

CROWN LANDS (AMENDMENT) ACT, 1978, No. 31

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

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Act No. 31, 1978.

An Act to amend the Crown Lands Consolidation Act, 1913, to provide for the determination of rents of permissive occupancies by local land boards, to enable the Minister, by agreement, to determine certain matters now determined by local land boards, to make further provisions with regard to the exclusion of land required for public purposes on the

Crown Lands (Amendment).

conversion or purchase of holdings, and for certain other purposes; and to amend the Crown Lands (Amendment) Act, 1977. [Assented to, 28th March, 1978.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Crown Lands (Amendment) Act, 1978".

Schedules. **2.** This Act contains the following Schedules :—

SCHEDULE 1.—MISCELLANEOUS AMENDMENTS TO THE
CROWN LANDS CONSOLIDATION ACT, 1913.

SCHEDULE 2.—AMENDMENTS TO THE CROWN LANDS
(AMENDMENT) ACT, 1977.

SCHEDULE 3.—REDETERMINATION OF RENTALS OF
PERMISSIVE OCCUPANCIES.

Amendment of Act No. 7, 1913. **3.** The Crown Lands Consolidation Act, 1913, is amended in the manner set forth in Schedule 1.

Amendment of Act No. 97, 1977. **4.** The Crown Lands (Amendment) Act, 1977, is amended in the manner set forth in Schedule 2.

Redetermination of rentals of permissive occupancies. **5.** Schedule 3 has effect.

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6. The provisions of sections 57 (1) (c), 109 (5A), 136H, 183 (1A), 184 (1) (c), 193A (4A), 194A (g) and 307 (1) (c) of the Crown Lands Consolidation Act, 1913, as amended by this Act, shall be deemed to apply to a conversion or purchase, as the case may be, applied for under the Crown Lands Consolidation Act, 1913, before, but not confirmed, granted or approved, as the case may be, at, the commencement of this Act. Transitional provision.

7. Any increase in rent purporting to have been effected after the commencement of the Crown Lands and Other Acts (Amendment) Act, 1971, and before the commencement of this Act under section 136K (1A) of the Crown Lands Consolidation Act, 1913, as in force at any time before the commencement of this Act, being an increase that could have been effected had section 136K (1A) of the Crown Lands Consolidation Act, 1913, as in force after the commencement of this Act, then been in force is validated and, for the purposes of section 233A of the Crown Lands Consolidation Act, 1913, any such increase shall be deemed to have been effected by the amendments made by the Crown Lands and Other Acts (Amendment) Act, 1971. Validation.

SCHEDULE 1.

Sec. 3.

MISCELLANEOUS AMENDMENTS TO THE CROWN LANDS
CONSOLIDATION ACT, 1913.

(1) Section 14A and short heading—

After section 14, insert :—

Minister may deal with certain matters by agreement.

14A. (1) In this section, “determine” includes redetermine, assess, inquire into, report upon, recommend and any other prescribed act or proceeding. Determinations by Minister by agreement.

Crown Lands (Amendment).

SCHEDULE 1—*continued.*MISCELLANEOUS AMENDMENTS TO THE CROWN LANDS
CONSOLIDATION ACT, 1913—*continued.*

(2) Subject to subsection (3), where—

- (a) by or under this Act or the regulations, it is provided that a local land board shall determine any matter; and
- (b) the applicant or holder who would be affected by the determination, if made, agrees in writing to the Minister dispensing with that determination or determining that matter in a specified manner,

the Minister may, without the holding of a hearing, dispense with that determination or determine that matter in the specified manner, as the case may be.

(3) Where, in the opinion of the Minister, any person other than an applicant or a holder would be directly affected by a determination of a local board, if made, the Minister shall not take any action under subsection (2) in relation to the determination unless that person agrees in writing to that action being taken.

(4) Where the Minister dispenses with a determination as referred to in subsection (2) in relation to a matter—

- (a) the local land board shall be deemed to have no jurisdiction in the matter; and
- (b) any requirement to refer matters to the local land board shall, in so far as it would, but for this subsection, apply to the matter, be deemed to be repealed.

Crown Lands (Amendment).

SCHEDULE 1—*continued.*

MISCELLANEOUS AMENDMENTS TO THE CROWN LANDS
CONSOLIDATION ACT, 1913—*continued.*

(5) Subject to subsection (7), where the Minister determines a matter under subsection (2), the local land board shall be deemed to have no jurisdiction in the matter and the Minister's determination shall have the same effect as if it were a determination of the local land board.

(6) Where the Minister—

- (a) dispenses with a determination as referred to in subsection (2) in relation to a matter; or
- (b) determines a matter under subsection (2),

and the Minister would, but for this subsection, be prohibited from doing a thing in relation to the matter, except after receiving a recommendation or report from a local land board, the Minister may do the thing notwithstanding that no such report or recommendation is received.

(7) Where the Minister has determined a matter under subsection (2) with the agreement of a person or persons whose agreement is necessary to enable him to make the determination, he may, if that person agrees or those persons agree in writing to his reversing the determination or to his altering or amending the determination in a specified manner, reverse, alter or amend in accordance with the agreement the determination so made and, thereupon, the provisions of subsections (5) and (6) shall cease to apply to the determination so made but shall apply to the determination as reversed, altered or amended in accordance with this subsection.

(2) Section 34—

Omit "for trespass".

Crown Lands (Amendment).

SCHEDULE 1—*continued.*MISCELLANEOUS AMENDMENTS TO THE CROWN LANDS
CONSOLIDATION ACT, 1913—*continued.*

(3) Section 57 (1) (c)—

After “roadways” wherever occurring, insert “or other public purposes”.

(4) (a) Section 75A (4)—

Omit the subsection, insert instead :—

(4) If the whole or part of the land is leased under section 74 or 76, notice of the application shall be published in the Gazette and a local newspaper, if any, not less than 4 weeks before the application is granted.

(b) Section 75A (4B)—

After section 75A (4A), insert :—

(4B) At any time before the expiration of the 4 weeks mentioned in subsection (4), any person feeling aggrieved may lodge a complaint setting forth objections against the grant of the application, and those objections shall be duly heard and determined before the application is granted.

(5) Section 109 (5A)—

After “roadways”, insert “or other public purposes”.

(6) Section 136H—

After “roadways”, insert “or other public purposes”.

Crown Lands (Amendment).

SCHEDULE 1—*continued.*

MISCELLANEOUS AMENDMENTS TO THE CROWN LANDS
CONSOLIDATION ACT, 1913—*continued.*

(7) (a) Section 136k (1)—

After “such purposes and”, insert “, subject to this section.”.

(b) Section 136k (1A)—

Omit the subsection, insert instead :—

(1A) Where the rent per annum payable in respect of a permissive occupancy or permission to occupy Crown lands in existence at the commencement of the Crown Lands and Other Acts (Amendment) Act, 1971, is, at that commencement, not less than \$4, the minimum rent per annum shall—

(a) if it was less than \$6, be \$6; and

(b) if it was or is, at the time when some other amount was or is prescribed as the minimum rent per annum for the purposes of this subsection, less than that other amount per annum, be that other amount.

(c) Section 136k (6)–(11)—

After section 136k (5), insert :—

(6) Subject to subsection (1B), the rent per annum payable in respect of a permission to occupy Crown lands granted after the commencement of the Crown Lands (Amendment) Act, 1978 (other than a permission to occupy offered by tender) shall be determined by the local land board.

(7) Subject to subsections (1A) and (1B), the rent per annum payable in respect of a permissive occupancy of, or permission to occupy, Crown lands

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SCHEDULE 1—*continued.*MISCELLANEOUS AMENDMENTS TO THE CROWN LANDS
CONSOLIDATION ACT, 1913—*continued.*

in existence at, or granted after, the commencement of the Crown Lands (Amendment) Act, 1978, shall be redetermined by the local land board at such time or times as the Minister directs.

(8) Where the Minister gives a direction referred to in subsection (7), he shall give the holder of the permissive occupancy of, or permission to occupy, Crown lands in respect of which the direction is given notice of the direction.

(9) A notice under subsection (8)—

- (a) may be given by sending it by post to the holder at his last known address; and
- (b) if so given, shall be deemed to have been given at the time of posting.

(10) Any alteration in rent resulting from a redetermination under subsection (7) shall operate as from the expiration of 3 months after the date on which the Minister gave, or is deemed to have given, notice under subsection (8) of his direction in respect of that rent or as from such later date as the Minister may approve.

(11) Any term or condition contained in a permissive occupancy of, or permission to occupy, Crown lands providing for the determination or redetermination of the rent of that permissive occupancy or permission to occupy shall, on and from the commencement of the Crown Lands (Amendment) Act, 1978, have no effect.

Crown Lands (Amendment).

SCHEDULE 1—*continued.*

MISCELLANEOUS AMENDMENTS TO THE CROWN LANDS
CONSOLIDATION ACT, 1913—*continued.*

(8) Section 183 (1A)—

After “roadways”, insert “or other public purposes”.

(9) Section 184 (1) (c)—

After “roadways”, insert “or other public purposes”.

(10) (a) Section 190 (4)—

Omit the subsection, insert instead :—

(4) If the whole or part of the land is leased under section 74 or 76, notice of the application shall be published in the Gazette and a local newspaper, if any, not less than 4 weeks before the application is granted.

(b) Section 190 (4B)—

After section 190 (4A), insert :—

(4B) At any time before the expiration of the 4 weeks mentioned in subsection (4), any person feeling aggrieved may lodge a complaint setting forth objections against the grant of the application, and those objections shall be duly heard and determined before the application is granted.

(11) Section 193A (4A)—

After “roadways”, insert “or other public purposes”.

Crown Lands (Amendment).

SCHEDULE 1—*continued.*MISCELLANEOUS AMENDMENTS TO THE CROWN LANDS
CONSOLIDATION ACT, 1913—*continued.*

(12) Section 194A (g)—

At the end of section 194A, insert :—

- (g) Any areas required for roadways or other public purposes may be excluded by the Minister from the conversion and, on exclusion, shall be deemed to have been surrendered to the Crown.

(13) Section 307 (1) (c)—

After “roadways” wherever occurring, insert “or other public purposes”.

Sec. 4.

SCHEDULE 2.

AMENDMENTS TO THE CROWN LANDS (AMENDMENT) ACT, 1977.

(1) Section 250A of the Crown Lands Consolidation Act, 1913,
as to be inserted by section 5 of, and Schedule 7 to, the Crown
Lands (Amendment) Act, 1977—

- (a) In subsection (1) (b), after “that holding;”, insert “and”.
- (b) From subsection (1) (c), omit “holding; and”, insert instead “holding.”.
- (c) Omit subsection (1) (d).

Crown Lands (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE CROWN LANDS
(AMENDMENT) ACT, 1977—*continued.*

- (2) Section 250B of the Crown Lands Consolidation Act, 1913, as to be inserted by section 5 of, and Schedule 7 to, the Crown Lands (Amendment) Act, 1977—
- (a) From subsection (2), omit “amount or each of the amounts, as the case may be”, insert instead “last amount due”.
 - (b) From subsection (3), omit “person”, insert instead “bona fide purchaser for value”.

SCHEDULE 3.

Sec. 5.

REDETERMINATION OF RENTALS OF PERMISSIVE OCCUPANCIES.

1. In this Schedule, “permissive occupancy” means—
- (a) a permissive occupancy of, or permission to occupy, Crown lands under the Crown Lands Consolidation Act, 1913; or
 - (b) a permit to occupy land under the Closer Settlement Acts,
- in existence at the commencement of this Act, but does not include a permissive occupancy or a permission to occupy offered by tender if the rent thereof has not, since the granting of that permissive occupancy or permission to occupy, been redetermined by the Minister.
2. The holder of a permissive occupancy may, within 6 months after the commencement of this Act, apply in writing to the Minister to have the rent per annum payable in respect of the permissive occupancy determined by the local land board.
3. Upon reference by the Minister to the local land board of an application under clause 2, the local land board shall, subject to section 136K (1A) and (1B) of the Crown Lands Consolidation Act, 1913, or

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SCHEDULE 3—*continued.*REDETERMINATION OF RENTALS OF PERMISSIVE OCCUPANCIES—*continued.*

section 39 (1) and (2) of the Closer Settlement Act, 1904, as the case may be, determine the rent per annum payable in respect of the permissive occupancy the subject of the application.

4. Where the current rent per annum payable in respect of a permissive occupancy was determined by the Minister with effect on and from—

- (a) 11th January, 1976, or with effect on and from a date between 11th January, 1976, and the commencement of this Act—any determination under clause 3 in respect of the permissive occupancy shall be made as at the date when the Minister's determination took effect; or
- (b) a date before 11th January, 1976—any determination under clause 3 shall be made as at the date of receipt by the Minister of the application made under clause 2 in respect of the permissive occupancy.

5. Where a determination under clause 3 is made in respect of a permissive occupancy—

- (a) in accordance with clause 4 (a)—the rent per annum as so determined shall be deemed to have been and to be the rent per annum payable in respect of the permissive occupancy with effect on and from the expiration of the day next preceding the date as at which the rent was determined; or
- (b) in accordance with clause 4 (b)—the rent per annum as so determined shall be payable, or shall be deemed to have been payable, in respect of the permissive occupancy with effect on and from the expiration of the day next preceding the date on which the rent next becomes or became payable after the date of receipt by the Minister of the application for determination.

6. Upon a determination of rent under this Schedule any necessary adjustment of rental payments shall be made and any excess shall be applied towards rent due or becoming due in respect of the permissive occupancy or, if no such rent is due or becoming due, be refunded to the holder thereof.

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SCHEDULE 3—*continued.*

REDETERMINATION OF RENTALS OF PERMISSIVE OCCUPANCIES—*continued.*

7. This Schedule shall, in its application to a permissive occupancy to which the Crown Lands Consolidation Act, 1913, applies, be construed as part of that Act and shall, in its application to a permissive occupancy to which the Closer Settlement Acts apply, be construed as part of those Acts.