

## No. XVIII.

An Act to further regulate the sale, letting, disposal, occupation, and management of Crown lands; for the protection of certain homesteads; to enable the Crown, by purchase, resumption, exchange, and surrender, to acquire alienated lands; to amend the law relating to conditional purchasers in certain respects; to provide for forfeitures and validations in certain cases; to prevent impounding and actions for trespass upon unfenced holdings; to amend the law as to Local Land Boards and the Land Appeal Court; and to effect amendments in such Statutes as may be necessary to give full force and effect to the aforesaid provisions; and for other purposes connected therewith. [*3rd May, 1895.*]

CROWN LANDS.

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:—

1. This Act—

- (a) shall come into force on the first day of June, in the year one thousand eight hundred and ninety-five; and
- (b) may be cited as the "Crown Lands Act of 1895;" and
- (c) shall be read with the "Crown Lands Act of 1884," the "Crown Lands Titles and Reservations Validation Act of 1886," the "Conditional Purchases and Leases Validation Act of 1887," the "Crown Lands [Auction Sales Balances] Act of 1887," the "Crown Lands Act Amendment Act of 1887," the "Crown Lands Act Further Amendment Act," the

Commencement,  
short title, &c.

*Crown Lands.*

the "Crown Lands Act of 1889," and the "Crown Lands Act Amendment Act of 1891": and shall form part of the said Acts and each and every of them, to the extent to which and so far as the provisions of any of the said Acts are unrepealed.

The aforesaid Acts when taken in conjunction with this Act are hereinafter referred to as the Crown Lands Acts.

*Interpretation of terms.*

Interpretation of terms.

2. In this Act, unless the context otherwise require, the expression:—

"Principal Act" means the "Crown Lands Act of 1884," together with the "Crown Lands Titles and Reservations Validation Act of 1886," "the Conditional Purchases and Leases Validation Act of 1887," the "Crown Lands [Auction Sales Balances] Act of 1887," the "Crown Lands Act Amendment Act of 1887," the "Crown Lands Act Further Amendment Act," the "Crown Lands Act of 1889," and the "Crown Lands Act Amendment Act of 1891."

"Local Land Board" includes Land Appeal Court in any case where an appeal or reference to that Court shall have been made.

Expressions defined in the Principal Act shall, except as aforesaid, bear the same meaning in this Act, and if there are two or more definitions the later or latest shall be taken.

## PART I.

*Pastoral Holding Provisions.**Power of withdrawal from Central Division Pastoral Leases.*

Withdrawal from pastoral leases for settlement purposes.

3. The Governor shall have power to withdraw from pastoral lease in the Central Division any lands held thereunder whenever he shall deem it expedient so to do for the purpose of providing for settlement by other holdings: Provided that prior to any such withdrawal being notified as hereinafter provided, the Local Land Board shall make inquiry and report to the Minister with respect to the expediency of the proposed withdrawal, and the portion of the lease to be withdrawn, and, upon such inquiry, the lessee may be a party, without any right of appeal to the Land Court: Provided further that the leasehold area shall be divided by the Minister into two parts as nearly equal in area as practicable, and the part from which withdrawals may be made shall be defined, and notice thereof given to the lessee. The area withdrawn under one exercise of this power shall be in as compact a form as practicable, and the first withdrawal shall not be less than one-fourth, and the aggregate areas to be withdrawn under this power shall not exceed one-half, of the area held under such lease at the commencement of this Act.

Every such withdrawal shall be notified in the *Gazette* and some newspaper published in the district, and shall take effect four months after the date thereof or at such later date as may be specified for that purpose in the notification; and copies of such notifications, together with the reasons for the withdrawals therein notified, shall be laid upon the tables of both Houses of Parliament forthwith if Parliament be sitting, and if not, then within eight days after the commencement of the next session.

Upon

*Crown Lands.*

Upon any such withdrawal taking effect the pastoral lease shall cease to include the lands so withdrawn, but shall otherwise continue in full force and effect except as hereinafter provided.

The power of withdrawal conferred by this section shall be in addition to, and not in substitution for, the power of withdrawal conferred by the seventh subsection of section seventy-eight of the "Crown Lands Act of 1884."

In compensation for a withdrawal under the power conferred by this section:—

- (a) a period shall be added to the term of the pastoral lease; and
- (b) the lands withdrawn may, upon payment of the license fee as prescribed, continue to be occupied in virtue of a preferential occupation license; and
- (c) the rent for succeeding years of the pastoral lease shall be reduced in proportion to the area withdrawn; and
- (d) a proportionate amount of any rent paid in advance shall be credited on account of the first year's license fee for the withdrawn area, or refunded at the request of the lessee.

The period to be added to the term of a pastoral lease in consideration of a withdrawal shall be computed so that the added period shall bear the same ratio to the unexpired period as the area withdrawn bears to the area left.

The method of ascertaining the added period shall be by multiplying together the unexpired period and the area withdrawn, and dividing the product by the area left. And in the foregoing formula—

"Unexpired period" means the number of months which the lease has to run, reckoning from the date of the withdrawal up to the date at which the lease (including all periods previously added) would have expired.

"Added period" means the number of months by which the term of a pastoral lease is to be extended in consideration for such withdrawal.

"Area withdrawn" means the number of acres included in such withdrawal.

"Area left" means the number of acres left under the pastoral lease at the date of withdrawal.

For the purposes of computation any fractional part of a month shall be reckoned as one month, and any fractional part of an acre shall be disregarded:

Provided always that upon application by the lessee within the time and in the manner prescribed, the rent of the area left shall be reappraised.

The Governor shall notify in the *Gazette* the length of the period to be added to the term of a pastoral lease in consideration of a withdrawal, and the date at which such added period will expire; and the added period shall determine upon the date so notified; and the Governor shall likewise notify the rate of the rent of the pastoral lease in any case where the rate has been varied, and the rate so notified shall be deemed to have been payable as from the date of withdrawal.

The period added to the term of a pastoral lease in consideration of a withdrawal shall be affixed to the extension (if any) of such lease under section forty-three of the "Crown Lands Act of 1889," and the conditions of the lease during any such added period shall be the same as immediately prior to the commencement of such period.

*Occupation License of Leasehold Area, &c.*

4. Upon the determination, by effluxion of time, of the extended term of a pastoral lease in the Central Division, and of all periods, if any, added thereto, the holder of the lease shall, if not less than

Conversion of  
pastoral lease into  
occupation license.

*Crown Lands.*

than two months prior to such determination he shall have paid a license fee as prescribed, be entitled to occupy the lands theretofore held under such lease under a preferential occupation license, which shall be subject to all the provisions of the Principal Act in respect of occupation licenses, qualified as hereunder:—

- (I) The license fee payable in respect of the land held under the preferential occupation license shall be at the same rate as is payable in respect of the resumed area, unless the Minister shall direct an appraisalment thereof to be made; or, if there be no resumed area, or if the resumed area be not held under occupation license, then at a rate to be appraised, and, until such appraisalment, and subject to an adjustment of accounts thereupon, at a provisional rate of two pounds per section of six hundred and forty acres.
- (II) The Governor may, giving not less than three months notice in the *Gazette*, refuse a renewal of the preferential occupation license; and in such case the preferential occupation license shall determine at the end of the then current year.

The provisions of this section shall apply to the preferential occupation license of any lands withdrawn from pastoral lease under power hereinbefore conferred.

Improvements made after the commencement of this Act, being made with the consent of the Crown, upon any lands within the Central Division, which, at the date of the making of the said improvements, are held under pastoral lease shall, upon the said lands ceasing to be the subject of the pastoral lease and becoming the subject of a preferential occupation license, be taken to be the property of the licensee for all purposes of section forty-four of the "Crown Lands Act of 1889."

Improvements made with the consent of the Crown upon any lands within the Central Division which, at the date of the making of the said improvements are held under preferential occupation license, shall be taken to be the property of the licensee for all purposes of section forty-four of the "Crown Lands Act of 1889."

Notwithstanding anything contained in section forty-four of the "Crown Lands Act of 1889," any appraisalment of such improvements shall be made on the bases of their value to the land taken and to an incoming tenant.

If the Governor refuse to renew the preferential occupation license of lands containing any such improvements as are hereinbefore mentioned, the last holder of the license shall have tenant right (as the same is hereinafter defined) in the said improvements.

Improvements made after the commencement of this Act upon lands within the Central Division, which, at the date of the making of the said improvements are held under pastoral lease or preferential occupation license, shall, if made without the consent of the Crown, be the property of the Crown.

The consent of the Crown to the making of improvements may be given by such authorities, and shall be evidenced in such manner as may be prescribed.

*Expired Pastoral Leases, Central Division.*

5. After the expiration of the term or extended term of a pastoral lease in the Central Division the lands theretofore subject to such lease shall become a resumed area on notification in the *Gazette* to that effect, and on such notification, and not before, shall cease to be a leasehold area within the meaning of the Principal Act.

Expired pastoral  
leases, Central  
Division.

*Power*

*Crown Lands.**Power of Withdrawal from Western Division Pastoral Leases.*

6. The Governor shall have the same power of withdrawing land from a pastoral lease in the Western Division as by this Act is conferred upon him in respect of pastoral leases in the Central Division, except that:—

Withdrawal for extra-urban settlement in the Western Division.

- (a) The area withdrawn under one exercise of the power shall not be less than one-sixteenth, and the aggregate areas to be withdrawn under this power shall not exceed one-eighth of the area held under the lease, and this power shall only be exercised to withdraw land within ten miles of the boundary of a town containing at least fifty inhabitants; and
- (b) Any period to be added to the term of a pastoral lease in consideration of a withdrawal shall be affixed to the term of the lease as extended by this Act.

The lessee shall have compensation upon any such withdrawal in the like manner as is hereinbefore provided upon a withdrawal from a pastoral lease in the Central Division, and shall have tenant right in improvements as the same is hereinafter defined upon the land so withdrawn.

*Pastoral and Homestead Leases in the Western Division.*

7. Section forty-three of the "Crown Lands Act of 1889" is hereby repealed so far as the same relates to the extension of pastoral and homestead leases in the Western Division.

Pastoral and homestead leases in the Western Division.

Every pastoral or homestead lease in the Western Division granted before or after the commencement of this Act shall have a term of twenty-eight years, and the term shall be divided for the purpose of the appraisalment of the rate of rent into four periods each of seven years as extended by this Act, and a separate appraisalment shall be made of the rate of rent payable for each of such periods, if the same be a period commencing after the commencement of this Act:

Provided always that—

- (a) In the case of a pastoral or homestead lease granted before the first day of December, in the year one thousand eight hundred and eighty-nine, and not brought under the provisions of section twenty-nine of the "Crown Lands Act of 1889" the rate of rent from time to time payable under the "Crown Lands Act of 1884" shall be paid until the expiration of such seven-year period of the term of the lease as may be current at the commencement of this Act.
- (b) Nothing contained in this section shall prevent or affect the reappraisalment of the rent of a pastoral or homestead lease in pursuance of section nine, or the coming into operation of any rent so reappraised.

Upon the expiration by effluxion of time of the term of any pastoral, homestead, or artesian well lease in the Western Division the last holder of the lease shall have tenant right (as the same is hereinafter defined) in improvements upon the lands theretofore held under the lease.

Tenant right in improvements.

*Attachment of Resumed Area to Leasehold Area in Western Division.*

8. In any case in which—

- (a) The Minister, after inquiry by the Local Land Board, is satisfied that any resumed area in the Western Division (not being within the Land Districts of Brewarrina, Hay North, or Walgett North) is not, and is not likely to be, required for purposes of settlement before the expiration of the pastoral lease of the leasehold area, and

Attachment of resumed area to leasehold area.

(b)

*Crown Lands.*

(b) The occupation license or annual lease, if any, of the resumed area is not held by a person other than the holder of the pastoral lease of the leasehold area the Minister may, with the consent of the holder of the pastoral lease by notification in the *Gazette*, declare that the resumed area shall thenceforward be held under pastoral lease; and the occupation license or annual lease, as the case may be, of the resumed area shall thereupon expire, and any artesian well lease on the resumed area, held concurrently with the pastoral lease, shall be deemed to be surrendered, but not so as in either case to thereby render the improvements on the resumed area the property of the Crown.

The resumed area, or so much thereof as may be available, shall be added to the area held under the existing pastoral lease; and the rent of the area so added shall be fixed in accordance with the following provisions:—

- (i) If the Minister and the lessee so agree, such rent shall be, at the rate per acre, payable for the leasehold area.
- (ii) If the Minister and the lessee do not agree, the rent for the area so added shall be appraised by the Local Land Board in accordance with the provisions of the Crown Lands Acts as if it were the rent for a pastoral lease of the resumed area.
- (iii) Any reappraisal of the rent of the pastoral lease shall be of the rent of the lease as including the whole area.
- (iv) Upon default in the due payment for the whole area of any sum due as rent, or added to the rent, the lease of the whole area may be forfeited, in accordance with the provisions of the Crown Lands Acts.
- (v) The accounts between the lessee and the Crown shall be adjusted, and for the purposes of such adjustment any rent and license fee shall be considered as accruing due day by day.

Any resumed area added to land under pastoral lease in accordance with the provisions of this section shall be deemed to be added subject to the provision that the Governor may (by notice in the *Gazette*) withdraw, without compensation, the whole or any part or parts thereof from pastoral lease whenever he shall deem it necessary or expedient to make the land available under any provisions of the Crown Lands Acts. Upon such withdrawal (which shall not take effect until the expiration of six months from the date of notice thereof) the lessee shall (on application within the prescribed time and payment of license fee as prescribed) be entitled to hold the withdrawn area under preferential occupation license; and any improvements upon the withdrawn area (not forfeited or forfeitable to or vested in the Crown) shall be taken to be the property of the lessee for all purposes and subject to the provisions of section forty-four of the "Crown Lands Act of 1889."

*New appraisal of rents, &c., in the Western Division.*

9. Where in the case of—

- (a) any pastoral or homestead lease in the Western Division; or
- (b) any occupation license in the Western Division—

the lessee or licensee considers that by reason of devastations by rabbits, depreciation of values, deterioration of the grazing capability of the land, or other similar cause, the rate of rent or license fee now payable is excessive, a new appraisal of such rate of rent or license fee shall be held upon application being made in the prescribed form and manner within three months after the commencement of this Act: Provided always that the application shall be accompanied by

New appraisal of rents in Western Division.

*Crown Lands.*

a deposit of the prescribed amount as security for the payment of any costs to become payable to the Crown in manner hereinafter provided; and that before application any sum notified as due for rent or license fee has been paid.

The new appraisalment shall be subject to the following provisions:—

- (I) The Local Land Board shall determine anew the rate of rent or license fee, and shall take into consideration the cost of carriage to and from the land held under the lease or license for any depreciation in the values of stock or of wool, and for any diminution of the average annual carrying capacity of such land caused by the devastations of rabbits. Principle of new appraisalment.
- (II) The Minister shall notify the new rate in the *Gazette*; but until the notification, all sums payable for rent or license fee shall continue to be paid as if no application for a new appraisalment had been made. Operation of the new rate.
- (III) The new rate shall be the rate applicable to any payments to become due after the determination of the new rate, up to the end of the period of the lease first succeeding the period current at the commencement of this Act.
- (IV) The rent of a pastoral or homestead lease for the period thereof succeeding the period current at the commencement of this Act shall not be reappraised at the commencement of such first-mentioned period.
- (V) The Local Land Board shall, upon the new appraisalment, assess and declare the cost of an inspection of the land held under the lease or license in question, and the other costs incurred by the Crown; and in the event of an appeal or reference to the Land Appeal Court, the Land Appeal Court shall assess and declare the costs of and incidental to the hearing of such appeal or reference incurred by the Crown; and the person registered, at the date of the notification hereinbefore mentioned, as holder of the lease or license shall, within two months thereafter, pay to the Colonial Treasurer one half the total amount of all such assessed costs: The Crown to have half costs.

Provided always that the deposit hereinbefore required, and the deposit of five pounds required in case of an appeal, may be applied towards satisfaction of any sum due as aforesaid.

## PART II.

*Classification Provisions.**Classification and Survey of Crown Lands.*

10. For the purpose of effecting a proper classification of Crown lands, the Governor shall have power, after such inquiry and report as may be deemed expedient, to declare by notification in the *Gazette* that the Crown lands comprised within any tract or area to be described in the notification shall be set apart for holdings (whether by way of purchase, lease, or otherwise) of the kinds which are specified in the notification; and thereupon the Crown lands comprised within the tract or area so described shall cease to be available, and any lands within the tract or area which may thereafter become Crown lands shall not become available, for the purpose of any application for a holding of a kind not specified in the notification, except as hereinafter provided. Power to classify Crown lands.

For

*Crown Lands.*

Power to withhold  
Crown lands until  
survey effected.

For the purpose of effecting a proper survey and subdivision of Crown lands, the Governor shall have power to declare by notification in the *Gazette* that the Crown lands comprised within any tract or area to be described in the notification shall not be available for the purposes of any application until a further notification has been published in the *Gazette*; and thereupon the Crown lands comprised within the tract or area so described shall cease to be available, and any lands within the tract or area which may thereafter become Crown lands shall not become available, for the purposes of any application, until such further notification has been published, or, if such further notification specify a future date, then until such date.

Any notification under this section may in the like manner be corrected, amended, modified, or revoked, whether as to the whole or any part thereof; and it shall be sufficient for the purposes of any such notification if the description of lands is in any form of general description:

Provided always that no such notification shall affect:—

- (a) The reservation or dedication for public purposes of any Crown lands; or
- (b) The granting or renewing of occupation licenses and annual leases, unless the same be expressly excluded; or
- (c) Any lease in existence at the date thereof.

*Additional Conditional Purchases in Classified Areas.*

Homestead selection  
areas available for  
additional  
conditional  
purchases.

11. A notification that Crown lands are set apart for holdings of any kind shall not operate to prevent the lands situated within the tract or area so set apart being or becoming available for the purpose of an application for an additional conditional purchase, or a conditional lease of a series of which the original conditional purchase was made before the date of the notification in any case where—

- (a) The application is made not later than forty days after the date of the notification—and
- (b) The applicant has been for six months previously and still is in *bonâ fide* residence on some conditional purchase or conditional lease of the same series at the date of the notification.

Provided always that—

- (c) The area which may be added to any series by all such additional conditional purchases and conditional leases shall not exceed the area sufficient in the opinion of the Local Land Board to enable the holder thereof by agriculture or by agriculture combined with any other ordinary pursuits to maintain his home thereon, and shall not, in any case, exceed the area which may be taken under the *Principal Act*; and
- (d) that such additional conditional purchases and conditional leases shall be taken so as to conform to the general design of the subdivision, if any, of such tract or area.

*What deemed Crown Lands under "Mining Act of 1874."*

Crown Lands set  
apart for specified  
holdings to be  
deemed Crown Lands  
for purposes of  
Mining Act.

12. All Crown Lands comprised in any tracts or areas which may be set apart for certain specified kinds of holdings, under sections ten, thirteen, and twenty-four of this Act, shall be and be deemed Crown Lands for the purposes of the "*Mining Act, 1874*," and any Act amending the same.



*Crown Lands.*

## PART III.

*Homestead Settlement Provisions.**Subdivision for Homestead Selections.*

13. The Governor may, subject to the provisions of and under <sup>Homestead selection</sup> the power conferred by section ten, set apart any tract of Crown lands <sup>areas.</sup> for disposal by way of homestead selection; and any tract of Crown lands so set apart shall be dealt with as follows:—

- (I) A subdivision shall be made thereof into blocks, no one of which shall be more than one thousand two hundred and eighty acres in area, and the standard to be adopted in regulating the area of each such block shall be that the selector thereof may, by agriculture or by agriculture combined with any other ordinary pursuits, be enabled to establish and maintain his home thereon.
- (II) A valuation of the said blocks shall be made according to the capabilities and situation of the land, and in making such valuation due regard shall be paid to the tenure of the holding and to the intention of these provisions that the selector may be enabled to establish and maintain his home thereon.
- (III) The value to an incoming tenant of any improvements on any such block may be appraised by the Minister after inquiry and report by the Local Land Board in the prescribed manner, and such appraisal shall, as between the Crown or the owner of the improvements, as the case may be, and any person selecting the said block, be conclusive evidence of the value of the improvements at the date of the appraisal.
- (IV) A notification by the Minister shall be published in the *Gazette*, and in a local newspaper, giving particulars of the said blocks and of their respective areas and values and of the appraised value of any improvements thereon, and specifying a date from and after which the said blocks shall be available for selection; the value and area specified in the said notification, in respect of any block, shall be taken to be the capital value and area thereof for all purposes of the rent hereinafter provided.
- (V) The Minister may also notify that special conditions as to drainage, irrigation, the clearing, cutting, preservation or planting of timber, or such other matters as require to be regulated in the public interest, will be made conditions of a homestead selection of any such block, and will be inserted in the grant of any such block when issued. Any such notification under this or the preceding subsection may be corrected, amended, modified, or revoked by notice in the *Gazette*.
- (VI) The setting apart of any tract of Crown lands for disposal by way of homestead selection and the notification required by this section may, whenever it shall be deemed expedient, be effectuated by one and the same notification in the *Gazette*, and in any such case any preliminary notification shall be deemed to have been unnecessary. Any subdivision whether made before or after any notification under this section or section ten of this Act may be taken to be a subdivision within the meaning of this section, and one or more measured portions may by notification under this section constitute a block.

*Applications*

*Crown Lands.**Applications for Homestead Selections.*

Application and confirmation.

14. From and after the date specified in the aforesaid notification, any person, who is not disqualified, may apply for any block so notified as a homestead selection. The application shall be made and lodged in the prescribed manner, and shall be accompanied by a half year's rent in advance and a survey fee according to the prescribed scale; or if the applicant desires to defer the payment of the survey fee, then by one-third of the total amount thereof.

Every person shall be disqualified from being an applicant for a homestead selection if—

- (a) Such person is under the age of sixteen years; or
- (b) Such person is a married woman not living apart from her husband under a decree for judicial separation; or
- (c) Such person is subject to any legal disability other than non-age or coverture, or to any disqualification specially mentioned in the Crown Lands Acts.

The applicant for a homestead selection shall, upon the day appointed, satisfy the Local Land Board that he or she is qualified, and that the application has been made in accordance with the provisions of this Act. The Local Land Board shall confirm the application if so satisfied, unless it permits the applicant to withdraw the same. The Local Land Board shall disallow any application if not so satisfied.

The confirmation of an application shall determine any occupation license or annual lease so far as it affects the block for which the application has been confirmed, and shall entitle the applicant to take possession thereof.

*Conditions Precedent to a Grant.*

Conditions to be performed.

15. The applicant shall perform, to the satisfaction of the Local Land Board, the following conditions, which shall be taken to be conditions precedent to the right to a grant:—

- (a) He shall within the prescribed time pay the balance (if any) of survey fee; and
- (b) He shall pay the value of the improvements as appraised, and interest on such value at the rate of four per centum per annum, the payment being made in four equal yearly instalments, at the dates and in the manner prescribed; and
- (c) He shall, within three months after the confirmation of his application, commence to live upon the homestead selection, and shall continue to have his home and place of abode there until the issue of the grant: Provided always that if the applicant die or be declared a lunatic this condition may be performed by any member of his family or any other person to be approved by the Local Land Board. The Local Land Board shall have power to grant leave to the applicant to cease living upon the selection for such necessary causes as may be prescribed, and for such period as may be determined; and
- (d) He shall within eighteen months after the confirmation of his application erect upon the homestead selection and thereafter maintain a dwelling house of not less than twenty pounds in value; and
- (e) He shall at the prescribed date or dates pay an annual rent which shall amount to one and a quarter per centum of the capital value of the block; the said rent shall be paid in two equal half-yearly instalments in advance; and
- (f) He shall perform and observe the special conditions (if any) which have been notified by the Minister as hereinbefore provided.

*Inquiry*

*Crown Lands.**Inquiry by Local Land Board.*

16. The Local Land Board may at any time inquire as to the performance of any condition; and at the expiration of five years from the confirmation of the application the Local Land Board shall hold an inquiry whether the applicant has, up to the date of the inquiry, duly performed all conditions as aforesaid. Local Land Board to be satisfied of performance.

If, upon the final inquiry, the applicant satisfies the Local Land Board that he has, up to the date of the inquiry, duly performed all the said conditions, it shall issue to him a certificate to that effect.

If at any time the Local Land Board is not satisfied that the applicant is duly performing any condition, or if upon the final inquiry the Board is not satisfied that he has duly performed all conditions as aforesaid, the Governor may, by notification in the *Gazette*, forfeit the applicant's interest in the homestead selection, and thereupon the applicant's right to continue in occupation shall wholly cease and determine. The like notification may be made in any case where the applicant fails to duly pay the aforesaid rent or the balance (if any) of survey fee.

*Homestead Grants.*

17. The Governor shall issue a grant of the homestead selection (to be termed a homestead grant) to an applicant who has duly obtained a certificate from the Local Land Board; and the Governor may, upon the expiration of five years from the date of the confirmation of the application, issue a grant to an applicant who has failed to obtain the said certificate in any case where the Local Land Board reports that the applicant is nevertheless deserving of the grant. The grant of a homestead selection.

The grant of a homestead selection shall contain provisions for— The obligations under the grant.

- (a) The annual payment by the grantee, his heirs, and assigns for ever of a perpetual rent, the yearly amount of which shall be two and one-half per centum of the capital value of the homestead selection as fixed under this Act; and
- (b) The performance by the grantee, his heirs, and assigns for ever of an obligation to live upon the homestead selection, having his or their home and place of abode there; and
- (c) Forfeiture to the Crown of the lands granted in case the obligation to live thereon or to pay any sums due as rent be not duly performed.

The obligations to live on the lands granted and to pay rent shall be incidents in perpetuity of the tenure of the lands held under a homestead grant; and the provisions to be inserted in a homestead grant for the purpose of defining the said incidents of tenure, and securing the due performance thereof shall be in such form as may be prescribed.

The value of the homestead selection shall for the first period of ten years after the issuing of the grant thereof be the value, as notified in accordance with the provisions hereinbefore contained, and for every succeeding period of ten years shall be determined, irrespective of improvements, in accordance with the provisions of section six of the "Crown Lands Act of 1889."

The Governor may from time to time by regulations define the minimum period of living on the land in each year which shall be taken to satisfy the aforesaid obligation, being not less than seven months in every year; and may in the like manner provide for the granting of exemptions from the performance of the aforesaid obligation or for the relaxation thereof in such cases of inability, difficulty, or hardship as are likely to arise, and may attach such conditions to the granting of an exemption or relaxation as may appear desirable. Regulations as to the performance of obligation to reside.

*Crown Lands.*

desirable to secure the proper user of the land and to carry out the policy of this Act, but no such exemption or relaxation shall be granted for more than one year either retrospectively or in advance.

In any case where, in pursuance of the regulations for the time being in force, an exemption or relaxation has been granted, and the conditions, if any, of such exemption or relaxation fulfilled, a forfeiture shall not be enforced for the non-performance of the obligation to live on the lands granted during the period of such exemption or relaxation.

The Governor shall not have power to discharge, release, or abrogate the obligation to live upon the lands held under any such grant or to pay the rent, and the acceptance of rent shall not of itself constitute a waiver of any forfeiture which may have accrued.

The grant of a homestead selection may contain provisions to secure the creation and maintenance of channels for drainage or irrigation purposes, and the preservation or planting of trees for timber and shade, and such reservations of rights, powers, minerals, and materials as may appear to the Governor necessary in the public interest.

Upon the forfeiture to the Crown of any lands held under a homestead grant, the Registrar-General shall make an entry of such forfeiture upon the folium of the register containing such grant, and the holder of the duplicate copy of such grant shall deliver up the same to the Registrar-General for the purpose of being cancelled.

No transfer of the lands described in a homestead grant shall be registered by the Registrar-General unless the Minister certifies, in the prescribed form, that all the obligations of the grant have been duly fulfilled up to the date of such certificate, and the registration of such transfer shall be evidence of the fulfilment of all the obligations under the grant up to the date of the aforesaid certificate.

*Homestead Selections without residence before grant.*

Homestead selections  
without residence  
before grant.

18. In any case where the applicant for a homestead selection is debarred by his calling from living on the selection, the condition precedent may, until issue of a grant, be performed by a deputy, to be approved by the Local Land Board; but in every such case:—

- (a) The application shall be expressed to be made under the provisions of this section, and the full amount of survey fee shall be paid therewith; and the applicant shall, before his application is confirmed, satisfy the Local Land Board that his calling prevents him living on the selection, and that he ultimately intends to establish his home thereon; and
- (b) A deputy to be approved by the Local Land Board shall perform the condition of living on the selection; and
- (c) The annual rent, until issue of the grant, shall be three and one-half per centum of the capital value; and
- (d) The dwelling house to be erected and maintained shall be not less than forty pounds in value; and
- (e) The applicant shall, within three years after the confirmation of the application, have not less than one-tenth of the area of the homestead selection in full tillage, and shall during the fourth and fifth years after the confirmation have one-fifth of such area in full tillage, to the satisfaction of the Local Land Board.

Save as aforesaid, all provisions as to homestead selections shall apply to a homestead selection under this section, and the grant thereof when issued shall be in the same terms as the grant of a homestead selection in other cases: Provided always that a conflicting application from a person intending to personally perform the obligation of residence shall in all cases have priority over an application under this section lodged at the same time.

*Dispensation*

*Crown Lands.**Dispensation of requirements of residence in certain cases.*

19. If a number of homestead selectors, embracing at least twenty families, with a view to greater convenience in the establishment of schools and churches, and to the attainment of social advantages of like character, ask to be allowed to settle together in a hamlet or village adjacent to their selections, the Governor may, in his discretion, vary or dispense with the requirements as to residence upon the homestead selection and substitute residence in such hamlet or village, subject to such conditions as he may prescribe.

Dispensation of requirements of residence in certain cases.

*Conversion of Conditional Purchases into Homestead Selections.*

20. Any conditional purchase applied for before the commencement of this Act (whether within a special area or not) together with any conditional lease held by virtue thereof or any adjoining conditional purchases or conditional leases of the same series held by the same person, and although exceeding an area of one thousand two hundred and eighty acres, may, at any time after the issue of the certificate of conformity in respect of such conditional purchase, be converted in the prescribed manner into a homestead selection. And the Governor may thereupon issue forthwith a homestead grant of the lands comprised within the series. For the purpose of determining the amount of rent payable the capital value of the land shall for the first ten-year period after the grant thereof be taken to be the sum required to purchase from the Crown the lands comprised within the series, less any sums paid before the conversion as purchase money of any part of such series, exclusive of sums paid by way of interest; and for every succeeding ten-year period the capital value of the land shall, for the aforesaid purpose, be taken to be the unimproved value thereof as determined in accordance with the provisions of section six of the "Crown Lands Act of 1889," less any sums paid before the conversion as purchase money of any part of such series, exclusive of sums paid by way of interest. The capital value of the land held under conditional lease shall be for the first ten-year period thereof deemed to be the amount of the rent then payable, capitalised on a two and a half per centum basis, provided that the lessee may, upon a request made in his application for conversion under this clause, obtain a reappraisalment of the value, as prescribed by section thirteen subsection (II).

Conditional purchaser may obtain homestead grant.

*Surrender, &c., of Homestead Selections.*

21. The holder of an estate in fee-simple in possession in any lands granted under a homestead grant may, with the consent of the Governor, surrender the said lands to the Crown by an instrument in the prescribed form; the surrenderor shall be entitled to tenant right (as the same is hereinafter defined) in improvements existing at the date of such surrender upon the surrendered lands.

Surrender, &c., of a homestead grant and tenant right.

Upon the forfeiture to the Crown of lands granted under a homestead grant, the Governor (upon application in the prescribed manner) may, by notification in the *Gazette*, grant the last owner of such lands tenant right (as the same is hereinafter defined) in improvements existing at the date of such forfeiture upon the forfeited lands.

*General provisions as to Conditional Purchases made applicable to Homestead Selections.*

22. Except as against the Crown, any land which has been applied for as a homestead selection, and for which the application has been confirmed, shall be deemed to be land contracted to be granted, and except as aforesaid the confirmation of the said application shall be deemed to be a sale of the said land.

General provisions as to conditional purchases made applicable to homestead selections.

*Crown Lands.*

The following sections of the Principal Act (together with all sections amending the same), sections one hundred and twenty-one, one hundred and twenty-two, one hundred and twenty-three, one hundred and thirty-five, and one hundred and forty-one of the "Crown Lands Act of 1884," sections thirty-two, forty-two, and forty-four of the "Crown Lands Act of 1889," and the Act fifty-fifth Victoria number one shall apply to homestead selections, until the grant thereof, in the same way as if the expression "purchase" or "conditional purchase" included a homestead selection, and the expression "conditional purchaser" included the applicant for or holder of a homestead selection.

*Protection of Homestead Selections.*

Protection of  
homestead selections.

23. The owner for the time being of a holding consisting of a homestead selection whether granted or ungranted, may in any case where his home is established upon such holding, obtain for such holding protection under this Act by registering with the land agent for the district, or any other prescribed authority, an instrument in the prescribed form; and the land agent or other prescribed authority shall enter such particulars as may be prescribed in a book to be kept by him for the purpose, and such book shall be open to inspection by the public at such times and subject to such conditions as to payment of fees or otherwise as may be prescribed.

Any holding protected under this Act—

- (a) Shall not be sold under any writ of execution issuing out of any Court; and
- (b) Shall not vest in any official assignee or trustee, or be ordered to be conveyed upon the bankruptcy of the owner thereof, or pass by any assignment for the benefit of his creditors; and
- (c) Shall not in any other way be taken from the owner thereof for the satisfaction of any debt or liability under process or constraint of law.

Any transfer, assignment, alienation, conveyance, charge, or incumbrance of a holding protected under this Act shall be absolutely void, but nothing herein contained shall affect the validity of any such charge or incumbrance created before the holding, which is the subject thereof, was registered.

Registration shall not have the foregoing effect, if the owner is in insolvent circumstances at the date thereof; and the protection shall cease as to any holding,

- (a) When the owner ceases to live thereon as his home; or
- (b) When he obtains for another holding protection under this Act; or
- (c) When the owner transfers the holding.

Provided always that nothing in this section contained shall

- (a) exempt the holding, or part thereof, or interest therein, from levy or sale for rates or taxes hereafter to be legally imposed; or
- (b) affect any remedy for any cause of action accruing before the registration, or for any breach of trust, or for any debt for rent, instalments of purchase money, or interest due to the Crown, or any power of forfeiture.

*Settlement Leases for Agriculture and Grazing.*

Settlement lease  
areas.

24. The Governor may, subject to the provisions of and under the power hereinbefore conferred, set apart any tract of Crown lands to be disposed of by leases under the provisions hereinafter contained.

Any

*Crown Lands.*

Any tract which has been so set apart shall be dealt with as follows:—

- (i) A subdivision shall be made thereof into farms, which in cases where the land appears suitable for agriculture, shall not contain more than one thousand two hundred and eighty acres; and in cases where the land appears suitable chiefly for grazing shall not be more than ten thousand two hundred and forty acres in area; and the standard to be adopted in regulating the extent of each such farm shall be that the lessee thereof may be able to establish and maintain a home thereon by the use of the land.
- (ii) A valuation of the said farms shall be made according to the capabilities and situation of the farm, and in making such valuation, due regard shall be paid to the term and conditions of a settlement lease, and to the intention of these provisions that the lessee may be enabled to establish and maintain his home thereon.
- (iii) The value, to an incoming tenant, of any improvements on any such farm may be appraised by the Minister after inquiry and report by the Local Land Board in the prescribed manner, and such appraisal shall, as between the Crown or the owner of the improvements as the case may be and any person taking such farm, be conclusive evidence of the value of the improvements at the date of the appraisal.
- (iv) A notification shall be published in the *Gazette* and in a local newspaper, giving particulars of the areas, values, and qualities of the said farms, and of the appraised value of any improvements thereon, and specifying a date from and after which leases of the said farms may be applied for; the area and value of any farm as stated in the said notification shall be taken to be the area and capital value thereof for the purposes of the provisions hereinafter contained.
- (v) From and after the date so specified, any person not disqualified by the Crown Lands Acts may apply to the Land Agent for any farm notified as aforesaid. The application shall be made in the prescribed manner, and shall be accompanied by one half year's rent in advance, and by a survey fee upon the prescribed scale. Application for settlement lease.
- (vi) The applicant shall satisfy the Local Land Board that he is qualified to make the application, and that the same has been made in accordance with the provisions of this Act. The Local Land Board shall confirm the application, if so satisfied, unless it permits the applicant to withdraw the same; if not so satisfied it shall disallow the application.

The concluding part of subsection (v) and the whole of subsection (vi) of section thirteen of this Act shall as far as applicable apply to this section.

*Settlement Leases.*

25. The Governor may grant to an applicant whose application has been confirmed by the Local Land Board, a settlement lease of the farm applied for; and upon the issuing of the lease, the applicant may take possession of the farm, and any occupation license or annual lease shall thereupon cease and determine in so far as it affects the said farm. Settlement leases.

The term of the lease shall be twenty-eight years, and the lease shall be in the prescribed form, and shall contain provisions to secure:—

- (a) That the lessee shall pay an annual rent of one and one quarter per centum on the capital value of the farm as fixed under this Act:
- (b)

*Crown Lands.*

- (b) That the lessee shall pay the value of the improvements as appraised, and interest on such value at the rate of four pounds per centum per annum, the payment being made in one instalment or at his option in three equal yearly instalments at the dates and in the manner prescribed :
- (c) That the lessee shall reside on the farm and make it his *boná fide* residence during the whole term, or if the lease have been transferred by way of *boná fide* mortgage, then that the owner, subject to such mortgage, shall so reside :
- (d) That the lessee shall fence the farm within five years :
- (e) That the lessee shall conform to any regulations made by the Minister relating to keeping the farm clear of rabbits and other noxious animals, and also to clearing the farm of scrub and noxious weeds.
- (f) That the lessee shall not assign or sublet without the Minister's consent.
- (g) That the Governor may forfeit the lease upon breach of any of the conditions, covenants, and provisions therein contained. The lease may also contain such additional provisions, conditions, and covenants as to the Governor may seem expedient in the public interest.

Upon the expiration of the full term of the lease the last holder thereof shall have tenant right (as the same is hereinafter defined) in the improvements thereon.

*Improvement Leases.*

## Improvement leases.

26. The Governor may, under this section, grant leases of Crown lands, which, by reason of inferior quality, heavy timber, scrub, noxious animals, undergrowth, marshes, swamps, or other similar cause, are not suitable for settlement until improved, and can only be rendered suitable by the expenditure of large sums in the improvement thereof. The granting of the leases shall be subject to the provisions hereunder contained :—

- (I) The term of the lease shall not exceed twenty-eight years, and shall commence from the date of the execution of the lease.
- (II) The area included in the lease shall not exceed twenty thousand four hundred and eighty acres.
- (III) The amount bid at a sale by public auction of the lease or offered by an accepted tender shall be the yearly rent of the lease ; but an upset rent may be placed upon any such lease, if offered by auction, and the Governor shall not be bound to accept any tender.
- (IV) The lease may contain such covenants and provisions as to the Governor may seem expedient according to the circumstances of each case, and all such covenants and provisions shall be notified in the *Gazette* and in a local newspaper before the lease is offered for sale or tenders called for. The lease shall contain covenants and provisions for the improvement of the land leased and for the expenditure of money thereon, for the payment of rent, and for the determination of the lease upon any breach by the lessee of the covenants and provisions thereof.
- (v) Upon the expiration of the term of the lease by effluxion of time the lessee shall have tenant-right (as the same is hereinafter defined) in improvements.



*Crown Lands.*

- (VI) The Governor may on application as prescribed extend the term of any scrub or inferior land lease granted under the Principal Acts to a term not exceeding twenty-eight years on such terms and conditions as he may think fit, but such term shall be computed from the commencement of such lease under those Acts, and may grant to the last holder thereof tenant right as defined in this Act.

*Homestead Grants out of Leases.*

27. The holder of any pastoral or homestead lease in the Western Division, or of any scrub lease not being within a pastoral or homestead lease, or of any lease of inferior lands, whether granted before or after the commencement of this Act, or of any improvement lease, whose dwelling-house may be erected on Crown lands, may, at any time during the last year of the term of the lease, apply for the portion of the leasehold which contains such dwelling-house not exceeding six hundred and forty acres in area, as a homestead selection, subject to the provisions hereunder contained:—

- (I) The area which may be so applied for shall, before the date of the application for the same, have been improved by the holder of the lease or his predecessors in title with permanent, fixed, and substantial improvements to the value of one pound per acre, and the improvements shall at the date of the application be on the land and be the property of the applicant.
- (II) The application shall be made in the prescribed manner, and the applicant shall, before the grant is issued, pay the full cost of survey.
- (III) The land shall be measured in the same form as if it were an original conditional purchase, and the measurement shall be completed before the application is confirmed, and the Local Land Board shall have the same powers of modification, allotting land, and otherwise, in respect of any such application as it has in the case of applications for conditional purchases.
- (IV) The Governor may thereafter grant to the applicant the land for which the application has been confirmed as a homestead selection, the value of which shall be determined in accordance with the provisions of section six of the "Crown Lands Act of 1889," and be subject to reappraisal as also hereinbefore provided.
- (V) Upon the issuing of the grant the land granted shall be withdrawn from the lease, but the lease shall otherwise continue in full force and effect.

The holder of a settlement lease may make the like application for a homestead selection out of the land leased, and the foregoing provisions (other than that requiring improvements to the value of one pound per acre) shall apply in any such case, except that the maximum area which may be applied for and granted shall be one thousand two hundred and eighty acres.

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*Crown Lands.*


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## PART IV.

*Conditional Purchase, &c., Amendments.**Suspension of payment of Instalments upon Conditional Purchases.*

Suspension of pay-  
ment of instalments.

28. The holder of a conditional purchase may, in case of temporary inability to pay the instalments of purchase money thereon as they fall due, apply to the Minister in the prescribed manner that the condition of payment attaching thereto may be suspended; and the Minister may, either with or without reference to the Local Land Board, upon the conditional purchaser paying the prescribed fee to cover expenses incurred by the Crown in consequence of the aforesaid application, suspend the said condition for one year under any one suspension.

During the period of any such suspension, interest on the balance of purchase money, calculated at the rate of four per centum per annum, shall be added to the balance of the purchase money owing, unless the conditional purchaser pays such interest on the date at which an instalment of purchase money would otherwise be payable.

The Minister shall not grant suspension of the condition of payment unless he is satisfied that the holder of the said conditional purchase, or if the same has been transferred by way of mortgage, that the owner thereof subject to such mortgage, is in residence upon the said conditional purchase, or upon some purchase or lease of the same series, and is the holder or owner thereof (as the case may be) *boná fide* for his sole use and benefit.

Suspension of the condition of payment shall be deemed to be determined:—

- (a) Upon the conditional purchase being transferred; or
- (b) Upon the holder or owner ceasing to reside upon the series; or
- (c) Upon an instalment of the purchase money being paid.

Upon the expiration of the period of suspension, payment of instalments, as prescribed by the Crown Lands Acts, shall be resumed, and no sums paid by way of interest as aforesaid shall be taken to form part of the balance of purchase money.

*Term of Residence for Conditional Purchases applied for after this Act.*

Term of residence to  
be ten years.

29. The holder of any conditional purchase applied for after the commencement of this Act (not being under section forty-seven of the "Crown Lands Act of 1884") shall hold the same subject to a condition of residence until the expiration of ten years from the date of the application for the conditional purchase. Residence for the purposes of the said condition shall be taken to mean continuous and *boná fide* living on the land as the holder's usual home without any other habitual residence:

Provided always that—

- (a) When a conditional purchase has been transferred *boná fide* by way of mortgage the condition of residence may be performed by the owner subject to such mortgage; and
- (b) When the beneficial owner of a conditional purchase dies, or is declared a lunatic, the condition of residence shall be suspended until the conditional purchase has been transferred or conveyed, and no longer; and
- (c) The Local Land Board shall hold inquiries after the expiration of five and ten years from the date of the application whether all conditions applicable to the conditional purchase  
except

*Crown Lands.*

except payment of balance of instalments have so far been duly complied with, and if the Board be satisfied of such compliance it shall issue certificates to that effect; and

- (d) The conditional purchase may be transferred at any time after the issue of the first certificate, and shall not be transferred before the issue thereof, and the grant shall not be issued before the issue of the second certificate.

Upon any default in the performance of the said condition of residence the Minister shall have the same power of forfeiture as he now has in other cases of non-fulfilment of the prescribed conditions.

*Residence on Additional Conditional Purchases, &c.*

30. The condition of residence defined in the last preceding section shall attach to every additional conditional purchase or conditional lease applied for after the commencement of this Act, and it shall be immaterial whether the original conditional purchase of the series was made before or after the commencement of this Act. The said condition shall not be taken to have been performed by the performance of the condition of residence which attached to the original conditional purchase, or any prior additional conditional purchase of the same series:

Residence on additional conditional purchases and conditional leases.

Provided always that—

- (a) If the person fulfilling the condition of residence has, before the commencement of the term of such residence, continuously resided upon some purchase or lease of the same series, the term of residence shall be reduced by the period, during which residence was previously carried on, but not so as in any case to be reduced to less than five years; and
- (b) Conditions of residence attaching to any number of purchases or leases of the same series may be performed concurrently; and
- (c) A person residing upon any purchase or lease of a series shall, for the purposes of any conditions of residence, be taken to be residing upon every purchase or lease of the series.

The performance of the aforesaid condition of residence in respect of an additional conditional purchase or a conditional lease shall be waived so long as the person, upon whom the performance of the said condition would for the time being devolve, is the person who applied for the original conditional purchase of the series and for the said additional conditional purchase or conditional lease. But this provision as to waiver shall not operate where the applicant for the additional conditional purchase or conditional lease—

- (a) has taken up a full area; or
- (b) is the owner of a full area; or
- (c) has owned a full area at any time previous to the date of application, and has divested himself of the ownership thereof by transfer, conveyance, assignment, or otherwise, or purported so to do in order to obtain the benefit of the foregoing provision.

In the construction of the foregoing provision a full area shall be taken to mean an aggregate area of conditional purchases and conditional leases, whether of the same or different series, amounting to two thousand five hundred and sixty or more acres in the Central Division, or one thousand two hundred and eighty or more acres in the Eastern Division, or one thousand nine hundred and twenty or more acres if the said conditional purchases and conditional leases are some in one Division and some in another Division.

An additional conditional purchase if made out of a conditional lease applied for before the commencement of this Act shall not be within this section.

*Additional*

*Crown Lands.**Additional conditional purchases and conditional leases not barred by issue of grant for original.*

Payment of balance of purchase money, or issue of grant, not to affect power to extend series.

31. The payment to the Crown of the balance of purchase money due upon any conditional purchase or the issue of a grant in respect thereof shall not prevent additional conditional purchases being made, and conditional leases being granted, in the same way as if the said balance had not been paid, or the said grant had not issued; and it shall be immaterial whether the payment of the said balance or the issue of the said grant took place before or after the commencement of this Act.

All additional conditional purchases and conditional leases, the applications for which were confirmed before the commencement of this Act, are hereby declared to have been and to be valid, so far as regards any objection to the validity thereof based upon the fact that before the date of the application therefor, the balance of purchase money had been paid, or a grant had been issued, in respect of the original conditional purchase or any prior additional conditional purchase of the same series:

Provided always that the foregoing declaration shall not prejudice or affect any application lodged, or title acquired, before the commencement of this Act.

*Abolition of Declarations.*

Abolition of declarations of fulfilment of conditions.

32. After the commencement of this Act no declaration (whether now due or hereafter to become due) as to the due fulfilment of any condition of residence, fencing, or improvement shall be required in connection with any conditional or additional conditional purchase, whether made before or after the commencement of this Act. Any provision requiring a declaration to be made as to the due fulfilment of any such condition as aforesaid shall be construed, as if the same required the due fulfilment of the said condition and, if there be no other definition of such condition, defined the nature thereof.

*Alternative condition of fencing or of improvement.*

Condition of fencing or improvement to be alternative; extension of period for fencing.

33. Every conditional purchase, not being under section forty-seven of the "Crown Lands Act of 1884," and every conditional lease shall be subject, at the option of the purchaser or lessee, and without any application in that behalf, to a condition of fencing, or in the alternative to a condition of improvement. All the provisions of the Principal Act in respect of the said conditions and all incidents thereof shall be applicable to every such conditional purchase and conditional lease as aforesaid with the following qualifications:—

- (a) The period for fulfilment of the condition of fencing shall (subject to the provisions whereby an extension of the period or a suspension of the condition may be granted) be three years.
- (b) No application for permission to substitute other improvements in lieu of fencing need be made.

The provisions of this section shall apply to any existing conditional purchase or lease, the application for which has been confirmed within two years before the commencement of this Act:

Provided always that the right to sue, or impound, for trespass by stock upon the lands, whilst unfenced, shall be subject to the provisions hereinafter contained.

*Subdivision*

*Crown Lands.**Subdivision of Conditional Purchases.*

34. Any conditional purchase of not less than one hundred acres may, upon application by the holder at any time after the issue of a certificate of conformity in respect thereof, be subdivided into portions which shall in no case be less than forty acres each. Subdivision of conditional purchase.

The application shall be accompanied by the prescribed deposit which shall be available for the payment of the costs of any survey and report which may be required; and the applicant shall surrender such land as may be necessary for providing roads of access to the subdivided portions, which land shall thereupon become Crown land free from any claim of the conditional purchaser thereto.

The Local Land Board shall settle the line or lines of subdivision so as to conform to any regulations which may be made in that behalf, and shall determine the portion of the subdivided conditional purchase, to which any conditional lease acquired in virtue of the conditional purchase before the subdivision thereof shall be attached, but so that the conditional lease shall be attached to such portion thereof as the applicant proposes not to transfer.

After subdivision the balance of purchase money payable in respect of any portion of the subdivided conditional purchase may be paid up and a grant thereof issued, as if such portion were a separate conditional purchase.

No portion measured off in any such subdivision as aforesaid shall be capable of being separated by transfer, devolution, or otherwise from the residue of such portions, until a grant of such first-mentioned portion has been issued.

*Conditional Leases.*

35. Subject to payment of rent and fulfilment of any prescribed conditions, all conditional leases, whether granted before or after the commencement of this Act, shall have a term of twenty-eight years from the respective dates of their commencement: Provided that at the expiration of the first period of fifteen years of the lease the rent of the land may, on the application of the lessee, or on a reference by the Minister be redetermined in accordance with the provisions of section six of the "Crown Lands Act of 1889." Extension of term of conditional leases.

The Governor may, upon application in the prescribed manner, give, by notification in the *Gazette*, tenant right in improvements to the last holder of a conditional lease which has been forfeited or surrendered, and shall give such tenant right to the last holder of a conditional lease which has expired.

*Conditional Purchases within Special Areas.*

36. Where an application for a conditional purchase within a special area has been confirmed before the commencement of this Act, the value per acre of the said conditional purchase may be determined by appraisal in accordance with the provisions of section six of the "Crown Lands Act of 1889," if the holder of the conditional purchase makes the prescribed application within three months after the commencement of this Act, such application being accompanied by a fee of the prescribed amount. Value of conditional purchases within special areas may be determined by appraisal.

The value of the conditional purchase as so determined shall be taken to have been and to be the purchase money payable by the conditional purchaser, and any sums paid before the aforesaid determination of value shall be taken to have been paid partly on account of such purchase money and partly on account of interest, such

*Crown Lands.*

such interest being at the rate of four per centum per annum on the balance of the said purchase money for the time being unpaid. No part of the moneys paid before the date of the aforesaid determination of value shall be refunded or shall be set off against any payment becoming due after the aforesaid date; and until the determination of value as aforesaid payments shall be made as if no application had been lodged.

After the aforesaid determination of value the instalment annually payable shall be one-twentieth of such value, or in the case of conditional purchases under section forty-seven of the "Crown Lands Act of 1884," one-tenth of such value; and the payment of instalments of the said amount shall be continued until payment of the purchase money, together with interest on the balance for the time being unpaid at the rate of four per centum per annum has been completed.

The apportionment of sums paid before the aforesaid determination of value between purchase money and interest shall be subject to the following provisions:—

- (a) The deposit and the first instalment shall be taken to have been paid wholly on account of purchase money.
- (b) The amount of every instalment succeeding the first shall be appropriated in the first place to the payment of interest as aforesaid, and the residue thereof shall be credited to purchase money.

## PART V.

*General Provisions.**Formal applications to Local Land Board.*

Attendance before Board not required for formal application.

37. The Chairman shall have power, on behalf of a Local Land Board, to deal with applications for—

- (a) Permission to inclose a road or water-course wholly or in part.
- (b) Suspension of the condition of fencing attaching to a conditional purchase, conditional lease, or homestead lease, or extension of the period within which the condition shall be fulfilled.
- (c) Exemption from fencing any portion of the boundary of a conditional purchase, conditional lease, or homestead lease.
- (d) Exemption to the members of one family in pursuance of section seventeen of the "Crown Lands Act of 1889," from any condition of fencing or improvement, other than the erection of a ring fence; and for prescribing the character of such fence and fixing or extending the term within which the fence shall be erected.
- (e) For such other formal orders as may from time to time be prescribed.

The Chairman may deal with any such applications as aforesaid, not sitting in open Court, and after having given notice to the parties concerned; and where he does not grant the application the same shall afterwards be dealt with in due course by the Local Land Board; and he may in any case, instead of dealing with an application as aforesaid, bring the same before the Local Land Board.

*Ballots*

*Crown Lands.**Ballots.*

38. When any applications lodged with the land agent at the same time are conflicting (whether severally or collectively), the land agent shall determine by ballot in the prescribed manner the priority of the applications. Amendment of the law as to ballots.

Where the Land Agent has omitted to hold a ballot, or has held a ballot but not in the prescribed manner, the Local Land Board may direct the Land Agent to hold a ballot or a fresh ballot as the case may be.

Conflicting applications shall be dealt with by the Local Land Board in the order of their priority as determined by ballot.

Applications for conditional purchases and conditional leases of the same series shall, for the purposes of any ballot, be deemed to form together a single application for the whole of the land comprised within the said applications taken conjointly.

*Deposit on Appeals from Local Land Board.*

39. After the commencement of this Act the sum to be deposited with every notice of appeal against any recommendation, determination, decision, or award of any Local Land Board, shall be five pounds, anything in the Principal Act to the contrary notwithstanding. Deposit on appeals from Local Land Board.

*Limitation of Privilege of Selecting, &c.*

40. Homestead selections, settlement leases, original homestead leases and original conditional purchases (such homestead leases and conditional purchases being applied for after the commencement of this Act) form the class of holdings referred to in this and the next following sections. The privilege of selecting, &c., when exhausted.

No person, who, after the commencement of this Act, applies for any holding of the aforesaid class, and obtains a title thereto in pursuance of such application, shall be qualified to apply for another holding of the aforesaid class whether of the same kind as, or of a different kind from, the holding first applied for, unless he has previously obtained a certificate as prescribed that he was compelled by adverse circumstances to abandon or to surrender the holding first applied for.

For the purposes of this section title in pursuance of an application shall be taken to have been obtained—in the case of homestead selections, settlement leases, and original conditional purchases—when the application has been confirmed by the Local Land Board, and in the case of homestead leases when the approval of the issue of the lease has been notified in the *Gazette*, and a valid notice of non-acceptance has not been duly given :

Provided always that if the holding first applied for were a settlement lease or an original homestead lease, the disqualification enacted by this section shall cease to operate upon the expiration of the term of the lease by effluxion of time, or if the lease have been forfeited, surrendered, or otherwise sooner determined then upon the expiration of the period which the term of the lease would have had to run, but for such forfeiture, surrender, or other sooner determination :

Provided, nevertheless, that notwithstanding the non-obtaining of such certificate, any person may, with the approval of the Minister in writing previously had, exercise any right conferred under this or the Principal Act.

*Disqualifications*

*Crown Lands.**Disqualifications from Selecting, &c.*

Disqualifications.

41. No person shall be competent to apply for any holding of the class referred to in the last preceding section who—

- (a) At the date of application owns; or
- (b) Owned at any time previous to the date of application, and fraudulently divested himself of the ownership thereof by transfer, conveyance, assignment, or otherwise, or purported so to do, in order to evade the foregoing provision;

an area of land, which area, added to the area of the holding applied for, shall exceed as a total area the maximum area permitted by law to the class of holding applied for.

For the purposes of the foregoing provision lands granted in fee simple, or conditionally purchased, or conditionally leased, from the Crown shall alone be taken into account.

A person who is not a natural-born or naturalized subject of Her Majesty shall not be qualified to apply for any holding of the class referred to in the last preceding section unless he has resided in New South Wales for one year, and at the time of making such application he lodge a declaration of his intention to become naturalized within five years from the time of making such declaration. And if such person fails to become so naturalized within the period aforesaid, he shall absolutely forfeit all land the subject of his application, together with all improvements thereon.

*Application to be made in Good Faith.*

Good faith in applicants essential.

42. Every application for a homestead selection or conditional purchase, or for a settlement, conditional, or homestead lease, is hereby required to be made in good faith; and an application shall be taken to be made in good faith when the sole object of the applicant in making the application is to obtain the land or a lease thereof, as the case may be, in order that he may hold and use the land for his own exclusive benefit according to law.

The Local Land Board shall disallow an application for any such holding as aforesaid, or in the case of a homestead lease shall recommend that the application be refused, unless it be satisfied that the application is made in good faith.

In any case where the Local Land Board is satisfied that an application for any such holding as aforesaid has been made otherwise than in good faith, it shall have power to declare that any moneys lodged with such application shall be forfeited to the Crown, and the same shall be forfeited accordingly:

Provided always that the Local Land Board shall not disallow an application for an additional conditional purchase or for an additional homestead lease as not having been made in good faith, merely because the original conditional purchase or original homestead lease is subject to a mortgage.

Every application for a conditional purchase, or conditional or homestead lease, which is pending at the commencement of this Act, shall be deemed to be within the provisions of this section.

*Forfeiture for want of Good Faith.*

Forfeiture of holding for want of good faith.

43. In any case where an application for a homestead selection, a conditional purchase, or for a settlement or conditional lease has been confirmed, or an application for a homestead lease has been recommended for approval, after the commencement of this Act, and it appears to the satisfaction of the Local Land Board—

- (a) that the application was not made in good faith; or

(b)



*Crown Lands.*

(b) that the land is not held or used for the exclusive benefit of the selector, purchaser, lessee, or apparent owner thereof;

The Governor shall have power to forfeit, by notification in the *Gazette*, the selection, purchase, or lease in question, together with all moneys paid thereon.

Nothing in this section contained shall affect any person acquiring any interest in a homestead selection, conditional purchase, settlement lease, conditional lease, or homestead lease, after the same becomes capable of being transferred, unless he shall, before acquiring such interest, have had notice of a violation of the provisions of the last preceding section, or of the intention to institute an inquiry as to such violation.

Any person who, before the issue of a certificate of conformity in respect of a conditional purchase, whether made before or after the commencement of this Act, takes a transfer or conveyance thereof, or of any interest therein, shall be held to have taken the same with notice and knowledge of all facts and matters by reason of which such conditional purchase may be liable to be forfeited or declared void.

All agreements for the sub-letting of a homestead lease shall be in writing, and a copy of every such agreement shall be verified and sent to the Chairman of the Local Land Board in the prescribed manner. Any sub-letting which is not effected by an agreement in writing, or in respect of which a copy of the agreement is not verified and sent as aforesaid, may, in the absence of any sufficient explanation, be taken to be evidence that the homestead lease is not held or used for the exclusive benefit of the lessee or apparent owner thereof.

*Validation of Purchases and Leases.*

41. Any purchase or lease of Crown lands purporting to have been heretofore made or granted under the provisions of the repealed Acts or the Principal Act, shall not be held to be void by reason of any breach or non-observance of the provisions of the said Acts, but every such breach or non-observance as aforesaid (if of a nature to affect the validity of the purchase or lease) shall render the same voidable only at the instance of the Crown.

Provision for validation or avoidance of purchases and leases generally.

If any such purchase or lease as aforesaid appears to be voidable at the instance of the Crown, the Minister may, in pursuance of section twenty of the "Crown Lands Act of 1884," refer the case to the Local Land Board, which shall investigate the matter and find whether or not the said purchase or lease be voidable; and where the said purchase or lease is found to be voidable, the Governor may, by notification in the *Gazette*, declare the same to be void, and the same shall thereupon become void to all intents and purposes: Provided always that if the application for such purchase or lease has been confirmed by a Local Land Board, the Minister may, in manner hereinafter provided, refer to the Land Appeal Court the decision of the Local Land Board confirming the same.

If the Crown elects to sustain any such purchase or lease as aforesaid, the Governor may, by notification in the *Gazette*, declare that the purchase or lease shall cease to be voidable by reason of any breach or non-observance of statutory provisions which may be specified in such notification, and the same shall become valid so far as regards the ground of objection so specified.

Nothing in this section contained shall affect—

(a) Any right accrued prior to the date of such purchase or lease.

(b)

*Crown Lands.*

- (b) Any application for a conditional purchase or lease made before the thirteenth day of September, one thousand eight hundred and ninety-four, in reliance on the fact that the questioned purchase or lease was void.
- (c) Any proceedings pending on the beforementioned day.
- (d) Any remedy by writ of *scire facias* where a grant has been or shall have been issued for any such purchase as aforesaid.

The provisions of this section shall apply in like manner to purchases or leases purporting to be made or granted after the commencement of this Act; but the Governor shall not, in any such case, declare that the purchase or lease shall cease to be voidable, unless notice of the intention to make such declaration shall have lain before both Houses of Parliament for not less than ninety days, without being objected to by specific resolution.

*Reverters.*

Amendment of section 32 of the "Crown Lands Act of 1889."

45. The provision in section thirty-two of the "Crown Lands Act of 1889," whereby in certain events lands revert or are added to certain leases, reserves, or other areas as therein set forth, but only in case such lands are wholly situated within the external boundaries of such leases, reserves, or other areas shall, after the commencement of this Act, extend and apply to cases where the lands are in part situated within such external boundaries: Provided always that only so much of the said lands shall revert or be added to the lease, reserve, or other area as is situated within the aforesaid external boundaries.

For the purposes of section thirty-two of the "Crown Lands Act of 1889" and of this section:—

- (a) The external boundaries of any pastoral lease or occupation license are hereby declared to be and to have been so much of the external boundaries of the pastoral holding duly defined under authority or recognised by the Lands Department as together with the dividing line determined under section seventy-six of the "Crown Lands Act of 1884" form the ambit within which the pastoral lease or occupation license is situated:
- (b) The external boundaries of any reserve from sale or lease, or license, or reserve from conditional purchase, or of any population area, or special area, or homestead selection area, or settlement lease area, or suburban lands or gold-field, are hereby declared to have been and to be the boundaries as described in the *Gazette*:

Provided always that nothing contained in this section shall affect any conditional purchase or conditional or other lease for which the application has been confirmed, approved, or granted before the commencement of this Act.

*Special Leases.*

No fixed minimum rental for special lease.

46. Notwithstanding anything to the contrary in the Principal Acts, there shall not be any fixed minimum rental for any special lease: A special lease may be granted for business purposes or for the erection of buildings: The term of any special lease (whether applied for before or after the commencement of this Act) may be fixed for, or extended to, any term not exceeding twenty-eight years.

*Exchanges*

*Crown Lands.**Exchanges and Surrenders.*

47. It shall be lawful for the Governor, on behalf of the Crown, with the consent of the owner, to exchange any Crown lands for any other lands of which a grant in fee simple has been issued or may be called for, and to accept such surrenders and issue such grants as may be necessary for effectuating an exchange. Exchange and  
surrender.

It shall be lawful for the Governor to accept a surrender of lands, in respect of which a balance of purchase money remains unpaid, if upon payment of such balance with or without interest thereon, the right to a grant of the said lands in fee simple will become absolute, and to grant Crown lands in exchange therefor; but in any such case the acceptance of the surrender shall not be taken to affect the aforesaid balance of purchase money or any right, remedy, or liability in respect thereof, and a grant of the Crown lands allotted in exchange shall not be issued until the aforesaid balance of purchase money together with interest has been duly paid.

When any lands have been surrendered as aforesaid and Crown lands have been allotted in exchange therefor, the provisions of the Principal Act in respect of the payment of the balance of purchase money together with interest and of forfeiture upon default, shall be deemed to apply to the lands so allotted in the same way as if the lands so allotted were the lands originally purchased.

The Governor may reserve from sale and lease any lands included in an application or proposal for an exchange; and the Local Land Board shall inquire into and report upon any application or proposal referred to such Board by the Minister, and the values of any lands included therein shall be determined in accordance with the provisions of section six of the "Crown Lands Act of 1889," before the exchange is carried out. In any such exchange the lands exchanged shall as nearly as practicable be of equal value, or if the Crown lands to be granted be of greater value the difference of value shall be paid before any grant is issued.

A surrender of lands to the Crown shall be evidenced by an instrument in the prescribed form, which shall, without enrolment in the Supreme Court, revert the surrendered lands in Her Majesty, Her Heirs and Successors according to law; and an entry of any such instrument shall be made in the Register under the Real Property Act in all cases where it may be necessary.

Lands so surrendered shall become Crown lands for the purposes of the Crown Lands Acts, but shall not be available for the purposes of any application until a notification to that effect has been published in the *Gazette*. And such surrendered lands may by notice in the *Gazette* be added to any adjoining lease or license or conditional purchase or homestead selection (notwithstanding that such lease, license, purchase, or selection may or may not already contain the maximum area prescribed by law), subject to such conditions as to payment of purchase money or rental as may be determined by the Governor, and consented to by the lessee, licensee, purchaser, or selector.

Notwithstanding anything to the contrary contained in section forty-six of the "Crown Lands Act of 1889," it shall be lawful for the Governor, in any case in which the public interest seems so to demand, to require that any surrender under the said section shall be a surrender of the land together with any improvements thereon; and upon the surrenderor consenting in writing thereto, the said improvements shall, upon the acceptance of the surrender, become the property of the Crown. Any application or proposal for exchange of land lawfully made before the commencement of this Act, and not refused on its merits or withdrawn, may be completed, subject to all  
the

*Crown Lands.*

the conditions agreed upon under the original application or proposal notwithstanding the expiration of the pastoral lease, in virtue of which such application was made.

Every proposal for surrender and exchange shall be notified in the *Gazette* and in a local newspaper.

*Interest on Overdue Payments.*

Overdue moneys to  
bear interest  
accruing day by day.

48. So much of section ninety-six of the "Crown Lands Act of 1884" as enacts that the forfeiture of any lease for non-payment of rent may be prevented by payment thereof with an additional sum equal to five per centum of the amount due within three months of the due date thereof or of ten per centum of such amount within six months of such date is hereby repealed.

Any sums which shall hereafter become payable to the Crown, whether as rent, license fee, purchase money, interest, payment for improvements, or otherwise, shall from and after the due date for the payment thereof bear interest at the rate of ten per centum per annum, and such interest shall be considered as accruing due day by day. Any such sums as aforesaid, which now are payable to the Crown, shall, from and after the commencement of this Act, bear the like interest accruing in the like manner: Provided always that any rent now payable shall not commence to bear such interest until after the expiration of the six months referred to in the aforesaid section ninety-six, and that after the expiration of such six months the said interest shall be calculated on the original amount of the rent together with the additional sum referred to in the said section. Nothing in this section contained shall be construed so as to prevent or to compel the enforcement of any forfeiture, or the acceptance of any overdue sums together with interest as aforesaid.

*Annual Leases.*

Amendment of the  
law as to annual  
leases.

49. An application under section thirty-three of the "Crown Lands Act of 1889" for an annual lease may be refused by the Minister in any case where the granting of such lease appears to him to be contrary to the public or general interest.

The rent for an annual lease shall commence from the first day of the month succeeding the date of the notification in the *Gazette* of the Minister's approval thereof, or acceptance of the tender for the same, or, in the case of an annual lease sold at auction, from the first day of the month succeeding the date of such sale; the first year of the lease shall expire on the thirty-first day of December then succeeding; and the rent for the first year shall be proportionate to the number of months between the commencement of the lease and the said thirty-first day of December.

*Residential Leases.*

Residential leases.

50. Notwithstanding anything as to area in section forty-eight of the "Crown Lands Act of 1889" it shall be lawful for the Governor to grant residential leases in areas not exceeding twenty acres, and all such lessees before and after this Act shall have tenant right in improvements as hereinafter defined.

*Tenant-right in Improvements.*

Tenant-right in  
improvements.

51. Tenant right shall accrue upon the determination of the lease or other holding by reason of which the tenant right is expressed to be conferred, and shall entitle the person in whom for the time being

*Crown Lands.*

being the tenant right is vested to receive the value to an incoming tenant of the improvements from any persons who make a purchase, or take a lease (not being an annual lease) of the land containing the improvements. And in the event of such persons not paying the amount then due and unpaid for the value of such improvements, such amount or so much thereof as remains unpaid for the time being shall be and remain a charge upon the land containing such improvements while in the hands of a purchaser or lessee until payment thereof. The value of the improvements to an incoming tenant shall be appraised by the Local Land Board in the manner prescribed by section forty-four of the "Crown Lands Act of 1889," but shall be calculated on the basis of the value of such improvements to the land purchased or leased, and the payment of the value shall be made by such instalments, and at such dates, as may be prescribed.

The improvements, in respect of which tenant right is conferred by this Act, shall in all cases be—

- (a) of a permanent, fixed, and substantial character, and necessary for the profitable occupation of the land; and
- (b) the property of the person claiming to have tenant right in respect thereof;

and improvements which were forfeited or forfeitable to, or vested in, the Crown immediately prior to the accruing of the tenant right shall not be included.

Provided always that—

- (a) The tenant-right shall lapse after the expiration of twelve years from the date of its first accruing, and thereafter the improvements shall be the property of the Crown; but such lapsing shall not affect any agreement, appraisalment, or order for payment previously made; and
- (b) The holder of the purchase or lease of the land containing the improvements shall be liable to pay any instalments of the value thereof, as appraised by the Local Land Board, which shall accrue due during his holding; and
- (c) The value of any successful and useful well or bore for artesian water shall not be taken to exceed the first cost thereof, and no allowance shall be made for any unsuccessful or useless well or bore.

*Forfeited lands containing improvements subject to tenant right or ownership.*

52. Where a purchaser or lessee of land shall have paid to the person having tenant right part of the value of the improvements, and the purchase or lease is forfeited, such share of the value of the improvements as is represented by the amount so paid at the time of the forfeiture shall vest in the Crown, and the remaining share of the improvements, or in the case of no such payment having been made, then the whole of the improvements shall continue to belong to the person having tenant right, and shall be subject to tenant right as defined by this Act: Provided that if the land be purchased or leased after the forfeiture fresh appraisalment shall thereupon be made of such share of the value of the improvements as are vested in the person having tenant right. These provisions shall (subject to the provisions of section forty-four of the "Crown Lands Act of 1889") extend to cases where the person is the owner of the improvements without having tenant right therein.

Forfeited lands containing improvements subject to tenant right or ownership.

*Crown Lands.**Appraisalment or reappraisalment of rent or license fee of holding.*

Appraisalment or  
reappraisalment of  
rent or license fee  
of holding.

53. In any appraisalment or reappraisalment under this or the Principal Act, the rent or license fee of the holding in respect of which such appraisalment or reappraisalment is made shall be assessed, irrespective of the unexhausted value of improvements then existing on such holding, and effected or owned by the lessee.

The unexhausted value means the fair cost of making the improvement less depreciation in value from use or otherwise.

*Reclamations.*

Reclamations.

54. In any case where after the commencement of this Act the Governor, under section sixty-four of the "Crown Lands Act of 1884," authorises the reclamation of any land, the Local Land Board shall appraise:—

- (a) The amount by which the value of the whole holding will be enhanced, by reason of the land to be reclaimed having been reclaimed and being held and enjoyed with the land held in fee simple, and
- (b) The amount of the estimated cost of the reclamation;

And the excess (if any) of such first-mentioned amount over such last-mentioned amount shall within three months after the notice in the *Gazette* calling for the same be paid by the applicant to the Colonial Treasurer, and in default of such payment the authority to reclaim may be declared to have lapsed, and the same shall thereupon become void and of no effect.

The applicant shall, within such period as may be allowed for the purpose, complete the reclamation to the satisfaction of the Minister or Local Land Board, as the case may be, and upon the due completion thereof a grant of the land so reclaimed shall be issued.

If the reclamation be not completed to the satisfaction of the Minister or Local Land Board, as the case may be, or be not so completed within the aforesaid period, the Minister may, by notification in the *Gazette*, declare the right to purchase the land, together with all moneys paid thereon to be forfeited, and the same shall become forfeit accordingly; and upon such forfeiture the said authority to reclaim shall become void and of no effect, and any land which may have previously been reclaimed under such authority shall revert to the Crown, freed and discharged from any right or claim of the applicant or any other person in or to the same.

The Governor in giving authority to reclaim in pursuance of section sixty-four of the "Crown Lands Act of 1884," may give the same subject to such terms and conditions as may appear desirable in the public interest, and in particular to the conditions—

- (a) that the reclaimed lands or any portion thereof may be resumed for public purposes by notification in the *Gazette*, and that upon resumption the lands shall vest in the Crown, freed and discharged from all private rights, interests, titles, and estates in and to the same; and
- (b) that no other compensation shall be payable than the value of any improvements upon the lands resumed, effected with the written approval of the Minister first had and obtained, together with a repayment of the purchase money, and of the cost of reclamation, or if the land resumed be a portion only of the land reclaimed, of a fair proportion of such purchase money and cost as aforesaid;

and the grant of any land to be reclaimed under any such authority as aforesaid shall embody the terms and conditions subject to which the authority was given, or such of them as require to be so embodied.

*Trespass*

*Crown Lands.**Trespass and Impounding.*

55. Section one hundred and thirty of the "Crown Lands Act of 1884" is hereby repealed. Trespass by stock on unfenced lands.

No person occupying land under a conditional purchase, homestead selection, conditional lease, homestead lease, settlement lease, or annual lease, or in virtue of an application for a conditional purchase, or for a conditional lease, or a homestead lease shall—

(a) bring an action for trespass committed by stock upon the said land, whether before or after the commencement of this Act; or

(b) impound any stock trespassing upon the said land— unless the said land or the portion thereof trespassed upon was, at the date of the trespass, enclosed with a fence reasonably sufficient to keep out stock :

Provided always that nothing in this section contained shall—

(a) apply to any trespass wilfully caused, or

(b) affect any action which is pending at the commencement of this Act, or

(c) refer to any conditional purchase or homestead selection, for which a grant has been issued at the date of such trespass.

*After-Auction Sales, &c.*

56. The Governor may grant any town or suburban Crown lands or Crown lands within population areas which have been offered for sale at auction and not sold (whether such offering for sale was before or after the commencement of this Act) at the upset price thereof to any person who shall duly apply for the same. Provision as to auction sales.

The applicant shall with his application lodge a deposit of twenty-five per centum of the said upset price, and if the application be approved by the Minister shall pay the balance of the said price, subject to such terms and conditions as were notified in the *Gazette* in connection with the aforesaid offering at auction ; and upon default in the due payment thereof the contract for sale may be cancelled, and any moneys paid may be forfeited by notification in the *Gazette*.

A sale by auction of Crown lands may be held at any place which may appear to the Minister to be most convenient for the purpose, whether such place be within or outside the Land District in which the lands to be sold are situate.

*Alteration of designs of Cities, Towns, &c.*

57. When it is intended to alter or cancel, under section one hundred and seven of the "Crown Lands Act of 1884," the design or plan or limits of any city, town, or village, or suburban lands in which allotments or portions have been sold, notice of the intention and of the nature of the proposed alteration or cancellation shall be published in the *Gazette* and in some newspaper circulating in the district. Alteration of designs of cities, towns, &c.

After first notice in the *Gazette* as aforesaid the Local Land Board shall thereafter assess the loss (if any) of value which may be suffered by the holder of any allotment or portion if the proposed alteration or cancellation is carried into effect.

If the intention to alter or cancel the design or plan is afterwards carried into effect, the sum assessed by the Local Land Board shall be the total sum payable by way of compensation to the said holder, and all persons claiming under or through him ; and such holder and all persons claiming under or through him shall be barred of any action or suit in respect of the alteration or cancellation of the design

*Crown Lands.*

design or plan or limits or the carrying out thereof other than an action for the sum so assessed as aforesaid: Provided however that compensation for loss of value shall be assessed only in cases where the alteration or cancellation of design or plan if carried into effect will deprive the said holder of access from his allotment or portion to the nearest street or road.

*Depasturing Stock on Crown Lands.*

Depasturing stock on Crown lands.

58. The provisions of the one hundred and thirty-third section of the "Crown Lands Act of 1884" shall extend to cases of occupation by the depasturing of stock.

*References to Land Appeal Court.*

References by the Crown to the Land Appeal Court.

59. The Minister may refer to the Land Appeal Court any decision or recommendation of a Local Land Board, whereby the rights, interests, or revenues of the Crown may have been, or may hereafter be injuriously affected, and may likewise refer any case where it may appear that a Local Land Board has, or shall have failed, or neglected, to duly discharge its duty according to law, or that a Local Land Board has or shall have exceeded such duty.

Any such reference shall be duly made, if, and when, a notice in writing that the Minister has referred the case to the Land Appeal Court is given to the Registrar of the said Court, and no provision of the Principal Act in respect of the lodging of appeals shall apply to the giving of such notice; but the Land Appeal Court shall deal with the matter of such reference in the same way, and the rights and liabilities of the Crown in respect of such reference shall be the same, as if such reference were an appeal by the Crown.

Nothing in this section contained shall affect any remedy by writ of prohibition, or mandamus, or in the nature of a mandamus, which the law now allows to the Crown or any person against a Local Land Board.

*Meaning of certain words in Act of 1884.*

Insane patient included in term "declared a lunatic."

60. The words "be declared a lunatic" in this Act and in section one hundred and twenty-five of the "Crown Lands Act of 1884" shall be taken to include a person who has become an "insane patient" within the meaning of the "Lunacy Act of 1878" and the Acts amending the same.

*Regulations.*

Regulations.

61. The Governor may exercise for the purposes of this Act the powers of making regulations conferred upon him by section one hundred and forty-five of the "Crown Lands Act of 1884" and section fifty-three of the "Crown Lands Act of 1889."