

Section 290J as in force immediately before the commencement of this section continues to apply to a plan of subdivision lodged in the land registry before the commencement.

### **521J Non-application of s 299A to particular documents**

Section 299A does not apply to a document if the particulars about the document are recorded in the relevant register before the commencement of this section.

### **521L Continuance of power to substitute particular tenure or registered documents**

Despite its repeal, section 312 continues to apply for a tenure document or other registered document for land included in a register kept under section 276(e), (g) or (h).

### **521M Permits to occupy and unallocated State land**

To remove any doubt, it is declared that permit land for a permit issued before the commencement of this section is, and has always been, unallocated State land if the land was unallocated State land immediately before the permit was issued.

### **521N Dealing with disputes under particular subleases**

- (1) This section applies in relation to a dispute under a sublease in force immediately before the commencement if—



[s 521Q]

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(3) In this section—

*indigenous trust land* means Aboriginal trust land as defined under the *Aboriginal Land Act 1991* or Torres Strait Islander trust land as defined under the *Torres Strait Islander Land Act 1991*.

## **Part 1F Further transitional provisions for Land and Other Legislation Amendment Act 2007**

### **521Q Definition for pt 1F**

In this part—

*commencement* means the commencement of this section.

### **521R Outstanding applications continued under post-amended Act**

- (1) An outstanding application continues under the provisions of the post-amended Act.
- (2) However, the matters the designated officer, designated person or other person deciding the application must consider are—
  - (a) if the applicant for the application asks that the matters to be considered in deciding the application are the matters to be considered under the post-amended Act—the matters to be considered for a similar application under the post-amended Act; or
  - (b) otherwise—the matters that would have been considered in deciding the application under the pre-amended Act.
- (3) Also, chapter 7, part 2A of the post-amended Act does not apply to the application.

(4) In this section—

*outstanding application* means an application made under the pre-amended Act but not dealt with as at the commencement.

*post-amended Act* means the *Land Act 1994* as in force from time to time on and after 1 January 2008.

*pre-amended Act* means the *Land Act 1994* as in force immediately before 1 January 2008.

### **521S Particular new leases exempted from particular provisions**

(1) The following provisions do not apply to a new lease—

- section 162A
- section 168A
- section 176H.

(2) In this section—

*new lease* means a lease offered and accepted under this Act before 1 January 2008 but not granted as at the commencement.

## **Part 1G Transitional provision for Acquisition of Land and Other Legislation Amendment Act 2009**

### **521T Provision about change of purpose for reserves**

(1) This section applies if—

- (a) under section 31B as in force before the commencement, the purpose of a reserve that was not a

community purpose was changed to a community purpose; and

- (b) the change was registered before the commencement.
- (2) The change is taken to have been lawfully made under this Act.
- (3) In this section—

*commencement* means the day this section commences.

## **Part 1H**

# **Transitional provisions for Natural Resources and Other Legislation Amendment Act 2010**

### **521U Definitions for pt 1H**

In this part—

*commencement* means the day this section commences.

*previous*, for a stated provision that includes a number, means the provision that included that number as in force immediately before the commencement.

### **521V Existing term lease applications**

Section 155 applies to an application for a term lease that has been made but not decided before the commencement.

### **521W Existing extension applications**

- (1) Section 155A applies to an application for an extension of a term lease made under previous section 155A, but not decided before the commencement.

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- (2) Section 155B applies to an application for an extension of a term lease made under previous section 155B, but not decided before the commencement.

### **521X Application of s 155D to existing leases**

From the commencement, section 155D applies to leases granted under previous section 155 or extended under previous section 155A or 155B.

### **521Y Application of s 201A to existing leases**

Section 201A does not apply to leases entered into before the commencement.

### **521Z Continuing application of no compensation provision**

- (1) The repealed section 431NG continues to apply after the repeal of chapter 7, part 3B in relation to the operation of that part.
- (2) In this section—  
*repealed section 431NG* means section 431NG as in force immediately before the commencement of this section.

### **521ZA Lease or permit**

- (1) This section applies if—
- (a) immediately before the commencement of this section, a person (the *relevant person*) is the lessee of, or is the holder of a permit to occupy, land (the *relevant land*) that adjoins a tidal boundary of other land (the *primary land*); and
  - (b) the relevant person is also the registered owner or lessee of the primary land; and
  - (c) after the commencement of this section, because of the operation of the *Survey and Mapping Infrastructure Act*

2003, part 7, division 2, subdivision 2 or 3, there effectively occurs a relocation of the tidal boundary of the primary land.

- (2) There is taken to be a corresponding alteration of the area of the permit or lease for the relevant land to ensure it continues to adjoin the primary land.

## **Part 11**

# **Transitional provision for Classification of Computer Games and Images and Other Legislation Amendment Act 2013**

### **521ZB References to the repealed Dividing Fences Act 1953**

- (1) In a document under this Act, a reference to the repealed *Dividing Fences Act 1953* may, if the context permits, be taken to be a reference to the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.
- (2) Subsection (1) applies subject to the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, section 98.



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## Part 1J Transitional provision for amendments under Waste Reduction and Recycling Act 2011

### 521ZC Existing profit a prendre relating to natural resource product

- (1) This section applies to a profit a prendre relating to a natural resource product registered under chapter 6, part 4, division 8B as in force immediately before the commencement of this section (*previous part 4, division 8B*).
- (2) Previous part 4, division 8B continues to apply for the profit a prendre as if the *Waste Reduction and Recycling Act 2011* had not been enacted.

## Part 1K Transitional provisions for Land, Water and Other Legislation Amendment Act 2013

### 521ZD Definitions for pt 1K

In this part—

*commencement* means the commencement of the provision in which the word appears.

*previous*, for a provision of this Act, means the provision as in force immediately before the commencement.

*relevant term lease* means a term lease to which the following apply—

- (a) the lease—

[s 521ZE]

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- (i) is for rural leasehold land; and
- (ii) is for a term of 20 years or more;
- (b) the lease land is 100ha or more but less than 1000ha;
- (c) the lease is subject to a land management agreement.

### **521ZE Cancellation of land management agreements**

- (1) This section applies to a relevant term lease in force on the commencement.
- (2) Subject to section 521ZF, the lessee may apply in writing to the Minister for the cancellation of the land management agreement for the lease.
- (3) The Minister may grant the cancellation.
- (4) However, the agreement must not be cancelled if the Minister is satisfied—
  - (a) the lease land suffers from, or is at risk of, land degradation; or
  - (b) the lessee is using the lease land in a way that is not fulfilling the lessee's duty of care for the land, under section 199.
- (5) The cancellation of a land management agreement under this section does not affect the term of the lease.
- (6) If the Minister decides to refuse to grant the cancellation the lessee may appeal against the decision.

### **521ZF Prohibition on cancellation of particular land management agreements**

- (1) This section applies to a relevant term lease in force on the commencement for which an extension of the term is granted under chapter 4, part 3, division 1B, regardless of whether the application for the extension is made before or after the commencement.

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- (2) The lessee can not apply for the cancellation, under section 521ZE, of the land management agreement for the lease.

### **521ZG Particular conditions about land management agreements for relevant term leases**

- (1) This section applies to a relevant term lease in force on the commencement that is subject to a condition imposed under section 203(g).
- (2) If, under section 521ZE, the Minister cancels the land management agreement for the lease—
  - (a) the condition is taken to have been cancelled; and
  - (b) the chief executive must amend the leasehold land register to show the condition has been cancelled.
- (3) The amendment of the register may be made despite any other provision of the Act.

### **521ZH Extension and reduction of relevant term leases**

- (1) This section applies to a relevant term lease in force on the commencement, subject to section 521ZE.
- (2) Previous chapter 4, part 3, divisions 1B and 1C continue to apply for the lease.

### **521ZI Existing term lease applications**

- (1) This section applies to an application for a term lease that has been made under previous chapter 4, part 3 but not decided before the commencement.
- (2) Previous chapter 4, part 3 and chapter 5, part 2 continue to apply to the application.
- (3) However, subsection (4) applies if the application is for a lease to which the following apply—
  - (a) the lease—

[s 521ZJ]

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- (i) is for rural leasehold land; and
- (ii) is for a term of 20 years or more;
- (b) the lease land is 100ha or more but less than 1000ha.
- (4) The Minister may, at the applicant's request, decide the application as if chapter 4, part 3 as amended under the amending Act applied to the application.
- (5) In this section—

*amending Act* means the *Land, Water and Other Legislation Amendment Act 2013*.

## **Part 1L                      Transitional provision for Vegetation Management Framework Amendment Act 2013**

### **521ZJ Particular existing forfeiture procedures**

- (1) This section applies to a proceeding commenced before the commencement of this section for the forfeiture of a lease under chapter 5, part 4, division 3, as in force immediately before the commencement of this section.
- (2) This Act, as in force immediately before the commencement of this section, continues to apply to the proceeding as if the *Vegetation Management Framework Amendment Act 2013*, part 3 had not been enacted.

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## Part 1M Transitional provisions for Land and Other Legislation Amendment Act 2014

### 521ZK Definitions for pt 1M

In this part—

*amending Act* means the *Land and Other Legislation Amendment Act 2014*.

*commencement* means the commencement of this part.

*repealed* means repealed by the amending Act.

### 521ZL Application for term lease renewal may become extension application for rolling term lease

- (1) This section applies if—
  - (a) immediately before the commencement, a renewal application for a term lease had been made under the renewal provisions but had not been finalised under those provisions; and
  - (b) on the commencement, the term lease becomes a rolling term lease.
- (2) After the commencement, and before the renewal application is finalised under the renewal provisions, the lessee may advise the chief executive that the lessee agrees to the renewal application being treated as an extension application.
- (3) If the lessee advises the chief executive under subsection (2), the renewal application for the lease is taken to be an extension application for the lease, and must be dealt with under chapter 4, part 3, division 2, subdivision 3.
- (4) If, immediately before the commencement, an offer to renew the lease had been made but not accepted, on the lessee giving advice under subsection (2), the offer is taken to have been withdrawn.

[s 521ZM]

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- (5) If the chief executive is satisfied the lessee does not wish the renewal application to be treated as an extension application, the renewal application must be dealt with under this Act as in force immediately before the commencement.

### **521ZM Application for term lease renewal before commencement may become extension application**

- (1) This section applies if—
  - (a) immediately before the commencement, a renewal application for a term lease had been made under the renewal provisions but had not been finalised under those provisions; and
  - (b) on the commencement, the term lease does not become a rolling term lease.
- (2) After the commencement, and before the application is finalised under the renewal provisions, the lessee may advise the chief executive that the lessee wishes the lease to become a rolling term lease.
- (3) If the lessee advises the chief executive under subsection (2), and the Minister approves the lease as a rolling term lease under section 164(1)(c), the renewal application for the lease is taken to be an extension application for the lease, and must be dealt with under chapter 4, part 3, division 2, subdivision 3.
- (4) If the lessee does not advise the chief executive under subsection (2), or if the lessee advises the chief executive under subsection (2) but the Minister does not approve the lease as a rolling term lease under section 164(1)(c), the renewal application must be dealt with under this Act as in force immediately before the commencement.

### **521ZN Ending of mandatory condition under repealed s 176H**

- (1) This section applies to a lease that, immediately before the commencement, was subject to a mandatory condition under repealed section 176H.

- (2) On and from the commencement, the lease is no longer subject to the condition.

### **521ZO Transitional regulation-making power**

A rent and instalment regulation may include a provision about a matter for which—

- (a) it is necessary to make provision to allow for or to facilitate achieving the transition from the repealed chapter 5, part 1 to the rent and instalment regulation; and
- (b) this Act does not make provision or sufficient provision.

## **Part 2                      Repeal**

### **522      Completion of repeal**

To the extent it was not already repealed immediately before the commencement of this section, the *Land Act 1962* is repealed.

## **Schedule 1      Community purposes**

schedule 6, definition *community purpose*

Aboriginal purposes  
beach protection  
buffer zones  
cemeteries  
coastal management  
crematoriums  
cultural purposes  
drainage  
environmental purposes  
gardens  
heritage  
historical  
jetties  
landing places  
mortuaries  
natural resource management  
navigational purposes  
open space  
parks  
provision of services beneficial to Aboriginal people particularly concerned with land  
provision of services beneficial to Torres Strait Islanders particularly concerned with land  
public boat ramps  
public halls



public toilet facilities  
recreation  
roads  
scenic purposes  
scientific purposes  
showgrounds  
sport  
strategic land management  
Torres Strait Islander purposes  
travelling stock requirements  
watering-places

## **Schedule 1A Provisions that include mandatory conditions for tenures**

section 198C(2)

- section 136
- section 176UA(3)
- chapter 5, part 2, division 1
- section 214C(3)
- section 457(1)
- section 462(1)
- section 466(1)
- section 488(2)

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## Schedule 1B Regulation about the payment and collection of rent and instalments

section 448(3)

### 1 Matters that may be included

Matters that may be included in a regulation under section 448(2)(h), include, for leases, licences and permits (*authorities*), the following—

- (a) the setting of periods for which rents are payable;
- (b) the categorisation of authorities for rental purposes, including how categories may be changed, and including the review and appeal of decisions about categorisation;
- (c) the calculation of rent payable for authorities, including for different categories of authorities;
- (d) the setting of rent payable for particular authorities if calculation provisions under paragraph (c) are not to be applied, having regard to prescribed circumstances;
- (e) provision for the Minister to apply an alternative way of calculating the rent payable for a category of authority so that a lower rental amount may be applied in prescribed circumstances;
- (f) ending the requirement to pay rent for leases subject to conversion to freehold;
- (g) making of rent adjustments for authorities having regard to prescribed events, including, for example, a change in the area of an authority or a change in the category because of a change of purpose;
- (h) the fixing, in prescribed circumstances, of lesser rents than would otherwise be payable, whether by applying a discount or in some other way, including, for example,

the setting by the Minister of concessional arrangements for authorities—

- (i) requiring unusual development or investigative activity; or
  - (ii) held by charitable, sporting or recreational organisations; or
  - (iii) affected by a property build-up scheme or an indigenous cultural interest;
- (i) when and where any rent or instalment must be paid, including requiring payments to be made before objections or appeals are finalised;
  - (j) the refunding of overpaid rent or instalments, and the extent to which interest is payable on overpaid amounts;
  - (k) deferral arrangements for the payment of rent or instalments because of hardship and when deferral arrangements cease to apply;
  - (l) the payment of penalty interest on unpaid rent or instalments;
  - (m) action that may be taken in relation to the non-payment of an amount of rent or instalments, or of any amount of interest payable because of the non-payment of rent or instalments, including—
    - (i) the giving of notice about an intention to take an action mentioned in subparagraph (ii) or (iv); or
    - (ii) action to recover the amount in a court; or
    - (iii) action under this Act for the forfeiture of a lease; or
    - (iv) the cancellation of a licence or permit; or
    - (v) reinstatement of a cancelled licence or permit on payment of an unpaid amount.

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## Schedule 2      Original decisions

section 423

<b>Section</b>	<b>Description of decision</b>
13B	about the granting of an application to have land declared as former watercourse land
23A	about the allocation of a floating reserve
25(2)	about the unimproved value of a reservation
26(3)	about the boundaries of the land being resumed
26B(6)	about the value of commercial timber
58(6)	refusing a transfer, mortgage or sublease
69(3)	about the unimproved value of land to be sold by a mortgagee in possession
109A(3)	imposing conditions on the approval for the simultaneous opening and closing of roads in deed of grant land
109B(4)	imposing conditions on the approval for the simultaneous opening and closing of roads in trust land or lease land
118(2)	excluding an applicant from a ballot or tender
127(7)	about the unimproved value of reclaimed land
130A(1)	about making a note in the appropriate register against a lease
155D(2)	reducing the term of a lease
160(3)	about whether the conditions of a lease have been fulfilled
164C(7)	about the Minister's refusal to grant an extension of a lease
168(5)	about whether the conditions of a lease have been fulfilled

<b>Section</b>	<b>Description of decision</b>
170(2)	about the chief executive's decision on the purchase price
176A(1)	refusal of approval of subdivision
176L(1)	refusal of approval of amalgamation
212(3)	about a review change
214(1)	giving a remedial action notice
214E(2)	reducing the term of a lease
214E(2)	imposing additional conditions on a lease
232(5)	about the value of improvements
239(1)	not allowing the sale of a lease by a mortgagee
239(2)	not allowing the sale of a lease by a relevant local government
249(5)	about the value of improvements
322(6)	refusing a transfer
332(7)	refusing a sublease
347(4)	refusing an extension of time
521ZE(6)	refusal to grant the cancellation of a land management agreement

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## **Schedule 3            Requirements for approved agreements**

section 373ZC(2)

### **Part 1                    Indigenous access and use agreements**

- 1 The lease affected by an indigenous access and use agreement must be a lease for—
  - (a) rural leasehold land; and
  - (b) a term, including any extension of the lease that has been or may be granted under section 155A or 155B, of 20 or more years but no more than 50 years; and
  - (c) lease land that is 1000ha or more.
- 2 Native title must not have been extinguished for the land the subject of the lease.
- 3 The parties to an indigenous access and use agreement must be—
  - (a) the lessee; and
  - (b) the determined native title holders or registered native title claimants for the area that is subject to the agreement.
- 4 An indigenous access and use agreement—
  - (a) must not provide for the assigning, surrendering or extinguishing of native title over any part of the lease land; and
  - (b) must not provide for the validation of future acts within the meaning of the *Native Title Act 1993* (Cwlth), section 233; and

- (c) must not provide for the burial of human remains on the lease land by a party to the agreement mentioned in item 3(b), unless the party—
    - (i) is a determined native title holder; and
    - (ii) has the prior consent of the lessee and the chief executive; and
  - (d) must not purport to prevent or be inconsistent with—
    - (i) the establishment of a nature refuge under the *Nature Conservation Act 1992*; or
    - (ii) a covenant, of a type mentioned in section 373A(4)(b) if the covenantee is the State, being registered; and
  - (e) must not be for a term less than the unexpired term of the lease affected by the agreement, including any extension of the lease that may be granted under section 155A or 155B.
- 5 The area that is subject to an indigenous access and use agreement must include—
- (a) if the agreement requires the lessee to withdraw from a native title claim made by another party to the agreement—
    - (i) all parts of the lease land relevant to the other party's native title claim; and
    - (ii) any areas over which native title will be extinguished or the extinguished areas under a determination of native title; or
  - (b) otherwise—all, or the part, of the lease land that is within the other party's determined or registered native title claim area under the *Native Title Act 1993* (Cwlth).
- 6 If native title claim areas overlap on the lease land, an indigenous access and use agreement for the lease land must exclude that part of the lease land where one native title claim overlaps another unless—
- (a) the agreement is entered into on behalf of more than one native title claim group; and





- 155BA, of 20 or more years but no more than 75 years;  
and
- (c) lease land that is 1000ha or more.
- 2 Native title must not have been extinguished for the land the subject of the lease.
- 3 The parties to an indigenous land use agreement must be—
- (a) the lessee; and
- (b) the native title party for the part of the lease land subject to the agreement.
- 4 An indigenous land use agreement—
- (a) must not provide for the assigning, surrendering or extinguishing of native title over any part of the lease land; and
- (b) must allow the native title party to carry out the following activities on the lease land—
- (i) activities for traditional purposes of the native title party;
- Examples of activities for subparagraph (i)—*
- camping, fishing, gathering or hunting
  - performing rites or other ceremonies
  - visiting sites of significance
- (ii) activities incidental to an activity mentioned in subparagraph (i); and
- Examples of activities for subparagraph (ii)—*
- controlling pests
  - teaching rites or other ceremonies
  - preserving sites of significance
- (c) must not provide for the burial of human remains on lease land by the native title party unless the native title party has the prior consent of the lessee and the chief executive; and
- (d) must not purport to prevent or be inconsistent with—

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- (i) the establishment of a nature refuge under the *Nature Conservation Act 1992*; or
    - (ii) a covenant, of a type mentioned in section 373A(4)(b) if the covenantee is the State, being registered; and
  - (e) must not be for a term less than the unexpired term of the lease affected by the agreement, including any extension of the lease that may be granted under section 155A, 155B or 155BA.
- 5 The area that is subject to an indigenous land use agreement must include—
- (a) if the agreement requires the lessee to withdraw from a native title claim made by the native title party—
    - (i) all parts of the lease land relevant to that party's native title claim; and
    - (ii) any areas over which native title will be extinguished or the extinguished areas under a determination of native title; or
  - (b) otherwise—all, or the part, of the lease land that is within the native title party's determined or registered native title claim area under the *Native Title Act 1993* (Cwlth).
- 6 If native title claim areas overlap on the lease land, an indigenous land use agreement for the lease land must exclude that part of the lease land where one native title claim overlaps another unless—
- (a) the agreement is entered into on behalf of more than one native title claim group; and
  - (b) the native title parties for the claims have agreed that the overlapping claim area is shared country for the purposes of the agreement; and
  - (c) the shared country is clearly described and identified on a map included in the agreement; and

- (d) the nature and extent of the native title for the shared country, and the responsibilities of the native title parties for the shared country, are expressed in the agreement.
- 7 If an indigenous land use agreement includes conditions relating to a lessee withdrawing from the native title party's native title claim, the agreement must include conditions as follows for the purpose of a determination of native title—
- (a) burial of human remains by the native title party must not take place on the lease land without the prior consent of the lessee and the chief executive;
  - (b) the lessee's rights and interests under the lease and the indigenous land use agreement must be included as one of the interests under a determination;
  - (c) the areas identified as permanent exclusion areas under the indigenous land use agreement are to be areas in which native title is, subject to the determination, validly extinguished.

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## Schedule 6      Dictionary

## section 3

***Aboriginal people particularly concerned with land*** means Aborigines particularly concerned with land within the meaning given by the *Aboriginal Land Act 1991*, section 3.

***additional area*** see section 132.

***adjoining owner*** in relation to land adjoining a road, means—

- (a) the registered owner of the land, other than a trustee of a deed of grant in trust; or
- (b) if the land is lease land—the lessee; or
- (c) if the land is trust land—the trustee of the trust land.

***adjustment notice*** means a notice in the approved form requesting the registrar to register an adjustment of the particulars of land under this Act.

***agriculture*** means the cultivation of land including, for example, the following—

- (a) farming;
- (b) crop-raising;
- (c) forestry.

***amalgamation offer***, for chapter 4, part 3, division 5, see section 176L(2).

***appeal*** means an appeal under chapter 7, part 3.

***appeal expiration day***, for a decision, means—

- (a) if an application for review of the decision is not made within the 42 days mentioned in section 424(1) or within any extended period under section 424(2)—the day the 42 days or extended period ends; or
- (b) if an application is made, the day all proceedings under chapter 7, part 3, in relation to the decision and any appeals from those proceedings, are ended.

**appropriate form**, for the completion of a document, means the completion of—

- (a) the approved form for the document; or
- (b) if a form is approved or prescribed for the document under another Act—that form; or
- (c) if the chief executive has given consent for an electronic form of the document under section 305A(1) or the *Electronic Transactions (Queensland) Act 2001*—the electronic form.

**appropriate register** means—

- (a) for leases and matters relating to leases—the leasehold land register; or
- (b) for reserves and matters relating to reserves—the register of reserves; or
- (c) for State forests and timber reserves and matters relating to State forests and timber reserves—the register of State forests and timber reserves; or
- (d) for nature conservation areas and matters relating to specified protected areas—the register of nature conservation areas; or
- (e) for specified national parks and matters relating to specified national parks—the register of specified national parks; or
- (f) for licences and permits and matters relating to licences and permits—the register of licences and permits; or
- (g) for unallocated State land and matters relating to unallocated State land—the register of unallocated State land; or
- (h) for State housing leases and matters relating to State housing leases—the register of State housing leases; or
- (i) for land vested in fee simple and matters relating to the land—the register of land vested in fee simple.

**approved agreement**, for an indigenous cultural interest, see section 373ZB.

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***approved form*** means—

- (a) for an electronic conveyancing document—a form approved by the chief executive under the Electronic Conveyancing National Law (Queensland), section 7; or
- (b) otherwise—a form approved by the chief executive under section 444 for use under this Act.

***authorised person*** means a person who is appointed as an authorised person.

***bankruptcy*** includes a proceeding under a law about bankruptcy, insolvency or the liquidation of corporations.

***building*** means a fixed structure that is wholly or partly enclosed by walls and is roofed, and includes a part of a building.

***building management statement*** see section 294B(2).

***cancellation notice*** means a notice in the approved form requesting the registrar to register a cancellation of a tenure or interest in land under this Act.

***cane railway easement*** see the *Sugar Industry Act 1999*, section 63(5).

***carbon abatement interest***, for chapter 6, part 4, division 8C, see section 373R.

***carbon abatement product***, for chapter 6, part 4, division 8C, see section 373R.

***carbon sequestration***, for chapter 6, part 4, division 8C, see section 373R.

***caveatee***, for a lease, licence or interest in a reserve over which a caveat has been lodged, means—

- (a) a lessee of the lease or licensee of the licence; or
- (b) someone, other than the caveator, who has an interest in the lease or licence; or
- (c) a holder of an interest in a reserve.

***caveator***, for a lease, licence or interest in a reserve over which a caveat has been lodged, means a person in whose favour the caveat is lodged.

***clear*** a tree includes clear by blading, burning, cutting, dozing, felling, poisoning, pulling, ringbarking and sawing, but does not include lopping or the destruction of standing vegetation by stock.

***Commonwealth ILUA register*** means the Register of Indigenous Land Use Agreements under the *Native Title Act 1993* (Cwlth).

***community purpose*** means a purpose in schedule 1.

***compensation claimant*** see section 219(3).

***conditional deed*** see section 490.

***conservation agreement*** means a conservation agreement under the *Nature Conservation Act 1992*.

***conservation covenant*** means a covenant registered under section 373A that is of a type mentioned in section 373A(4)(b).

***constructing authority*** has the meaning given by the *Acquisition of Land Act 1967*.

***construction trustee sublease*** see section 58(4)(a).

***conversion application*** see section 166(1).

***conviction*** includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

***copy***, of a document, if the document is an electronic conveyancing document, means—

- (a) a representation of the document in paper form; or
- (b) a reproduction or representation of the document in digital form.

***correct*** includes correct by addition, omission or substitution.

***court*** means the Land Court established under the *Land Court Act 2000*.



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***cultivation*** means planting seeds for a crop or improved pasture species, whether or not the soil has been broken to prepare a seed bed, but does not include the breaking of the soil for the natural regeneration of indigenous grasses.

***current miners homestead application*** see section 495.

***declared pest*** see the *Land Protection (Pest and Stock Route Management) Act 2002*, schedule 3.

***dedication notice*** means a notice in the approved form—

- (a) requesting the chief executive to register a dedication of land under this Act; or
- (b) requesting the registrar to register a dedication of land as road under the *Acquisition of Land Act 1967*, section 12B.

***deed of grant*** means—

- (a) land granted in fee simple by the State; or
- (b) the document evidencing the grant, including an indefeasible title under the *Land Title Act 1994*.

***deed of grant in trust*** means—

- (a) land granted in fee simple in trust by the State; or
- (b) the document evidencing the grant, including an indefeasible title under the *Land Title Act 1994*.

***deposit*** means file in the land registry other than for registration.

*Note*—

For filing an electronic conveyancing document, see the definition *file*.

***designated occupation licence*** means an occupation licence over—

- (a) a forest reserve; or
- (b) a national park; or
- (c) a State forest; or
- (d) a timber reserve.

***designated officer***, for a provision about a lease, licence or permit, means—

- (a) to the extent the provision is about a lease or licence—the Minister; or
- (b) to the extent the provision is about a permit—the chief executive.

***designated person***, for a provision about a lease, means—

- (a) for a freeholding lease—the Governor in Council; or
- (b) for a term or a perpetual lease—the Minister.

***determination of native title*** see the *Native Title Act 1993* (Cwlth), section 225.

***determined native title holders***, for an area, means the person or group of persons holding the common or group rights comprising native title in the area under a determination of native title.

***development lease*** see section 476.

***development work*** for land means—

- (a) if clearing of trees enhances the productivity of the land—the clearing of trees; and
- (b) work performed for the rehabilitation and sustainability of the land; and
- (c) filling, reclamation or any other works making the land suitable for use or the building or erection of a building or structure on the land.

***document*** includes—

- (a) a deed of grant or lease; and
- (b) a will, grant of representation, or exemplification of a will, that may be used to deal with a lot; and
- (c) a deed that relates to or may be used to deal with a lot; and
- (d) a power of attorney that may be used to deal with a lot; and

- 
- (e) a request, application or other document that deals with a lot and may be registered under this Act; and
  - (f) a map or plan of survey that may be lodged; and
  - (g) another document that may be deposited; and
  - (h) an electronic conveyancing document.

***electronic communication*** means a communication of information in the form of data, text or images by guided or unguided electromagnetic energy.

***electronic conveyancing document*** see section 290P.

***Electronic Conveyancing National Law (Queensland)*** see the *Electronic Conveyancing National Law (Queensland) Act 2013*, section 4.

***encumbrance*** includes a registered covenant under chapter 6, part 4, division 8A.

***end*** includes end by cancellation, expiry, forfeiture and surrender.

***endorse***, in relation to endorsing information on a document, if the document is an electronic conveyancing document, means record the information in electronic form as part of the document in such a way that it is reasonable to expect the information will be readily accessible as part of the document so as to be useable for subsequent reference.

***enforcement warrant*** see the *Civil Proceedings Act 2011*, section 90.

***error*** includes an error by omission.

***existing*** means existing immediately before section 524 commenced.

***existing grazing homestead freeholding lease*** means a grazing homestead freeholding lease issued under the repealed Act, part 4, division 5 because of an application received on or after 5 February 1990.

***existing lease***, for chapter 4, part 3, division 4, see section 176(1).

**existing leases**, for chapter 4, part 3, division 5, see section 176K(1).

**existing post-Wolfe freeholding lease** means—

- (a) an existing perpetual country, suburban or town lease that was taken to be, under the repealed Act, part 7, division 3 a lease for a term of years subject to a covenant entitling the lessee to the issue of a deed of grant if an application was received—
  - (i) on or after 5 February 1990; or
  - (ii) for leases issued for an industrial lease under the repealed *Industrial Development Act 1963*—on or after 3 October 1991; or
- (b) an existing agricultural farm issued on or after 31 December 1991 under the repealed Act, part 4, division 1; or
- (c) an existing special lease purchase freehold issued under the repealed Act, part 8, division 2; or
- (d) an existing auction purchase freehold issued under the repealed Act, part 7, division 1.

**expiry advice** see section 164C(2).

**explanatory format plan** see section 290D.

**extension application** see section 164C(1).

**fee** includes tax.

**file**, a document, if the document is an electronic conveyancing document, means lodge the document electronically under the Electronic Conveyancing National Law (Queensland), section 7.

**floating reservation** means a reservation for a public purpose contained in a deed of grant, deed of grant in trust or lease if the grant or lease does not identify the particular land reserved.

**forest consent agreement** see the *Forestry Act 1959*, section 61J.

**forest consent area** see the *Forestry Act 1959*, section 61J.

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***forest entitlement area*** means a reservation of commercial timber, and the land on which it stands, to the State in a deed of grant or freeholding lease.

***forest products*** see the Forestry Act 1959, schedule 3.

***forest reserve*** has the same meaning as in the *Nature Conservation Act 1992*.

***freeholding lease*** means a pre-Wolfe freeholding lease, a post-Wolfe freeholding lease or a grazing homestead freeholding lease.

***freehold land*** means—

- (a) land recorded in the freehold land register; and
- (b) other land that has been granted or vested in fee simple.

***full supply level***, for chapter 6, part 4, division 8, see section 361.

***GPS*** means global positioning system.

***grazing homestead freeholding lease*** means an existing grazing homestead freeholding lease or a grazing homestead freeholding lease issued under this Act.

***grazing homestead perpetual lease*** means—

- (a) a grazing homestead perpetual lease issued under the repealed Act; or
- (b) a grazing homestead lease, grazing farm lease or settlement farm lease that, under the *Land Act Amendment Act 1984* (No. 54), was converted to and declared to be a grazing homestead perpetual lease under the repealed Act.

***high-water mark*** means the ordinary high-water mark at spring tides.

***identifiable fixed features*** include road intersections, fence intersections, survey marks and built infrastructure.

***image base*** means an image or mosaic of images, including, for example an aerial photograph or a satellite image.

***imposed condition***, of a lease, licence or permit, see section 202A(2).

***improvements*** means any—

- (a) building, fence or yard; and
- (b) artificial watercourse or watering-place, bore, reservoir, well or apparatus for raising, holding or conveying water; and
- (c) cultivation, garden, orchard or plantation; and
- (d) building, structure or appliance that is a fixture for the working or management of land or stock pastured on the land or for maintaining, protecting or increasing the natural capabilities of the land;

but does not include development work.

***indigenous access and use agreement*** see section 373ZB.

***indigenous cultural interest*** see section 373ZB.

***indigenous land use agreement*** see section 373ZB.

***indigenous party***, for an indigenous cultural interest, means—

- (a) if the approved agreement for the interest is an indigenous access and use agreement—the determined native title holders, or registered native title claimants, for the subject area who are a party to the agreement; or
- (b) if the approved agreement for the interest is an indigenous land use agreement—the native title party for the subject area who is a party to the agreement.

***instalment*** includes any interest that is a component of the instalment.

***inundated land*** means freehold land that, through the excavation of the land or other land, has become inundated by water subject to tidal influence, but does not include a canal, or part of a canal, within the meaning of the *Coastal Protection and Management Act 1995*.

***lake*** has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, section 62.

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**land degradation** includes any of the following—

- (a) soil erosion, salinity or scalding;
- (b) destruction of soil structure, including, for example, the loss of fertility, organic matter or nutrients;
- (c) decline in perennial pasture grasses, pasture composition and density;
- (d) low ground cover;
- (e) thickening in woody plants;
- (f) stream bank instability and slumping;
- (g) the presence of any declared pest;
- (h) water logging;
- (i) rising water tables;
- (j) a process that results in declining water quality.

**land management agreement** means an agreement about the management and use of lease land, entered into under chapter 4, part 3 division 6, whether before or after the commencement of this definition, and includes the agreement as amended from time to time.

**land registry** means the land registry under section 275.

**Land Valuation Act** means the *Land Valuation Act 2010*.

**lease**—

- (a) generally—means the interest in land comprising a lease held under this Act, as shown by the current particulars of the interest in the appropriate register; and
- (b) for chapter 6, part 4, division 11A—includes sublease.

**lease land**, for a provision about a lease or proposed lease, a lease to be made available or an offer of a lease, means the land subject to the lease, proposed lease or the lease to be made available or offered.

**lessee** means the person registered in the land registry as the holder of a lease from the State under this Act or the repealed

Act, and for chapter 6, part 4, division 11A, includes sublessee.

**licence** means the occupation rights comprising a licence held under this Act, as shown by the current particulars of the rights in the appropriate register.

**licence land**, for a provision about a licence, means the land subject to the licence.

**licensee** means the person registered in the land registry as the holder of a licence from the State under this Act or the repealed Act.

**liquidation notice** see section 74.

**liquidator** see section 74.

**living area** means the area of grazing or agricultural land that will be adequate to enable a competent person to derive from the working of the land, according to the use for which the land is suited, an income adequate to ensure a reasonable standard of living for the person, the person's spouse and dependant children, as well as provide a reserve to meet adverse seasons and the cost of developing and maintaining the land at a sustainable rate of production throughout average seasons, having regard to—

- (a) the locality of the land; and
- (b) the nature of the land; and
- (c) the potential of the land for sustainable development; and
- (d) the distance of the land from transport facilities and markets.

**lodge** means file for registration in the land registry.

*Note—*

For filing an electronic conveyancing document, see the definition *file*.

**lopping**, a tree, means cutting or pruning branches of the tree, but does not include—

- (a) removing the trunk of the tree; or



- (b) cutting or pruning branches of the tree so severely that the tree is likely to die.

**lot** means a separate, distinct parcel of land created on the registration of a plan of subdivision.

**mandatory condition**, of a lease, licence or permit, see section 198C(2).

**mandatory standard terms document** means a document lodged by the Minister as a standard terms document if the document states that it is a mandatory standard terms document.

**mandatory terms**, for chapter 6, part 4, division 8D, see section 373ZB.

**Map Grid of Australia 1994** has the meaning given in ‘Geocentric datum of Australia technical manual’ published by the Intergovernmental Committee on Surveying and Mapping.

*Editor’s note—*

At the commencement of this definition a copy of the manual could be found on the committee’s website <[www.icsm.gov.au/icsm/gda/gdatm/](http://www.icsm.gov.au/icsm/gda/gdatm/)>.

**marker**, for a monitoring site, means a marker for the site, installed or placed under section 400.

**MEDQ** means MEDQ under the *Economic Development Act 2012*.

**mill owner** see the *Sugar Industry Act 1999*, schedule.

**miners homestead** means—

- (a) for chapter 8, part 7, division 2, see section 495; or  
(b) for chapter 8, part 7, division 2A, see section 503B.

**mining interest** see section 20.

**mining titles freeholding lease** means a mining titles freeholding lease issued under the *Mining Titles Freeholding Act 1980*, and includes a replacement document issued under section 502.

**monitoring device** see section 400(1)(g).

**monitoring site** see section 400(1)(e).

**national park** means a national park under the *Nature Conservation Act 1992*.

**native title** see the *Native Title Act 1993* (Cwlth), section 223.

**native title claim** means a claim in an application for a determination of native title made to the Federal Court under the *Native Title Act 1993* (Cwlth), section 13.

**native title claim area** means an area that is the subject of a native title claim.

**native title claim group** see the *Native Title Act 1993* (Cwlth), section 253.

**native title party** see the *Native Title Act 1993* (Cwlth), section 253.

**native title registrar** means the Native Title Registrar under the *Native Title Act 1993* (Cwlth), section 253.

**natural environmental values**, of lease land, means the qualities and characteristics of the land that contribute to its biological diversity and integrity.

**nature conservation area** means any of the following under the *Nature Conservation Act 1992*—

- (a) a national park;
- (b) a regional park;
- (c) a forest reserve.

**NCA department** means the department in which the *Nature Conservation Act 1992* is administered.

**non-competitive lease** means an existing perpetual country, suburban or town lease issued under the repealed Act, part 8, division 2 or 3.

**non-core utility provider** means a person or entity mentioned in this schedule, definition *public utility provider* paragraph (e) or (f).

**non-freehold land** means all land that is not freehold land.

**non-tidal boundary (lake)**, for chapter 1, part 4, see section 8.

***non-tidal boundary (watercourse)***, for chapter 1, part 4, see section 8.

***non-tidal watercourse*** means a watercourse in which the water that flows is not subject to tidal influence.

***note***, in relation to noting particular information on a document, if the document is an electronic conveyancing document, means record the information in electronic form as part of the document in such a way that it is reasonable to expect the information will be readily accessible as part of the document so as to be useable for subsequent reference.

***notice*** means written notice.

***noxious plant*** means a plant that is a declared pest.

***occupation licence*** means an existing occupation licence issued under the repealed Act, part 3, division 3.

***offer***, for chapter 8, part 7, division 2, see section 495.

***operational reserve*** means a reserve that was reserved and set apart under the repealed Act for a public purpose that is not a community purpose under this Act.

*Examples of possible operational reserves—*

reserves for abattoirs, ambulance, electrical works and kindergartens

***original decision*** means a decision—

- (a) made under this Act and mentioned in schedule 2; or
- (b) made under a regulation, if the regulation provides for an appeal in relation to the decision.

***owner***, for chapter 6, part 4, division 8C, see section 373R.

***pastoral lease*** means a pastoral holding, preferential pastoral holding, pastoral development holding or stud holding issued under the repealed Act.

***permanent road closure application*** see section 97A.

***permit*** means the occupation rights comprising a permit held under this Act, as shown by the current particulars of the rights in the appropriate register.

**permit land**, for a provision about a permit, means the land subject to the permit.

**permittee** means—

- (a) for a permit for a term of not more than 12 months, issued under chapter 4, part 4, that is not registered—the holder of the permit; or
- (b) otherwise—the person registered as the holder of a permit from the State issued under this Act or the repealed Act.

**personally lives** means continuous living on a lease by a lessee or 1 or more of the lessees of a joint interest or interest in common, or within a distance of the lease, stated in the lease, sale notice or prescribed under the regulations.

**personal residence condition** see section 206.

**plan of subdivision** see section 290E.

**port** has the same meaning as in the *Transport Infrastructure Act 1994*.

**port authority** means a port authority under the *Transport Infrastructure Act 1994*.

**port lessee** has the meaning given in the *Transport Infrastructure Act 1994*, section 267.

**port lessor** has the meaning given in the *Transport Infrastructure Act 1994*, section 267.

**port manager** has the meaning given in the *Transport Infrastructure Act 1994*, section 267.

**post-Wolfe freeholding lease** means an existing post-Wolfe freeholding lease or a freeholding lease issued under chapter 8, part 2, division 2.

**pre-Wolfe freeholding lease** means—

- (a) an existing auction perpetual lease that is a perpetual country, suburban or town lease issued under the repealed Act, part 7, division 2; or
- (b) an existing perpetual country, suburban or town lease that was taken to be, under the repealed Act, part 7,

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division 3 a lease for a term of years subject to a covenant entitling the lessee to the issue of a deed of grant if an application was received—

- (i) before 5 February 1990; or
- (ii) for leases issued for an industrial lease under the repealed *Industrial Development Act 1963*—before 3 October 1991; or
- (c) an existing perpetual lease selection issued under the repealed Act, part 4, division 2; or
- (d) an existing agricultural farm issued before 31 December 1991 under the repealed Act, part 4, division 1; or
- (e) an existing grazing homestead freeholding lease issued under the repealed Act, part 4, division 5 because of an application received before 5 February 1990; or
- (f) a mining titles freeholding lease; or
- (g) an existing lease for a term of years subject to a covenant entitling the lessee to a deed of grant in fee simple, if the lease was granted under the *Special Freeholding of Leases Act 1991* on the application of the lessee of a lease mentioned in section 4(1)(b) of that Act.

***priority development area*** means a priority development area under the *Economic Development Act 2012*.

***property vegetation management plan*** means—

- (a) a property vegetation management plan under this Act, as in force before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3; or
- (b) a property vegetation management plan as defined under the *Vegetation Management Act*.

***provisional value*** see section 139(3).

***public interest*** includes the cultural, environmental, heritage, land protection, planning, recreational, social and strategic interests of the public.

**public purpose** means—

- (a) a purpose for which land may be taken under the *Acquisition of Land Act 1967*; or
- (b) a community purpose.

**public thoroughfare easement**, for chapter 6, part 4, division 8, see section 361.

**public use land** means land dedicated to public use by a plan of subdivision.

**public utility easement** see section 361.

**public utility provider** means—

- (a) the State or another entity representing the State; or
- (b) the Commonwealth or another entity representing the Commonwealth; or
- (c) a local government; or
- (d) a person authorised by law to provide a public utility service; or
- (e) a person authorised under an Act to provide a particular public utility service;

*Examples for paragraph (e)—*

a special approval holder under the *Electricity Act 1994* or a service provider for a registered service under the *Water Supply (Safety and Reliability) Act 2008*

- (f) an entity approved by the Minister as suitable to provide infrastructure for use by another entity in the provision of a particular public utility service;

*Example for paragraph (f)—*

a relevant infrastructure owner as defined under the *Water Supply (Safety and Reliability) Act 2008* whose infrastructure may be used by another entity authorised to supply a water or sewerage service under that Act

- (g) a person approved by the Minister as suitable to provide a particular public utility service; or
- (h) a mill owner, but only for the registration of a cane railway easement.

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**quarry material** has the same meaning as in the *Forestry Act 1959*.

**rail land** means non-rail corridor land or rail corridor land, as defined under the *Transport Infrastructure Act 1994*, that is held under a perpetual lease.

**regional park (general)** means a regional park (general) under the *Nature Conservation Act 1992*.

**register** a document, an interest, land or something else, means to record the particulars of the thing in the appropriate register in the land registry.

**registered native title claimant** see the *Native Title Act 1993* (Cwlth), section 253.

**registered owner** has the same meaning as in the *Land Title Act 1994*.

**regulated condition** see section 212A.

**regulated island** means an island, or a part of an island, declared by regulation under section 434A to be a regulated island.

**relevant local government**, in relation to land or a tenure, means the local government in whose area the land or tenure is situated.

**relevant Minister**, for land for chapter 6, part 4, division 8C, see section 373T(1).

**relevant tenure**, in relation to a caveat, means a lease, licence or reserve.

**remedial action notice** see section 214.

**remedial action order** see section 214D(2).

**renewal application** see section 158(1).

**renewal provisions** means chapter 4, part 3, division 2, subdivision 2.

**rent** means the amount payable under a rent and instalment regulation by a lessee, licensee or permittee for a rental period, but does not include rent for a trustee lease or trustee permit.

***rental category***, of a lease, licence or permit, means the categorisation of the lease, licence or permit under a rent and instalment regulation to the extent the regulation relates to rent.

***rental period***, for a lease, licence or permit, means the rental period prescribed for the lease, licence or permit by a rent and instalment regulation.

***rent and instalment regulation*** means a regulation, or provisions of a regulation, made under this Act for the purposes of section 448(2)(h).

***repealed Act*** means the *Land Act 1962*.

***repealed miners homestead Acts*** means—

- (a) for chapter 8, part 7, division 2, see section 495; or
- (b) for chapter 8, part 7, division 2A, see section 503B.

***required particulars***, for a map of a part of lease land, means—

- (a) the boundary of the area or part on an image base; and
- (b) 5 or more points visible in the image base that correspond to identifiable fixed features; and
- (c) the Map Grid of Australia 1994 coordinates and zone references for each point, acquired by GPS or similar system of satellites that receives and processes information; and
- (d) a description of the feature that each point represents.

***required time*** see section 406(4).

***requisition*** see section 305.

***reserve*** includes land dedicated as a reserve under this Act, or reserved and set apart under the repealed Act, as shown by the current particulars in the appropriate register.

***review change*** see section 212.

***revocation notice*** means a notice in the approved form requesting the registrar to register a revocation under this Act.

***right line boundary***, for chapter 1, part 4, see section 8.



***right line tidal boundary*** see section 8.

***road*** see section 93.

***road closure application*** see section 97A.

***rolling term lease*** see section 164.

***rural leasehold land*** means land for which, under this Act, leases may be issued in perpetuity or for a term of years for agricultural, grazing or pastoral purposes, other than land in any of the following—

- (a) a reserve;
- (b) a State forest;
- (c) a timber reserve;
- (d) any of the following under the *Nature Conservation Act 1992*—
  - (i) a national park;
  - (ii) a national park (Aboriginal land);
  - (iii) a national park (Torres Strait Islander land);
  - (iv) a national park (Cape York Peninsula Aboriginal land);
  - (v) a regional park;
  - (vi) a forest reserve.

***sale notice*** see section 113(2)(b).

***seaward side***, of a tidal boundary or right line tidal boundary, means on the same side of the boundary as the water subject to tidal influence that is relevant to the identification of the boundary as a tidal boundary or right line tidal boundary.

***set format***, for chapter 6, part 4, division 8D, see section 373ZB.

***shared country*** means land that is subject to two or more native title claims.

***significant development*** see section 128.

***special lease*** see section 476.

***special perpetual mining purposes lease***, for chapter 8, part 7, division 2A, see section 503B.

***specified national parks*** means the following under the *Nature Conservation Act 1992*—

- (a) national parks (Aboriginal land);
- (b) national parks (Torres Strait Islander land);
- (c) national parks (Cape York Peninsula Aboriginal land);
- (d) indigenous joint management areas.

***spent conviction*** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

***standard format*** see section 290B.

***standard format lot*** means a lot on a standard format plan of survey.

***State forest*** has the same meaning as in the *Forestry Act 1959*.

***State housing lease*** means a lease in force under the *Housing (Freeholding of Land) Act 1957* or the *Housing Act 2003*, part 10.

***State lease*** means—

- (a) a lease issued over a reserve under section 15(2)(b); or
- (b) a special lease issued over a reserve under section 203(b) of the repealed Act.

***statutory body*** means a government entity within the meaning of the *Government Owned Corporations Act 1993*, a local government and a port authority.

***stock route*** means a road or route ordinarily used for travelling stock or declared under an Act to be a stock route.

***strategic port land*** means strategic port land under the *Transport Infrastructure Act 1994*.

**subdivision offer**, for chapter 4, part 3, division 4, see section 176A(2).

**subject area**, for an indigenous cultural interest, means the area that is subject to the interest.

**sublease** includes—

- (a) for trust land—a sub-sublease; and
- (b) for other land—any derivative under lease, including, for example, a sub-sub-sublease.

**surrender notice** means a notice in the approved form requesting the registrar to register a surrender of a tenure or interest in land under this Act.

**temporary road closure application** see section 97A.

**tenure document** means the document evidencing the interest or rights in land held under this Act.

**term lease** means a lease for a term of years.

**terms** includes covenants and conditions.

**tidal boundary** see section 8.

**tidal water** see section 8.

**tied condition** see section 205.

**timber reserve** has the same meaning as in the *Forestry Act 1959*.

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

**Torres Strait Islanders particularly concerned with land** means Torres Strait Islanders particularly concerned with land within the meaning given by the *Torres Strait Islander Land Act 1991*, section 3.

**tourism purposes** see section 434.

**transferable land** means transferable land under the *Aboriginal Land Act 1991* or *Torres Strait Islander Land Act 1991*.

**transition to sale agreement** see section 240K(2)(b).

**transport land**, for chapter 6, means any of the following land that is held under a perpetual lease—

- (a) land declared to be busway land under the *Transport Infrastructure Act 1994*, chapter 9;
- (b) land declared to be light rail land under the *Transport Infrastructure Act 1994*, chapter 10;
- (c) non-rail corridor land as defined under the *Transport Infrastructure Act 1994*;
- (d) rail corridor land as defined under the *Transport Infrastructure Act 1994*;
- (e) State toll road corridor land as defined under the *Transport Infrastructure Act 1994*;
- (f) local government tollway corridor land as defined under the *Transport Infrastructure Act 1994*.

**tree** has the same meaning as in the *Forestry Act 1959*.

**trespass notice** see section 406(1).

**trespass order** see section 418.

**trespass related act** see section 404.

**trustee lease** means a lease given by the trustee of trust land.

**trustee lease (construction)** see section 57(4).

**trustee lease (State or statutory body)** see section 57(5).

**trustee of trust land notice** means a notice in the approved form requesting the registrar to register particulars about the office of a trustee.

**trustee permit** means a permit given by a trustee of trust land.

**trustees** see section 30.

**trust land** means the land comprising a reserve or deed of grant in trust.

**unallocated State land** means all land that is not—

- (a) freehold land, or land contracted to be granted in fee simple by the State; or

- (b) a road or a reserve, or a national park, conservation park, State forest or timber reserve; or
- (c) subject to a lease, licence or permit issued by or for the State, other than a permit to occupy under this Act issued by the chief executive.

***vegetation clearing offence*** means—

- (a) a vegetation clearing offence under the Vegetation Management Act; or
- (b) a tree clearing offence under this Act, as in force immediately before the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3.

***Vegetation Management Act*** means the *Vegetation Management Act 1999*.

***volumetric format*** see section 290C.

***watercourse*** has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, section 63.

***water subject to tidal influence***, in relation to a boundary that is a tidal boundary or right line tidal boundary, means the water that is relevant to the identification of the boundary as a tidal boundary or right line tidal boundary.

***writ of execution*** means a writ or warrant of execution after judgment in any court, and includes an enforcement warrant.

## Endnotes

### 1 Index to endnotes

	Page
2 Key .....	.484
3 Table of reprints .....	.485
4 List of legislation .....	.487
5 List of annotations .....	.498
6 Information about retrospectivity.....	.559

### 2 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised version
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	1995 Act No. 32	1 July 1995	7 July 1995
1A	1996 Act No. 7	9 May 1996	26 July 1996
2	1997 Act No. 41	19 September 1997	3 October 1997
2A	1997 Act No. 41	1 November 1997	17 November 1997
2B	1997 Act No. 78	5 December 1997	10 February 1998
3	1998 Act No. 24	1 June 1998	1 June 1998
3A	1998 Act No. 30	30 September 1998	5 October 1998
3B	1998 Act No. 48	18 December 1998	18 December 1998
3C	2000 Act No. 2	8 March 2000	20 March 2000
3D	2000 Act No. 5	23 March 2000	5 April 2000
4	2000 Act No. 26	1 July 2000	4 August 2000
4A	2000 Act No. 44	25 October 2000	10 November 2000
5	2001 Act No. 33	7 June 2001	6 July 2001
5A	2001 Act No. 45	15 July 2001	20 July 2001
5B	2001 Act No. 93	1 February 2002	15 February 2002
5C	2001 Act No. 93	1 March 2002	1 March 2002
Reprint No.	Amendments included	Effective	Notes
5D	2002 Act No. 11	1 July 2002	R5D withdrawn, see R6
6	—	1 July 2002	
6A	2003 Act No. 6	4 March 2003	
6B	2003 Act No. 10	28 March 2003	
6C	2003 Act No. 20	9 May 2003	
6D	2003 Act No. 25	16 May 2003	
6E	2002 Act No. 12	1 July 2003	
6F	2001 Act No. 93	20 October 2003	R6F withdrawn, see R7
7	—	20 October 2003	
7A	2002 Act No. 52	1 January 2004	
7B	2004 Act No. 4	6 May 2004	

## Endnotes

Reprint No.	Amendments included	Effective	Notes
7C	2004 Act No. 9	20 May 2004	
7D	2004 Act No. 1	21 May 2004	
7E	2003 Act No. 70	1 August 2004	
7F	2004 Act No. 25	31 December 2004	
7G	2005 Act No. 8	18 March 2005	
7H	2004 Act No. 9	21 May 2005	R7H withdrawn, see R8
8	—	21 May 2005	
8A	2005 Act No. 67	27 January 2006	
8B	2005 Act No. 68	6 February 2006	
8C	2006 Act No. 9	15 March 2006	
8D	2006 Act No. 54	7 December 2006	
8E	2007 Act No. 19	23 April 2007	
8F	2007 Act No. 19	18 May 2007	
8G	2007 Act No. 19	1 July 2007	R8G withdrawn, see R9
9	—	1 July 2007	
9A	2007 Act No. 36	29 August 2007	
9B	2007 Act No. 41	21 September 2007	
9C	2007 Act No. 57	16 November 2007	
9D	2007 Act No. 19 (amd 2007 Act No. 48; 2007 Act No. 57)	1 January 2008	R9D withdrawn, see R10
10	—	1 January 2008	
10A	2008 Act No. 22	1 July 2008	
	2008 Act No. 34		
10B	2008 Act No. 29	18 July 2008	
10C	2008 Act No. 58	13 November 2008	
10D	2009 Act No. 3	23 February 2009	
	2009 Act No. 5		
10E	2008 Act No. 73	1 July 2009	
	2009 Act No. 9		
10F	2009 Act No. 43	3 November 2009	
	2009 Act No. 46		
10G	2009 Act No. 36	18 December 2009	
10H	2010 Act No. 12	26 March 2010	
10I	2010 Act No. 12	7 May 2010	
10J	2010 Act No. 19	23 May 2010	
10K	2009 Act No. 17	1 July 2010	
	2010 Act No. 23		
10L	2010 Act No. 39	20 September 2010	
10M	2010 Act No. 12	30 October 2010	R10M withdrawn, see R11
11	—	30 October 2010	
11A	2011 Act No. 25	1 November 2011	
11B	2010 Act No. 31	2 March 2012	
11C	2012 Act No. 20	29 August 2012	



Reprint No.	Amendments included	Effective	Notes
11D	2011 Act No. 45	1 September 2012	
11E	2011 Act No. 31	29 October 2012	
Current as at		Amendments included	Notes
1 February 2013		2012 Act No. 43	
19 February 2013		2013 Act No. 2	
5 April 2013		2013 Act No. 3	
3 May 2013		2013 Act No. 19	
14 May 2013		2013 Act No. 23	RA s 44
17 May 2013		2013 Act No. 17	
23 May 2013		2013 Act No. 24	
1 July 2013		2013 Act No. 23	
23 September 2013		2013 Act No. 39	
1 November 2013		2013 Act No. 51	
7 November 2013 rv		2013 Act No. 55	RA s 35
28 March 2014		2013 Act No. 55	
28 May 2014		2014 Act No. 29	
1 July 2014		2014 Act No. 29	

## 4 List of legislation

### Land Act 1994 No. 81

date of assent 1 December 1994

ss 1–2, 525 sch 3 commenced on date of assent (see s 2(1))

ss 17(b), 121(2), s 526 sch 4 amdts 1 and 3 of the Land Title Act 1994 commenced 25 April 1995 (1995 SL No. 107)

ch 5 (matters affecting land holdings), pt 6 (tree management) (other than s 263(5)), s 517 (existing local guidelines for broadscale tree clearing) and s 524 (repeals on commencement) so far as it relates to a provision of the repealed Act about tree clearing (a *tree clearing provision*), any definition in, or any administrative, offence or other provision of the repealed Act to the extent it is relevant to the operation of a tree clearing provision commenced 1 November 1997 (1997 SL No. 355)

ss 393, 444, 448, ch 8 pt 7 div 2 (ss 494–503), 505, 522, 523, 3 sch 6 commenced 1 January 1995 (see s 2(3))

s 524 (so far as it relates to the repealed Act) s 383A ((Fees) or any definition in, or administrative, offence or other provision of, the repealed Act to the extent it is relevant to the operation of s 383A) never proclaimed into force and om 1998 No. 48 s 7 sch

s 525 sch 3 amdts of the Land Title Act 1994 commenced 24 April 1994 (see s 2(2))

s 526 sch 4 amdts of the Land Title Act 1994 (other than amdts 1 and 3) commenced 6 February 1995 (1995 SL No. 19)

s 263(5) commenced 15 September 2000 (2000 SL No. 241)

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

Notes— (1) This Act contains provisions that were relocated from the following Acts—

- Brigalow and Other Lands Development Act 1962
- Land Act (Aboriginal and Islander Land Grants) Amendment Act 1982.

(2) A list of legislation for the relocated Acts appears below.

amending legislation—

**Water Resources Amendment Act 1995 No. 10 ss 1–2, s 37**

date of assent 5 April 1995

commenced on date of assent

**Transport Infrastructure Amendment (Rail) Act 1995 No. 32 ss 1–2, 23 sch**

date of assent 14 June 1995

commenced on date of assent (see s 2(1))

**Statute Law (Minor Amendments) Act (No. 2) 1995 No. 51 ss 1, 4 sch**

date of assent 22 November 1995

commenced on date of assent

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

s 4 sch 1 amdts 21 and 22 commenced 1 July 1995 (see s 2(1) sch 1)

remaining provisions commenced on date of assent

**list of legislation to Brigalow and Other Lands Development Act 1962—before relocation to Land Act 1994**

**Brigalow and Other Lands Development Act 1962 No. 44**

date of assent 28 December 1962

commenced on date of assent

amending legislation—

**Brigalow and Other Lands Development Act Amendment Act 1965 No. 62**

date of assent 23 December 1965

commenced on date of assent

**Brigalow and Other Lands Development Acts Amendment Act 1967 No. 47**

date of assent 22 December 1967

commenced on date of assent

**Acquisition of Land Act 1967 No. 48 s 3(2) sch 1**

date of assent 22 December 1967

commenced 23 March 1968 (proc pubd gaz 23 March 1968 p 1206)

**Age of Majority Act 1974 No. 57 s 8 sch**

date of assent 27 September 1974

commenced 1 March 1975 (proc pubd gaz 16 November 1974 p 1083)

**Brigalow and Other Lands Development Act Amendment Act 1978 No. 4**

date of assent 5 May 1978

commenced on date of assent

**Lands Legislation Amendment Act 1992 No. 64 ss 1–2, ch 2 pt 1, s 3 sch 1**

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 31 January 1993 (1992 SL No. 448)

**Land Act 1994 No. 81 ss 1–2, 527 sch 5**

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**list of legislation to Land Act (Aboriginal and Islander Land Grants) Amendment Act 1982 No. 17—before relocation of ss 21 and 22 to Land Act 1994****Land Act (Aboriginal and Islander Land Grants) Amendment Act 1982 No. 17**

date of assent 23 April 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 15 June 1985 (proc pubd gaz 15 June 1985 p 1247)

amending legislation—

**Land Act (Aboriginal and Islander Land Grants) Amendment Act 1984 No. 30 pts 1, 3**

date of assent 5 April 1984

commenced on date of assent

**Aborigines and Torres Strait Islanders (Land Holding) Act 1985 No. 41 pts 1, 6**

date of assent 24 April 1985

commenced on date of assent

**Real Property Acts and Other Acts Amendment Act 1986 No. 26 s 4 sch**

date of assent 8 April 1986

commenced on date of assent

**amending legislation to Land Act 1994—after relocation of Brigalow and Other Lands Development Act 1962 and Land Act (Aboriginal and Islander Land Grants) Amendment Act 1982****Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 2**

date of assent 28 November 1995

commenced on date of assent

**Land Amendment Act 1996 No. 7**

date of assent 9 May 1996

commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch**

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 163)

**Body Corporate and Community Management Act 1997 No. 28 ss 1–2, 295 sch 3**

date of assent 22 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 13 July 1997 (1997 SL No. 210)

**Natural Resources Legislation Amendment Act 1997 No. 41 ss 1, 2(3), pt 2**

date of assent 25 August 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 19 September 1997 (1997 SL No. 305)

**Natural Resources and Other Legislation Amendment Act 1997 No. 78 ss 1, 2(3) pt 6**

date of assent 5 December 1997

ss 35, 61(2)–(3), 70 commenced 1 July 1995 (see s 2(3))

remaining provisions commenced on date of assent

**Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch**

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining amdts commenced 30 March 1998 (1998 SL No. 55)

**Civil Justice Reform Act 1998 No. 20 ss 1, 2(3), 27 sch 2**

date of assent 1 May 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1999 (automatic commencement under AIA s 15DA(2)) (1999 SL No. 70 s 2(3))

**Powers of Attorney Act 1998 No. 22 ss 1–2 ch 9 pt 4**

date of assent 14 May 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1998 (1998 SL No. 123)

**Natural Resources Legislation Amendment Act 1998 No. 24 pts 1, 3**

date of assent 14 May 1998

ss 1–2 commenced on date of assent

remaining provisions commenced on 25 May 1998 (1998 SL No. 172)

**Native Title (Queensland) State Provisions Act 1998 No. 30 ss 1–2, 21 sch**

date of assent 3 September 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 30 September 1998 (1998 SL No. 266 but see also s 2(1)(a))

**Valuation of Land and Other Legislation Amendment Act 1998 No. 48 pt 1 s 17 sch**

date of assent 27 November 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 1998 (1998 SL No. 364)

**Vegetation Management Act 1999 No. 90 ss 1–2 pt 8 (this Act is amended, see amending legislation below)**

date of assent 21 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 15 September 2000 (2000 SL No. 242)

amending legislation—

**Vegetation Management Amendment Act 2000 No. 35 ss 1, 18–23 (amends 1999 No. 90 above)**

date of assent 13 September 2000

commenced on date of assent

**Land Court Act 2000 No. 1 ss 1–2, 86 sch 1**

date of assent 8 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (2000 SL No. 165)

**Natural Resources and Other Legislation Amendment Act 2000 No. 2 pts 1, 3 s 32 sch**

date of assent 8 March 2000

commenced on date of assent

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2**

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

**Guardianship and Administration Act 2000 No. 8 ss 1–2, 263 sch 3**

date of assent 20 April 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (2000 SL No. 125)

**GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3**

date of assent 23 June 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(4))

**Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26 ss 1, 12 sch 1**

date of assent 27 June 2000

commenced on date of assent

**Nature Conservation and Other Legislation Amendment Act 2000 No. 44 ss 1, 42 sch**

date of assent 25 October 2000

commenced on date of assent

**Natural Resources Legislation Amendment Act 2001 No. 33 pts 1, 6**

date of assent 7 June 2001

commenced on date of assent

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1**

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 10)

**Natural Resources and Other Legislation Amendment Act 2001 No. 92 ss 1, 2(2), pt 3**

date of assent 10 December 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2002 (2002 SL No. 4)

**Coastal Protection and Management and Other Legislation Amendment Act 2001 No. 93 ss 1–2, 24 sch**

date of assent 10 December 2001

ss 1–2 commenced on date of assent

remaining provision commenced 20 October 2003 (2003 SL No. 202)

**Public Records Act 2002 No. 11 ss 1, 2(2), 62 sch 1**

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2002 (2002 SL No. 115)

**Land Protection (Pest and Stock Route Management) Act 2002 No. 12 ss 1–2, 329 sch 2**

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 116)

**Body Corporate and Community Management and Other Legislation Amendment Act 2003 No. 6 s 1, pt 7**

date of assent 4 March 2003

commenced on date of assent

**Natural Resources and Other Legislation Amendment Act 2003 No. 10 pts 1, 5 s 76 sch**

date of assent 28 March 2003

commenced on date of assent

**Land Legislation Amendment Act 2003 No. 20 s 1, pt 3**

date of assent 9 May 2003

commenced on date of assent

**Water and Other Legislation Amendment Act 2003 No. 25 pts 1, 3**

date of assent 16 May 2003  
commenced on date of assent

**Housing Act 2003 No. 52 ss 1–2, 153 sch 2**

date of assent 15 September 2003  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 January 2004 (2003 SL No. 332)

**Surveyors Act 2003 No. 70 ss 1–2, 206 sch 2**

date of assent 22 October 2003  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 August 2004 (2004 SL No. 127)

**Vegetation Management and Other Legislation Amendment Act 2004 No. 1 pts 1, 5, s 44(1) sch 1**

date of assent 29 April 2004  
ss 1–2 commenced on date of assent  
remaining provisions commenced 21 May 2004 (2004 SL No. 62)

**Natural Resources and Other Legislation Amendment Act 2004 No. 4 s 1, pt 4, s 57 sch**

date of assent 6 May 2004  
commenced on date of assent

**Transport and Other Legislation Amendment Act 2004 No. 9 pts 1, 7 sch**

date of assent 20 May 2004  
ss 1–2 commenced on date of assent  
sch commenced 21 May 2005 (automatic commencement under AIA s 15DA (2))  
remaining provisions commenced on date of assent

**Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), 999–1000 (prev ss 939–940)**

date of assent 12 October 2004  
ss 1–2 commenced on date of assent  
remaining provisions commenced 31 December 2004 (2004 SL No. 308)

**Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1, 7**

date of assent 18 March 2005  
commenced on date of assent

**Transport and Other Legislation Amendment Act 2005 No. 67 pts 1, 3**

date of assent 8 December 2005  
ss 1–2 commenced on date of assent  
remaining provisions commenced 27 January 2006 (2006 SL No. 2)

**Natural Resources and Other Legislation Amendment Act 2005 No. 68 pts 1, 3**

date of assent 8 December 2005  
ss 1–2 commenced on date of assent  
remaining provisions commenced 6 February 2006 (2006 SL No. 6)

**Audit Legislation Amendment Act 2006 No. 9 pts 1, 12**

date of assent 15 March 2006  
commenced on date of assent

**State Development and Other Legislation Amendment Act 2006 No. 54 pts 1, 5**

date of assent 7 December 2006  
commenced on date of assent

**Land and Other Legislation Amendment Act 2007 No. 19 pts 1, 4 (this Act is amended, see amending legislation below)**

date of assent 23 April 2007  
ss 1–2, 61, 62, 166, 199 (to the extent it ins s 521N) commenced on date of assent (see s 2)  
pt 4 hdg, ss 10, 45, 58, 64, 84, 128, 134, 135, 140, 146(1)–(2), 157, 193, 202(2) (to the extent it ins the entry for s 130A(1)) commenced 18 May 2007 (2007 SL No. 88)  
ss 93, 95 commenced 1 July 2007 (2007 SL No. 161)  
remaining provisions commenced 1 January 2008 (2007 SL No. 318)  
amending legislation—

**Cape York Peninsula Heritage Act 2007 No. 48 ss 1–2, pt 7 div 2 (amends 2007 No. 19 above)**

date of assent 25 October 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 2 November 2007 (2007 SL No. 270)

**Water and Other Legislation Amendment Act 2007 No. 57 ss 1, 16–25 (amends 2007 No. 19 above)**

date of assent 16 November 2007  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2007 No. 36**

date of assent 29 August 2007  
commenced on date of assent

**Urban Land Development Authority Act 2007 No. 41 ss 1–2, pt 9**

date of assent 11 September 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 21 September 2007 (2007 SL No. 235)

**Water and Other Legislation Amendment Act 2007 No. 57 s 1, pt 5**

date of assent 16 November 2007  
commenced on date of assent

**Primary Industries and Other Acts Amendment Act 2008 No. 22 pts 1, 4**

date of assent 9 May 2008  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2008 (see s 2)



**Aboriginal and Torres Strait Islander Land Amendment Act 2008 No. 29 pts 1, 3**

date of assent 21 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 18 July 2008 (2008 SL No. 233)

**Water Supply (Safety and Reliability) Act 2008 No. 34 ss 1, 2(2), 751 sch 2**

date of assent 21 May 2008

ss 1–2, 751 commenced on date of assent

remaining provision commenced 1 July 2008 (2008 SL No. 202))

**Water (Commonwealth Powers) Act 2008 No. 58 ss 1, 30–32**

date of assent 13 November 2008

commenced on date of assent

**Residential Tenancies and Rooming Accommodation Act 2008 No. 73 ss 1–2, 554 sch 1**

date of assent 11 December 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 40)

**Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 13**

date of assent 23 February 2009

commenced on date of assent

**Acquisition of Land and Other Legislation Amendment Act 2009 No. 5 pts 1, 3**

date of assent 23 February 2009

commenced on date of assent

**Financial Accountability Act 2009 No. 9 ss 1–2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

**Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1**

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)

**Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2**

date of assent 22 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 2009 (2009 SL No. 281)

**Vegetation Management and Other Legislation Amendment Act 2009 No. 43 pts 1, 4, s 63 sch**

date of assent 3 November 2009

commenced on date of assent (see s 2)

**South-East Queensland Water (Distribution and Retail Restructuring) and Natural Resources Provisions Act 2009 No. 46 s 1, ch 7 pt 2**

date of assent 3 November 2009

commenced on date of assent

**Natural Resources and Other Legislation Amendment Act 2010 No. 12 ss 1, 2(1), pts 11–12**

date of assent 26 March 2010  
ss 1–2 commenced on date of assent  
pt 12 (other than ss 175–176) commenced 7 May 2010 (2010 SL No. 78)  
ss 175–176 commenced 30 October 2010 (2010 SL No. 293)  
remaining provisions commenced on date of assent

**Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 2 pt 11, ch 3 pt 1**

date of assent 23 May 2010  
commenced on date of assent

**City of Brisbane Act 2010 No. 23 ss 1–2(1), 352 sch 1**

date of assent 17 June 2010  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2010 (see s 2(1))

**Geothermal Energy Act 2010 No. 31 ss 1–2(1), 585 sch 2 pt 4**

date of assent 1 September 2010  
ss 1–2 commenced on date of assent  
remaining provisions commenced 2 March 2012 (automatic commencement under AIA s 15DA(2) (2011 SL No. 156 s 2))

**Land Valuation Act 2010 No. 39 s 1, ch 11 pt 3, s 310 sch 1 pt 2**

date of assent 20 September 2010  
commenced on date of assent

**Neighbourhood Disputes Resolution Act 2011 No. 25 ss 1–2, ch 6 pt 2**

date of assent 9 August 2011  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 November 2011 (2011 SL No. 209)

**Waste Reduction and Recycling Act 2011 No. 31 ss 1–2(2), ch 16 pt 5**

date of assent 28 October 2011  
ss 1–2 commenced on date of assent  
remaining provisions commenced 29 October 2012 (automatic commencement under AIA s 15DA(2))

**Civil Proceedings Act 2011 No. 45 ss 1–2, 217 sch 1A**

date of assent 6 December 2011  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 September 2012 (2012 SL No. 146)

**Mines Legislation (Streamlining) Amendment Act 2012 No. 20 s 1, ch 2 pt 4**

date of assent 29 August 2012  
commenced on date of assent

**Economic Development Act 2012 No. 43 ss 1–2, 221 sch 1**

date of assent 11 December 2012  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 February 2013 (2013 SL No. 1)

**Aboriginal and Torres Strait Islander Land Holding Act 2013 No. 2 ss 1–2, pt 12 div 4**

date of assent 19 February 2013  
commenced on date of assent (see s 2)

**Classification of Computer Games and Images and Other Legislation Amendment Act 2013 No. 3 ss 1, 2(2)(e), pt 6**

date of assent 26 February 2013  
ss 1–2 commenced on date of assent  
remaining provisions commenced 5 April 2013 (2013 SL No. 39)

**Electronic Conveyancing National Law (Queensland) Act 2013 No. 17 ss 1–2, pt 5 div 2**

date of assent 29 April 2013  
ss 1–2 commenced on date of assent  
remaining provisions commenced 17 May 2013 (2013 SL No. 67)

**Queensland Rail Transit Authority Act 2013 No. 19 ss 1, 120 sch 1**

date of assent 3 May 2013  
commenced on date of assent

**Land, Water and Other Legislation Amendment Act 2013 No. 23 ss 1, 2(b), pt 7, s 352 sch 1 pt 1**

date of assent 14 May 2013  
ss 1–2 commenced on date of assent  
s 93 commenced 1 July 2013 (2013 SL No. 126)  
s 352 sch 1 pt 1 amdt 15 commenced on date of assent (amdt could not be given effect)  
remaining provisions commenced on date of assent

**Vegetation Management Framework Amendment Act 2013 No. 24 s 1, pt 3**

date of assent 23 May 2013  
commenced on date of assent

**Treasury and Trade and Other Legislation Amendment Act 2013 No. 39 ss 1, 43 sch 1**

date of assent 23 September 2013  
commenced on date of assent

**Directors' Liability Reform Amendment Act 2013 No. 51 ss 1–2(1), pt 35, s 229 sch 1**

date of assent 29 October 2013  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 November 2013 (see s 2(1))

**Nature Conservation and Other Legislation Amendment Act (No. 2) 2013 No. 55 pts 1, 3 div 5, s 175 sch 1 pts 1–3**

date of assent 7 November 2013  
ss 1–2, 175 sch 1 pt 1 commenced on date of assent  
pt 3 div 5, sch 1 pt 2 commenced 28 March 2014 (2014 SL No. 34)  
remaining provisions not yet proclaimed into force (see s 2)

**Biosecurity Act 2014 No. 7 ss 1–2, 578 sch 4 pt 2**

date of assent 13 March 2014

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2(1)–(2))

**Land and Other Legislation Amendment Act 2014 No. 29 ss 1, 2(b), pt 4**

date of assent 28 May 2014

ss 1–2, 22, 76, 79, 84 commenced on date of assent (see s 2(b))

remaining provisions commenced 1 July 2014 (2014 SL No. 116)

## 5 List of annotations

### CHAPTER 1—PRELIMINARY

#### Commencement

s 2 amd 2004 No. 4 s 57 sch  
om 2005 No. 68 s 11

#### Land to which Act applies

s 5 amd 2004 No. 4 s 7  
sub 2010 No. 12 s 156

### PART 4—TIDAL AND NON-TIDAL BOUNDARIES AND ASSOCIATED MATTERS

pt hdg sub 2010 No. 12 s 157

#### Division 1—Preliminary

div hdg ins 2010 No. 12 s 157

#### Definitions for pt 4

prov hdg amd 2007 No. 19 s 11

s 8 def *ambulatory boundary principles* ins 2010 No. 12 s 158(2)  
om 2013 No. 23 s 352 sch 1 pt 1  
def *lake* ins 2010 No. 12 s 158(2)  
om 2013 No. 23 s 43  
def *navigable river* om 2010 No. 12 s 158(1)  
def *non-tidal boundary (lake)* ins 2010 No. 12 s 158(2)  
def *non-tidal boundary (watercourse)* ins 2010 No. 12 s 158(2)  
def *right line boundary* ins 2010 No. 12 s 158(2)  
def *right line tidal boundary* ins 2010 No. 12 s 158(2)  
def *ship* om 2010 No. 12 s 158(1)  
def *tidal boundary* ins 2010 No. 12 s 158(2)  
def *tidal navigable river* om 2010 No. 12 s 158(1)  
def *tidal water* amd 2010 No. 12 s 158(3)  
def *watercourse* ins 2010 No. 12 s 158(2)  
om 2013 No. 23 s 43

#### Division 2—The tidal environment

div hdg ins 2010 No. 12 s 159

**Land adjacent to tidal boundary or right line tidal boundary owned by State**

s 9 sub 2010 No. 12 s 159

**Land raised above high-water mark by works**

s 10 sub 2010 No. 12 s 159

**Inundated land**

s 12 amd 2010 No. 19 s 46

**Power to deal with land seaward of tidal boundary or right line tidal boundary**

prov hdg amd 2010 No. 12 s 160(1)

s 13 amd 2010 No. 12 s 160(2)–(3)

**Division 3—The non-tidal environment**

div hdg ins 2010 No. 12 s 161

**Land adjacent to non-tidal boundary (watercourse) or non-tidal boundary (lake) owned by State**

s 13A ins 2010 No. 12 s 161

**Power to declare and deal with former watercourse land**

s 13B ins 2010 No. 12 s 161

amd 2013 No. 23 s 44

**Governor in Council may grant land**

s 14 amd 1997 No. 28 s 295 sch 3; 2007 No. 19 s 12; 2010 No. 12 s 162

**Leasing land**

prov hdg sub 2007 No. 19 s 13(1)

s 15 amd 2007 No. 19 s 13(2)–(4); 2010 No. 12 ss 99, 163

**Deciding appropriate tenure**

s 16 amd 2005 No. 8 s 86; 2007 No. 41 s 231; 2007 No. 19 s 14; 2012 No. 43 s 221  
sch 1

**Granting land to the State**

s 17 amd 2007 No. 19 s 15

**Exchanging land**

s 18 amd 2007 No. 57 s 14

sub 2007 No. 19 s 16 (amd 2007 No. 57 s 17)

amd 2010 No. 12 s 100

**Grant or lease of unallocated State land in consideration of surrender of native title interest**

s 18A ins 2007 No. 57 s 15

**Dealing with mining interests, geothermal tenures or GHG authorities**

prov hdg amd 2009 No. 3 s 501(1); 2010 No. 31 s 585 sch 2 pt 4

s 20 amd 2004 No. 25 s 1000; 2009 No. 3 s 50(2)–(4); 2010 No. 31 s 585 sch 2 pt 4

**Reservation of minerals, petroleum etc**

s 21 amd 2013 No. 23 s 352 sch 1 pt 1

**Reservation of quarry materials**

s 22            amd 2013 No. 23 s 352 sch 1 pt 1

**Reservation for public purposes**

s 23            amd 2007 No. 19 s 17; 2013 No. 23 s 352 sch 1 pt 1

**Floating reservation on plan of subdivision**

s 23A        ins 2007 No. 19 s 18  
              amd 2013 No. 23 ss 45, 352 sch 1 pt 1

**Disposal of reservations no longer needed**

s 24            amd 2007 No. 19 s 19; 2013 No. 23 ss 46, 352 sch 1 pt 1

**Disposal of reservations by sale**

s 25            amd 2007 No. 19 s 20; 2014 No. 29 s 23

**Minister may decide boundaries of reservations**

s 26            amd 2004 No. 4 s 8; 2013 No. 23 s 352 sch 1 pt 1

**Disposal of redundant reservation**

s 26A        ins 2007 No. 19 s 21  
              amd 2014 No. 29 s 24

**Forest entitlement areas**

s 26B        (prev s 175) amd 1995 No. 57 s 4 sch 1; 1997 No. 78 s 42; 2000 No. 26 s 12  
              sch 1; 2007 No. 19 s 85(1)–(2)  
              reloc and renum 2007 No. 19 s 85(3)  
              amd 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 25

**Effect of resumption of forest entitlement area**

s 26C        (prev s 176) amd 1995 No. 57 s 4 sch 1  
              reloc and renum 2007 No. 19 s 86

**Interaction with native title legislation**

s 28            amd 2004 No. 1 s 44(1) sch 1; 2013 No. 55 s 175 sch 1 pt 2; 2014 No. 29 s 26

**Taking into consideration Aboriginal tradition and Islander custom**

s 29            amd 1998 No. 30 s 21 sch; 2013 No. 23 s 352 sch 1 pt 1

**CHAPTER 3—RESERVES, DEEDS OF GRANT IN TRUST AND ROADS**

**PART 1—RESERVES AND DEEDS OF GRANT IN TRUST**

**Object**

s 30            amd 2007 No. 19 s 22

**Subdivision 1—Reserves generally**

sdiv hdg    ins 2007 No. 19 s 23

**Dedication of reserve**

s 31            sub 2007 No. 19 s 23  
              amd 2010 No. 39 s 311; 2013 No. 23 s 352 sch 1 pt 1

**Changing boundaries of reserve**

s 31A        ins 2007 No. 19 s 23  
              amd 2013 No. 23 s 352 sch 1 pt 1

**Changing purpose**

- prov hdg** amd 2009 No. 5 s 20(1)  
**s 31B** ins 2007 No. 19 s 23  
amd 2009 No. 5 s 20; 2013 No. 23 s 352 sch 1 pt 1

**Applying for dedication of reserve**

- s 31C** ins 2007 No. 19 s 23  
sub 2013 No. 23 s 47

**Applying for adjustment of reserve**

- s 31D** ins 2007 No. 19 s 23  
sub 2013 No. 23 s 47

**Submissions**

- s 31E** ins 2007 No. 19 s 23  
om 2013 No. 23 s 47

**Notice of registration of action in relation to reserve**

- s 31F** ins 2007 No. 19 s 23  
amd 2009 No. 5 s 21; 2013 No. 23 ss 48, 352 sch 1 pt 1

**State leases over reserves**

- s 32** amd 2009 No. 5 s 22

**Revocation of reserves**

- s 33** amd 2004 No. 4 s 9; 2007 No. 41 s 232; 2007 No. 19 s 24; 2012 No. 43 s 221  
sch 1

**Applying to revoke dedication of reserve**

- s 34** sub 2007 No. 19 s 25  
amd 2013 No. 23 s 49

**Notice of proposal to revoke dedication of reserve**

- s 34A** ins 2007 No. 19 s 25  
amd 2013 No. 23 s 352 sch 1 pt 1  
om 2013 No. 23 s 352 sch 1 pt 1

**Submissions**

- s 34B** ins 2007 No. 19 s 25  
om 2013 No. 23 s 352 sch 1 pt 1

**Removal of interests before revocation**

- s 34C** ins 2007 No. 19 s 25

**Registration revokes dedication of reserve**

- s 34D** ins 2007 No. 19 s 25

**Notice of revocation**

- s 34E** ins 2007 No. 19 s 25  
amd 2013 No. 23 ss 50, 352 sch 1 pt 1

**Effect of revocation**

- s 34F** ins 2007 No. 19 s 25

**Person to give up possession**

s 34G ins 2007 No. 19 s 25

**Dealing with improvements**

s 34H ins 2007 No. 19 s 25

**Subdivision 2—Operational reserves**

sdiv hdg ins 2007 No. 19 s 25

**Applying for deed of grant**

s 34I ins 2007 No. 19 s 25  
amd 2009 No. 5 s 23; 2013 No. 23 s 51

**Particular matters about issue of deed of grant**

s 34IA ins 2009 No. 5 s 24  
amd 2014 No. 29 s 27

**Notice of proposal to issue deed of grant**

s 34J ins 2007 No. 19 s 25  
amd 2009 No. 5 s 25; 2013 No. 23 s 352 sch 1 pt 1  
om 2013 No. 23 s 352 sch 1 pt 1

**Submissions**

s 34K ins 2007 No. 19 s 25  
amd 2009 No. 5 s 26  
om 2013 No. 23 s 352 sch 1 pt 1

**Removal of interests before grant**

s 34L ins 2007 No. 19 s 25

**Registration of deed of grant revokes reservation and setting apart**

s 34M ins 2007 No. 19 s 25

**Notice of registration of deed of grant**

s 34N ins 2007 No. 19 s 25  
amd 2013 No. 23 ss 52, 352 sch 1 pt 1

**Effect of revocation**

s 34O ins 2007 No. 19 s 25

**Subdivision of DOGIT land**

prov hdg amd 2013 No. 2 s 119(1)  
s 34P ins 2008 No. 29 s 61  
amd 2013 No. 2 s 119(2)–(3)

**Use of land granted in trust**

prov hdg amd 2009 No. 5 s 27(1)  
s 35 sub 1997 No. 78 s 36  
amd 2007 No. 19 s 26; 2009 No. 5 s 27(2); 2013 No. 23 s 352 sch 1 pt 1

**Amalgamating land with common purposes**

s 36 amd 2007 No. 19 s 27 (amd 2004 No. 57 s 18); 2009 No. 5 s 28

**Removing area from deed of grant in trust**

s 37 amd 2007 No. 19 s 28



**Cancelling a deed of grant in trust**

s 38           amd 2000 No. 2 s 32 sch; 2004 No. 4 s 10; 2007 No. 41 s 233; 2007 No. 19 s 29; 2012 No. 43 s 221 sch 1

**Applying for additional community purpose, amalgamation or cancellation**

s 38A          ins 2007 No. 19 s 30  
                amd 2013 No. 23 s 53

**Notice of proposal to add community purpose, amalgamate land or cancel**

s 38B          ins 2007 No. 19 s 30  
                amd 2009 No. 5 s 29; 2013 No. 23 s 352 sch 1 pt 1  
                om 2013 No. 23 s 352 sch 1 pt 1

**Submissions**

s 38C          ins 2007 No. 19 s 30  
                om 2013 No. 23 s 352 sch 1 pt 1

**Notice of registration of action**

s 38D          ins 2007 No. 19 s 30  
                amd 2013 No. 23 ss 54, 352 sch 1 pt 1

**Effect of cancellation**

s 38E          ins 2007 No. 19 s 30

**Person to give up possession**

s 38F          ins 2007 No. 19 s 30

**Dealing with improvements**

s 38G          ins 2007 No. 19 s 30

**Improvements and land may be excluded**

s 40           amd 1998 No. 48 s 17 sch

**Change of boundaries or roads**

s 42           amd 2013 No. 23 s 352 sch 1 pt 1

**Amalgamating particular land with existing deeds of grant in trust**

prov hdg      amd 2010 No. 39 s 312(1)  
s 42A          ins 2007 No. 19 s 31  
                amd 2010 No. 39 s 312(2)–(3)

**Only Parliament may delete land from or cancel an existing deed of grant in trust**

s 43           amd 2007 No. 19 s 32; 2008 No. 29 s 62; 2009 No. 3 s 502; 2010 No. 31 s 585  
                sch 2 pt 4

**Appointing trustees**

s 44           amd 2007 No. 19 s 33

**Details of trustees**

s 45           amd 2004 No. 4 s 11; 2007 No. 19 s 45; 2007 No. 19 s 34

**Trustee's accounting functions**

s 47           amd 2006 No. 9 s 27; 2013 No. 39 s 43 sch 1

**Trustees to give information and allow inspection of records**

**s 48** amd 2007 No. 19 s 35; 2010 No. 12 s 101

**External audits**

**s 49** amd 1997 No. 17 s 74 sch; 2006 No. 9 s 28

**Vacation of office by trustee**

**s 50** amd 2007 No. 19 s 36

**Removal of trustees**

**s 51** amd 2007 No. 19 s 37

**General powers of trustee**

**s 52** amd 2007 No. 19 s 38

**Declaration that trustee is statutory body**

**s 52A** ins 1996 No. 54 s 9 sch  
amd 2013 No. 23 s 352 sch 1 pt 1

**State trustee powers and delegation**

**s 53A** ins 2007 No. 19 s 39

**Power to surrender deed of grant in trust**

**prov hdg** amd 2007 No. 19 s 40(1)  
**s 55** amd 2004 No. 4 s 12; 2007 No. 19 s 40(2)–(3)

**Applying to surrender**

**s 55A** ins 2007 No. 19 s 41  
amd 2013 No. 23 s 55

**Notice of proposal to approve surrender**

**s 55B** ins 2007 No. 19 s 41  
amd 2013 No. 23 s 352 sch 1 pt 1  
om 2013 No. 23 s 352 sch 1 pt 1

**Submissions**

**s 55C** ins 2007 No. 19 s 41  
om 2013 No. 23 s 352 sch 1 pt 1

**Registration surrenders deed of grant in trust**

**s 55D** ins 2007 No. 19 s 41  
amd 2009 No. 36 s 872 sch 2

**Notice of surrender**

**s 55E** ins 2007 No. 19 s 41  
amd 2013 No. 23 ss 56, 352 sch 1 pt 1

**Effect of surrender**

**s 55F** ins 2007 No. 19 s 41

**Person to give up possession on surrender**

**s 55G** ins 2007 No. 19 s 41

**Dealing with improvements**

**s 55H** ins 2007 No. 19 s 41

**Model by-laws**

s 56 amd 2009 No. 17 s 331 sch 1; 2010 No. 23 s 352 sch 1

**Trustee leases**

s 57 amd 1997 No. 78 s 37; 2004 No. 4 s 13; 2007 No. 19 s 42; 2008 No. 29 s 63; 2009 No. 5 s 30; 2013 No. 23 s 57

**Amending a trustee lease**

s 57A ins 2004 No. 4 s 14  
amd 2013 No. 23 s 58

**Other transactions relating to trustee leases**

prov hdg sub 2004 No. 4 s 15(1)  
s 58 amd 2004 No. 4 s 15(2)–(4); 2007 No. 19 s 43; 2013 No. 23 ss 59, 352 sch 1  
pt 1

**Trustee permits**

s 60 amd 2007 No. 19 s 44

**Conditions on trustee leases and trustee permits**

s 61 amd 2009 No. 5 s 31; 2010 No. 12 s 102

**Rent to be charged**

s 63 amd 2007 No. 19 s 45; 2013 No. 23 s 60

**Minister may dispense with approval**

s 64 amd 2007 No. 19 s 46; 2013 No. 23 s 352 sch 1 pt 1

**Power to mortgage trust land**

s 67 amd 2013 No. 23 s 352 sch 1 pt 1

**What is the unimproved value**

s 69 amd 2014 No. 29 s 28

**Sale by mortgagee in possession**

s 70 amd 2013 No. 23 s 352 sch 1 pt 1

**Minister may start winding up**

s 74 amd 2007 No. 19 s 47

**Sale of trust assets**

s 76 amd 2013 No. 23 s 352 sch 1 pt 1

**Winding-up may continue after revocation, cancellation or sale**

s 78 amd 2007 No. 19 s 48

**Exhumations**

s 83 amd 1997 No. 78 s 38

**Public notice of proposed surrender**

s 86 amd 2010 No. 12 s 164

**Application of Acts to trustees**

s 90 amd 2009 No. 9 s 136 sch 1

## **PART 2—ROADS**

### **Dedication of road**

**s 94** sub 2007 No. 19 s 49 (amd 2007 No. 47 s 19)

### **Definitions for div 2**

**s 97A** ins 2007 No. 19 s 50

def *temporary road closure application* amd 2013 No. 23 s 61

### **Closure of road**

**s 98** amd 1995 No. 32 s 23 sch; 2000 No. 2 s 6; 2007 No. 19 s 51

### **Application to close road**

**prov hdg** amd 2000 No. 2 s 6(1)

**s 99** amd 2000 No. 2 s 6(2)–(5)

sub 2007 No. 19 s 52

amd 2013 No. 23 s 62

### **Public notice of closure**

**s 100** amd 2007 No. 19 s 53; 2009 No. 5 s 32; 2013 No. 23 s 352 sch 1 pt 1

### **Minister to consider objections**

**s 101** amd 2004 No. 4 s 16

## **Division 3—Road licences for temporarily closed roads**

**div hdg** sub 2000 No. 2 s 8

### **Issue of road licence**

**s 103** amd 1998 No. 24 s 8; 2000 No. 2 s 9

### **Conditions of issuing road licence**

**s 104** amd 1998 No. 24 s 9; 2000 No. 2 s 10

### **Cancellation or surrender of road licence**

**s 105** (prev s 106) renum 2000 No. 2 s 13

sub 2004 No. 4 s 17

amd 2013 No. 23 s 352 sch 1 pt 1

## **Division 3A—Temporarily closed roads**

**div hdg** ins 2000 No. 2 s 12

### **Temporarily closed road still dedicated land**

**s 106** (prev s 106A (orig s 105)) reloc and renum 2000 No. 2 ss 11, 13

## **Division 4—Permanently closed roads**

**div hdg** sub 2007 No. 19 s 54

### **Permanent closure of road**

**s 108** sub 2007 No. 19 s 54

### **Closed road may be dealt with as lot or amalgamated with adjoining land**

**s 109** amd 1998 No. 13 s 191 sch; 2000 No. 2 s 14

sub 2007 No. 19 s 54

**Simultaneous opening and closing of roads—deed of grant**

s 109A ins 2007 No. 19 s 54 (amd 2007 No. 57 s 20)  
amd 2009 No. 36 s 872 sch 2

**Simultaneous opening and closure of roads—trust land or lease land**

s 109B ins 2007 No. 19 s 54 (amd 2007 No. 57 s 20)  
amd 2009 No. 36 s 872 sch 2

**Buying or leasing land if closed road amalgamated with adjoining land**

s 109C ins 2007 No. 19 s 54  
amd 2014 No. 29 s 29

**Division 5—Building of roads in State developments**

div hdg prev div 5 hdg om 2007 No. 19 s 54  
pres div 5 hdg (prev div 6 hdg) renum 2007 No. 19 s 55

**When road comes under local government control**

s 111 amd 2009 No. 17 s 331 sch 1

**CHAPTER 4—LAND HOLDINGS****PART 1—MAKING LAND AVAILABLE****Interests in land available by auction, tender or ballot**

s 112 amd 1997 No. 78 s 39

**Public notice of availability to be given**

s 113 amd 2010 No. 12 s 165

**Conditions of sale**

s 115 amd 2007 No. 19 s 56; 2013 No. 23 s 63; 2014 No. 29 s 30

**Interests in land may be sold after auction**

s 116 amd 2010 No. 12 s 166

**Appeal against exclusion from ballot or tender**

s 118 amd 2013 No. 23 s 352 sch 1 pt 1

**Offer to winner of ballot or tender**

s 120 amd 2013 No. 23 s 352 sch 1 pt 1

**Applying for interest in land without competition**

s 120A ins 2007 No. 19 s 57

**Deeds of grant of unallocated State land**

s 122 amd 2004 No. 4 s 18; 2007 No. 19 s 58; 2007 No. 41 s 234; 2012 No. 43 s 221  
sch 1; 2014 No. 29 s 31

**Priority criteria**

s 123 amd 2004 No. 4 s 19

**Strategic port land**

s 126 amd 2010 No. 12 s 167

**Reclaimed land**

s 127 amd 2007 No. 19 s 59; 2014 No. 29 s 32

**Amalgamation may be a condition**

s 127A (prev s 131) renum and reloc 2010 No. 12 s 106  
amd 2013 No. 23 s 352 sch 1 pt 1

**Division 2A—Leases for significant development**

div hdg ins 2010 No. 12 s 103

**Lease for significant development**

s 129 amd 2007 No. 19 s 60  
sub 2010 No. 12 s 104

**Further dealings with lease land on completion of significant development**

s 129A ins 2010 No. 12 s 104

**Change of financial and managerial capabilities of lessee of lease for significant development**

s 130A ins 2007 No. 19 s 61  
amd 2013 No. 23 s 352 sch 1 pt 1

**Conditions of offer and lease**

s 136 amd 2007 No. 19 s 62; 2013 No. 23 s 64; 2014 No. 29 s 33

**Restriction on commencement of lease or permit**

s 138A ins 2007 No. 19 s 63

**Provisional value may be negotiated**

s 140 amd 1997 No. 78 s 40

**PART 2—RESTRICTIONS ON ELIGIBILITY TO HOLD LAND**

pt hdg sub 2014 No. 29 s 34

**Division 1—General eligibility restrictions**

div hdg om 2014 No. 29 s 34

**Minors not to hold land**

s 142 sub 2014 No. 29 s 34

**Departmental officers not to hold land without approval**

s 143 sub 2014 No. 29 s 34

**Division 2—Corporation and aggregation restrictions**

div hdg om 2014 No. 29 s 34

**Division applies only to leases for grazing and agriculture**

s 144 amd 2007 No. 19 s 64  
om 2014 No. 29 s 34

**Only individuals may hold leases**

s 145 om 2014 No. 29 s 34

**Maximum individual holding**

s 146 om 2014 No. 29 s 34

**Calculating holdings**

s 147 om 2014 No. 29 s 34

**Excess holdings**

s 148      amd 2013 No. 23 s 352 sch 1 pt 1  
            om 2014 No. 29 s 34

**Leases may not be held on trust**

s 149      om 2014 No. 29 s 34

**Meaning of *family arrangement***

s 150      om 2014 No. 29 s 34

**Eligibility not affected by devolution by law**

s 151      amd 2000 No. 8 s 263 sch 3  
            om 2014 No. 29 s 34

**Division does not apply to State**

s 152      om 2014 No. 29 s 34

**PART 3—LEASES****Lease must state its purpose**

s 153      sub 2007 No. 19 s 65

**Minister may approve additional purposes**

s 154      amd 2007 No. 19 s 66; 2009 No. 46 s 114; 2013 No. 23 s 352 sch 1 pt 1

**Division 1A—Length of term on issue of term lease**

div hdg    ins 2010 No. 12 s 106

**Length of term leases**

s 155      amd 1997 No. 41 s 4; 2007 No. 19 s 67 (amd 2007 No. 48 s 40); 2010 No. 12  
            s 107; 2013 No. 2 s 120; 2013 No. 23 s 65; 2014 No. 29 s 35

**Division 1B—Extension of particular term leases**

div hdg    ins 2010 No. 12 s 108

**Application of div 1B**

s 155AA    ins 2010 No. 12 s 108  
            amd 2013 No. 23 s 66; 2014 No. 29 s 36

**Extensions for a term of up to 40 years**

s 155A      ins 2007 No. 19 s 68  
            sub 2010 No. 12 s 108

**Extensions for a term of up to 50 years**

s 155B      ins 2007 No. 19 s 68  
            sub 2010 No. 12 s 108  
            amd 2013 No. 2 s 121

**Extensions for a term of up to 75 years**

s 155BA    ins 2010 No. 12 s 108  
            amd 2013 No. 2 s 122

**Registering and taking of effect of extension**

s 155C      ins 2007 No. 19 s 68  
            amd 2010 No. 12 s 109

**Non-application of division to particular term leases**

s 155CA ins 2014 No. 29 s 37

**Division 1C—Reduction of particular term leases**

div hdg ins 2010 No. 12 s 110

**When Minister may reduce**

s 155D ins 2007 No. 19 s 68  
sub 2010 No. 12 s 110  
amd 2013 No. 2 s 123; 2014 No. 29 s 38

**Notice of intention to reduce term**

s 155DA ins 2010 No. 12 s 110

**Provisions about reduction**

s 155E ins 2007 No. 19 s 68  
amd 2010 No. 12 s 111; 2013 No. 23 s 352 sch 1 pt 1

**Division 1D—Relationship with Dividing Fences Act 1953**

div hdg ins 2010 No. 12 s 112  
om 2011 No. 25 s 101

**Application of Dividing Fences Act**

s 156 amd 1995 No. 57 s 4 sch 1  
om 2011 No. 25 s 101

**Division 2—Expiry, renewal and extension**

div hdg sub 2014 No. 29 s 39

**Subdivision 1—Expiry**

sdiv hdg ins 2014 No. 29 s 39

**Expiry of lease**

s 157 amd 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 40

**Subdivision 2—Renewal**

sdiv hdg ins 2014 No. 29 s 41

**Limited application of sdiv 2**

s 157AA ins 2014 No. 29 s 41

**Chief executive's approval required for renewal**

s 157A ins 2007 No. 19 s 69  
amd 2014 No. 29 s 42

**Application for new lease**

prov hdg amd 2007 No. 19 s 70(1)  
s 158 amd 1995 No. 57 s 4 sch 1; 2007 No. 19 s 70(2)–(5); 2010 No. 12 s 113; 2013  
No. 23 s 67

**General provisions for deciding application**

prov hdg sub 2007 No. 19 s 71(1)  
s 159 amd 2007 No. 19 s 71(2)–(7); 2013 No. 2 s 124; 2013 No. 23 ss 68, 352 sch 1  
pt 1



**Provisions for decision about most appropriate form of tenure**

s 159A ins 2007 No. 19 s 72  
amd 2010 No. 12 s 114; 2013 No. 23 s 352 sch 1 pt 1

**Notice of chief executive's decision**

prov hdg amd 2007 No. 19 s 73(1); 2013 No. 23 s 352 sch 1 pt 1  
s 160 amd 2004 No. 4 s 20; 2007 No. 19 s 73; 2013 No. 23 s 352 sch 1 pt 1

**Land management agreement condition for particular offers**

s 160A ins 2007 No. 19 s 74  
amd 2013 No. 23 s 69  
om 2014 No. 29 s 43

**Issuing of new lease**

s 162 sub 2007 No. 19 s 75  
amd 2010 No. 12 s 115; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 44

**Conditions imposed on particular new leases**

s 162A ins 2007 No. 19 s 75  
amd 2013 No. 23 s 70  
om 2014 No. 29 s 44

**Land not included in the offer**

s 163 amd 2004 No. 4 s 21

**Subdivision 3—Extensions of rolling term leases**

sdiv hdg ins 2014 No. 29 s 46

**What is a *rolling term lease***

s 164 amd 2013 No. 23 s 71  
sub 2014 No. 29 s 46

**Approval of lease as a rolling term lease**

s 164A ins 2014 No. 29 s 46

**Identification of lease as a rolling term lease**

s 164B ins 2014 No. 29 s 46

**Making extension application or giving expiry advice**

s 164C ins 2014 No. 29 s 46

**When extension application or expiry advice may not be made or given**

s 164D ins 2014 No. 29 s 46

**Length of extension**

s 164E ins 2014 No. 29 s 46

**Effect of extension**

s 164F ins 2014 No. 29 s 46

**Notice of expiry**

s 164G ins 2014 No. 29 s 46

**Subdivision 4—Possible extension instead of renewal**

sdiv hdg ins 2014 No. 29 s 46

**Application for term lease renewal may become extension application**

s 164H ins 2014 No. 29 s 46

**Chief executive's approval required for conversion**

s 165A ins 2007 No. 19 s 76

**Application to convert lease**

s 166 amd 2007 No. 19 s 77; 2010 No. 12 s 116; 2013 No. 23 s 72; 2014 No. 29 s 47

**Provisions for deciding application**

prov hdg amd 2007 No. 19 s 78(1)

s 167 amd 2007 No. 19 s 78(2)–(7); 2009 No. 5 s 33; 2013 No. 23 ss 73, 352 sch 1 pt 1

**Notice of chief executive's decision**

prov hdg amd 2007 No. 19 s 79(1); 2013 No. 23 s 352 sch 1 pt 1

s 168 amd 2004 No. 4 s 22; 2007 No. 19 s 79; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 48

**Land management agreement for new perpetual lease**

s 168A ins 2007 No. 19 s 80  
amd 2013 No. 23 s 74  
om 2014 No. 29 s 49

**Conditions of freehold offer**

s 169 amd 2007 No. 19 s 81; 2010 No. 12 s 117; 2014 No. 29 s 50

**Purchase price if deed of grant offered**

s 170 amd 2007 No. 19 s 82; 2014 No. 29 s 51

**When offer has been accepted**

s 171 amd 2014 No. 29 s 52

**Issuing of new tenure**

s 172 sub 2007 No. 19 s 83  
amd 2013 No. 23 s 352 sch 1 pt 1

**Short-term extension**

s 173A ins 2007 No. 19 s 84  
amd 2013 No. 23 s 75  
om 2014 No. 29 s 53

**Freeholded lease may not be transferred without approval**

s 174 amd 1997 No. 78 s 41; 2004 No. 4 s 23; 2013 No. 23 s 352 sch 1 pt 1  
om 2014 No. 29 s 53

**Division 4—Subdividing leases**

div hdg ins 2007 No. 19 s 87

**When lease may be subdivided**

s 175 ins 2007 No. 19 s 87

**Application to subdivide**

s 176 ins 2007 No. 19 s 87

**General provisions for deciding application**

s 176A ins 2007 No. 19 s 87  
amd 2010 No. 12 s 118; 2013 No. 23 s 76; 2014 No. 29 s 54

**Criteria for deciding application**

s 176B ins 2007 No. 19 s 87

**Specific grounds for refusal**

s 176C ins 2007 No. 19 s 87

**Notice of decision**

s 176D ins 2007 No. 19 s 87  
amd 2013 No. 23 s 352 sch 1 pt 1

**Appeal against refusal**

s 176E ins 2007 No. 19 s 87

**Acceptance of subdivision offer**

s 176F ins 2007 No. 19 s 87

**Issuing of new leases**

s 176G ins 2007 No. 19 s 87

**Restriction on transferring new leases**

s 176H ins 2007 No. 19 s 87  
om 2014 No. 29 s 55

**Power to waive fees if chief executive requested application**

s 176I ins 2007 No. 19 s 87

**Division 5—Amalgamating leases**

div hdg ins 2007 No. 19 s 87

**When leases may be amalgamated**

s 176J ins 2007 No. 19 s 87

**Application to amalgamate**

s 176K ins 2007 No. 19 s 87  
amd 2014 No. 29 s 56

**General provisions for deciding application**

s 176L ins 2007 No. 19 s 87  
amd 2010 No. 12 s 119; 2013 No. 23 s 77; 2014 No. 29 s 57

**Criteria for deciding application**

s 176M ins 2007 No. 19 s 87

**Roads**

s 176N ins 2007 No. 19 s 87

**Specific grounds for refusal**

s 176O ins 2007 No. 19 s 87

**Notice of decision**

s 176P ins 2007 No. 19 s 87  
amd 2013 No. 23 s 352 sch 1 pt 1

**Appeal against refusal**

s 176Q ins 2007 No. 19 s 87

**Acceptance of amalgamation offer**

s 176R ins 2007 No. 19 s 87

**Issuing of amalgamated lease**

s 176S ins 2007 No. 19 s 87

**Power to waive fees if chief executive requested application**

s 176T ins 2007 No. 19 s 87

**Division 6—Land management agreements**

div hdg ins 2007 No. 19 s 87

**Making and registration of agreement about land management**

s 176U ins 2007 No. 19 s 87  
amd 2014 No. 29 s 58

**Power to require land management agreement in particular circumstances**

s 176UA ins 2013 No. 23 s 78  
amd 2014 No. 29 s 59

**Purposes of a land management agreement**

s 176V ins 2007 No. 19 s 87

**Content of land management agreement**

s 176W ins 2007 No. 19 s 87  
amd 2010 No. 12 s 120; 2014 No. 29 s 60

**Reviewing land management agreement**

s 176X ins 2007 No. 19 s 87

**Cancellation of land management agreement**

s 176XA ins 2014 No. 29 s 61

**Division 7—Miscellaneous provisions**

div hdg ins 2007 No. 19 s 87

**Part does not affect amounts owing relating to lease**

s 176Y ins 2007 No. 19 s 87

**When payment obligations end if lease ends under part**

s 176Z ins 2007 No. 19 s 87  
amd 2014 No. 29 s 62

**Overpayments relating to former lease**

s 176ZA ins 2007 No. 19 s 87  
amd 2014 No. 29 s 63

**PART 4—PERMITS TO OCCUPY PARTICULAR LAND****pt hdg** amd 2007 No. 19 s 88**Chief executive may issue permit****s 177** amd 2004 No. 4 s 24; 2007 No. 19 s 89**Applying for permit****s 177A** ins 2007 No. 19 s 90  
amd 2013 No. 23 s 79**Notice of intention to issue permit****s 177B** ins 2007 No. 19 s 90  
amd 2013 No. 23 s 352 sch 1 pt 1  
om 2013 No. 23 s 352 sch 1 pt 1**Submissions****s 177C** ins 2007 No. 19 s 90  
om 2013 No. 23 s 352 sch 1 pt 1**Notice of permit****s 177D** ins 2007 No. 19 s 90  
amd 2013 No. 23 ss 80, 352 sch 1 pt 1**Permits for land in area of tidal influence****prov hdg** amd 2010 No. 12 s 168(1)**s 178** amd 2010 No. 12 s 168(2)**When permit may be cancelled or surrendered****s 180** sub 2007 No. 19 s 91 (amd 2007 No. 57 s 21)  
amd 2013 No. 23 s 81**Applying to cancel or surrender permit****s 180A** ins 2007 No. 19 s 91  
amd 2013 No. 23 s 82**Notice of proposal to cancel or approve surrender****s 180B** ins 2007 No. 19 s 91  
amd 2013 No. 23 s 352 sch 1 pt 1  
om 2013 No. 39 s 43 sch 1**Submissions****s 180C** ins 2007 No. 19 s 91  
om 2013 No. 39 s 43 sch 1**When cancellation or surrender is effective****s 180D** ins 2007 No. 19 s 91**Notice about cancellation or surrender****s 180E** ins 2007 No. 19 s 91  
amd 2013 No. 23 ss 83, 352 sch 1 pt 1**Effect of cancellation or surrender****s 180F** ins 2007 No. 19 s 91

**Permittee to give up possession on cancellation or surrender**

**s 180G** ins 2007 No. 19 s 91

**Dealing with improvements**

**s 180H** ins 2007 No. 19 s 91

**CHAPTER 5—MATTERS AFFECTING LAND HOLDINGS**

**ch hdg** om 2014 No. 29 s 64

**PART 1—RENTS**

**pt hdg** om 2014 No. 29 s 64

**Division 1—Rents**

**div hdg** om 2014 No. 29 s 64

**Rent periods**

**s 181** amd 2007 No. 19 s 92  
om 2014 No. 29 s 64

**Rent categories**

**s 182** amd 2013 No. 23 s 352 sch 1 pt 1  
om 2014 No. 29 s 64

**Rent payable generally**

**prov hdg** sub 1996 No. 7 s 3(1)  
**s 183** amd 1995 No. 32 s 23 sch; 1996 No. 7 s 3(2)–(3); 2007 No. 19 s 93; 2010 No.  
12 s 121; 2010 No. 39 s 310 sch 1 pt 2  
om 2014 No. 29 s 64

**Set rents**

**prov hdg** sub 2007 No. 19 s 94(1)  
**s 183A** ins 1996 No. 7 s 4  
amd 2007 No. 19 s 94(2)–(3); 2010 No. 12 s 122; 2010 No. 39 s 310 sch 1 pt  
2; 2013 No. 19 s 120 sch 1  
om 2014 No. 29 s 64

**Protection against particular undue rental increases**

**s 183AA** ins 2007 No. 19 s 95  
om 2014 No. 29 s 64

**No rent payable once offer to convert lease is accepted**

**s 183B** ins 2013 No. 23 s 84  
om 2014 No. 29 s 64

**Rent adjustments**

**s 184** amd 2010 No. 39 s 310 sch 1 pt 2  
om 2014 No. 29 s 64

**Division 2—Concessional rents**

**div hdg** om 2014 No. 29 s 64

**Development and investigation concessions**

- prov hdg** sub 1997 No. 78 s 43(1)  
**s 185** amd 1997 No. 78 s 43(2); 2007 No. 19 s 96  
om 2014 No. 29 s 64

**Charitable, recreational and sporting concessions**

- s 186** om 2014 No. 29 s 64

**Residential hardship concessions**

- s 187** om 2014 No. 29 s 64

**Property build-up concession**

- s 188** om 2014 No. 29 s 64

**Limited rent discount for particular leases**

- s 188A** ins 2013 No. 2 s 125  
amd 2013 No. 23 s 85  
om 2014 No. 29 s 64

**Levelling concessions**

- s 189** om 2000 No. 2 s 15

**Division 3—Rent and instalment payments**

- div hdg** om 2014 No. 29 s 64

**When rent is owing**

- s 190** amd 2007 No. 19 s 97; 2010 No. 39 s 310 sch 1 pt 2  
om 2014 No. 29 s 64

**Overpayment of rent**

- s 191** amd 2010 No. 39 s 310 sch 1 pt 2  
om 2014 No. 29 s 64

**Deferral of rent and instalment payments for hardship**

- s 192** amd 2007 No. 19 s 98 (amd 2007 No. 57 s 22); 2013 No. 23 s 352 sch 1 pt 1  
om 2014 No. 29 s 64

**Forgiveness of deferred rent payments**

- s 193** om 2014 No. 29 s 64

**Change of circumstances**

- s 194** om 2014 No. 29 s 64

**Division 4—Action for non-payment of rent and instalments**

- div hdg** om 2014 No. 29 s 64

**Meaning of *instalment* for div 4**

- s 194A** ins 1997 No. 78 s 44  
om 2014 No. 29 s 64

**Penalty interest on outstanding rent and instalments**

- s 195** amd 2007 No. 19 s 99  
om 2014 No. 29 s 64

**Designated officer may take action for non-payment**

**prov hdg** amd 2007 No. 19 s 100(1)  
**s 196** amd 2004 No. 4 s 25; 2007 No. 19 s 100(2)–(3)  
om 2014 No. 29 s 64

**Notice of intention to cancel**

**s 197** amd 2004 No. 4 s 26; 2007 No. 19 s 101; 2013 No. 23 s 352 sch 1 pt 1  
om 2014 No. 29 s 64

**Designated officer may reinstate if payment made**

**prov hdg** amd 2007 No. 19 s 102(1)  
**s 198** amd 2007 No. 19 s 102(2)  
om 2014 No. 29 s 64

**PART 1A—FUTURE CONSERVATION AREAS**

**pt 1A (ss 198A–198B)** ins 2007 No. 19 s 103  
om 2013 No. 23 s 86

**PART 2—CONDITIONS**

**Division 1—General mandatory conditions**

**div hdg** sub 2007 No. 19 s 104

**Operation of div 1**

**s 198C** ins 2007 No. 19 s 104  
amd 2014 No. 29 s 65

**Mandatory conditions need not be registered**

**s 198D** ins 2007 No. 19 s 104

**Duty of care condition**

**s 199** amd 1997 No. 78 s 45; 2007 No. 19 s 105

**Land may be used only for tenure's purpose**

**s 199A** ins 2007 No. 19 s 106  
sub 2013 No. 2 s 126

**Land management agreement condition**

**s 201A** ins 2010 No. 12 s 123  
amd 2013 No. 23 s 87  
om 2014 No. 29 s 66

**Notice to transferee if lease land subject to indigenous cultural interest**

**s 202AA** ins 2013 No. 2 s 127  
amd 2013 No. 23 s 352 sch 1 pt 1

**Notice to sublessee if lease land is or is to be subject to indigenous cultural interest**

**s 202AB** ins 2013 No. 2 s 127

**Division 2—Imposed conditions**

**div hdg** sub 2007 No. 19 s 107

**Operation of div 2**

**s 202A** sub 2007 No. 19 s 107  
amd 2014 No. 29 s 67



**Imposed condition must be registered**

s 202B sub 2007 No. 19 s 107

**Typical conditions**

s 203 amd 2004 No. 4 s 27; 2007 No. 19 s 108; 2014 No. 29 s 65

**Survey condition**

s 204 amd 2003 No. 70 s 206 sch 2

**Personal residence condition**

s 206 amd 2013 No. 23 s 352 sch 1 pt 1

**Another person may complete personal residence condition**

s 207 amd 2000 No. 8 s 263 sch 3

**Resumption condition**

s 208 amd 2013 No. 23 s 352 sch 1 pt 1

**Division 3—Changing and reviewing imposed conditions**

div hdg sub 2007 No. 19 s 109

**Power to change imposed condition of lease, licence or permit by agreement**

s 210 amd 1995 No. 57 s 4 sch 1; 2000 No. 2 s 16  
sub 2007 No. 19 s 110

**Reviewing imposed conditions of lease**

s 211 amd 2004 No. 4 s 28  
sub 2007 No. 19 s 111  
amd 2014 No. 29 s 69

**Minister may change imposed conditions after review**

prov hdg amd 2007 No. 19 s 112(1)

s 212 amd 2000 No. 2 s 17; 2007 No. 19 s 112(2)–(4); 2013 No. 23 s 352 sch 1 pt 1

**Division 3A—Regulated conditions**

div 3A (ss 212A–212C) ins 2014 No. 29 s 70

**Obligation to perform conditions**

s 213 sub 2007 No. 19 s 113  
amd 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 71

**Division 5—Remedial action**

div hdg ins 2007 No. 19 s 113

**Minister's power to give remedial action notice**

s 214 amd 1999 No. 90 s 87; 2000 No. 2 s 18  
sub 2007 No. 19 s 113  
amd 2013 No. 23 s 352 sch 1 pt 1

**Steps required before giving remedial action notice**

s 214A ins 2007 No. 19 s 113

**Appeal against decision to give remedial action notice**

s 214B ins 2007 No. 19 s 113

**Additional condition of lease or licence to take required remedial action**

s 214C ins 2007 No. 19 s 113

**Failure to comply with remedial action notice**

s 214D ins 2007 No. 19 s 113  
amd 2013 No. 51 s 229 sch 1

**Power to reduce term of lease or impose additional conditions**

s 214E ins 2007 No. 19 s 113  
amd 2010 No. 12 s 124

**Provisions about reduction or additional conditions**

s 214F ins 2007 No. 19 s 113  
amd 2013 No. 23 s 352 sch 1 pt 1

**Application of division**

s 215 amd 2013 No. 23 s 352 sch 1 pt 1

**Resumption for constructing authorities**

s 218 amd 2013 No. 23 s 352 sch 1 pt 1

**Effect of resumption**

s 219 amd 1997 No. 78 s 46

**Service of order in council**

s 220 amd 1997 No. 78 s 47

**Application of Acquisition of Land Act 1967**

s 221 amd 2013 No. 23 s 352 sch 1 pt 1

**Effect of resumption**

s 225 amd 1997 No. 78 s 48

**Effect of resumption of possession**

s 230 amd 2012 No. 20 s 46

**Application of Acquisition of Land Act 1967**

s 231 amd 2013 No. 23 s 352 sch 1 pt 1

**PART 4—FORFEITURE**

**Division 1—Grounds for forfeiture**

div hdg ins 2003 No. 10 s 16

**When lease may be forfeited**

s 234 amd 2003 No. 10 s 17; 2004 No. 1 s 44(1) sch 1; 2007 No. 19 s 114; 2010 No. 12 s 125; 2013 No. 23 ss 88, 52 sch 1 pt 1; 2013 No. 24 s 67; 2014 No. 29 s 72

**Division 2—Forfeiture of leases for non-payment**

div hdg ins 2003 No. 10 s 18  
amd 2007 No. 19 s 115

**Application of div 2**

s 234A ins 2003 No. 10 s 18  
sub 2007 No. 19 s 116

**Notice of forfeiture for outstanding amounts**

s 235 amd 2007 No. 19 s 117

**Designated person's options if amount unpaid**

prov hdg amd 2007 No. 19 s 118(1)

s 236 amd 2007 No. 19 s 118(2)

**Division 2A—Forfeiture of leases by referral to court or for fraud**

div hdg ins 2007 No. 19 s 119

amd 2010 No. 12 s 126

**Application of div 2A**

s 237A ins 2007 No. 19 s 119

**Application to the court for forfeiture**

s 238 amd 2007 No. 19 s 120; 2010 No. 12 s 127

**Designated person's options**

prov hdg amd 2007 No. 19 s 121(1); 2010 No. 12 s 128(1)

s 239 amd 2007 No. 19 s 121(2)–(5); 2010 No. 12 s 128(2)–(5)

**Publication of notice of forfeiture**

s 240 om 2007 No. 19 s 122

**Division 3—Forfeiture of leases on conviction**

div hdg ins 2003 No. 10 s 19

amd 2004 No. 1 s 44(1) sch 1; 2007 No. 19 s 123

om 2013 No. 23 s 68

**Subdivision 1—Preliminary**

sdiv hdg ins 2003 No. 10 s 19

om 2013 No. 23 s 68

**Application of div 3**

s 240A ins 2003 No. 10 s 19

om 2013 No. 23 s 68

**Subdivision 2—Procedure for forfeiting lease**

sdiv hdg ins 2003 No. 10 s 19

om 2013 No. 23 s 68

**Show cause notice**

s 240B ins 2003 No. 10 s 19

om 2013 No. 23 s 68

**Decision about forfeiture**

s 240C ins 2003 No. 10 s 19

amd 2013 No. 23 s 352 sch 1 pt 1

om 2013 No. 23 s 68

**Right of appeal**

s 240D ins 2003 No. 10 s 19

amd 2013 No. 23 s 352 sch 1 pt 1

om 2013 No. 23 s 68

**Division 3A—Sale of lease instead of forfeiture**

**div hdg** ins 2007 No. 19 s 125

**Subdivision 1—Sale by lessee**

**sdiv hdg** ins 2007 No. 19 s 125

**Sale by lessee**

**s 240E** prev s 240E ins 2003 No. 10 s 19  
om 2007 No. 19 s 124  
pres s 240E ins 2007 No. 19 s 125  
amd 2010 No. 12 s 129; 2013 No. 23 s 352 sch 1 pt 1

**Subdivision 2—Sale by mortgagee**

**sdiv hdg** ins 2007 No. 19 s 125

**Sale by mortgagee instead of forfeiture**

**s 240F** (prev s 244) amd 2007 No. 19 s 130(1)–(4)  
renum and reloc 2007 No. 19 s 130(5)  
amd 2010 No. 12 s 130; 2013 No. 23 s 352 sch 1 pt 1

**Subdivision 3—Sale by local government**

**sdiv hdg** ins 2007 No. 19 s 125

**Application**

**s 240G** ins 2007 No. 19 s 125  
amd 2010 No. 12 s 131; 2009 No. 17 s 331 sch 1; 2013 No. 23 s 352 sch 1 pt 1

**Notice of approval**

**s 240H** ins 2007 No. 19 s 125  
amd 2013 No. 23 s 352 sch 1 pt 1

**Sale of lease**

**s 240I** ins 2007 No. 19 s 125  
amd 2013 No. 23 s 89

**Subdivision 4—Sale by chief executive**

**sdiv hdg** ins 2007 No. 19 s 125

**Application of sdiv 4**

**s 240J** ins 2007 No. 19 s 125  
amd 2010 No. 12 s 132

**Notice that chief executive may sell**

**s 240K** ins 2007 No. 19 s 125  
amd 2013 No. 23 s 352 sch 1 pt 1

**Entry into possession and sale**

**s 240L** ins 2007 No. 19 s 125

**Transition to sale agreement**

**s 240M** ins 2007 No. 19 s 125

**Advice about entering transition to sale agreement**

**s 240N** ins 2007 No. 19 s 125  
amd 2010 No. 12 s 133; 2013 No. 23 s 352 sch 1 pt 1

**Making and registration of transition to sale agreement**

s 240O ins 2007 No. 19 s 125

**Auction or sale of lease**

s 240P ins 2007 No. 19 s 125  
amd 2010 No. 12 ss 134, 169

**Disposal of proceeds of sale**

s 240Q ins 2007 No. 19 s 125  
amd 2009 No. 17 s 331 sch 1; 2014 No. 29 s 73

**Protection from liability**

s 240R ins 2007 No. 19 s 125

**Division 4—Forfeiture**

div hdg ins 2003 No. 10 s 19  
sub 2007 No. 19 s 126

**Notice of forfeiture**

s 240S ins 2007 No. 19 s 127  
amd 2013 No. 23 s 352 sch 1 pt 1

**Effect of forfeiture**

s 241 amd 2007 No. 19 s 128

**Lessee to give up possession on forfeiture**

s 242 amd 2013 No. 23 s 352 sch 1 pt 1

**Improvements on forfeited lease**

s 243 amd 2007 No. 19 s 129

**PART 5—PAYMENT FOR IMPROVEMENTS****Application of division**

s 246 amd 2004 No. 4 s 29; 2007 No. 19 s 131

**Application of payment for improvements by incoming lessee or buyer**

s 247 amd 2004 No. 4 s 30

**Payment by the State for improvements**

s 249 amd 2007 No. 19 s 132; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 74

**PART 6—PROTECTION OF MONITORING SITES**

pt hdg prev pt 6 hdg om 2004 No. 1 s 39  
pres pt 6 hdg ins 2007 No. 19 s 133

**Division 1—General**

div hdg om 2004 No. 1 s 39

**Prohibition on interfering with monitoring marker or device**

s 252 prev s 252 amd 1999 No. 90 s 88  
om 2004 No. 1 s 39  
pres s 252 ins 2007 No. 19 s 133

**Evidentiary provision for proceedings under s 252**

**s 253** prev s 253 amd 1997 No. 78 s 49; 2000 No. 44 s 42 sch (amdt could not be given effect)  
om 2004 No. 1 s 39  
pres s 253 ins 2007 No. 19 s 133

**Application of part**

**s 254** om 2004 No. 1 s 39

**Division 2—Tree clearing permit**

**div hdg** om 2004 No. 1 s 39

**Tree clearing permit needed**

**s 255** amd 1999 No. 90 s 90; 2003 No. 10 s 20  
om 2004 No. 1 s 39

**Recovery of rehabilitation costs**

**s 256** amd 2003 No. 10 s 76 sch  
om 2004 No. 1 s 39

**When tree clearing permit is not needed**

**s 257** amd 1995 No. 32 s 23 sch; 1999 No. 90 s 91  
om 2004 No. 1 s 39

**Tree clearing permit needed despite condition in lease**

**s 258** om 2004 No. 1 s 39

**Who may apply for tree clearing permit**

**s 259** om 2004 No. 1 s 39

**How application for tree clearing permit made**

**s 260** amd 1999 No. 90 s 92 (amd 2000 No. 35 s 18)  
om 2004 No. 1 s 39

**Property vegetation management plan**

**prov hdg** amd 1999 No. 90 s 93(1) (amd 2000 No. 35 s 19)  
**s 261** amd 1999 No. 90 s 93(2)–(4) (amd 2000 No. 35 s 19)  
om 2004 No. 1 s 39

**Issues chief executive must consider**

**s 262** amd 1996 No. 7 s 5; 1999 No. 90 s 94 (amd 2000 No. 35 s 20); 2003 No. 10 s 21  
om 2004 No. 1 s 39

**Chief executive may issue tree clearing permit**

**s 263** amd 1997 No. 78 s 50  
om 2004 No. 1 s 39

**Terms of tree clearing permit**

**s 264** amd 1999 No. 90 s 94A (amd 2000 No. 35 s 21)  
om 2004 No. 1 s 39

**Conditions of tree clearing permit**

s 265      amd 1999 No. 90 s 94B (amd 2000 No. 35 s 21)  
            om 2004 No. 1 s 39

**Cancellation of tree clearing permit**

s 266      amd 1997 No. 78 s 51  
            om 2004 No. 1 s 39

**Tree clearing permit may continue on transfer**

s 267      amd 1999 No. 90 s 94C (amd 2000 No. 35 s 21)  
            om 2004 No. 1 s 39

**Division 3—Clearing for routine management and routine rural management purposes**

div hdg    om 2004 No. 1 s 39

**Routine management**

s 268      om 2004 No. 1 s 39

**Routine rural management**

s 269      amd 2000 No. 44 s 42 sch  
            om 2004 No. 1 s 39

**Conditions of clearing**

s 270      amd 1999 No. 90 s 95  
            om 2004 No. 1 s 39

**Division 4—Broadscale tree clearing**

div hdg    om 2004 No. 1 s 39

**Approval of broadscale tree clearing policy**

s 271      om 2004 No. 1 s 39

**Local guidelines for broadscale tree clearing**

s 272      om 2004 No. 1 s 39

**Finalising the guidelines**

s 273      om 2004 No. 1 s 39

**Publishing of guidelines**

s 274      om 2004 No. 1 s 39

**Division 5—Enforcing compliance**

div hdg    ins 2003 No. 10 s 22  
            om 2004 No. 1 s 39

**Compliance notice**

s 274A     ins 2003 No. 10 s 22  
            amd 2004 No. 4 s 31  
            om 2004 No. 1 s 39

**Right of appeal**

s 274B     ins 2003 No. 10 s 22  
            om 2004 No. 1 s 39

**Record of compliance notice in land registry**

s 274C ins 2003 No. 10 s 22  
om 2004 No. 1 s 39

**CHAPTER 6—REGISTRATION AND DEALINGS**

**PART 1—LAND REGISTRY AND REGISTERS**

**Division 1—Land registry**

**Registers comprising land registry**

s 275 amd 2005 No. 68 s 12; 2007 No. 19 s 134; 2009 No. 5 s 34; 2010 No. 12 s 135; 2011 No. 31 s 324

**Division 2—Registers**

**Registers to be kept by chief executive**

s 276 amd 2005 No. 68 s 13; 2007 No. 19 s 135; 2009 No. 5 s 35; 2010 No. 12 s 136; 2011 No. 31 s 325

**Registration of document evidencing tenure**

s 277A ins 2007 No. 19 s 136

**Particulars that must be registered**

prov hdg amd 2007 No. 19 s 137(1)

s 278 amd 2007 No. 19 s 137(2)–(4)

**Registration of land management agreements and transition to sale agreements**

s 279 amd 2000 No. 2 s 19  
sub 2007 No. 19 s 138  
amd 2009 No. 5 s 36; 2014 No. 29 s 75

**Registration of documents lodged or matters notified under particular Acts**

s 279A ins 2011 No. 31 s 326

**Particulars that must be recorded for specified national parks**

s 280A ins 2011 No. 31 s 327

**Other information may be kept**

s 281 amd 2005 No. 68 s 14

**Chief executive's procedures on lodgement and registration of document**

s 282 sub 2005 No. 68 s 15

**Entitlement to search a register**

s 284 amd 2005 No. 68 s 16; 2014 No. 29 s 76

**Fee required to produce document under subpoena etc.**

s 284A ins 2013 No. 23 s 90

**Supply of statistical data**

s 285A ins 2005 No. 68 s 17

**Division 3—General requirements for documents in registers**

**Land practice manual**

s 286A ins 2005 No. 68 s 18  
amd 2013 No. 17 s 14



**Requiring plan of survey to be lodged**

**s 286B** ins 2005 No. 68 s 18  
amd 2007 No. 19 s 139

**Registered documents must comply with particular requirements**

**prov hdg** amd 2005 No. 68 s 19(1)  
**s 287** amd 2005 No. 68 s 19(2)–(4); 2007 No. 19 s 140; 2013 No. 17 s 15

**Certain documents must be signed**

**s 288** amd 2013 No. 17 s 16

**Original mortgagee to confirm identity of mortgagor**

**s 288A** ins 2005 No. 68 s 20  
amd 2010 No. 12 s 137; 2013 No. 17 s 17

**Mortgage transferee to confirm identity of mortgagor**

**s 288B** ins 2005 No. 68 s 20  
amd 2013 No. 17 s 18

**Effect of registration of mortgage under Land Title Act 1994**

**s 288C** ins 2005 No. 68 s 20  
amd 2010 No. 12 s 138

**Giving consent for dealings**

**s 289** amd 2003 No. 6 s 134  
sub 2013 No. 17 s 19

**Offence not to use appropriate form**

**s 290** prev s 290 om 2013 No. 17 s 19  
pres s 290 (prev s 290AA) ins 2003 No. 6 s 135  
renum 2013 No. 17 s 20

**Division 3A—Format of plans of survey**

**div 3A (ss 290A–290C)** ins 2004 No. 9 s 75

**Division 3B—Explanatory format plans**

**div hdg** (prev div 3A) ins 2001 No. 33 s 11  
renum 2004 No. 9 s 73

**Explanatory format plan**

**s 290D** (prev s 290A) ins 2001 No. 33 s 11  
amd 2001 No. 92 s 13  
renum 2004 No. 9 s 74  
amd 2005 No. 68 s 21

**Division 3C—Plans of subdivision**

**div hdg** ins 2004 No. 9 s 76

**Meaning of *plan of subdivision***

**s 290E** ins 2004 No. 9 s 76

**Plan of subdivision may be registered**

**s 290F** ins 2004 No. 9 s 76  
amd 2007 No. 19 s 141; 2014 No. 29 s 77

**Taking effect of plan of subdivision**

s 290FA ins 2007 No. 19 s 142  
om 2014 No. 29 s 78

**Standard format plan of subdivision**

s 290G ins 2004 No. 9 s 76

**Volumetric format plan of subdivision**

s 290H ins 2004 No. 9 s 76

**Division of lot on standard format plan of subdivision**

s 290I ins 2004 No. 9 s 76  
amd 2010 No. 12 s 139

**Requirements for registration of plan of subdivision**

s 290J ins 2004 No. 9 s 76  
amd 2004 No. 9 s 81 sch; 2005 No. 67 s 15; 2005 No. 68 s 22; 2007 No. 41 s  
235; 2007 No. 19 s 143 (amd 2007 No. 57 s 23); 2012 No. 43 s 221 sch 1

**Dedication of public use land in plan**

s 290JA ins 2007 No. 19 s 144  
amd 2013 No. 23 s 91

**Access for public use land**

s 290JB ins 2007 No. 19 s 144  
amd 2013 No. 23 s 92

**Particulars to be recorded when registered plan takes effect**

s 290K ins 2004 No. 9 s 76  
sub 2007 No. 19 s 144

**Lodged plan that is withdrawn and relodged**

s 290L ins 2004 No. 9 s 76

**Division excluding road or watercourse**

s 290M ins 2004 No. 9 s 76

**Pre-examination of plans**

s 290N ins 2004 No. 9 s 76

**Division 3D—Electronic conveyancing documents**

div 3D (ss 290O–290Q) ins 2013 No. 17 s 21

**Chief executive may correct registers**

s 291 amd 1995 No. 58 s 4 sch 2

**Correction for omitted easement**

s 291A ins 2005 No. 68 s 23

**Chief executive may authorise printing and sale of forms**

s 293 om 2003 No. 6 s 136

**Chief executive may require public notice to be given of certain proposed action**

s 294 amd 2007 No. 19 s 145; 2013 No. 23 s 352 sch 1 pt 1

**PART 1A—BUILDING MANAGEMENT STATEMENTS****pt hdg** ins 2004 No. 9 s 77**Application****s 294A** ins 2004 No. 9 s 77**Building management statement may be registered****s 294B** ins 2004 No. 9 s 77  
amd 2005 No. 68 s 24; 2007 No. 19 s 146; 2009 No. 36 s 872 sch 2**Single area for lots to which building management statement applies****s 294BA** ins 2004 No. 68 s 25**Circumstances under which building management statement may be registered****s 294C** ins 2004 No. 9 s 77  
amd 2005 No. 68 s 26**Content of building management statement****s 294D** ins 2004 No. 9 s 77  
amd 2005 No. 68 s 27**Registration of building management statement****s 294E** ins 2004 No. 9 s 77**Amending a building management statement****s 294F** ins 2004 No. 9 s 77**Building management statement if lots owned by 1 lessee****s 294G** ins 2004 No. 9 s 77**One person becoming lessee of all lots****s 294H** ins 2004 No. 9 s 77**Extinguishing a building management statement****s 294I** ins 2004 No. 9 s 77  
amd 2005 No. 68 s 28; 2010 No. 12 s 140**Building management statement affecting freehold and non-freehold land****s 294J** ins 2004 No. 9 s 77**PART 2—REGISTRATION AND ITS EFFECT****Right to have interest registered****s 295** amd 2005 No. 68 s 29; 2013 No. 23 s 352 sch 1 pt 1**Tenure document to be returned to land registry****prov hdg** sub 2000 No. 2 s 20(1)  
**s 296** amd 2000 No. 2 s 20(2)–(3); 2003 No. 6 s 137; 2005 No. 68 s 30; 2006 No. 54  
s 22A  
om 2007 No. 19 s 147**Order of registration of documents****s 297** amd 2013 No. 23 s 352 sch 1 pt 1**When a document is registered****s 299** amd 2007 No. 19 s 148

**No registration in absence of required approval or consent of Minister**

s 299A ins 2007 No. 19 s 149

**Effect of registration on interest**

s 302 amd 2005 No. 68 s 31

**Correcting unregistered documents**

s 304 amd 1997 No. 68 s 32; 2005 No. 68 s 32

**Requisitions**

s 305 amd 2005 No. 68 s 33; 2013 No. 23 s 352 sch 1 pt 1; 2013 No. 17 s 22

**Electronic communication of statutory declaration or affidavit**

s 305A ins 2003 No. 6 s 138

**Rejecting document for failure to comply with requisition**

s 306 amd 2013 No. 23 s 352 sch 1 pt 1; 2013 No. 17 s 23

**Borrowing lodged or deposited document before registration**

prov hdg amd 2013 No. 17 s 24(1)

s 307 amd 1997 No. 78 s 52; 2013 No. 17 s 24(2)

**Withdrawing lodged document before registration**

s 308 amd 2014 No. 29 s 79

**Chief executive may call in document for correction or cancellation**

s 309 amd 2013 No. 23 s 352 sch 1 pt 1

**Execution of documents**

s 310 amd 2013 No. 17 s 25

**Substitute document**

s 312 om 2007 No. 19 s 150

**Delivery of paper documents**

s 313 sub 2013 No. 17 s 26

**Dispensing with production of paper document**

prov hdg amd 2013 No. 17 s 27(1)

s 314 amd 2005 No. 68 s 34; 2013 No. 17 s 27(2)

**Destroying document in certain circumstances**

s 315 amd 2002 No. 11 s 62 sch 1; 2003 No. 6 s 139

**Division 2—Documents forming part of standard terms documents**

div hdg amd 1997 No. 28 s 295 sch 3

**Meaning of *standard terms document* in division**

prov hdg amd 1997 No. 28 s 295 sch 3

s 317 amd 1997 No. 28 s 295 sch 3

**References to registered standard terms document**

s 317A ins 2005 No. 68 s 35

**Standard terms document may be registered****prov hdg** amd 1997 No. 28 s 295 sch 3**s 318** amd 1997 No. 28 s 295 sch 3**Minister may lodge mandatory standard terms document****s 318A** ins 2007 No. 19 s 151**Standard terms document part of a further document****prov hdg** amd 1997 No. 28 s 295 sch 3**s 319** amd 1997 No. 28 s 295 sch 3**Document not limited to that contained in standard terms document****prov hdg** amd 1997 No. 28 s 295 sch 3**s 320** amd 1997 No. 28 s 295 sch 3**Conflict with mandatory standard terms document****s 320A** ins 2007 No. 19 s 152**Withdrawal or cancellation of standard terms document****prov hdg** amd 1997 No. 28 s 295 sch 3**s 321** amd 1997 No. 28 s 295 sch 3; 2005 No. 68 s 36; 2007 No. 19 s 153**PART 4—DEALINGS AFFECTING LAND****Requirements for transfers****s 322** amd 1999 No. 90 s 94D (amd 2000 No. 35 s 21); 2004 No. 4 s 32; 2007 No. 19 s 154; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 80**Severing joint tenancy by transfer****s 322A** ins 2007 No. 19 s 155

amd 2013 No. 17 s 28; 2013 No. 23 s 93

**Effect of registration of transfer****s 325** amd 2007 No. 19 s 156; 2013 No. 2 s 128**Disclosure of information to proposed transferee of lease or licensee****s 326A** ins 2007 No. 19 s 157**Absolute surrender of freehold land****prov hdg** amd 2010 No. 12 s 141(1)**s 327** sub 2007 No. 19 s 158

amd 2010 No. 12 s 141(2)

**Surrender of lease****s 327A** ins 2007 No. 19 s 158**Applying to surrender freehold land****prov hdg** amd 2013 No. 23 s 94(1)**s 327B** ins 2007 No. 19 s 158

amd 2010 No. 12 s 142; 2013 No. 23 s 94(2)

**Applying to surrender lease****s 327C** ins 2007 No. 19 s 158

sub 2013 No. 23 s 95

**Submissions against proposal to approve surrender**

s 327D ins 2007 No. 19 s 158  
om 2013 No. 23 s 352 sch 1 pt 1

**Registration surrenders lease**

s 327E ins 2007 No. 19 s 158

**Notice of surrender**

s 327F ins 2007 No. 19 s 158  
amd 2013 No. 23 ss 96, 352 sch 1 pt 1

**Effect of surrender**

s 327G ins 2007 No. 19 s 158

**Person to give up possession on surrender**

s 327H ins 2007 No. 19 s 158

**Dealing with improvements**

s 327I ins 2007 No. 19 s 158

**Surrender of subleases**

s 328 amd 2004 No. 4 s 33; 2007 No. 19 s 159

**Notice of surrender needed**

s 329 amd 2007 No. 19 s 160

**Requirements for effective surrender**

s 330 amd 2007 No. 19 s 161

**Effect of surrender on existing interests**

s 331 amd 2010 No. 12 s 143

**Requirements for subleases**

prov hdg sub 2013 No. 23 s 97(1)  
s 332 amd 2007 No. 19 s 162; 2013 No. 23 ss 97(2)–(7), 352 sch 1 pt 1

**General authority to lessee for particular dealings**

s 333 sub 2007 No. 19 s 163

**When subleasing is totally prohibited**

s 334 amd 2007 No. 19 s 164

**Application to sub-subleases**

s 334A ins 1997 No. 78 s 53  
amd 2007 No. 19 s 165

**Amending a sublease**

s 336 amd 2004 No. 4 s 34

**Division 3A—Mediation for disputes about terms of particular subleases**

div hdg ins 2007 No. 19 s 166

**Application of div 3A**

s 339A ins 2007 No. 19 s 166  
amd 2008 No. 73 s 554 sch 1

**Mediation**

s 339B ins 2007 No. 19 s 166

**Registering a mortgage**

s 340 amd 1995 No. 32 s 23 sch

**Sale of mortgaged lease**

s 346 amd 1999 No. 90 s 94E (amd 2000 No. 35 s 21); 2007 No. 19 s 167

**Land to be sold within 2 years**

s 347 amd 2013 No. 23 s 352 sch 1 pt 1

**Disposal of proceeds of sale**

s 348 amd 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 81

**Division 5—Subdividing leases**

div hdg om 2007 No. 19 s 168

**Minister's approval required for subdivision**

s 351 om 2007 No. 19 s 168

**Plan of survey must be registered if needed**

s 352 amd 2004 No. 9 s 78; 2003 No. 70 s 206 sch 2  
om 2007 No. 19 s 168

**Issue of new leases**

s 353 om 2007 No. 19 s 168

**Conditions of new leases**

s 354 om 2007 No. 19 s 168

**Division 6—Amalgamating leases**

div hdg om 2007 No. 19 s 168

**Amalgamation only by agreement**

s 355 om 2007 No. 19 s 168

**Issue of new lease**

s 356 om 2007 No. 19 s 168

**Conditions of amalgamated lease**

s 357 om 2007 No. 19 s 168

**Changing deeds of grant—change in description or boundary of land**

prov hdg sub 2000 No. 2 s 21(1)

s 358 amd 1997 No. 78 s 54; 2000 No. 2 s 21(2); 2007 No. 19 s 169; 2010 No. 12 s 170

**Amendment of leasehold land register or freehold land register for omitted acquired easement**

s 358A ins 2005 No. 68 s 37

**Compensation not payable to any person for action under s 358A**

s 358B ins 2005 No. 68 s 37

**Correction of minor error in deed of grant**

s 358C ins 2007 No. 19 s 170

**Correcting or cancelling deeds of grant**

prov hdg sub 2000 No. 2 s 32 sch  
s 359 amd 2007 No. 19 s 171; 2010 No. 12 s 171

**Governor in Council may change freeholding leases**

prov hdg sub 2000 No. 2 s 32 sch  
amd 2007 No. 19 s 172(1)  
s 360 amd 2007 No. 19 s 172(2)–(9); 2010 No. 12 s 172

**Minister may change term leases, other than State leases, or perpetual leases**

s 360A ins 2007 No. 19 s 173  
amd 2009 No. 5 s 37

**Minister may change State lease**

s 360B ins 2007 No. 19 s 173

**Applying to amend description of lease**

s 360C ins 2007 No. 19 s 173  
amd 2010 No. 12 s 173

**Notice of intention to apply to amend lease**

s 360D ins 2007 No. 19 s 173  
sub 2013 No. 23 s 98

**Submissions**

s 360E ins 2007 No. 19 s 173  
om 2013 No. 23 s 352 sch 1 pt 1

**Notice of registration of amendment of lease**

s 360F ins 2007 No. 19 s 173  
amd 2013 No. 23 ss 99, 352 sch 1 pt 1

**Definitions for div 8**

prov hdg amd 2007 No. 19 s 174(1)  
s 361 def *full supply level* ins 2003 No. 25 s 8  
amd 2008 No. 34 s 751 sch 2  
def *public thoroughfare easement* ins 2005 No. 68 s 38(1)  
def *public utility provider* amd 1997 No. 28 s 295 sch 3; 2005 No. 68 s 38(2);  
2007 No. 36 s 2 sch  
om 2007 No. 19 s 174(2)

**Easements may be created only by registration**

s 362 amd 2001 No. 33 s 12; 2003 No. 25 s 9; 2004 No. 4 s 35; 2005 No. 68 s 39

**Registration of easement**

s 363 amd 1997 No. 78 s 55; 2001 No. 33 s 13; 2004 No. 4 s 36

**Particulars to be registered**

s 365 amd 2001 No. 33 s 14



**Rights and liabilities created on registration of document**

**s 366** amd 2005 No. 68 s 40

**Same person becoming trustee, lessee or licensee of benefited and burdened lands**

**prov hdg** amd 2004 No. 4 s 37

**s 368** amd 1997 No. 78 s 56; 2004 No. 4 s 37

**Public utility easements**

**s 369** amd 1997 No. 28 s 295 sch 3; 2001 No. 33 s 15; 2005 No. 68 s 41; 2006 No. 54 s 23; 2008 No. 22 s 40; 2009 No. 17 s 331 sch 1; 2013 No. 23 s 100

**Transfer of public utility easements**

**s 369A** ins 1997 No. 28 s 295 sch 3

**Transfer of benefited land**

**s 369B** ins 1997 No. 78 s 57

amd 2004 No. 4 s 38

**Amending an easement**

**s 370** amd 2013 No. 23 s 352 sch 1 pt 1

**Surrendering an easement**

**s 371** amd 2004 No. 4 s 39; 2005 No. 68 s 42

**End and continuation of easements**

**s 372** amd 2004 No. 4 s 40; 2005 No. 68 s 43; 2007 No. 19 s 175

**Court may modify or extinguish an easement**

**s 373** amd 2013 No. 23 s 352 sch 1 pt 1

**Particular matters about easements and permit land**

**s 373AA** ins 2007 No. 19 s 176

**Division 8A—Covenants**

**div hdg** ins 1997 No. 28 s 295 sch 3

**Covenant by registration**

**s 373A** ins 1997 No. 28 s 295 sch 3

amd 2000 No. 2 s 22; 2003 No. 6 s 140; 2005 No. 68 s 44; 2009 No. 36 s 872  
sch 2; 2010 No. 12 s 144

**Compliance with s 373A**

**s 373AB** (prev s 373AA) ins 2005 No. 68 s 45  
renum 2009 No. 5 s 38

**Requirements of document creating covenant**

**s 373B** ins 1997 No. 28 s 295 sch 3

**Amending document creating covenant**

**s 373C** ins 1997 No. 28 s 295 sch 3

amd 2000 No. 2 s 23

**Releasing a covenant**

**s 373D** ins 1997 No. 28 s 295 sch 3

sub 2000 No. 2 s 24

**Division 8B—Profits a prendre**

**div hdg** ins 2004 No. 4 s 41

**Application of div 8B**

**s 373E** ins 2004 No. 4 s 41  
amd 2010 No. 12 s 145; 2011 No. 31 ss 328, 330  
om 2014 No. 29 s 82

**Definition for div 8B**

**s 373F** ins 2004 No. 4 s 41  
om 2014 No. 29 s 82  
def *carbon sequestration* ins 2010 No. 12 s 146(2)  
om 2011 No. 31 s 329  
def *lease* om 2014 No. 29 s 82  
def *natural resource* amd 2009 No. 43 s 63 sch  
om 2010 No. 12 s 146(1)  
def *natural resource product* ins 2010 No. 12 s 146(2)  
om 2011 No. 31 s 329

**Profit a prendre by registration**

**s 373G** ins 2004 No. 4 s 41  
amd 2014 No. 29 s 83

**Profit a prendre affecting freehold land and a lease**

**s 373H** ins 2004 No. 4 s 41

**Requirements of document creating profit a prendre**

**s 373I** ins 2004 No. 4 s 41

**Particulars to be registered**

**s 373J** ins 2004 No. 4 s 41

**Profit a prendre benefiting and burdening same person's lease or freehold land**

**s 373K** ins 2004 No. 4 s 41

**Same person becoming lessee of benefited and burdened leases**

**s 373L** ins 2004 No. 4 s 41  
amd 2013 No. 23 s 352 sch 1 pt 1

**Owner of benefited lease acquiring interest in burdened lease**

**s 373M** ins 2004 No. 4 s 41

**Amending a profit a prendre**

**s 373N** ins 2004 No. 4 s 41

**Releasing or removing a profit a prendre**

**s 373O** ins 2004 No. 4 s 41

**Effect of surrender of lease on profit a prendre**

**s 373P** ins 2004 No. 4 s 41

**Dealing with a profit a prendre**

**s 373Q** ins 2004 No. 4 s 41  
amd 2013 No. 23 s 352 sch 1 pt 1

**Division 8C—Carbon abatement interests****div hdg** ins 2011 No. 31 s 331**Subdivision 1—Preliminary****sdiv 1 (s 373R)** ins 2011 No. 31 s 331**Subdivision 2—Creation and registration****sdiv 2 (ss 373S–373W)** ins 2011 No. 31 s 331**Subdivision 3—Amendments and dealings****sdiv 3 (ss 373X–373ZA)** ins 2011 No. 31 s 331**Division 8D—Indigenous cultural interests****div hdg** ins 2013 No. 2 s 129**Subdivision 1—Preliminary****sdiv 1 (s 373ZB)** ins 2013 No. 2 s 129**Subdivision 2—Mandatory terms****sdiv 2 (s 373ZC)** ins 2013 No. 2 s 129**Subdivision 3—Creation and registration****sdiv 3 (ss 373ZD–373ZE)** ins 2013 No. 2 s 129**Subdivision 4—Amendments and dealings****sdiv hdg** ins 2013 No. 2 s 129**Amending interest****s 373ZF** ins 2013 No. 2 s 129**When amendment or replacement of approved agreement ends interest****s 373ZG** ins 2013 No. 2 s 129**Surrendering or removing interest****s 373ZH** ins 2013 No. 2 s 129**Notice of end of approved agreement****s 373ZI** ins 2013 No. 2 s 129**Continuation of interest****s 373ZJ** ins 2013 No. 2 s 129  
amd 2013 No. 55 s 175 sch 1 pt 1**Transfer of lease affecting interest****s 373ZK** ins 2013 No. 2 s 129**Reviewing approved agreements for indigenous cultural interests****s 373ZL** ins 2013 No. 2 s 129**Details of trust must be given****s 374** amd 2010 No. 12 s 147**Interests held in trust must be registered****s 374A** ins 1997 No. 28 s 295 sch 3  
amd 2010 No. 12 s 148

**Document of transfer to trustee**

**prov hdg** sub 1997 No. 28 s 295 sch 3

**s 375** amd 1997 No. 28 s 295 sch 3; 2010 No. 12 s 149

**Document to vest in trustee**

**s 375A** ins 1997 No. 28 s 295 sch 3

**Deed of grant or lease may issue in name of deceased person**

**s 376** amd 2009 No. 5 s 39

**Registering personal representative**

**s 377** amd 2005 No. 68 s 46; 2014 No. 29 s 84

**Registering beneficiary**

**s 379** amd 2005 No. 68 s 47

**Power of attorney**

**s 383** amd 2007 No. 19 s 177

**Persons under a disability**

**s 384** om 2000 No. 8 s 263 sch 3

**Acts in relation to substitute decision makers**

**prov hdg** sub 1998 No. 22 s 180(1)

**s 385** amd 1998 No. 22 s 180(2)

**Effect of writ of execution of transfer after sale by mortgagee**

**s 389A** ins 2001 No. 33 s 16

**Effect on writ of execution of transfer after sale by chief executive**

**s 389B** ins 2007 No. 19 s 178

**Division 11A—Caveats**

**div hdg** ins 2007 No. 19 s 179

**Subdivision 1—Caveats generally**

**sdiv hdg** ins 2007 No. 19 s 179

**Requirements of caveats**

**s 389C** ins 2007 No. 19 s 179

**Lodging caveat**

**s 389D** ins 2007 No. 19 s 179

**Notifying caveat**

**s 389E** ins 2007 No. 19 s 179

amd 2013 No. 23 s 352 sch 1 pt 1

**Effect of lodging caveat**

**s 389F** ins 2007 No. 19 s 179

**Withdrawing caveat**

**s 389G** ins 2007 No. 19 s 179

**Removing caveat**

**s 389H** ins 2007 No. 19 s 179

**Cancelling caveat**

s 389I ins 2007 No. 19 s 179

**Further caveat**

s 389J ins 2007 No. 19 s 179  
amd 2010 No. 12 s 150

**Notices to the caveator**

s 389K ins 2007 No. 19 s 179

**Subdivision 2—Chief executive’s caveat**

sdiv 2 (s 389L) ins 2007 No. 19 s 179

**Division 13—Miscellaneous**

div hdg ins 2005 No. 67 s 16

**Special provision for transport related land**

prov hdg amd 2007 No. 19 s 180(1)  
s 390A ins 2005 No. 67 s 16  
amd 2007 No. 19 s 180(2)

**Particular dealing with prescribed land**

prov hdg amd 2010 No. 19 s 164(1)  
s 390B ins 2007 No. 19 s 181  
amd 2010 No. 19 s 164(2)–(3)

**CHAPTER 7—GENERAL****PART 1—ADMINISTRATION****General provision about approvals**

s 391A ins 2007 No. 19 s 182  
amd 2009 No. 5 s 40

**Delegation by Minister**

s 392 amd 1996 No. 7 s 6; 2004 No. 9 s 79; 2007 No. 19 s 183; 2010 No. 12 s 151;  
2013 No. 2 s 130

**Delegation by chief executive**

s 393 amd 1995 No. 32 s 23 sch; 2007 No. 19 s 184; 2010 No. 12 s 174; 2013 No. 2  
s 131

**Departmental officer may give notices for this Act**

s 393A ins 2004 No. 4 s 42

**Committees**

s 394 sub 2007 No. 19 s 185

**Ministerial guidelines about what constitutes a good condition for lease land**

s 394A ins 2007 No. 19 s 185

**Authorised person’s identity card**

s 397 amd 2003 No. 10 s 23

**Production of identity card**

s 398 amd 2000 No. 5 s 373 sch 2

**Protection from liability**

s 399 amd 1995 No. 57 s 4 sch 1; 2000 No. 2 s 32 sch

**Power to enter land, generally**

prov hdg sub 2003 No. 10 s 24(1)

s 400 amd 2001 No. 92 s 14; 2003 No. 10 s 24(2)–(3); 2004 No. 1 s 40; 2007 No. 19 s 186

**Division 4—Monitoring and enforcement powers for tree clearing provisions**

div 4 (ss 400A–400ZB) ins 2003 No. 10 s 25  
om 2004 No. 1 s 41

**Division 5—Other provisions about authorised persons**

div hdg ins 2003 No. 10 s 25

**Authorised person to give notice of damage**

s 401 amd 2013 No. 23 s 352 sch 1 pt 1

**False or misleading statements**

s 403A ins 2003 No. 10 s 26

**False or misleading documents**

s 403B ins 2003 No. 10 s 26

**Division 6—Public notices other than gazette notices**

div 6 (s 403C) ins 2010 No. 12 s 175

**No trespassing**

s 404 amd 2007 No. 19 s 187

**Exercise of chief executive’s powers under division**

s 405A ins 2007 No. 19 s 188

**Occupation fee for unlawful occupation by offeree until grant of tenure**

s 405B ins 2007 No. 19 s 188  
amd 2013 No. 23 s 352 sch 1 pt 1

**Notice to person to leave land, remove structures etc.**

s 406 amd 2007 No. 19 s 189; 2013 No. 23 s 352 sch 1 pt 1

**Person may start proceeding in Magistrates Court**

s 409 amd 1995 No. 57 s 4 sch 1; 2013 No. 23 s 352 sch 1 pt 1

**Chief executive may start proceeding**

s 410 amd 1995 No. 57 s 4 sch 1; 2013 No. 23 s 352 sch 1 pt 1

**Defence may be filed**

s 411 amd 1995 No. 57 s 4 sch 1; 2013 No. 23 s 352 sch 1 pt 1

**Lessee, licensee, permittee or trustee may start proceeding**

s 415 amd 1995 No. 57 s 4 sch 1; 2013 No. 23 s 352 sch 1 pt 1

**Defence may be filed**

s 416 amd 1995 No. 57 s 4 sch 1; 2013 No. 23 s 352 sch 1 pt 1

**Hearing procedures**

s 417 amd 1995 No. 57 s 4 sch 1

**PART 2A—GENERAL PROVISIONS FOR APPLICATIONS**

pt hdg ins 2007 No. 19 s 190

**Application of pt 2A**

s 420A ins 2007 No. 19 s 190

**Application guidelines**

s 420B ins 2007 No. 19 s 190

**Requirements for making an application**

s 420C ins 2007 No. 19 s 190  
amd 2013 No. 23 s 101; 2014 No. 29 s 85

**Requirements for giving notice of intention to apply**

s 420CA ins 2013 No. 23 s 102

**Submissions**

s 420CB ins 2013 No. 23 s 102

**Refusal of frivolous or vexatious applications**

s 420D ins 2007 No. 19 s 190

**Request to applicant about application**

s 420E ins 2007 No. 19 s 190  
amd 2013 No. 23 s 352 sch 1 pt 1

**Refusing application for failure to comply with request**

s 420F ins 2007 No. 19 s 190

**Regard may be had to information and advice**

s 420FA ins 2013 No. 23 s 103

**Particular criteria generally not exhaustive**

s 420G ins 2007 No. 19 s 190

**Particular grounds for refusal generally not exhaustive**

s 420H ins 2007 No. 19 s 190  
amd 2013 No. 23 s 352 sch 1 pt 1

**General power to impose conditions**

s 420I ins 2007 No. 19 s 190

**Notice of right of appeal to be given**

s 421 amd 1997 No. 78 s 58; 2013 No. 23 s 352 sch 1 pt 1

**Appeal process starts with internal review**

s 422 amd 1995 No. 57 s 4 sch 1; 2014 No. 29 s 86

**Who may apply for review etc.**

s 423 amd 2014 No. 29 s 87

**Applying for review**

s 424 amd 1997 No. 78 s 59

**Decision on reconsideration**

s 426      amd 1997 No. 78 s 60; 2013 No. 23 s 352 sch 1 pt 1

**Procedure for an appeal to the court**

s 428      amd 1997 No. 78 s 61(1), (2)–(3) (retro); 2013 No. 23 s 352 sch 1 pt 1

**Powers of court on appeal**

s 429      amd 2000 No. 1 s 86 sch 1

**Jurisdiction of the court**

s 431      amd 2000 No. 1 s 86 sch 1

**PART 3A—PROCEEDINGS GENERALLY**

pt hdg     ins 2003 No. 10 s 27

**Division 1—Preliminary**

div 1 (s 431A) ins 2003 No. 10 s 27

**Division 2—Evidence**

div hdg     ins 2003 No. 10 s 27

**Evidentiary provisions**

s 431B      (prev s 447) amd 2003 No. 10 s 76 sch  
renum and reloc 2003 No. 10 s 76 sch

**Further evidentiary aids**

s 431C      ins 2003 No. 10 s 27  
sub 2004 No. 1 s 42  
amd 2010 No. 12 s 176

**Instruments, equipment and installations**

s 431D      ins 2003 No. 10 s 27

**Certificate or report about remotely sensed image**

s 431E      ins 2003 No. 10 s 27  
amd 2004 No. 1 s 44(1) sch 1

**Responsibility for unauthorised tree clearing**

s 431F      ins 2003 No. 10 s 27  
om 2004 No. 1 s 44(1) sch 1

**Division 3—Starting proceedings**

div hdg     ins 2003 No. 10 s 27

**Offences are summary offences**

s 431G      (prev s 445) amd 2003 No. 10 s 76 sch  
renum and reloc 2003 No. 10 s 76 sch

**Limitation on time for starting offence proceedings**

s 431H      (prev s 446) amd 2003 No. 10 s 28(1)–(3)  
renum and reloc 2003 No. 10 s 28(4)  
amd 2004 No. 1 s 44(1) sch 1



**Particulars to be stated for complaint for tree clearing offence**

s 431I ins 2003 No. 10 s 27  
om 2004 No. 1 s 44(1) sch 1

**Division 4—Other matters about proceedings**

div hdg ins 2003 No. 10 s 27

**Liability of executive officer—offence committed by corporation against s 214D(1)**

s 431J ins 2003 No. 10 s 27  
sub 2013 No. 51 s 87

**Guide for deciding penalty for tree clearing offence**

s 431K ins 2003 No. 10 s 27  
om 2004 No. 1 s 44(1) sch 1

**Recovery of costs of investigation**

s 431L ins 2003 No. 10 s 27

**Representation of departmental officer in court**

s 431M ins 2003 No. 10 s 27

**Ability to prosecute under other Acts**

s 431N ins 2003 No. 10 s 27  
amd 2009 No. 36 s 872 sch 2

**PART 3B—TIDAL BOUNDARY PLANS OF SUBDIVISION**

pt hdg ins 2005 No. 68 s 48  
om 2010 No. 12 s 177

**Definitions for pt 3B**

s 431NA ins 2005 No. 68 s 48  
om 2010 No. 12 s 177

**Application of pt 3B**

s 431NB ins 2005 No. 68 s 48  
amd 2008 No. 58 s 31; 2009 No. 43 s 54  
om 2010 No. 12 s 177

**Prohibition on registration of relevant tidal boundary plan of subdivision**

s 431NC ins 2005 No. 68 s 48  
om 2010 No. 12 s 177

**Approval of Minister in circumstances of accretion or erosion**

s 431ND ins 2005 No. 68 s 48  
om 2010 No. 12 s 177

**Approval of Minister in other limited circumstances**

s 431NE ins 2005 No. 68 s 48  
om 2010 No. 12 s 177

**Limit on application of s 358 (Changing deeds of grant—change in description or boundary of land)**

s 431NF ins 2005 No. 68 s 48  
amd 2008 No. 58 s 32; 2009 No. 43 s 55  
om 2010 No. 12 s 177

**No compensation for operation of this part**

s 431NG ins 2005 No. 68 s 48  
om 2010 No. 12 s 177

**Rate of travel of stock**

s 433 om 2002 No. 12 s 329 sch 2

**Meaning of *tourism purposes***

s 434 amd 1997 No. 78 s 62; 2010 No. 39 s 310 sch 1 pt 2  
sub 2014 No. 29 s 88

**Establishing an island as a regulated island**

s 434A ins 2014 No. 29 s 88

**Availability of short-term extension in particular circumstances**

s 434B ins 2014 No. 29 s 88

**Change of status of particular land**

s 434C ins 2014 No. 29 s 88

**Requirement for making conditional offers**

s 441A ins 2007 No. 19 s 191

**Lapse of offer**

s 442 amd 2007 No. 19 s 192; 2009 No. 5 s 41; 2014 No. 29 s 89

**No deed of grant until fees paid**

s 443 amd 2004 No. 4 s 43

**Regulation-making power**

prov hdg sub 2004 No. 4 s 57 sch

s 448 amd 2001 No. 71 s 551 sch 1; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 90

**Application of GST to rents**

s 448A ins 2000 No. 20 s 29 sch 3

**Application of GST to purchase price for leases**

s 448B ins 2000 No. 20 s 29 sch 3

**Existing reserves and purposes continue**

s 449 amd 1997 No. 78 s 63

**Existing deeds of grant in trust and purposes continue**

s 451 amd 1997 No. 78 s 64

**Land granted for Aboriginal or Islander inhabitants**

s 452A (prev 1982 No. 17 ss 21–22) amd 1995 No. 57 s 4 sch 1  
reloc 1995 No. 57 s 4 sch 1  
amd 1998 No. 48 s 17 sch

**Terms of pre-Wolfe freeholding leases**

s 457      amd 1997 No. 78 s 65; 2014 No. 29 s 91

**Terms of post-Wolfe freeholding leases**

s 462      amd 2009 No. 5 s 42; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 92

**Terms of grazing homestead freeholding leases**

s 466      amd 1997 No. 78 s 66; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 93

**Existing leases continue**

s 468      amd 2007 No. 19 s 193

**Right to a grazing homestead freeholding lease**

s 469      amd 1997 No. 78 s 67; 2013 No. 23 s 352 sch 1 pt 1

**Right to a post-Wolfe freeholding lease**

s 471      amd 1997 No. 78 s 68

**Existing leases continue**

s 472      amd 2000 No. 2 s 32 sch

**Change of purpose for special lease**

s 477      amd 2009 No. 46 s 115; 2013 No. 23 s 352 sch 1 pt 1

**Right to a post-Wolfe freeholding lease**

s 478      amd 1997 No. 78 s 69

**Division 1—Occupation licences**

div hdg    amd 2007 No. 19 s 194

**Cancellation**

s 481      amd 2004 No. 4 s 44  
            sub 2007 No. 19 s 195  
            amd 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 94

**Absolute surrender**

s 481A     ins 2007 No. 19 s 195

**Application to cancel or surrender**

s 481B     ins 2007 No. 19 s 195  
            amd 2013 No. 23 s 104

**Notice of proposal to cancel or surrender**

s 481C     ins 2007 No. 19 s 195  
            amd 2013 No. 23 s 352 sch 1 pt 1  
            om 2013 No. 23 s 352 sch 1 pt 1

**Submissions**

s 481D     ins 2007 No. 19 s 195  
            om 2013 No. 23 s 352 sch 1 pt 1

**Registration cancels occupation licence**

s 481E     ins 2007 No. 19 s 195

**Registration surrenders occupation licence**

s 481F ins 2007 No. 19 s 195

**Notice of cancellation or absolute surrender**

s 481G ins 2007 No. 19 s 195  
amd 2013 No. 23 ss 105, 352 sch 1 pt 1

**Effect of cancellation or absolute surrender**

s 481H ins 2007 No. 19 s 195

**Person to give up possession on cancellation or absolute surrender**

s 481I ins 2007 No. 19 s 195

**Improvements**

s 481J ins 2007 No. 19 s 195

**Division 1A—Permits**

div hdg ins 2007 No. 19 s 196

**Existing permits continue**

s 483 amd 1995 No. 57 s 4 sch 1

**Minister may cancel licence for breach of condition**

s 485 amd 2013 No. 23 s 352 sch 1 pt 1

**Existing concessions continue**

s 487 amd 2004 No. 4 s 57 sch; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 95

**Definitions for div 2**

s 495 prov hdg amd 2007 No. 19 s 197

**Application of prepaid rent**

s 500 amd 1995 No. 57 s 4 sch 1

**Division 2A—Further opportunity to convert certain perpetual town leases, that were previously miners homesteads, to freehold**

div hdg ins 1997 No. 41 s 5

**Objective**

s 503A ins 1997 No. 41 s 5

**Definitions for div 2A**

s 503B ins 1997 No. 41 s 5  
amd 2007 No. 19 s 198

**Who may apply under this division**

s 503C ins 1997 No. 41 s 5

**Time within which application must be made**

s 503D ins 1997 No. 41 s 5

**How application is dealt with**

s 503E ins 1997 No. 41 s 5

**Lapse of offer**

s 503F ins 1997 No. 41 s 5

**Surrender of existing lease**

s 503G ins 1997 No. 41 s 5

**Existing encumbrances**

s 503H ins 1997 No. 41 s 5

**Credit for rent paid**

s 503I ins 1997 No. 41 s 5  
amd 1998 No. 48 s 17 sch

**Division 2B—Treatment of special perpetual mining purposes leases under certain Acts**

div hdg ins 1998 No. 24 s 10

**Special perpetual mining purposes leases become perpetual leases**

s 503J ins 1998 No. 24 s 10

**Replacement documents**

s 503K ins 1998 No. 24 s 10

**Changing tenures of port lands**

s 504 amd 2001 No. 33 s 17; 2001 No. 71 s 551 sch 1; 2010 No. 19 s 47; 2014 No. 29 s 96

**Changing tenures of harbour land**

s 505 amd 2001 No. 71 s 551 sch 1

**Existing cemeteries continue**

s 506 amd 1995 No. 57 s 4 sch 1; 1997 No. 78 s 70 (retro)

**PART 7A—BRIGALOW AND OTHER LANDS DEVELOPMENT PROVISIONS**

pt hdg ins 1995 No. 57 s 4 sch 1  
om 2009 No. 5 s 43

**Definitions for pt 7A**

prov hdg sub 1997 No. 78 s 71(1)  
s 506A (prev 1962 No. 44 s 2) amd 1995 No. 57 s 4 sch 1  
reloc 1995 No. 57 s 4 sch 1  
amd 1997 No. 78 s 71(1)  
om 2009 No. 5 s 43  
def *agreement* sub 1995 No. 57 s 4 sch 1  
sub 1997 No. 78 s 71(2)–(3)  
om 2009 No. 5 s 43  
def *chief executive* ins 1992 No. 64 s 3 sch 1  
om 1995 No. 57 s 4 sch 1  
def *Commission* om 1992 No. 64 s 3 sch 1  
def *corporation* sub 1992 No. 64 s 3 sch 1  
om 2009 No. 5 s 43  
def *declared area* om 1995 No. 57 s 4 sch 1  
def *explanatory format plan* ins 2001 No. 33 s 18  
om 2009 No. 5 s 43  
def *fund* ins 1994 No. 81 s 527 sch 5  
om 2009 No. 5 s 43

def **Land Act** sub 1994 No. 81 s 527 sch 5  
om 1998 No. 48 s 17 sch  
def **Minister** sub 1965 No. 62 s 2  
om 1992 No. 64 s 3 sch 1  
def **repealed Act** ins 1997 No. 78 s 71(3)  
om 2009 No. 5 s 43

### **Corporation**

**s 506B** (prev 1962 No. 44 s 4) sub 1992 No. 64 s 7  
reloc 1995 No. 57 s 4 sch 1  
om 2009 No. 5 s 43

### **Corporation represents the Crown**

**s 506C** (prev 1962 No. 44 s 5) amd 1967 No. 47 s 2; 1968 No. 48 s 3(2) sch 1  
sub 1992 No. 64 s 7  
reloc 1995 No. 57 s 4 sch 1  
amd 2001 No. 45 s 29 sch 3  
om 2009 No. 5 s 43

### **Functions and powers**

**s 506D** (prev 1962 No. 44 s 5A) ins 1992 No. 64 s 7  
amd 1995 No. 57 s 4 sch 1  
reloc 1995 No. 57 s 4 sch 1  
om 2009 No. 5 s 43

### **Undertaking by successful applicant**

**s 506E** (prev 1962 No. 44 s 9) amd 1992 No. 64 s 3 sch 1; 1994 No. 81 s 527 sch 5;  
1995 No. 57 s 4 sch 1  
reloc 1995 No. 57 s 4 sch 1  
amd 1998 No. 48 s 17 sch  
om 2009 No. 5 s 43

### **Area limitations under this Act**

**s 506F** (prev 1962 No. 44 s 15) amd 1992 No. 64 s 3 sch 1; 1994 No. 81 s 527 sch 5;  
1995 No. 57 s 4 sch 1  
reloc 1995 No. 57 s 4 sch 1  
om 2009 No. 5 s 43

### **Transfer**

**s 506G** (prev 1962 No. 44 s 16) sub 1967 No. 47 s 6; 1992 No. 64 s 3 sch 1  
amd 1994 No. 81 s 527 sch 5; 1995 No. 57 s 4 sch 1  
reloc 1995 No. 57 s 4 sch 1  
om 2009 No. 5 s 43

### **When fee simple of lease may be acquired**

**prov hdg** amd 1997 No. 78 s 72(1)  
**s 506H** (prev 1962 No. 44 s 18) amd 1965 No. 62 s 5; 1967 No. 47 s 8; 1978 No. 4 s 2;  
1994 No. 81 s 527 sch 5; 1995 No. 57 s 4 sch 1  
reloc 1995 No. 57 s 4 sch 1  
amd 1997 No. 78 s 72; 1998 No. 48 s 17 sch  
om 2009 No. 5 s 43

**Fund**

**s 506I** (prev 1962 No. 44 s 20) amd 1994 No. 81 s 527 sch 5; 1995 No. 57 s 4 sch 1  
 reloc 1995 No. 57 s 4 sch 1  
 amd 1997 No. 78 s 73  
 om 2009 No. 5 s 43

**Further advances**

**s 506J** (prev 1962 No. 44 s 24) om 1974 No. 57 s 8 sch  
 ins 1978 No. 4 s 3  
 reloc 1995 No. 57 s 4 sch 1  
 om 1997 No. 78 s 74

**Construction of instruments**

**s 506K** (prev 1962 No. 44 s 24C) ins 1978 No. 4 s 3  
 reloc 1995 No. 57 s 4 sch 1  
 amd 1997 No. 78 s 75  
 om 2009 No. 5 s 43

**Powers of corporation**

**s 506L** (prev 1962 No. 44 s 25) amd 1995 No. 57 s 4 sch 1  
 reloc 1995 No. 57 s 4 sch 1  
 om 2009 No. 5 s 43

**Restricted application of Bills of Sale and Other Instruments Act**

**prov hdg** sub 1997 No. 78 s 76(1)  
**s 506M** (prev 1962 No. 44 s 26) amd 1967 No. 47 s 12; 1995 No. 57 s 4 sch 1  
 reloc 1995 No. 57 s 4 sch 1  
 amd 1997 No. 78 s 76(2)  
 om 2009 No. 5 s 43

**No stamp duty**

**s 506N** (prev 1962 No. 44 s 27) amd 1995 No. 57 s 4 sch 1  
 reloc 1995 No. 57 s 4 sch 1  
 om 2001 No. 71 s 551 sch 1

**Accounts**

**prov hdg** sub 1997 No. 78 s 77  
**s 506O** (prev 1962 No. 44 s 29) amd 1967 No. 47 s 13; 1992 No. 64 s 3 sch 1; 1995  
 No. 57 s 4 sch 1  
 reloc 1995 No. 57 s 4 sch 1  
 om 2009 No. 5 s 43

**Application of Act to purchase leases**

**s 506P** (prev 1962 No. 44 s 30) amd 1994 No. 81 s 527 sch 5  
 sub 1995 No. 57 s 4 sch 1  
 reloc 1995 No. 57 s 4 sch 1  
 amd 1997 No. 78 s 78; 1998 No. 48 s 17 sch  
 om 2009 No. 5 s 43

**PART 8—GENERAL**

**pt hdg** om 1998 No. 48 s 17 sch

**Transitional regulations**

s 507 exp 1 July 1997 (see s 507(5))

**CHAPTER 9—TRANSITIONAL AND REPEAL PROVISIONS**

ch hdg sub 2000 No. 2 s 32 sch

**PART 1—TRANSITIONAL PROVISIONS FOR ORIGINAL ACT (No. 81 OF 1994)**

pt hdg sub 2000 No. 2 s 32 sch

**References in Acts and documents**

s 511 amd 1995 No. 57 s 4 sch 1

**Burdekin Irrigation Area freeholding leases**

s 515 exp 1 July 1998 (see s 515(3))

**Existing local guidelines for broadscale tree clearing**

s 517 om 2004 No. 1 s 44(1) sch 1

**Effect of repeal by this Act**

s 520 amd 2004 No. 4 s 57 sch

**Continuation of certain provisions of repealed Act about Land Court and Land Appeal Court**

s 521 amd 1995 No. 32 s 23 sch; 1995 No. 51 s 4 sch; 1996 No. 7 s 3; 1998 No. 48 s 17 sch  
om 2000 No. 1 s 86 sch 1

**PART 1A—TRANSITIONAL PROVISION FOR NATURAL RESOURCES AND OTHER LEGISLATION AMENDMENT ACT 2000**

pt hdg ins 2000 No. 2 s 25

**Lease of land under repealed Act, section 296(1)**

s 521A ins 2000 No. 2 s 25

**PART 1B—TRANSITIONAL PROVISIONS FOR GUARDIANSHIP AND ADMINISTRATION ACT 2000**

pt hdg ins 2000 No. 8 s 263 sch 3

**Performance of condition under previous s 207(1)(b) possible for 1 year**

s 521B ins 2000 No. 8 s 263 sch 3

**Authorisation under repealed s 384 continues for 1 year**

s 521C ins 2000 No. 8 s 263 sch 3

**PART 1C—TRANSITIONAL PROVISION FOR AUDIT LEGISLATION AMENDMENT ACT 2006**

pt 1C (s 521D) ins 2006 No. 9 s 29

**PART 1D—TRANSITIONAL PROVISIONS FOR LAND AND OTHER LEGISLATION AMENDMENT ACT 2007**

pt hdg ins 2007 No. 19 s 199

**Divesting and vesting trust land**

521E ins 2007 No. 19 s 199 (amd 2007 No. 57 s 24)



**Existing leases exempted from particular amendments**

**521F** ins 2007 No. 19 s 199

**Offer of additional area**

**521G** ins 2007 No. 19 s 199

**Forfeiture for outstanding amount**

**521H** ins 2007 No. 19 s 199

**Requirements for plan of subdivision**

**521I** ins 2007 No. 19 s 199

**Non-application of s 299A to particular documents**

**521J** ins 2007 No. 19 s 199

**Application made before commencement**

**521K** ins 2007 No. 19 s 199  
om 2009 No. 5 s 44

**Continuance of power to substitute particular tenure or registered documents**

**521L** ins 2007 No. 19 s 199

**Permits to occupy and unallocated State land**

**521M** ins 2007 No. 19 s 199

**Dealing with disputes under particular subleases**

**s 521N** ins 2007 No. 19 s 199

**Exclusion of imposed condition reviews for particular leases**

**s 521O** ins 2007 No. 19 s 199

**PART 1E—TRANSITIONAL PROVISION FOR ABORIGINAL AND TORRES STRAIT ISLANDER LAND AMENDMENT ACT 2008**

**pt 1E (s 521P)** ins 2008 No. 29 s 64

**PART 1F—FURTHER TRANSITIONAL PROVISIONS FOR LAND AND OTHER LEGISLATION AMENDMENT ACT 2007**

**pt 1F (ss 521Q–521S)** ins 2009 No. 5 s 45

**PART 1G—TRANSITIONAL PROVISION FOR ACQUISITION OF LAND AND OTHER LEGISLATION AMENDMENT ACT 2009**

**pt 1G (s 521T)** ins 2009 No. 5 s 45

**PART 1H—TRANSITIONAL PROVISIONS FOR NATURAL RESOURCES AND OTHER LEGISLATION AMENDMENT ACT 2010**

**pt hdg** ins 2010 No. 12 s 152

**Definitions for pt 1H**

**s 521U** ins 2010 No. 12 s 152

**Existing term lease applications**

**s 521V** ins 2010 No. 12 s 152

**Existing extension applications**

**s 521W** ins 2010 No. 12 s 152

**Application of s 155D to existing leases**

s 521X ins 2010 No. 12 s 152

**Application of s 201A to existing leases**

s 521Y ins 2010 No. 12 s 152

**Continuing application of no compensation provision**

s 521Z ins 2010 No. 12 s 178

**Lease or permit**

s 521ZA ins 2010 No. 12 s 178

**PART 1I—TRANSITIONAL PROVISION FOR CLASSIFICATION OF  
COMPUTER GAMES AND IMAGES AND OTHER LEGISLATION  
AMENDMENT ACT 2013**

pt 1I (s 521ZB) ins 2011 No. 25 s 102  
sub 2013 No. 3 s 45

**PART 1J—TRANSITIONAL PROVISION FOR AMENDMENTS UNDER WASTE  
REDUCTION AND RECYCLING ACT 2011**

pt 1J (s 521ZC) ins 2011 No. 31 s 332

**PART 1K—TRANSITIONAL PROVISIONS FOR LAND, WATER AND OTHER  
LEGISLATION AMENDMENT ACT 2013**

pt 1K (ss 521ZD–521ZI) ins 2013 No. 23 s 106

**PART 1L—TRANSITIONAL PROVISION FOR VEGETATION MANAGEMENT  
FRAMEWORK AMENDMENT ACT 2013**

pt 1L (s 521ZJ) ins 2013 No. 24 s 71

**PART 1M—TRANSITIONAL PROVISIONS FOR LAND AND OTHER  
LEGISLATION AMENDMENT ACT 2014**

pt 1M (ss 521ZK–521ZO) ins 2014 No. 29 s 97

**PART 2—REPEAL**

pt hdg sub 1998 No. 48 s 17 sch

**Completion of repeal**

s 522 prev s 522 exp 1 January 1996 (see s 522(3))  
pres s 522 ins 1998 No. 48 s 17 sch

**Repeals on 1 January 1995**

s 523 om R1 (see RA s 40)

**Repeals on commencement**

s 524 amd R1 (see RA s 40)  
om 1998 No. 48 s 17 sch

**Amendment of Acts on assent—Sch 3**

s 525 om R1 (see RA s 40)

**Amendment of Land Title Act—Sch 4**

s 526 om R1 (see RA s 40)

**Amendment of Acts on commencement—Sch 5**

s 527 om R1 (see RA s 40)

**SCHEDULE 1—COMMUNITY PURPOSES**

sch hdg amd 2014 No. 29 s 98

sch 1 amd 2007 No. 19 s 200

**SCHEDULE 1A—PROVISIONS THAT INCLUDE MANDATORY CONDITIONS FOR TENURES**

ins 2007 No. 19 s 201

amd 2013 No. 2 s 132; 2013 No. 23 s 352 sch 1 pt 1; 2014 No. 29 s 99

**SCHEDULE 1B—REGULATION ABOUT THE PAYMENT AND COLLECTION OF RENT AND INSTALMENTS**

ins 2014 No. 29 s 100

**SCHEDULE 2—ORIGINAL DECISIONS**

amd 1995 No. 57 s 4 sch 1; 1997 No. 78 s 79; 2003 No. 10 s 29; 2004 No. 1 s 44(1) sch 1; 2004 No. 4 s 45; 2007 No. 19 s 202; 2010 No. 12 ss 153, 179; 2013 No. 23 s 107; 2013 No. 23 s 69; 2014 No. 29 s 101

**SCHEDULE 3—REQUIREMENTS FOR APPROVED AGREEMENTS**

prev sch 3 om R1 (see RA s 40)

pres sch 3 ins 2013 No. 2 s 133

amd 2013 No. 23 s 108

**SCHEDULE 4—AMENDMENT OF LAND TITLE ACT 1994**

om R1 (see RA s 40)

**SCHEDULE 5—AMENDMENT OF ACTS ON COMMENCEMENT**

amd 1995 No. 10 s 37; 1995 No. 32 s 23 sch; 1995 No. 57 s 4 sch 1

om R1 (see RA s 40)

**SCHEDULE 6—DICTIONARY**

def *Aboriginal people particularly concerned with land* ins 2007 No. 19 s 203(2)

amd 2013 No. 23 s 109(3)

def *adjoining owner* ins 2000 No. 2 s 26

sub 2007 No. 19 s 203(1)–(2)

def *adjustment notice* ins 2007 No. 19 s 203(2)

def *agreement* ins 2007 No. 19 s 203(2)

om 2009 No. 5 s 46(1)

def *agriculture* ins 2003 No. 20 s 6

def *amalgamation offer* ins 2007 No. 19 s 203(2)

def *appeal expiration day* ins 2007 No. 19 s 203(2)

def *appropriate form* amd 2003 No. 6 s 141(2)

def *appropriate register* amd 2007 No. 19 s 203(3)

sub 2011 No. 31 s 333(1)–(2)

amd 2013 No. 23 s 109(4)

def *approved agreement* ins 2013 No. 2 s 134(2)

def *approved form* sub 2013 No. 17 s 29(1)–(2)

def *broadscale tree clearing* om 2004 No. 1 s 44(1) sch 1

- def **building** ins 2004 No. 9 s 80(1)
- def **building management statement** ins 2004 No. 9 s 80(1)
- def **cancellation notice** ins 2007 No. 19 s 203(2)
- def **cane railway easement** ins 2008 No. 22 s 41(1)
- def **carbon abatement interest** ins 2011 No. 31 s 333(2)
- def **carbon abatement product** ins 2011 No. 31 s 333(2)
- def **carbon sequestration** ins 2010 No. 12 s 154
  - sub 2011 No. 31 s 333(1)–(2)
- def **category** ins 2007 No. 19 s 203(2)
  - om 2014 No. 29 s 102(1)
- def **caveatee** ins 2007 No. 19 s 203(2)
- def **caveator** ins 2007 No. 19 s 203(2)
- def **Commonwealth ILUA register** ins 2013 No. 2 s 134(2)
- def **compliance notice** ins 2003 No. 10 s 30
  - om 2004 No. 1 s 44(1) sch 1
- def **compliance notice offence** ins 2003 No. 10 s 30
  - om 2004 No. 1 s 44(1) sch 1
- def **conditional deed** ins 2007 No. 19 s 203(2)
- def **conservation agreement** ins 2007 No. 19 s 203(2)
- def **conservation covenant** ins 2007 No. 19 s 203(2)
- def **conservation park** om 2013 No. 55 s 108(1)
- def **construction trustee sublease** ins 2013 No. 23 s 109(2)
- def **conviction** ins 2003 No. 10 s 30
- def **copy** ins 2013 No. 17 s 29(2)
- def **corporation** ins 2007 No. 19 s 203(2)
  - om 2009 No. 5 s 46(1)
- def **court** amd 2000 No. 1 s 86 sch 1
- def **criminal history** ins 2003 No. 10 s 30
  - om 2013 No. 23 s 109(1)
- def **critical area** om 1999 No. 90 s 96(1)
- def **declared pest** ins 2007 No. 19 s 203(2)
- def **dedication notice** ins 2007 No. 19 s 203(2) (amd 2007 No. 57 s 25)
- def **deferred interest** om 2014 No. 29 s 102(1)
- def **deposit** ins 2005 No. 68 s 49(2)
  - amd 2013 No. 17 s 29(3)
- def **designated occupation licence** ins 2007 No. 19 s 203(2)
- def **designated officer** ins 2007 No. 19 s 203(2)
- def **designated person** ins 2007 No. 19 s 203(2)
- def **destroy** om 2004 No. 1 s 44(1) sch 1
- def **determination of native title** ins 2013 No. 2 s 134(2)
- def **determined native title holders** ins 2013 No. 2 s 134(2)
- def **document** ins 2004 No. 9 s 80(1)
  - amd 2013 No. 17 s 29(4)
- def **document certification requirement** ins 2003 No. 10 s 30
  - om 2004 No. 1 s 44(1) sch 1
- def **document production requirement** ins 2003 No. 10 s 30
  - om 2004 No. 1 s 44(1) sch 1

- def *earlier plan of subdivision* ins 2005 No. 68 s 49(2)  
om 2010 No. 12 s 180(1)
- def *electronic communication* ins 2003 No. 6 s 141(1)
- def *electronic conveyancing document* ins 2013 No. 17 s 29(2)
- def *Electronic Conveyancing National Law (Queensland)* ins 2013 No. 17 s 29(2)
- def *encumbrance* ins 2000 No. 2 s 26
- def *endorse* ins 2013 No. 17 s 29(2)
- def *enforcement warrant* ins 1998 No. 20 s 27 sch 2  
amd 2011 No. 45 s 217 sch 1A
- def *environmentally sensitive area* sub 1999 No. 90 s 96(1)–(2) (amd 2000 No. 35 s 22)  
om 2013 No. 23 s 109(1)
- def *existing lease* ins 2007 No. 19 s 203(2)
- def *existing leases* ins 2007 No. 19 s 203(2)
- def *existing post-Wolfe freeholding lease* amd 2012 No. 43 s 221 sch 1
- def *expiry advice* ins 2014 No. 29 s 102(2)
- def *explanatory format plan* ins 2001 No. 33 s 18  
amd 2004 No. 9 s 80(2)
- def *extension application* ins 2014 No. 29 s 102(2)
- def *family arrangement* om 2014 No. 29 s 102(1)
- def *file* ins 2013 No. 17 s 29(2)
- def *floating reservation* ins 2007 No. 19 s 203(2)
- def *forest consent agreement* ins 2014 No. 29 s 102(2)
- def *forest consent area* ins 2014 No. 29 s 102(2)
- def *forest products* ins 2011 No. 31 s 333(2)  
sub 2014 No. 29 s 102(1)–(2)
- def *forest reserve* ins 2007 No. 19 s 203(2)
- def *freehold land* ins 2007 No. 19 s 203(2)
- def *full supply level* ins 2007 No. 19 s 203(2)
- def *fund* ins 2007 No. 19 s 203(2)  
om 2009 No. 5 s 46(1)
- def *future conservation area* ins 2007 No. 19 s 203(2)  
om 2013 No. 23 s 109(1)
- def *GPS* ins 2007 No. 19 s 203(2)
- def *grazing homestead perpetual lease* sub 2007 No. 19 s 203(1)–(2)
- def *identifiable fixed features* ins 2007 No. 19 s 203(2)
- def *ILUA register* ins 2007 No. 19 s 203(2)  
om 2013 No. 2 s 134(1)
- def *image base* ins 2007 No. 19 s 203(2)
- def *imposed condition* ins 2007 No. 19 s 203(2)
- def *indigenous access and use agreement* ins 2007 No. 19 s 203(2)  
sub 2013 No. 2 s 134
- def *indigenous cultural interest* ins 2013 No. 2 s 134(2)
- def *indigenous land use agreement* ins 2007 No. 19 s 203(2)  
sub 2013 No. 2 s 134
- def *indigenous party* ins 2013 No. 2 s 134(2)

- def *lake* ins 2010 No. 12 s 180(2)  
sub 2013 No. 23 s 109(1)–(2)
- def *land degradation* ins 1999 No. 90 s 96(2)  
sub 2007 No. 19 s 203(1)–(2)
- def *land management agreement* ins 2007 No. 19 s 203(2)  
sub 2014 No. 29 s 102(1)–(2)
- def *land registry* ins 2007 No. 19 s 203(2)
- def *Land Valuation Act* ins 2010 No. 39 s 310 sch 1 pt 2
- def *lease* sub 2007 No. 19 s 203(1)–(2)  
sub 2014 No. 29 s 102(1)–(2)
- def *lease land* ins 2007 No. 19 s 203(2)
- def *lessee* sub 2007 No. 19 s 203(1)–(2)
- def *licence* sub 2007 No. 19 s 203(1)–(2)
- def *licence land* ins 2007 No. 19 s 203(2)
- def *lodge* amd 2013 No. 17 s 29(5)
- def *lopping* sub 2005 No. 68 s 49
- def *lot* ins 2004 No. 9 s 80(1)
- def *mandatory condition* ins 2007 No. 19 s 203(2)
- def *mandatory standard terms document* ins 2007 No. 19 s 203(2)
- def *mandatory terms* ins 2013 No. 2 s 134(2)
- def *Map Grid of Australia 1994* ins 2007 No. 19 s 203(2)
- def *marker* ins 2007 No. 19 s 203(2)
- def *MEDQ* ins 2012 No. 43 s 221 sch 1
- def *mill owner* ins 2008 No. 22 s 41(1)
- def *miners homestead* sub 2007 No. 19 s 203(1)–(2)
- def *mining titles freeholding lease* ins 1995 No. 32 s 23 sch
- def *monitoring device* ins 2007 No. 19 s 203(2)
- def *monitoring site* ins 2007 No. 19 s 203(2)
- def *national park* ins 2000 No. 44 s 42 sch  
amd 2011 No. 31 s 333(3)–(4)  
sub 2013 No. 55 s 108(1)–(2)
- def *native title* ins 2013 No. 2 s 134(2)
- def *native title claim* ins 2013 No. 2 s 134(2)
- def *native title claim area* ins 2013 No. 2 s 134(2)
- def *native title claim group* ins 2013 No. 2 s 134(2)
- def *native title party* ins 2013 No. 2 s 134(2)
- def *native title registrar* ins 2007 No. 19 s 203(2)
- def *natural environmental values* ins 2007 No. 19 s 203(2)
- def *natural resource* ins 2007 No. 19 s 203(2)  
om 2010 No. 12 s 154(1)
- def *natural resource product* ins 2010 No. 12 s 154  
om 2011 No. 31 s 333(1)
- def *nature conservation area* ins 2011 No. 31 s 333(2)  
sub 2013 No. 55 s 108(1)–(2)
- def *navigable river* om 2010 No. 12 s 180(1)
- def *NCA department* ins 2007 No. 19 s 203(2)
- def *new plan of subdivision* ins 2005 No. 68 s 49(2)  
om 2010 No. 12 s 180(1)

- def **non-core utility provider** ins 2013 No. 23 s 109(2)
- def **non-tidal boundary (lake)** ins 2010 No. 12 s 180(2)
- def **non-tidal boundary (watercourse)** ins 2010 No. 12 s 180(2)
- def **non-tidal watercourse** ins 2013 No. 23 s 109(2)
- def **note** ins 2013 No. 17 s 29(2)
- def **notice** ins 2013 No. 23 s 109(2)
- def **noxious plant** sub 2002 No. 12 s 329 sch 2  
amd 2007 No. 19 s 203(4)
- def **occupier** ins 2003 No. 10 s 30  
om 2004 No. 1 s 44(1) sch 1
- def **offer** ins 2007 No. 19 s 203(2)
- def **operational reserve** ins 2007 No. 19 s 203(2)
- def **original decision** sub 2014 No. 29 s 102(1)–(2)
- def **owner** ins 2011 No. 31 s 333(2)
- def **pastoral lease** ins 2000 No. 2 s 26  
amd 2007 No. 19 s 203(5)
- def **penalty interest** om 2014 No. 29 s 102(1)
- def **permanent road closure application** ins 2007 No. 19 s 203(2)
- def **permit** sub 2007 No. 19 s 203(1)–(2)
- def **permit land** ins 2007 No. 19 s 203(2)
- def **permittee** sub 2007 No. 19 s 203(1)–(2)
- def **plan of subdivision** ins 2004 No. 9 s 80(1)
- def **port lessee** ins 2010 No. 19 s 48(1)
- def **port lessor** ins 2010 No. 19 s 48(1)
- def **port manager** ins 2010 No. 19 s 48(1)
- def **pre-Wolfe freeholding lease** amd 1995 No. 32 s 23 sch; 1997 No. 78 s 80(2); 2012 No. 43 s 221 sch 1
- def **priority development area** ins 2012 No. 43 s 221 sch 1
- def **profit a prendre** ins 2010 No. 12 s 154  
om 2014 No. 29 s 102(1)
- def **property vegetation management plan** ins 1999 No. 90 s 96 (amd 2000 No. 35 s 22)  
sub 2004 No. 1 s 44(1) sch 1
- def **public purpose** sub 2007 No. 19 s 203(1)–(2)  
amd 2013 No. 23 s 109(5)
- def **public thoroughfare easement** ins 2007 No. 19 s 203(2)
- def **public use land** ins 2007 No. 19 s 203(2)
- def **public utility provider** sub 2007 No. 19 s 203(1)–(2)  
amd 2008 No. 22 s 41(2); 2013 No. 23 s 109(6)–(7)
- def **quarter day** om 2014 No. 29 s 102(1)
- def **rail land** ins 2007 No. 19 s 203(2)
- def **reasonably believe** ins 2003 No. 10 s 30  
om 2013 No. 23 s 109(1)
- def **reasonably suspect** ins 2003 No. 10 s 30  
om 2013 No. 23 s 109(1)
- def **regional park (general)** ins 2013 No. 55 s 108(2)
- def **registered native title claimant** ins 2013 No. 2 s 134(2)
- def **regulated condition** ins 2014 No. 29 s 102(2)

- def **regulated island** ins 2014 No. 29 s 102(2)
- def **relevant local government** ins 2007 No. 19 s 203(2)
- def **relevant Minister** ins 2011 No. 31 s 333(2)
- def **relevant section** ins 2005 No. 68 s 49(2)  
om 2010 No. 12 s 180(1)
- def **relevant tenure** ins 2007 No. 19 s 203(2)
- def **remedial action order** ins 2007 No. 19 s 203(2)
- def **renewal provisions** ins 2014 No. 29 s 102(2)
- def **rent** amd 2014 No. 29 s 102(3)
- def **rental category** ins 2014 No. 29 s 102(2)
- def **rental period** ins 2014 No. 29 s 102(2)
- def **rental valuation** ins 2010 No. 39 s 310 sch 1 pt 2  
om 2014 No. 29 s 102(1)
- def **rent and instalment regulation** ins 2014 No. 29 s 102(2)
- def **repealed Act** sub 2007 No. 19 s 203(1)–(2); 2009 No. 5 s 46
- def **repealed miners homestead Acts** sub 2007 No. 19 s 203(1)–(2)
- def **required particulars** ins 2007 No. 19 s 203(2)  
amd 2013 No. 23 s 109(8)
- def **required time** amd 2013 No. 23 s 109(9)
- def **reserve** amd 2007 No. 19 s 203(6)
- def **revocation notice** ins 2007 No. 19 s 203(2)
- def **right line boundary** ins 2010 No. 12 s 180(2)
- def **right line tidal boundary** ins 2010 No. 12 s 180(2)
- def **road closure application** amd 2007 No. 19 s 203(7)
- def **rolling term lease** ins 2014 No. 29 s 102(2)
- def **rural leasehold land** ins 2007 No. 19 s 203(2) (amd 2007 No. 48 s 41)  
amd 2013 No. 55 s 108(3)
- def **seaward side** ins 2010 No. 12 s 180(2)
- def **set format** ins 2013 No. 2 s 134(2)
- def **set rent** sub 1996 No. 7 s 8  
amd 2007 No. 19 s 203(8)  
om 2014 No. 29 s 102(1)
- def **shared country** ins 2013 No. 2 s 134(2)
- def **ship** om 2010 No. 12 s 180(1)
- def **show cause period** ins 2003 No. 10 s 30  
om 2013 No. 23 s 70
- def **special perpetual mining purposes lease** ins 2007 No. 19 s 203(2)
- def **specified national parks** ins 2011 No. 31 s 333(2)
- def **spent conviction** ins 2003 No. 10 s 30
- def **standard document** om 1997 No. 78 s 80(1)
- def **standard format** ins 2004 No. 9 s 80(1)
- def **standard format lot** ins 2004 No. 9 s 80(1)
- def **State housing lease** sub 2003 No. 52 s 153 sch 2
- def **State lease** ins 2007 No. 19 s 203(2)
- def **statutory body** amd 2004 No. 4 s 46; 2013 No. 23 s 109(10)
- def **subdivision offer** ins 2007 No. 19 s 203(2)
- def **subject area** ins 2013 No. 2 s 134(2)
- def **sublease** sub 2010 No. 19 s 48(2)



- def *surrender notice* ins 2007 No. 19 s 203(2)
- def *temporary road closure application* ins 2007 No. 19 s 203(2)
- def *term lease* ins 2007 No. 19 s 203(2)
- def *tidal boundary* ins 2005 No. 68 s 49(2)  
sub 2010 No. 12 s 180
- def *tidal boundary plan of subdivision* ins 2005 No. 68 s 49(2)  
om 2010 No. 12 s 180(1)
- def *tidal navigable river* om 2010 No. 12 s 180(1)
- def *Torres Strait Islanders particularly concerned with land* ins 2007 No. 19 s 203(2)  
amd 2013 No. 23 s 109(3)
- def *tourism purposes* ins 2014 No. 29 s 102(2)
- def *transferable land* ins 2007 No. 19 s 203(2)  
amd 2010 No. 39 s 313
- def *transition to sale agreement* ins 2007 No. 19 s 203(2)
- def *transport land* ins 2004 No. 9 s 80(1)  
amd 2005 No. 67 s 17
- def *tree clearing offence* ins 2003 No. 10 s 30  
om 2004 No. 1 s 44(1) sch 1
- def *tree clearing provision* ins 2003 No. 10 s 30  
om 2004 No. 1 s 44(1) sch 1
- def *trustee lease (construction)* ins 2013 No. 23 s 109(2)
- def *trustee lease (State or statutory body)* ins 2013 No. 23 s 109(2)
- def *trustee of trust land notice* ins 2007 No. 19 s 203(2)
- def *trustees* amd 2001 No. 92 s 15
- def *unallocated State land* amd 2007 No. 19 s 203(9); 2013 No. 55 s 175 sch 1 pt 2; 2014 No. 29 s 102(4)
- def *unimproved value* om 2014 No. 29 s 102(1)
- def *urban development area* ins 2007 No. 41 s 236  
om 2012 No. 43 s 221 sch 1
- def *Urban Land Development Authority* ins 2007 No. 41 s 236  
om 2012 No. 43 s 221 sch 1
- def *valuation for rental purposes* om 2010 No. 39 s 310 sch 1 pt 2
- def *vegetation clearing offence* ins 2004 No. 1 s 44(1) sch 1
- def *Vegetation Management Act* ins 2003 No. 10 s 30
- def *volumetric format* ins 2004 No. 9 s 80(1)
- def *watercourse* ins 2010 No. 12 s 180(2)  
sub 2013 No. 23 s 109(1)–(2)
- def *water subject to tidal influence* ins 2010 No. 12 s 180(2)
- def *writ of execution* ins 1998 No. 20 s 27 sch 2  
amd 2011 No. 45 s 217 sch 1A

## 6 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.

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