

Land (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 7 April 1993

(Brought in by Mr Smith (Polwarth) and Mr Stockdale)

A BILL

to amend the **Land Act 1958** and for other purposes.

Land (Amendment) Act 1993

The Parliament of Victoria enacts as follows:

1. Purpose

The purpose of this Act is—

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- (a) to permit the sale by private treaty of certain Crown land;
 - (b) to permit the making of more flexible arrangements concerning the payment of rent in advance and rent review under certain leases of Crown land.

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2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

N . 6284
reprinted to
No. 59/1986.
Subsequently
amended by
Nos
110/1986,
121/1986,
122/1986,
41/1987,
45/1987,
55/1987,
75/1987,
44/1988,
18/1989,
44/1989,
57/1989,
80/1989,
81/1989,
90/1989,
13/1990,
93/1990 and
48/1991.

3. *Principal Act*

In this Act the **Land Act 1958** is called the Principal Act.

4. *Section 99A inserted*

After section 99 of the Principal Act insert—

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“99A. *Sale by private treaty*

- (1) This section applies to Crown land—
 - (a) approved by the Governor in Council, by Order published in the Government Gazette, for sale by private treaty; or 10
 - (b) included in a class of Crown land approved by the Governor in Council, by Order published in the Government Gazette, for sale by private treaty. 15
- (2) The Minister may sell Crown land to which this section applies at a price (not less than the Valuer-General’s valuation) and on any other terms and conditions that the Minister thinks fit. 20
- (3) The Minister cannot, under sub-section (2), sell land—
 - (a) if the land is for the time being permanently or temporarily reserved under section 4 of the **Crown Land (Reserves) Act 1978**; or 25

(b) if—

- (i) the land is for the time being under a lease or licence under this Act ; and
- (ii) this Act or that lease or licence confers on the holder (whether absolutely or on conditions) a right or power to obtain a Crown grant of the land.”

5. Section 137AAA inserted

After section 137AA of the Principal Act insert—

“137AAA. Rent in advance

- (1) A lease under this subdivision may provide for the whole or any part of the rent under the lease to be payable in advance.
- (2) The fact that a lease under this subdivision provides for the payment of the whole of the rent in advance does not affect its status as a lease.
- (3) If a lease under this subdivision is forfeited, the Minister may refund the whole or any part of rent paid in advance, after taking into account the following—
 - (a) the reasons for the forfeiture;
 - (b) any expenses associated with the forfeiture or with seeking a new lessee;
 - (c) whether any new lease of the land is on terms and conditions less favourable to the lessor than those in the forfeited lease;
 - (d) any other commercial considerations that the Minister considers relevant.

- (4) The Consolidated Fund is by this sub-section appropriated to the necessary extent to pay refunds under sub-section (3).
- (5) Sub-section (3) has effect despite anything to the contrary in this Act.” 5

6. Rent review

- (1) In section 100 (2) of the Principal Act—
 - (a) in paragraph (c) for “the provisions of the lease” **substitute** “in the case of a lease providing for reappraisal of rent, the provisions of that lease”; 10
 - (b) after paragraph (c) **insert**—
 - “(ca) subject to paragraph (a), in the case of a lease providing for review of rent, the provisions of that lease and this Act continue to have effect; and”; 15
 - (c) in paragraph (f) after “Minister” **insert** “or for rent review by the Minister”.
- (2) The Principal Act is amended as follows—
 - (a) in section 100 (4) and (5) after “re-appraised” (wherever occurring) **insert** “or reviewed”; 20
 - (b) in section 100 (4) (b) after “re-appraisal” **insert** “or review”.

7. Section 137AB substituted

For section 137AB of the Principal Act **substitute**— 25

“137AB. Rent review

- (1) Subject to sub-section (2), a lease under this subdivision may provide for rent review.
- (2) A provision for rent review in a lease under this subdivision must not permit rent to be reviewed more than once in each period of 12 months during the term of the lease.” 30

8. Transitional provisions

(1) In this section—

5 **“existing lease”** means a lease under sub-division 1 of
 Division 9 of Part I of the Principal Act existing
 immediately before the commencement of this
 Act;

“New lease” means a lease under sub-division 1 of
 Division 9 of Part I of the Principal Act entered
 into on or after the commencement of this Act.

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(2) The Principal Act as amended by sections 5 to 7 applies to
a new lease.

(3) The Principal Act continues to apply to an existing lease
as if sections 5 to 7 had not been enacted.

