

**CROWN LANDS AMENDMENT (HOME SITES)
ACT.**

Act No. 47, 1955.

Elizabeth II, No. 47, 1955. An Act to make further provision with respect to conditions of residence attaching to and the erection of dwellings upon home sites provided out of Crown lands; to remove the restrictions on the transfer of certain holdings in certain circumstances; for these and other purposes to amend the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 13th December, 1955.]

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

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Crown Lands Amendment (Home Sites) Act, 1955."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amend-
ment of
Act No. 7,
1913.

2. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is amended—

Sec. 47.
(Condition of
residence on
conditional
purchases and
conditional
leases
generally.)

(a) by omitting from subsection one of section forty-seven the word "or" where firstly occurring and by inserting in lieu thereof the words "exceeding one acre in area and the holder of a";

(b)

- (b) by inserting next after section forty-seven the following short heading and new section:—

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New sec.

47A.

Condition requiring the erection of a dwelling on certain conditional purchases.

47A. (1) Where an application (whether made before or after the commencement of the Crown Lands Amendment (Home Sites) Act, 1955,) for or for conversion into a conditional purchase is confirmed or granted after such commencement and such conditional purchase does not exceed one acre in area it shall be a condition attaching to such conditional purchase that the holder shall erect a dwelling thereon within one year from the confirmation or granting of such application or such further period as the Minister may allow.

Erection of dwelling to be condition of certain conditional purchases.

This subsection shall not apply to a conditional purchase—

- (a) whereon a dwelling has been erected at the confirmation or granting of the application as aforesaid; or
- (b) which by virtue of any provision of this Act other than section forty-seven is not subject to a condition of residence.

(2) Where in respect of a conditional purchase of an area not exceeding one acre subsisting at the commencement of the Crown Lands Amendment (Home Sites) Act, 1955, a condition of residence attached thereto immediately before such commencement, and such condition of residence was not being performed elsewhere in pursuance of the provisions of this Act, it shall be a condition attaching to such conditional purchase that the holder shall erect a dwelling thereon within one year from such commencement or such further period as the Minister may allow.

This subsection shall not apply to a conditional purchase whereon a dwelling has been erected at such commencement.

(c)

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Sec. 126.

(Suburban holding: condition of residence.)

- (c) (i) by inserting in section one hundred and twenty-six after the word "holding" the words "exceeding one acre in area";
- (ii) by omitting from the same section the words:—

"The local land board, upon application made in the prescribed form, and on sufficient reason being shown, may suspend the performance of the condition of residence for such periods not exceeding twelve months under any one application as to it may seem fit" and by inserting in lieu thereof the following paragraph:—

Nothing in this section shall apply to a suburban holding of a block notified by the Minister under section one hundred and twenty-four of this Act as made available for the purpose of erecting a dwelling thereon.

New sec. 126A.

- (d) by inserting next after section one hundred and twenty-six the following short heading and new section:—

Condition requiring the erection of a dwelling on certain suburban holdings.

Erection of dwelling to be condition of certain suburban holdings.

126A. (1) Where an application (whether made before or after the commencement of the Crown Lands Amendment (Home Sites) Act, 1955,) for a suburban holding is confirmed after such commencement and such suburban holding—

- (a) does not exceed one acre in area, or
- (b) is of a block notified by the Minister under section one hundred and twenty-four of this Act as made available for the purpose of erecting a dwelling thereon,

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it shall be a condition attaching to such suburban holding that the holder shall erect a dwelling thereon within one year from the confirmation of such application or such further period as the Minister may allow. No. 47, 1955.

This subsection shall not apply to a suburban holding whereon a dwelling has been erected at the confirmation of the application as aforesaid.

(2) Where in respect of a suburban holding of a kind specified in paragraph (a) or (b) of subsection one of this section subsisting at the commencement of the Crown Lands Amendment (Home Sites) Act, 1955, a condition of residence attached thereto immediately before such commencement, and such condition of residence was not being performed elsewhere in pursuance of the provisions of this Act, it shall be a condition attaching to such suburban holding that the holder shall erect a dwelling thereon within one year from such commencement or such further period as the Minister may allow.

This subsection shall not apply to a suburban holding whereon a dwelling has been erected at such commencement. Sec. 129B.
(Purchase of suburban holdings.)

- (e) (i) by omitting from paragraph (f) of subsection one of section 129B the word "section" wherever occurring and by inserting in lieu thereof the word "subsection";
- (ii) by inserting in paragraph (g) of the same subsection after the word "shall" where firstly occurring the words "if it exceeds one acre in area";
- (iii) by inserting at the end of the same paragraph the following words:—

"Nothing in this paragraph shall apply to a purchase of a suburban holding or part thereof being the whole or part of a block notified by the Minister under section one hundred

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hundred and twenty-four of this Act as made available for the purpose of erecting a dwelling thereon.”;

- (iv) by inserting at the end of the same section the following new subsections:—

(2) Where an application (whether made before or after the commencement of the Crown Lands Amendment (Home Sites) Act, 1955,) to purchase a suburban holding is granted after such commencement and such purchase—

(a) does not exceed one acre in area;
or

(b) is a purchase of a suburban holding or part thereof which is the whole or a part of a block notified by the Minister under section one hundred and twenty-four of this Act as made available for the purpose of erecting a dwelling thereon,

it shall be a condition attaching to such purchase that the holder shall erect a dwelling thereon within one year from the granting of such application or such further period as the Minister may allow.

Nothing in this subsection shall apply to a purchase of any land whereon a dwelling has been erected at the granting of the application as aforesaid.

(3) Where in respect of a purchase which—

(a) does not exceed one acre in area;
or

(b) is a purchase of a suburban holding or part thereof which is the whole or part of a block notified by the Minister under section one hundred and twenty-four of this Act as made available for the purpose of erecting a dwelling thereon,

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the application to purchase was granted before the commencement of the Crown Lands Amendment (Home Sites) Act, 1955, and immediately before such commencement a condition of residence attached thereto, and such condition of residence was not being performed elsewhere in pursuance of the provisions of this Act, it shall be a condition attaching to such purchase that the holder shall erect a dwelling thereon within one year from such commencement or such further period as the Minister may allow.

This subsection shall not apply to a purchase whereon a dwelling has been erected at such commencement.

3. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 7, 1913.

(a) by inserting next after section 75B the following new section:—

New sec. 75c.

75c. (1) Any lease granted under section seventy-five or 75B hereof or extended to a lease in perpetuity under section 75A hereof which is solely for the purpose of residence and which does not exceed one acre in area may, notwithstanding anything to the contrary contained in section 75A or 75B hereof or in the conditions attached to such lease, be transferred or sublet without the consent of the Minister if a dwelling has been erected on such lease and the Minister has certified in the prescribed form that such lease may be so transferred or sublet.

Removal of restrictions on transfer and condition of residence and substitution of a building condition in respect of certain special leases.

(2) Any condition which attached immediately before the commencement of the Crown Lands Amendment (Home Sites) Act, 1955, to any such lease requiring the lessee to reside thereon is hereby revoked and unless at such commencement a dwelling has been erected thereon

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thereon there is hereby attached thereto a condition requiring the lessee to erect thereon a dwelling within one year from such commencement or such further period as the Minister may allow.

Sec. 129.
(Transfer
of suburban
holdings.)

(b) by inserting at the end of section one hundred and twenty-nine the following new subsection:—

(4) This section shall cease to apply to or in respect of any suburban holding which does not exceed one acre in area and any suburban holding of a block notified by the Minister under section one hundred and twenty-four of this Act as made available for the purpose of erecting a dwelling thereon when a dwelling has been erected on such suburban holding and the Minister has certified in the prescribed form that such holding may be transferred without his consent.

Sec. 129B.
(Purchase
of suburban
holdings.)

(c) (i) by omitting from paragraph (k) of subsection one of section 129B the words “The provisions of this paragraph shall apply whether a grant has or has not issued, but shall not apply to the transfer of any parcel of land being part of that comprised in a grant of land purchased under this section where the Minister so certifies in the prescribed form. The Minister” and by inserting in lieu thereof the words—

“The provisions of this paragraph shall apply whether a grant has or has not issued but shall not apply to the transfer of—

(i) a purchase of a suburban holding being a purchase not exceeding one acre in area or a purchase of a suburban holding or part thereof which is the whole or part of a block notified by the

the Minister under section one hundred and twenty-four of this Act as made available for the purpose of erecting a dwelling thereon—

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- (a) where the Minister has certified under subsection four of section one hundred and twenty-nine of this Act that such suburban holding may be transferred without his consent; or
 - (b) when a dwelling has been erected on such purchase and the Minister has certified in the prescribed form that such purchase may be transferred without his consent; or
- (ii) any land within a grant issued in respect of a purchase of a suburban holding being a purchase not exceeding one acre in area or a purchase of a suburban holding or part thereof which is the whole or part of a block notified by the Minister under section one hundred and twenty-four of this Act as made available for the purpose of erecting a dwelling thereon when a dwelling has been erected on such land and the Minister has certified in the prescribed form that such land or the suburban holding purchase or the suburban holding under which such land was held may be transferred without his consent; or
- (iii) any parcel of land being part of that comprised in a grant of land purchased under this section (other than a parcel specified in subparagraph (ii))

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(ii) of this paragraph) where the Minister so certifies in the prescribed form.

In respect of any parcel of land to which subparagraph (iii) of this paragraph relates the Minister”;

(ii) by omitting from the same paragraph the words “the parcel of land” and by inserting in lieu thereof the words “the land to which such certificate relates”;

Sec. 257.
(Subdivision of holdings.)

(d) by inserting in section two hundred and fifty-seven after the words “suburban holding” where lastly occurring the words “to the transfer of which the consent of the Minister is required under that section”;

Sec. 260.
(Conditional purchases and conditional leases: transfers.)

(e) by inserting at the end of section two hundred and sixty the following new subsection:—

(2) Notwithstanding anything contained in paragraph two or three of subsection one of this section an original conditional purchase which does not exceed one acre in area may be transferred at any time.

Sec. 264A.
(Further right to transfer holdings.)

(f) by omitting from section 264A the words “before the expiration of five years from the commencement of title thereto” and by inserting in lieu thereof the words “before the issue of the certificate that all conditions attaching thereto have been complied with or before five years of the condition of residence have been performed, as the case may be,”;

Sec. 272.
(Restriction as to assigns of certain holdings applied for after 1st February, 1900.)

(g) by inserting at the end of section two hundred and seventy-two the following new subsection:—

(8) Notwithstanding anything contained in this section any conditional purchase (whether a grant in respect of the same has or has not issued) or any parcel of land being part of that comprised in a grant of a conditional purchase, may

may be transferred or otherwise dealt with without recourse to this section where the area of such firstmentioned conditional purchase or such parcel of land does not exceed one acre, and a dwelling has been erected on such firstmentioned conditional purchase or such parcel of land, and the Minister has certified in the prescribed form that such firstmentioned conditional purchase or such parcel of land may be transferred without his consent. No. 47, 1955.

- (h) by omitting section 274A and by inserting in lieu thereof the following section:— Subst. sec. 274A.

274A. A week-end lease may be transferred in the prescribed form to a qualified person at any time. Transfer of week-end leases.

A transfer of a week-end lease shall not be valid unless the consent thereto of the Minister has been obtained: Provided that a week-end lease which does not exceed one acre in area and on which a dwelling has been erected may be transferred without the consent of the Minister where the Minister has certified in the prescribed form that such week-end lease may be transferred without his consent and any subsequent transfer of any such week-end lease in respect of which the Minister has so certified shall be valid without the consent thereto of the Minister having been obtained.

4. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended— Further amendment of Act No. 7, 1913.

- (a) by inserting in section fifty-four after the word "improvement" the words "or the condition requiring the erection of a dwelling,"; Sec. 54. (Forfeiture for non-performance of residence fencing or improvement.)
- (b) by inserting next after subsection seven of section sixty-three the following new subsection:— Sec. 63. (Sale by auction of Crown lands.)

(7A) The Minister shall have power and shall be deemed always to have had power to annex to any sale under this section such conditions
for

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for or in relation to the erection of a dwelling on the land so sold as he may think fit, and if the purchaser fails to comply with any such condition the purchase may be declared to have lapsed and the purchaser shall not be entitled to any compensation but he may be granted a refund of any moneys paid by him to the Crown in respect of the purchase.

Sec. 64.
(Crown lands not sold at auction; purchase after auction.)

- (c) by inserting in section sixty-four after the word "area" where secondly occurring the following new paragraph:—

The Minister shall have power and shall be deemed always to have had power to annex to any sale under this section such conditions for or in relation to the erection of a dwelling on the land so sold as he may think fit, and if the purchaser fails to comply with any such condition the purchase may be declared to have lapsed and the purchaser shall not be entitled to any compensation but he may be granted a refund of any moneys paid by him to the Crown in respect of the purchase.

Sec. 64A.
(Restrictions in respect of auction purchases and after-auction purchases.)

- (d) (i) by omitting from section 64A the words "after the commencement of the Crown Lands (Amendment) Act, 1917, any town or suburban" and by inserting in lieu thereof the word "any";
- (ii) by inserting at the end of the same section the following new paragraph:—

For the purposes of this section a husband and wife not living apart under a decree for judicial separation made by any court of competent jurisdiction shall be deemed to be one person.

Sec. 123.
(Homestead farm: inquiry by board and issue of grant.)

- (e) by inserting in subsection two of section one hundred and twenty-three after the word "with;" where firstly occurring the words "provided that in any case where it appears that such conditions, other than as aforesaid, have

have been duly complied with before the expiration of such period of five years, the local land board may, before the expiration of such period, inquire as aforesaid;”;

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- (f) (i) by inserting in subsection one of section one hundred and twenty-five after the word “Act” where secondly occurring the words “and in the case of any block notified by the Minister under section one hundred and twenty-four hereof as made available for the purpose of erecting a dwelling thereon the applicant shall also satisfy the local land board that he is in need of the block as a home site for personal residence and that he will be able to comply with the conditions that will attach to the suburban holding”;

Sec. 125.
(Suburban holding application, how made and dealt with.)

- (ii) by omitting from the same subsection the words “if so satisfied” and by inserting in lieu thereof the words “if satisfied as to the relevant matters aforesaid”;

- (iii) by inserting at the end of the same subsection the following new paragraph:—

There shall be no appeal to the Land and Valuation Court from the disallowance under this subsection of an application for a suburban holding of a block notified by the Minister under section one hundred and twenty-four hereof as made available for the purpose of erecting a dwelling thereon.

- (g) (i) by inserting at the end of subsection one of section one hundred and twenty-eight the following new paragraph:—

Sec. 128.
Suburban holding: inquiry by board and issue of grant.)

Where the application for the suburban holding was confirmed before the commencement of the Crown Lands Amendment (Home Sites) Act, 1955, the title shall commence from the date of such application. Where the application for the suburban holding

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holding is confirmed after the commencement of such Act, the title shall commence from the date of such confirmation.

- (ii) by inserting in subsection two of the same section after the word "with;" where firstly occurring the words "provided that in any case where it appears that such conditions, other than as aforesaid, have been duly complied with before the expiration of such period of five years, the local land board may, before the expiration of such period, inquire as aforesaid;"

Sec. 129B.
(Purchase
of suburban
holdings.)

- (h) by omitting from paragraph (i) of subsection one of section 129B the words "After the expiration of the term of residence the local land board shall" and by inserting in lieu thereof the words "The local land board may at any time";

Sec. 136F.
(Title to
and issue of
grant for
week-end
leases.)

- (i)(i) by inserting at the end of subsection one of section 136F the following new paragraph:—

Where the application for the week-end lease was confirmed before the commencement of the Crown Lands Amendment (Home Sites) Act, 1955, the title shall commence from the date of such application. Where the application for the week-end lease is confirmed after the commencement of such Act, the title shall commence from the date of such confirmation.

- (ii) by omitting from subsection two of the same section the words "After the expiration of five years after the confirmation of the application for a week-end lease the local land board shall" and by inserting in lieu thereof the words "The local land board may at any time";

Sec. 150.
(In what
cases applica-
tions give
title.)

- (j) by inserting in section one hundred and fifty after the word "area" where firstly occurring the words "(other than a suburban holding or week-end lease)";

(k)

- (k) (i) by inserting in section one hundred and fifty-one after the word "made" where secondly occurring the following proviso:—
 Provided that where the order of priority of conflicting applications, whether made before or after the commencement of the Crown Lands Amendment (Home Sites) Act, 1955, for suburban holdings of blocks notified by the Minister under section one hundred and twenty-four of this Act as made available for the purpose of erecting dwellings thereon, has been determined by ballot and any application in respect of which any such block is available has been withdrawn refused or modified the applications in respect of which any other blocks are available shall be dealt with as if no such application had been withdrawn refused or modified.
- (ii) by omitting from the same section the words "It shall be immaterial for the purposes of this section whether any application therein referred to was lodged before or after the passing of this Act.";
- (l) (i) by inserting in paragraph (a) of section one hundred and fifty-three after the words "other than" the words "those for suburban holdings of blocks notified by the Minister under section one hundred and twenty-four hereof as made available for the purpose of erecting dwellings thereon and other than";
- (ii) by inserting in the same paragraph after the words "determined by ballot." the words "The order of priority of conflicting applications made tendered or lodged to or with the Crown land agent simultaneously for suburban holdings of blocks notified by the Minister under section one hundred and twenty-four hereof as made available for the purpose of erecting dwellings thereon shall be determined by ballot.";

(m)

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Sec. 151.
 (Successive applications.)

Sec. 153.
 (Simultaneous conflicting applications.)

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Sec. 161A.
(Cases where deposit or rent and survey fee need not accompany the application.)

(m) by omitting from section 161A the words "and the land shall thereupon be again available for application for any class of holding for which it was set apart unless otherwise notified" and by inserting in lieu thereof the words "and

(a) except in the case of land set apart for suburban holdings for the erection of dwellings or for week-end leases, the land shall become and be reserved from every form of sale or lease, until otherwise notified in the Gazette;

(b) in the case of land set apart for suburban holdings for the erection of dwellings or for week-end leases any application for the land which was made but not disposed of before the application was declared null and void shall be dealt with as if such lastmentioned application had not been made, but the land shall not be available for any other application unless otherwise notified in the Gazette".

Sec. 178.
(Suspension or remission of conditions other than payment.)

(n) by omitting subsection four of section one hundred and seventy-eight and by inserting in lieu thereof the following subsection:—

(4) The Minister may unconditionally or subject to such conditions as he may impose—

(a) dispense with the condition of residence, fencing or improvement attached to any holding which is not of a greater unimproved value than three hundred pounds;

(b) dispense with any condition attached to any holding (irrespective of value) where the Minister is of the opinion that such dispensation is necessary to assist the holder to borrow money to be applied towards the erection of a dwelling on such holding.

Where

Where in pursuance of this subsection the ^{No. 47, 1955.} Minister dispenses with conditions attached to a holding the local land board may issue the like certificate as to compliance with conditions as it may have issued if the conditions dispensed with had been fulfilled:

Provided that where the Minister dispenses with any conditions under this subsection subject to conditions which he may impose, the local land board shall not issue such certificate until the board finds that the conditions imposed by the Minister have been fulfilled:

Provided further that where the Minister dispenses with any condition under paragraph (b) of this subsection the holding to which the condition attached shall be liable to be forfeited if a dwelling is not erected thereon within three years from the granting of such dispensation.

(c) by omitting section one hundred and eighty-one and by inserting in lieu thereof the following section:—

181. Save as otherwise in this Act provided, the conditions attaching to any purchase, home-^{Successors}stead selection or grant, or lease or license under ^{in title}this Act, shall, until complied with, bind and ^{bound by}be deemed always to have bound not only the ^{conditions.}persons who were the holders of the same when such conditions became attached but also all persons deriving title through or under them and all persons upon whom title shall devolve or be cast by operation of law.