

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly

*Legislative Assembly Chamber,
Sydney, 12 March, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. , 1974.

An Act to provide for the reservation of certain lands as state recreation areas; to consolidate and amend certain laws relating to the appointment, powers and duties of trustees of certain lands; to provide for the vesting of certain lands in the council of a local government area; for these and other purposes to amend the Crown Lands Consolidation Act, 1913, the Closer Settlement (Amendment) Act, 1914, the Local Government Act, 1919, and certain other Acts; to repeal the Public Trusts Act, 1897, the Trustees of Show-grounds Enabling Act, 1909, the Public Parks Act, 1912, the Trustees of Public Reserves Enabling Act, 1924, and certain other enactments; and for purposes connected therewith.

BE

Crown Lands and Other Acts (Reserves) Amendment.

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
5 follows :—

PART I.

PRELIMINARY

1. This Act may be cited as the "Crown Lands and Other Acts (Reserves) Amendment Act, 1974". Short title.
- 10 2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette. Commence-ment.
3. The Crown Lands Consolidation Act, 1913, is, in this Act, referred to as the Principal Act. Reference to Principal Act.
- 15 4. This Act is divided as follows :—
PART I.—PRELIMINARY—ss. 1–5.
PART II.—AMENDMENTS OF ACTS—ss. 6–13.
PART III.—SAVINGS AND MISCELLANEOUS PROVISIONS—ss. 14–20.
20 SCHEDULE.

Division of Act.

Crown Lands and Other Acts (Reserves) Amendment.

5. An Act specified in Column 1 of the Schedule is, to Repeals.
the extent specified opposite that Act in Column 2 of the
Schedule, hereby repealed.

PART II.

5 AMENDMENTS OF ACTS.

6. The Principal Act is amended—

Amendment
of Act No.
7, 1913.

(a) by inserting in section 1 (b) next after the matter Sec. 1 (b).
relating to Part III the following new matter :— (Division
into Parts.)

10 PART IIIA.—STATE RECREATION AREAS—
sections 37A–37L.

PART IIIB.—MANAGEMENT OF AND DEALINGS
WITH DEDICATED OR RESERVED LANDS AND
CERTAIN OTHER LANDS—sections 37M–
37YY.

15 **Division 1.**—PRELIMINARY—sections 37M,
37N.

Division 2.—MANAGEMENT OF RESERVES—
sections 37O–37II.

20 **Division 3.**—SALE, LEASE, ETC., OF
RESERVES—sections 37JJ–37TT.

Division 4.—MISCELLANEOUS—sections
37UU–37YY.

PART IIIC.—VESTING OF CERTAIN LANDS IN
COUNCILS—sections 37ZZ–37BBB.

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) (i) by inserting next before the definition of Sec. 5.
 "Catchment Areas Protection Board" in (Interpreta-
 section 5 (1) the following new definition :— tion of
 terms.)

5 "By-laws" means by-laws made under the
 authority of this Act.

- (ii) by inserting next after the definition of "Series"
 in section 5 (1) the following new
 definition :—

10 "State recreation area" means state
 recreation area under Part IIIA.

- (c) (i) by inserting in section 24 (1) after the word Sec. 24.
 "enjoyment" the words "—public park"; (Dedication
 of Crown
 lands for
 public
 purposes.)

15 (ii) by inserting in section 24 (2) after the words
 "Crown lands" the words "or closer settlement
 lands";

(iii) by inserting in section 24 (3) after the words
 "this Act," the words "or the Closer
 Settlement Acts,";

20 (iv) by inserting in section 24 (3) after the words
 "classified areas" wherever occurring the words
 ", settlement areas";

(v) by inserting next after section 24 (4) the
 following new subsections :—

25 (5) Without affecting the operation of any
 other provision of this Act, lands may be
 granted under this section—

30 (a) subject to such conditions as are
 imposed by the Minister (which condi-
 tions the Minister is hereby authorised
 to impose) and as are specified in the
 grant; or

(b) without any such conditions.

(6)

Crown Lands and Other Acts (Reserves) Amendment.

(6) In this section—

“closer settlement lands” means lands acquired under the Closer Settlement Acts, and, without affecting the generality of the foregoing provisions of this definition, includes lands within a settlement purchase area set apart under section 21 of the Closer Settlement (Amendment) Act, 1909, but does not include—

(a) any lands reserved or dedicated under section 13 of the Closer Settlement (Amendment) Act, 1914;

(b) any lands granted or lawfully contracted to be granted in fee-simple under the Closer Settlement Acts;

(c) any lands disposed of under subsection (6) of section 21 of the Closer Settlement (Amendment) Act, 1909; or

(d) any lands held under a lease under the Closer Settlement Acts;

“settlement area” means—

(a) settlement purchase area set apart under section 21 of the Closer Settlement (Amendment) Act, 1909; or

(b) closer settlement lease area set apart under section 7 of the Closer Settlement Amendment (Conversion) Act, 1943.

(d)

Crown Lands and Other Acts (Reserves) Amendment.

- (d) (i) by inserting in section 28 (2) after the words "Crown lands" the words "or closer settlement lands";
- 5 (ii) by inserting in section 28 (3) after the words "this Act," the words "or the Closer Settlement Acts,";
- (iii) by inserting in section 28 (3) after the words "classified areas" wherever occurring the words ", settlement areas";
- 10 (iv) by inserting next after section 28 (3) the following new subsection :—
- (4) In this section, "closer settlement lands" and "settlement area" have the meanings respectively ascribed thereto in section 24.
- 15 (e) by inserting in section 253 after the word "thereunder" the words "or by any by-law".
- Sec. 28.
(Temporary reserves from sale for public purposes.)
- Sec. 253.
(Recovery of penalties.)

7. The Principal Act is further amended by inserting next after Part III the following new Parts :—

Further amendment of Act No. 7, 1913.
New Parts IIIA, IIIB, IIIC.

PART IIIA.

20 **STATE RECREATION AREAS.**

37A. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation.

25 "Coal Mining Act" means an Act, whether enacted before or after the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974, that makes provision with respect to prospecting for or mining coal or shale, other than the Mining Act, 1906;

30 "lands of the Crown" means lands vested in a Minister of the Crown or in a public authority;

cf. No. 35, 1967, s. 3.

"prescribed

Crown Lands and Other Acts (Reserves) Amendment.

"prescribed lands" means—

- (a) lands within a reserve;
- (b) Crown lands not within a reserve; or
- (c) lands of the Crown,

5 but does not include—

(d) any lands within a national park, state park, historic site, aboriginal area or protected archaeological area within the meaning of the National Parks and Wildlife Act, 1967;

(e) any lands dedicated as a nature reserve, or declared to be a wildlife refuge or game reserve, under the Fauna Protection Act, 1948;

15 (f) any lands in respect of which any Act (other than this Act or the Closer Settlement Acts) provides that the lands shall be used for a purpose referred to in the Act or shall not be used for any purpose other than that referred to in the Act; or

(g) any lands within a state recreation area;

25 "prescribed time", in relation to a House of Parliament, means fourteen sitting days of that House, whether or not they occur during the same session;

"public authority" means any public body declared by the Minister by order published in the Gazette to be a public authority for the purposes of this Part;

30 "public purpose" has the meaning ascribed thereto in Part IIIB;

"reserve" has the meaning ascribed thereto in Part IIIB.

Crown Lands and Other Acts (Reserves) Amendment.

5 37B. (1) Subject to this section, the Minister may, by notification published in the Gazette, permanently reserve, as a state recreation area, any prescribed lands described in the notification, for the purpose of public recreation and enjoyment.

Reservation
of state
recreation
area.
cf. No. 35,
1967, s. 20.

10 (2) Subject to this section, the Minister may, by notification published in the Gazette, permanently reserve, as part of a state recreation area specified in the notification, any prescribed lands described in the notification, for the purpose of public recreation and enjoyment.

(3) A reservation under subsection (1) or (2) shall not be made—

- 15 (a) in any case—without the concurrence in writing of the Minister for Mines; and
- (b) in respect of lands submerged by waters—without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

20 (4) A reservation under subsection (1) or (2) shall not be made in respect of lands of the Crown except with the concurrence in writing of the Minister or public authority in whom they were vested immediately before the reservation.

25 (5) Upon the publication of a notification under subsection (1)—

- 30 (a) where a trustee of all or any part of the lands described in the notification was holding office under Part IIIB immediately before that publication and—
- (i) where the trustee so held office in respect of all of those lands, the trustee shall, subject to this Act, continue to be trustee of those lands; or

(ii)

Crown Lands and Other Acts (Reserves) Amendment.

- (ii) where the trustee so held office in respect of part only of those lands, the trustee shall cease to hold that office in respect of that part of those lands;
- 5 (b) any by-laws that, immediately before that publication, applied to all of the lands described in the notification and not to any other lands, shall continue to apply to the lands so described, but without affecting the power of the Governor to
- 10 amend or repeal those by-laws; and
- (c) any by-laws that, immediately before that publication, applied to—
- (i) part only of the lands described in the notification; or
- 15 (ii) all of the lands so described and also to any other lands, shall cease to apply to the lands so described.
- (6) Upon the publication of a notification under subsection (2)—
- 20 (a) where a trustee of all or any part of the lands described in the notification was holding office under Part IIIb immediately before that publication, the trustee shall cease to hold that office in respect of those lands or that part, as the case
- 25 may be;
- (b) where a trustee was holding office as trustee of the state recreation area specified in the notification immediately before that publication, the trustee shall be deemed to have been appointed
- 30 trustee of the lands described in the notification;
- (c) any by-laws that, immediately before that publication, applied to the state recreation area specified in the notification shall apply to the lands described in the notification; and

(d)

Crown Lands and Other Acts (Reserves) Amendment.

(d) any by-laws that, immediately before that publication, applied to all or any part of the lands described in the notification shall cease to apply to the lands so described.

5 (7) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (5) or (6) shall, in so far as they applied to those lands, be deemed to have been repealed.

10 (8) Upon the publication of a notification under subsection (1) or (2)—

(a) the lands described in the notification become Crown lands to the extent to which they were not Crown lands immediately before that publication; and

15 (b) except in any case where subparagraph (i) of paragraph (a) of subsection (5) or paragraph (b) of subsection (6) operates, the Minister shall be charged with the care, control and management of the lands so described until

20 trustees are appointed under Part IIIb.

(9) To the extent to which a dedication, reservation (other than a reservation under this Part) Crown grant or vesting affects lands described in a

25 notification published under subsection (1) or (2), the publication revokes the dedication, reservation, grant or vesting.

(10) The Minister may, by a notification published under subsection (1) or (2) or by another notification published in the Gazette, assign a name to a state recreation area, and may, from time to time, by

30 such a notification, alter any name assigned under this subsection or assign a different name in its place.

Crown Lands and Other Acts (Reserves) Amendment.

37c. (1) A copy of a notification published under subsection (1) or (2) of section 37B shall be laid before each House of Parliament within the prescribed time after publication thereof.

Tabling of
notifications
and
disallow-
ance.

5 (2) Where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a notification has been laid before it under subsection (1), whether or not those sitting days occur during the same session, and
10 the resolution disallows the reservation effected by the notification or any part thereof—

- (a) the reservation thereupon ceases, to the extent of the disallowance, to have effect; and
- 15 (b) to the extent to which the reservation ceases to affect them, the lands described in the notification thereupon cease to be, or to be part of, a state recreation area.

20 (3) Where any lands cease to be, or to be part of, a state recreation area by virtue of the disallowance of a reservation under this Part—

- (a) any person holding office as trustee of the state recreation area immediately before the disallowance shall cease to be trustee of those lands;
- 25 (b) any by-laws applicable to the state recreation area immediately before the disallowance shall cease to apply to those lands; and
- (c) subject to subsection (4), those lands may be dealt with as if they had been acquired under the Closer Settlement Acts or as Crown lands.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

5 (4) Notwithstanding anything in paragraph (c) of subsection (3), where any lands cease to be, or to be part of, a state recreation area by virtue of the disallowance of a reservation under this Part and those lands were, immediately before the reservation—

(a) lands dedicated under the Crown Lands Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be dedicated under this Act for that purpose;

10 (b) lands dedicated under the Closer Settlement Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be dedicated under those Acts for that purpose; or

15 (c) lands reserved under the Closer Settlement Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be reserved under those Acts for that purpose,

as from the date on which the disallowance took effect.

20 (5) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (3) shall, in so far as they applied to those lands, be deemed to have been repealed.

25 37D. (1) A trustee of a state recreation area continued in office by subparagraph (i) of paragraph (a) of subsection (5) of section 37B shall, unless he sooner vacates his office, hold office for a term of five years commencing on the date of publication in the Gazette of the notification under subsection (1) of that section in relation to the state recreation area, but is, subject to Division 2 of Part IIIB, eligible for further appointment as a trustee of the state recreation area.

Term of office of trustees of state recreation area.

Crown Lands and Other Acts (Reserves) Amendment.

5 (2) A trustee of a state recreation area (other than a trustee continued in office, as referred to in subsection (1)) shall, unless he sooner vacates his office, hold office for such term as is specified in the notification by which he was so appointed, but is, subject to Division 2 of Part IIIB, eligible for further appointment as a trustee of the state recreation area.

10 (3) Nothing in this section applies to a corporation appointed to be a trustee under section 37P or to an administrator appointed under Division 2 of Part IIIB.

37E. (1) In this section, "existing interest" means—
Existing interests.
cf. No. 35, 1967, ss. 22, 22A.

15 (a) any authority, permit, lease, license, or occupancy, otherwise than under a Coal Mining Act; or

20 (b) any lease or other interest under a Coal Mining Act, being a lease or other interest of a class or description prescribed by regulations made under section 37G for the purposes of this paragraph.

(2) Except as provided in this Act, the reservation of lands as, or as part of, a state recreation area does not affect—

25 (a) the terms and conditions of any existing interest in respect of those lands from the Crown or the trustees, current and in force at the time of the reservation; or

(b) the use permitted of those lands under the interest.

30 (3) Subject to subsection (4), no such interest shall be renewed nor shall the term of any such interest be extended except with the approval of the Minister and subject to such conditions as the Minister determines.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

(4) The provisions of subsection (3) do not apply to—

- 5 (a) any authority, lease or license under the Mining Act, 1906, the Fisheries and Oyster Farms Act, 1935, the Petroleum Act, 1955, or the Mining Act, 1973, or any permit or licence under the Petroleum (Submerged Lands) Act, 1967; or
- 10 (b) any lease or other interest under a Coal Mining Act of a class or description prescribed by regulations made under section 37G for the purposes of paragraph (b) of the definition of "existing interest" in subsection (1).

15 (5) Upon the termination, surrender, forfeiture or determination of any existing interest (otherwise than for the purpose of renewing it or extending its term) referred to in subsection (2), the lands the subject of the interest are, to the extent to which they would not, but for this subsection, be lands reserved as part of the state recreation area within which they are situated, hereby so reserved.

37F. (1) Notwithstanding anything in this or any other Act, lands within a state recreation area shall not be sold, leased or otherwise dealt with except as provided in this Part or Part IIIB.

Restrictions on disposal of or dealing with lands within state recreation areas.

25 (2) Without affecting the generality of subsection (1), lands within a state recreation area shall not be dedicated, reserved or otherwise dealt with under Part III or the Closer Settlement Acts.

cf. No. 35, 1967, s. 23.

30 37G. (1) In this section, "mining interest" means—
(a) any authority or lease granted under the Mining Act, 1906, or the Petroleum Act, 1955;

Provisions relating to mining.
cf. No. 35, 1967, s. 24.

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) an authority (other than an exploration licence) under the Mining Act, 1973; or
- 5 (c) any lease or other interest under a Coal Mining Act, being a lease or other interest of a class or description prescribed by regulations made under subsection (8) for the purposes of this paragraph.

10 (2) Subject to this section, the Mining Act, 1906, the Petroleum Act, 1955, the Petroleum (Submerged Lands) Act, 1967, the Mining Act, 1973, and a Coal Mining Act apply, at any time, to lands within a state recreation area to the extent to which those Acts are in force at that time.

15 (3) A mining interest shall not be granted in respect of lands within a state recreation area without the concurrence in writing of the Minister.

20 (4) A renewal of, or extension of the term of, a mining interest in respect of lands within a state recreation area (other than an existing interest referred to in subsection (2) of section 37E) shall not be granted under the Mining Act, 1906, the Petroleum Act, 1955, the Mining Act, 1973, or a Coal Mining Act without the concurrence in writing of the Minister.

25 (5) Except as provided in this section, nothing in this Part affects the right, title or interest of any person (other than a person who is or was trustee of the lands comprised in a state recreation area) in respect of minerals in any such lands.

30 (6) Lands within a state recreation area are hereby exempted from occupation under any miner's right or business license issued under the Mining Act, 1906.

(7)

Crown Lands and Other Acts (Reserves) Amendment.

5 (7) Where a provision of a Coal Mining Act prevents, or has the effect of preventing, a person from exercising in lands within a state recreation area any of the rights conferred by that Act or by an instrument under that Act, except with the consent of the Minister for the time being administering that Act, that Minister shall not, in the case of any such lands, give his consent under that provision without the approval of—

10 (a) where the lands are not within an irrigation area—the Minister for Lands; or

(b) where the lands are within an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

15 (8) The Governor may make regulations for or with respect to—

20 (a) prescribing a class or description of leases or other interests under a Coal Mining Act for the purposes of paragraph (b) of the definition of “existing interest” in subsection (1) of section 37E;

(b) prescribing a class or description of leases or other interests under a Coal Mining Act for the purposes of paragraph (c) of the definition of “mining interest” in subsection (1).

25 (9) The regulations under subsection (8) shall be made on the recommendation of the Minister and with the concurrence of the Minister for Mines.

30 (10) Section 41 of the Interpretation Act, 1897, applies in respect of the regulations made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

35 (11) A reference to the Mining Act, 1906, in this section or section 37E does not, if that Act is repealed, extend to a reference to that Act as re-enacted, whether it is re-enacted with or without modification.

Crown Lands and Other Acts (Reserves) Amendment.

37H. (1) The Forestry Act, 1916, does not apply to or in respect of lands within a state recreation area.

Application
of Forestry
Act, 1916.
cf. No. 35,
1967, s. 25.

(2) Notwithstanding anything in subsection (1), all licenses and permits under the Forestry Act, 1916, affecting lands within a state recreation area shall, unless sooner cancelled under the Forestry Act, 1916, continue in force until the expiration of the respective terms for which they were granted, and that Act shall continue to apply to and in respect of those licenses and permits until they respectively expire or are cancelled.

37I. (1) The Soil Conservation Act, 1938, applies to and in respect of lands within a state recreation area.

Application
of Soil
Conser-
vation
Act, 1938,
and Fisheries
and Oyster
Farms Act,
1935.
cf. No. 35,
1967,
ss. 23 (3),
33.

(2) Subject to subsection (3), nothing in this Part affects the operation of the Fisheries and Oyster Farms Act, 1935, in relation to lands within a state recreation area.

(3) A lease under the Fisheries and Oyster Farms Act, 1935, shall not, without the concurrence of the Minister in writing, be granted in respect of lands within a state recreation area or in respect of any waters beneath which those lands are submerged.

37J. (1) The Minister may, upon such terms as he thinks fit, grant for joint or several use easements or rights of way through, upon or in a state recreation area for the purpose of providing access to any area included in any lease or license within the state recreation area, or for the construction of pipelines, or for the erection of standards, posts, wires and appliances for the conveyance or transmission of electricity, or for any other purpose deemed necessary by the Minister.

Easements,
etc.
cf. No. 35,
1967, s. 31.

Crown Lands and Other Acts (Reserves) Amendment.

(2) The Minister may accept a surrender of any easement or right of way through, upon or in a state recreation area.

5 (3) Any easement or right of way over any lands within a state recreation area and in force immediately before those lands were reserved under section 37B shall be deemed to have been granted under this section.

10 37K. The expression "state recreation area" shall not be used either alone or in conjunction with other words as the name of any lands used for the purpose of public recreation and enjoyment unless the lands are within a state recreation area reserved under this Part.

Limitation on use of expression "state recreation area".
cf. No. 35, 1967, s. 13.

15 37L. (1) Notwithstanding anything in any other Part or in any other Act, but subject to section 37QQ (2)—

(a) the reservation of lands as, or as part of, a state recreation area shall not be revoked; or

(b) lands within a state recreation area shall not be appropriated or resumed,

except in accordance with this section.

Revocation, appropriation or resumption of state recreation area.
cf. No. 7, 1913, s. 25; No. 35, 1967, s. 21 (1).

20 (2) Where the Minister is of the opinion that the reservation of lands as, or as part of, a state recreation area should be revoked as to the whole or any part of those lands, he may cause a notice under his hand to be published in the Gazette, setting forth the mode in which

25 it is proposed to deal with the lands.

(3)

Crown Lands and Other Acts (Reserves) Amendment.

5 (3) Where in any Act provisions are contained enabling the appropriation or resumption of Crown lands and a Minister of the Crown is of the opinion that it is in the public interest to appropriate or resume any lands within a state recreation area under those provisions, he may cause a notice under his hand to be published in the Gazette, setting forth the mode in which it is proposed to deal with the lands and drawing attention to the fact that the lands are within a state recreation area.

10 (4) Where a notice is published under subsection (2) or (3), a copy of the notice shall be laid before each House of Parliament within the prescribed time after publication thereof.

15 (5) Where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of the notice so published has been laid before it under subsection (4), whether or not those sitting days occur during the same session, and the resolution disallows the proposal set
20 forth in the notice, no further action shall be taken in the matter.

(6) If no such resolution is passed, it shall be lawful for the proposal so set forth to be carried out—

25 (a) in the case of a proposal that the reservation of lands as, or as part of, a state recreation area be revoked as to the whole or any part of those lands—by the Minister, by notification published in the Gazette, revoking the reservation in accordance with the proposal ; or

30 (b) in the case of a proposal for the appropriation or resumption of any lands within a state recreation area—by the appropriation or resumption of the lands, as specified in the proposal, being

effected

Crown Lands and Other Acts (Reserves) Amendment.

effected in accordance with and subject to the provisions of the Act enabling the appropriation or resumption.

5 (7) Upon the publication of a notification
under paragraph (a) of subsection (6) revoking the
reservation of lands as, or as part of, a state recreation
area as to the whole or any part thereof, the whole of
the lands or that part, as the case may be, shall cease to
be, or to be part of, a state recreation area, as the case
10 may be.

PART IIIb.

**MANAGEMENT OF AND DEALINGS WITH DEDICATED OR
RESERVED LANDS AND CERTAIN OTHER LANDS.**

Division 1.

15 *Preliminary.*

37M. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires— Interpreta-
tion.

“area” has the meaning ascribed thereto in the Local Government Act, 1919;

20 “council” has the meaning ascribed thereto in the Local Government Act, 1919;

“public purpose”, in relation to lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts, means a purpose that is a public purpose in relation to the provision of the Act under which the lands were so dedicated or reserved;

“reserve”

Crown Lands and Other Acts (Reserves) Amendment.

“reserve” means—

- 5 (a) lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts for any public purpose; or
- 10 (b) any other lands in respect of which a trustee appointed or purporting to have been appointed under the Public Trusts Act, 1897, or the Public Parks Act, 1912, was holding or purporting to hold office immediately before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974,

and includes lands within a state recreation area, but does not include—

- 15 (c) any common within the meaning of the Commons Regulation Act, 1898 ;
- (d) any lands within the meaning of the Trustees of Schools of Arts Enabling Act, 1902 ; or
- 20 (e) any lands or class of lands in respect of which an order under section 37N is in force.

- 25 (2) In this or any other Act, or in any instrument under an Act, except in so far as the context or subject-matter otherwise indicates or requires, a reference (however expressed) to the trustees of a reserve includes, where a corporation is the sole trustee of a reserve, a reference to that trustee.

- 30 37N. The Minister may, by order published in the Gazette, declare that any lands or class of lands specified or described in the order are not to be subject to the provisions of this Part.

Order
declaring
lands not
to be
reserve.

Division

*Crown Lands and Other Acts (Reserves) Amendment.***Division 2.***Management of Reserves.*

- 37o. (1) In this section, "person" means individual.
- 5 (2) Subject to subsection (5), the Minister may, by notification published in the Gazette, appoint not less than three persons to be trustees of a reserve.
- (3) Subject to subsection (5), the Minister may, by notification published in the Gazette, appoint a person to be a trustee of a reserve—
- 10 (a) in the place of a person who is deemed to have vacated his office as a trustee; or
- (b) in addition to persons already holding office as trustees of the reserve.
- 15 (4) Without affecting the generality of subsection (2) or (3), the Minister may, under either of those subsections, appoint a person who holds a particular office or position to be a trustee by virtue of his holding that office or position.
- 20 (5) An appointment shall not be made under this section, whether to fill a vacancy or otherwise, which would result in the total number of trustees for the time being of a reserve exceeding, or being maintained or increased beyond, seven.
- 25 (6) Where a person is appointed to be a trustee of a reserve by virtue of his holding a particular office or position, then, in ascertaining the number of trustees of the reserve for the purposes of subsection (5), that person shall not be counted.
- 30 (7) A person of or above the age of seventy years is not eligible for appointment under this section as a trustee.
- 35 (8) Subject to section 37D, a person appointed to be a trustee of a reserve under this section shall continue to hold office as such until he is deemed to have vacated that office under this Act.
- (9)

Appoint-
ment of
individuals
as trustees.
cf. No. 8,
1897, ss. 1,
4, 4A, 4E;
No. 40,
1912, ss. 4
(1), 7, 7A,
7E; No. 7,
1913, s. 26
(1) (1A)
(1E).

Crown Lands and Other Acts (Reserves) Amendment.

(9) This section has effect subject to section 37UU.

37P. (1) The Minister may, by notification published in the Gazette, appoint a corporation, whether—

5 (a) a council;

(b) a corporation constituted or created by or under any Act providing for the holding or managing of or dealing with church property; or

10 (c) any other corporation whatsoever, to be sole trustee of a reserve.

Appoint-
ment of
corporation
as sole
trustee.
cf. No. 8,
1897, s. 2;
No. 40,
1912, s. 6.

(2) A corporation shall have authority to accept appointment under this section as trustee and to exercise and perform all the powers, authorities, duties and functions necessary for the purpose of carrying its trusteeship into full effect.

15

(3) A council shall not be appointed to be trustee of a reserve that is wholly or partly within the area of another council except with the consent of that other council.

20 (4) Without affecting the generality of subsection (1), this section authorises the appointment as trustee of a reserve, being the whole or part of lands set apart, dedicated or reserved for the purposes of a cemetery, of a corporation referred to in paragraph (b)

25 of subsection (1).

(5) This section has effect subject to section 37UU.

37Q. (1) The Minister may, by notification published in the Gazette—

30 (a) declare that the trustees (appointed under section 37O) of a reserve specified in the notification, and their successors in office, shall be a corporation; and

(b) assign a corporate name to the corporation.

(2)

Incorpor-
ation of
certain
trustees.

Crown Lands and Other Acts (Reserves) Amendment.

(2) On and from the publication in the Gazette of a notification under subsection (1)—

cf. No. 40,
1912, s. 4
(2); No. 6,
1972, ss. 4,
5, 8 (1).

- 5 (a) the trustees of the reserve specified in the notification, and their successors in office, shall be a corporation under the corporate name assigned in the notification to the corporation; and
- 10 (b) the powers, authorities, duties and functions of the trustees of the reserve, whether conferred or imposed by this Act or otherwise, shall be deemed to be conferred or imposed on the corporation alone.

15 (3) The Minister may, from time to time, by notification published in the Gazette, assign a new corporate name to a corporation constituted under this section, and, on and from the publication in the Gazette of the notification, the corporate name of the corporation shall, without affecting the continuity of the corporation, be the name so assigned.

20 (4) Where a corporation is constituted under this section in relation to the trustees of a reserve, the common seal of the corporation shall, except in so far as the by-laws applicable to the reserve otherwise provide, be kept by such trustee or officer of the trustees as the

25 trustees from time to time determine.

(5) Where a corporation is constituted under this section in relation to the trustees of a reserve—

- 30 (a) subject to paragraph (b), the liability of a trustee of the reserve shall be the same as if the corporation had been appointed sole trustee under section 37P and as if the trustees were the members of the corporation; and

(b)

Crown Lands and Other Acts (Reserves) Amendment.

5 (b) no matter or thing done, and no contract entered into, by the trustees of the reserve in their corporate capacity, and no matter or thing done by a trustee or by any other person acting under the direction of the trustees in their corporate capacity, shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this or any other Act in so far as it confers or imposes powers, 10 authorities, duties or functions on the trustees, subject a trustee, or other person so acting, personally to any action, liability, claim or demand.

15 (6) The Minister may, by notification published in the Gazette, dissolve a corporation constituted under this section.

(7) Subject to subsection (3) of section 37EE, where—

- 20 (a) a corporation is constituted under this section in relation to the trustees of a reserve;
- (b) there are no trustees of the reserve for the time being; and
- 25 (c) the corporation does not have an estate in fee simple in the reserve otherwise than by the operation of section 37X,

section 344 of the Local Government Act, 1919, has effect in relation to the reserve as if the corporation had not been so constituted.

30 (8) A notification under subsection (1) may be contained in the same instrument as a notification under section 37O.

(9) A notification under subsection (1), (3) or (6) may be made in relation to one or more reserves.

37R.

Crown Lands and Other Acts (Reserves) Amendment.

37R. The trustees of a reserve appointed under this Division are charged with the care, control and management of the reserve.

Trustees
charged
with care,
control
and
manage-
ment.

5 37s. (1) A trustee (appointed under section 37o) of a reserve shall be deemed to have vacated his office—

Vacation
of
office of
trustees.

- (a) if he dies;
- (b) if he resigns his office by writing under his hand addressed to the Minister;
- 10 (c) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) if he is removed from office by the Minister;
- 15 (e) if the Minister declares, by notification published in the Gazette, that, from information contained in a report forwarded to the Minister under section 37T, the number of duly convened meetings of the trustees of the reserve held during any
- 20 year of the trust at which the trustee was present was less than forty per centum of the total number of duly convened meetings of the trustees during the year;
- (f) on the day on which he attains the age of seventy
- 25 years;
- (g) in the case of a person who was appointed to be a trustee by virtue of his holding a particular office or position and who ceases to hold that office or position, except as provided in paragraph
- 30 (h), upon his so ceasing to hold that office or position; or
- (h) in the case of a person who was appointed to be a trustee by virtue of his holding the office of member of a council or mayor, Lord Mayor or president

Crown Lands and Other Acts (Reserves) Amendment.

5 president of an area, and who ceases to hold that office otherwise than in circumstances giving rise to an extraordinary vacancy under section 35 of the Local Government Act, 1919, and otherwise than by reason of the removal of the members of a council under section 86 of that Act—

10 (i) upon the expiration of one month after his so ceasing to hold that office, unless he is elected or appointed, or re-elected or re-appointed, to that office; or

(ii) upon the election or appointment of another person to that office,

whichever first occurs.

15 (2) A corporation that is appointed under section 37P to be trustee of a reserve shall be deemed to have vacated its office—

(a) if it resigns its office by writing under its seal addressed to the Minister; or

(b) if it is removed from office by the Minister.

20 (3) The Minister may, by notification published in the Gazette, remove from office any trustee appointed under section 37O or 37P for any cause which to the Minister seems sufficient.

25 (4) Nothing in this section affects the operation of the provisions of subsection (12) of section 37AA relating to the vacation of office of a trustee.

(5) This section has effect subject to section 37UU.

30 37T. (1) Trustees appointed under section 37O shall cause to be forwarded to the Minister during the month next following the close of the year of the trust financial and other statements in relation to such matters arising out of the trust as the Minister either generally or in any particular case or class of cases may require.

Trustees to report to Minister.
cf. No. 8, 1897, s. 4c; No. 40, 1912, s. 7c; No. 7, 1913, s. 26 (1c).

(2)

Crown Lands and Other Acts (Reserves) Amendment.

5 (2) A corporation that is appointed under section 37P to be trustee of a reserve shall cause to be forwarded to the Minister in the month of January in the year 1976 and thereafter in the month of January in every third succeeding year a statement concerning such activities of the corporation in relation to the trust during the preceding three years as the Minister either generally or in any particular case or class of cases may require.

10 (3) The Minister may, in any particular case or class of cases, waive the requirements of subsection (1) or (2) either wholly or in part, and for such periods as he may determine, if in his opinion the circumstances of the case or class of cases are such that it is desirable to do so.

15 37U. (1) The Minister may cause a plan of management to be prepared with respect to any reserve.

Adoption of
plan of
manage-
ment.
cf. No. 35,
1967, s. 29.

20 (2) The plan of management for a reserve shall contain a detailed written scheme of the operations which it is proposed to undertake in or in relation to the reserve, and, without affecting the generality of the foregoing provisions of this subsection, may specify any activity proposed to be permitted in any part of the reserve and the nature of any development proposed to be carried out to encourage the use of that part for the activity so
25 specified.

(3) In the preparation of a plan of management for a reserve, regard shall be had to the encouragement and regulation of the appropriate use, understanding and enjoyment of the reserve by the public and to any other
30 objectives which the Minister thinks fit in any particular case.

(4) Where a plan of management has been prepared for a reserve, the Minister—

35 (a) shall refer a copy of the plan to the trustees of the reserve (if any); and
(b) may refer a copy to any other person, for consideration.

(5)

Crown Lands and Other Acts (Reserves) Amendment.

(5) The persons to whom a copy of a plan of management has been referred under subsection (4) may, within such period as the Minister approves, make representations to him in connection with the plan.

5 (6) The Minister shall, before adopting a plan of management, consider the representations received by him in pursuance of subsection (5).

10 (7) The Minister may adopt a plan of management without alteration or with such alterations as he thinks fit.

(8) Where the Minister has adopted a plan of management—

15 (a) the plan shall be carried out and given effect to by the trustees of the reserve to which the plan relates; and

(b) no operations shall be undertaken on or in relation to the lands to which the plan relates unless the operations are in accordance with the plan,

20 and, without affecting the generality of paragraph (b), that paragraph applies where a council has the care, control and management of the lands under section 344 of the Local Government Act, 1919, by reason of the fact that there are no trustees of the reserve for the
25 time being.

(9) A reference in paragraphs (a) and (b) of subsection (8) to a plan of management is, where the plan has been amended or altered under section 37v, a reference to the plan as so amended or altered.

Crown Lands and Other Acts (Reserves) Amendment.

37v. (1) The Minister may, from time to time, amend or alter a plan of management that has been adopted under section 37U or may cancel such a plan of management.

Amendment, alteration or cancellation of plan of management.

5 (2) Where the Minister cancels a plan of management for any reserve under subsection (1), he may, at the same time or subsequently, adopt a new plan of management in accordance with section 37U.

10 (3) Where the Minister proposes to amend or alter a plan of management under subsection (1), he shall cause the amendment or alteration to be prepared, and, in the preparation of the amendment or alteration, regard shall be had to subsection (2) of section 37U.

15 (4) The provisions of subsections (3), (4), (5), (6) and (7) of section 37U apply to and in respect of an amendment or alteration under subsection (1) of this section in the same way as they apply to and in respect of a plan of management.

20 37w. (1) Where lands submerged by water are lands that are the subject of any part of a plan of management, the Minister shall, before its adoption under section 37U, refer the plan to the Minister administering the Fisheries and Oyster Farms Act, 1935.

Plan of management for lands submerged by water.

25 (2) A plan of management referred to in subsection (1) shall not be adopted, amended, altered or cancelled under section 37v in so far as it relates to lands referred to in that subsection without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

30 37x. (1) Except to the extent that the trustees of a reserve have an estate in fee simple in the reserve apart from this section, the trustees shall, for the purposes only of this Part and of any by-law, be deemed to have that estate in the reserve.

Estate of trustees. cf. No. 40, 1912, s. 8.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

5 (2) The trustees of a reserve are not capable of alienating, charging, granting leases of, or licenses in respect of, or in any way disposing of the reserve or any part of the reserve except in accordance with Division 3.

(3) The removal of a trustee under this Part shall divest the trustee so removed of any estate in the lands subject to the trust. cf. No. 8, 1897, s. 4.

10 (4) The revocation of the setting apart, dedication or reservation as to the whole or a part of a reserve divests the trustees of any estate in the whole or that part of the reserve, as the case may be.

37y. The trustees of a reserve—

15 (a) may, with the approval of the Minister, purchase or take a lease of any lands (whether or not adjoining the reserve) required by them for use in connection with the reserve; Purchase or lease of lands, etc., outside trust area. cf. No. 40, 1912, s. 8A.

20 (b) may expend trust moneys in using or improving any lands purchased by them or of which they have taken a lease under and in accordance with paragraph (a), or, before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974, under and in accordance with paragraph (a) of section 8A of the Public Parks Act, 1912; and

25 (c) may, with the approval of the Minister and the consent of the owner, expend trust moneys for or in connection with the improvement of any lands, where in their opinion that expenditure is desirable to provide or improve access to the reserve, or to provide or improve facilities or amenities for persons visiting the reserve.

37z.

Crown Lands and Other Acts (Reserves) Amendment.

5 37Z. (1) The number ascertained by dividing the total number of trustees of a reserve by two and adding one to the quotient (any fractional remainder being disregarded) shall, unless a greater number is fixed by any by-law having effect in relation to the reserve, be the number of trustees necessary to form a quorum at any meeting of the trustees.

Quorum.
cf. No. 8,
1897,
s. 4B;
No. 40,
1912,
s. 7B;
No. 7, 1913,
s. 26 (1B).

10 (2) Any duly convened meeting of the trustees at which a quorum is present shall be competent to transact any business of the trustees.

(3) A decision of the majority of the trustees present at a meeting shall be the decision of the trustees.

15 (4) This section does not apply to a corporation appointed under section 37P to be trustee of a reserve.

(5) This section has effect subject to section 37UU.

20 37AA. (1) A person who is a trustee of a reserve may have a pecuniary interest, direct or indirect, in a contract or proposed contract with the trustees of the reserve.

Pecuniary
interest
in contract.
cf. No. 41,
1919, s. 30A.

25 (2) Where a person who is a trustee of a reserve has a pecuniary interest, direct or indirect, in a contract or proposed contract with the trustees of the reserve and he is present at a meeting of the trustees at which the contract or proposed contract is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose his interest, and shall not take part in the consideration or discussion of, or vote on any question with respect to,
30 the contract or proposed contract.

(3) Subject to subsection (4), where it has been disclosed to the trustees of a reserve, or they have reason to believe, that one of the trustees has or may

have

Crown Lands and Other Acts (Reserves) Amendment.

have a pecuniary interest, direct or indirect, in a proposed contract with the trustees, the trustees shall not enter into that contract unless—

- 5 (a) the trustees have caused to be published in a newspaper circulating in the district in which the reserve is situated a notice—
 - (i) setting out the nature of work or services to be performed, or goods to be supplied, or both, as the case may be, under the contract; and
 - 10 (ii) inviting persons willing to perform the work or services, or supply the goods, or both, as the case may be, to submit tenders to the trustees on or before a date and time specified in the notice (being not earlier than twenty-one days after the publication of the notice) to the trustees at an address specified in the notice; and
 - 15 (b) the trustees are satisfied, after considering all the tenders submitted in accordance with the notice, that, having regard to all the circumstances, none of the tenders is more advantageous than that submitted in relation to that contract.
 - 20

(4) Nothing in subsection (3) applies in the case of an emergency.

(5) For the purposes of this section, a person shall be treated as having an indirect pecuniary interest in a contract or proposed contract if—

- 30 (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made,

Crown Lands and Other Acts (Reserves) Amendment.

but a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body.

5 (6) Where a trustee has an indirect pecuniary
interest in a contract or proposed contract and would not
be treated as having such an interest but for the fact that
he has a beneficial interest in shares of a company or
10 other body, then, if the total nominal value of those
shares does not exceed one thousand dollars or one-
hundredth of the total nominal value of the issued share
capital of the company or other body, whichever is the
lesser, so much of subsection (2) as prohibits him from
15 taking part in the consideration or discussion of, or from
voting on any question with respect to, the contract or
proposed contract shall not apply to him, without preju-
dice, however, to the duty of disclosure imposed by that
subsection.

20 (7) Where the share capital of the company
or other body referred to in subsection (6) is of more
than one class, subsection (6) shall not apply if the total
nominal value of all the shares of any one class in which
the trustee so referred to has a beneficial interest exceeds
one-hundredth part of the total issued share capital of
25 that class of the company or other body.

(8) In the case of a married man and his wife
who are living together, the interest of one spouse shall,
if known to the other, be deemed for the purposes of
this section to be also an interest of the other spouse.

30 (9) A general notice given in writing by a
trustee of a reserve to each of the other trustees, or to the
secretary of the trustees (if any), to the effect that he
or his spouse is a member or in the employment of a
specified company or other body, or that he or his spouse
35 is a partner or in the employment of a specified person,

shall,

Crown Lands and Other Acts (Reserves) Amendment.

5 shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract or proposed contract relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(10) The trustees of a reserve shall cause to be recorded in a book to be kept for the purpose particulars of any disclosure made under subsection (2), and of any notice given under subsection (9).

10 (11) If a person fails to comply with the provisions of subsection (2), he shall for each offence be liable to a penalty not exceeding two hundred dollars, unless he proves that he did not know that a contract or proposed contract in which he had a pecuniary interest
15 was the subject of consideration at the meeting.

(12) Where a person is convicted of an offence against this section, he shall be deemed to have vacated his office as trustee of any reserve of which he is, at the time of conviction, holding office as trustee, unless the
20 court by which he is convicted sees fit in the circumstances of the case to declare that he shall not by virtue of his conviction be deemed to have vacated his office as such a trustee.

(13) The Minister may, subject to such
25 conditions as he may think fit to impose, remove any disability imposed by subsection (2) in any case in which the number of trustees so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which
30 it appears to the Minister that it is in the public interest that the disability should be removed.

(14) The trustees of a reserve may by resolution provide for the exclusion of a trustee from a meeting of the trustees while any contract or proposed contract
35 in which he has an interest, as referred to in this section, is under consideration.

(15)

Crown Lands and Other Acts (Reserves) Amendment.

(15) This section does not apply to or in respect of a corporation that is appointed under section 37P to be trustee of a reserve.

5 (16) In this section, "shares" includes stock, and "share capital" shall be construed accordingly.

10 37BB. (1) Where a council is appointed under section 37P to be trustee of a reserve that is a public reserve, the council shall, in relation to the reserve, have, in addition to the powers, authorities, duties and functions conferred or imposed on the council as trustee by or under this Act, the powers, authorities, duties and functions conferred or imposed on councils by or under the Local Government Act, 1919, in relation to public reserves, but the provisions of this Act shall prevail to the extent of any inconsistency.

15

Application of Local Government Act, 1919, to councils.

(2) In subsection (1), "public reserve" has the meaning ascribed thereto in the Local Government Act, 1919.

20 37CC. (1) The Minister, or any person authorised by him for the purpose, may enter any reserve at any time and may inspect the reserve.

Power of Minister to enter reserves. cf. No. 8, 1897, s. 9.

25 (2) A person who obstructs the Minister or a person authorised by him in the exercise of his power under this section is guilty of an offence and liable to a penalty not exceeding one hundred dollars.

30 37DD. The trustees of a reserve, or any ranger or other officer appointed by the trustees, may call in the aid of the police for the removal, by force if necessary, of any person who is found committing a breach of any by-law applicable to the reserve, or who by disorderly or insulting conduct on the reserve or on any public place within the meaning of the Summary Offences Act, 1970, causes annoyance or inconvenience to persons on the reserve or going to or coming from the reserve.

Aid of police may be called in. cf. No. 40, 1912, s. 11.

37EE.

Crown Lands and Other Acts (Reserves) Amendment.

5 37EE. (1) Where all the trustees of a reserve for which a corporation is constituted under section 37Q have vacated their offices as trustees, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

Adminis-
trator of
reserve for
which
corporation
constituted
under this
Division.

10 (2) The administrator of a reserve appointed under this section shall have the powers, authorities, duties and functions that trustees of the reserve, if appointed, would have in their corporate capacity, and any act, matter or thing done or omitted by the administrator shall have the same effect as if done or omitted by trustees of the reserve.

15 (3) Section 344 of the Local Government Act, 1919, does not apply in relation to a reserve in respect of which an administrator is for the time being holding office under this section.

20 37FF. (1) Where all the trustees (appointed under section 37O) of a reserve, other than a reserve for which a corporation is constituted under section 37Q, have vacated their offices as trustees, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

Adminis-
trator
of reserve
for which
corporation
not consti-
tuted
under this
Division.

25 (2) Where a corporation appointed under section 37P to be trustee of a reserve has vacated its office as trustee, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

30 (3) On the publication in the Gazette of a notification under subsection (1) or (2) in relation to a reserve, the administrator of the reserve is constituted a corporation sole under the name assigned to him under subsection

Crown Lands and Other Acts (Reserves) Amendment.

subsection (4), and the corporation sole shall be deemed to be appointed sole trustee of the reserve under section 37P.

5 (4) For the purposes of subsection (3), the Minister shall, in the notification under subsection (1) or (2) appointing an administrator, assign a corporate name to the administrator.

10 (5) The Minister may, from time to time, by notification published in the Gazette, assign a new corporate name to a corporation sole constituted under this section and, on the publication in the Gazette of the notification, the corporate name of the corporation sole shall, without affecting the continuity of the corporation, be the name so assigned.

15 (6) A corporation sole constituted under this section ceases to be the trustee of a reserve and is dissolved—

- (a) upon the appointment of trustees under section 37O or 37P for the reserve; or
- 20 (b) if the Minister, by notification published in the Gazette, so declares.

(7) A corporation sole constituted under this section shall have an official seal.

25 (8) Subsection (I) (paragraph (b) excepted) and subsection (III) of section 38 of the Interpretation Act, 1897, apply to and in respect of a corporation sole constituted under this section.

37GG. (1) The Minister may, by notification published in the Gazette—

- 30 (a) remove from office any person appointed as administrator under section 37EE or 37FF; and
- (b) fill any vacancy in the office of administrator.

Provisions applicable to administrators generally.

Crown Lands and Other Acts (Reserves) Amendment.

5 (2) If the Minister so directs, an administrator holding office under section 37EE or 37FF shall, out of the Closer Settlement and Public Reserves Fund or out of moneys provided by Parliament, be paid such remuneration, including travelling expenses, as the Minister determines.

10 (3) The office of administrator under this Division shall not be deemed to be an office of profit under the Crown for the purposes of the Constitution Act, 1902.

15 37HH. (1) Where lands have ceased to be a reserve, and there were formerly trustees of the reserve, any real or personal property (other than the lands comprising the former reserve, but including lands purchased in connection with the former reserve under section 37Y of this Act or section 8A of the Public Parks Act, 1912) that would, if the lands were a reserve and trustees were holding office in respect thereof, be held by or vested in them in their capacity as trustees and not otherwise, may, unless otherwise lawfully dealt with, be disposed of by the Minister in such manner as he may consider appropriate, and for this purpose he may deal with any lands so purchased as if they had been acquired under the Closer Settlement Acts or as Crown lands.

20 25 (2) The Minister shall have power to execute all conveyances and instruments and do all things necessary for the due exercise of his powers under this section.

30 (3) Where any property is disposed of under this section by way of sale or otherwise, the Minister may give directions as to the disposal of the proceeds arising therefrom, and the proceeds shall be disposed of in accordance with those directions.

35 37II. (1) The Governor may make by-laws for or with respect to—

- (a) the care, control and management of any reserve;
- (b)

By-laws.
cf. No. 8,
1897, s. 1
(2); No. 40,
1912, s. 9
(1); No. 7,
1913, s. 26
(2).

Crown Lands and Other Acts (Reserves) Amendment.

- (b) the regulation of the use and enjoyment of any reserve;
- 5 (c) the regulation of meetings of the trustees (appointed under section 37O) of any reserve and the conduct of business thereat;
- (d) the custody and use of the common seal of a corporation constituted under section 37Q;
- (e) the securing of decency and order upon any reserve;
- 10 (f) the removal of trespassers and other persons causing annoyance or inconvenience upon any reserve;
- 15 (g) the regulation or prevention of the taking of intoxicants on to and the consuming thereof upon any reserve;
- (h) the regulation and control of the taking of animals on to any reserve or the permitting or suffering of animals to be on any reserve;
- 20 (i) the regulation, control or prohibition of parking, camping or residing on any reserve, the making of charges for any such parking, camping or residing, and the collecting and receiving of any such charges;
- 25 (j) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage, or other vegetative cover on any reserve;
- 30 (k) the protection or removal of all dead timber, logs and stumps on any reserve, whether standing or fallen;
- (l) the preservation, protection or removal of any rocks, soil, sand, stone or other similar substances on or under or comprising part of any reserve;
- 35 (m) the preservation or protection of any animals, birds and any other fauna of any nature whatsoever and whether natural or introduced on any reserve;

(n)

Crown Lands and Other Acts (Reserves) Amendment.

- 5 (n) the making of charges or entrance fees on persons, clubs or associations using or entering upon any reserve or improvements thereon, or any specified part or parts of the reserve or improvements, and the collecting and receiving of any such charges and fees;
- (o) the reservation of any portion of any reserve for such separate or exclusive uses as the by-laws may prescribe;
- 10 (p) the closing of any reserve or parts thereof and the conditions to be observed with regard thereto;
- (q) the regulation, control or prohibition of private trading upon any reserve;
- 15 (r) the appointment and removal of rangers in respect of any reserve and the defining of their powers and duties;
- (s) the prescription of all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- 20 (2) By-laws may be made so as to apply to—
- (a) any specified reserve, or all reserves, or any specified class of reserves;
- (b) all reserves, other than a specified reserve or specified class of reserves; or
- 25 (c) any specified class of reserves, other than a specified reserve or specified class of reserves.

(3) By-laws may be made so as to apply differently according to such factors as may be specified in the by-laws.

- 30 (4) A by-law may impose a penalty not exceeding one hundred dollars for any breach thereof.

cf. No. 8,
1897, s. 1
(3); No. 40,
1912, s. 9
(2); No. 7,
1913, s. 26
(5) (1) (2A).

Crown Lands and Other Acts (Reserves) Amendment.

(5) Any penalty recovered for a breach of a by-law shall, where there are trustees of the reserve in or in relation to which the breach was committed, be paid to those trustees for the purposes of their trust. cf. No. 40, 1912, s. 12 (2).

5 (6) By-laws made for or with respect to the matters referred to in paragraph (i) of subsection (1) shall have effect notwithstanding anything contained in section 37x or any other provision of this or any other Act. cf. No. 40, 1912, s. 9 (1A).

10 (7) Subsection (1) does not apply to the extent to which, under the provisions of any other Act, power is conferred on the trustees of a reserve, or the Governor or the Minister, to make rules, regulations, rules and regulations, by-laws or ordinances for or with
15 respect to any of the matters referred to in that subsection in relation to that reserve. cf. No. 7, 1913, s. 26 (2).

(8) Section 41 of the Interpretation Act, 1897, applies in respect of a by-law as if this Act had been passed after the commencement of the
20 Interpretation (Amendment) Act, 1969.

(9) The trustees of a reserve shall cause a copy of any by-laws applicable to the reserve to be posted in some conspicuous place in the reserve. cf. No. 8, 1897, s. 1 (5); No. 40, 1912, s. 9 (4); No. 7, 1913, s. 26 (4).

(10) In this section—

25 “animals” and “fauna” do not include fish within the meaning of the Fisheries and Oyster Farms Act, 1935; cf. No. 35, 1967, s. 49 (5).

“reserve” includes any land purchased or leased under section 37Y of this Act or section 8A of the Public
30 Parks Act, 1912.

Division

Crown Lands and Other Acts (Reserves) Amendment.

Division 3.

Sale, Lease, etc., of Reserves.

5 37JJ. (1) Nothing in this Division affects any of the provisions of any Act relating to any particular reserve or the trustees thereof. Operation of this Division. cf. No. 9, 1924, s. 4 (a).

(2) Without affecting the generality of this Division, this Division applies to and in respect of a council that is trustee of a reserve. 01

10 (3) This Division does not authorise the sale of lands within a state recreation area, except in pursuance of a power of sale referred to in subsection (4) of section 37MM. 21

15 (4) The powers of the trustees of a reserve and the Minister under this Division are not affected by anything contained in any grant issued for the reserve. 02

37KK. (1) Where—

20 (a) the trustees of a reserve have passed a resolution that it is desirable to sell, lease or mortgage the reserve or any part thereof upon specified terms or conditions; Consent of Minister to sale, lease or mortgage. cf. No. 15, 1909, ss. 3, 5, 7; No. 9, 1924, ss. 5 (1), 6, 8.

25 (b) in the case of a reserve comprising lands reserved, dedicated, granted or held for a showground and the showground is managed by an association, the resolution has been approved of by a meeting of members of the association; 03

(c) the trustees have applied in writing to the Minister for his consent to the proposed sale, lease or mortgage and have furnished a full statement of the facts relating thereto; and 04

(d)

Crown Lands and Other Acts (Reserves) Amendment.

- (d) in the case of a proposed sale of a reserve or any part thereof—
- (i) the trustees have caused to be published in a newspaper circulating in the locality in which the reserve is situated a notice setting out the date and terms of the resolution referred to in paragraph (a), the location of the lands proposed to be sold and such other particulars (if any) as are prescribed; and
 - (ii) the application was made after the expiration of fourteen days after the date of publication of the notice referred to in subparagraph (i),
- the Minister may give his consent in writing either as to the whole or as to part of the lands in respect of which the application was made, or may refuse to grant the application.
- (2) In the case of an application for consent to a sale or lease under this Division, the Minister may give his consent either generally by authorising the sale or lease subject to such conditions, restrictions, reservations and covenants, and in such manner and within such time, as he thinks desirable, or by approving of a particular contract of sale or lease.
- (3) In the case of an application for consent to a mortgage under this Division, the Minister's consent shall not be given generally, but the terms of the proposed mortgage shall in each case be submitted to him for approval.
- (4) Without affecting the operation of subsections (2) and (3), the Minister may, in giving his consent under this section—
- (a) vary the terms or conditions referred to in paragraph (a) of subsection (1); or
 - (b) impose such terms and conditions as he thinks desirable.

Crown Lands and Other Acts (Reserves) Amendment.

37LL. The Minister may, at any time, withdraw, either wholly or in part, his consent given under section 37KK, or vary the terms thereof, if he can do so without prejudice to the rights of third parties.

Withdrawal or variation of consent. cf. No. 15, 1909, s. 7 (1); No. 9, 1924, s. 8 (1).

5 37MM. (1) After obtaining the consent of the Minister under section 37KK, and not otherwise, the trustees of a reserve may sell, lease or mortgage lands within the reserve according to the terms of the consent.

Sale, lease or mortgage. cf. No. 15, 1909, s. 8; No. 9, 1924, s. 9.

10 (2) Notwithstanding subsection (1), where the Minister has given his consent generally under section 37KK to the sale or lease of lands within a reserve, the lands shall not be sold or leased in pursuance of the consent unless the price agreed upon or rent reserved has been submitted to him and approved of by him.

15 (3) A mortgage under this Division may contain a power of sale.

20 (4) Where lands within a state recreation area are the subject of a mortgage under this Division, a power of sale, whether contained in the mortgage or conferred on the mortgagee by the Conveyancing Act, 1919, shall not be exercised in relation to those lands until after the expiration of one month after a written notice of intention to do so has been given to the Minister.

25 (5) For the purposes of subsection (4), a notice shall be deemed not to have been given to the Minister if it is given before the power of sale would, but for that subsection, have become exercisable.

30 (6) A lease shall not be granted under this Division for any purpose for which an authority, permit, lease or license may be granted under the Fisheries and Oyster Farms Act, 1935.

35 37NN. (1) In any case in which trustees desire to exercise the powers conferred by this Division, the Minister may appoint a person who shall have power to execute all conveyances and instruments and do all things necessary for the due exercise of those powers.

Minister may appoint person to execute conveyance. cf. No. 15, 1909, s. 9; No. 9, 1924, s. 10.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) The receipt of the person so appointed shall be a sufficient discharge to any purchaser, lessee or mortgagee bona fide paying money in respect of any sale, lease or mortgage under this Division.

5 (3) Any transfer, mortgage or lease of land under the provisions of the Real Property Act, 1900, signed by the person so appointed, shall have the same effect as if signed by the registered proprietor of the land.

10 37oo. No purchaser, lessee or mortgagee dealing bona fide with a person appointed under section 37NN shall be prejudiced or affected by any omission or irregularity in respect of any of the matters prescribed by this Division. Bona fide purchaser protected. cf. No. 15, 1909, s. 10; No. 9, 1924, s. 11.

15 37PP. (1) The proceeds of a sale, lease or mortgage under this Division shall be held by the trustees, after payment of costs, expenses and encumbrances, for the general purposes of the trust, and may be invested or applied by them accordingly, but, where the Minister gives any direction as to the application of the proceeds, the proceeds shall be applied in accordance with the direction. Proceeds. cf. No. 15, 1909, s. 11; No. 9, 1924, s. 12.

20

(2) The Minister may direct that any portion of the income or revenue of the trustees shall be set apart for payment of interest on, or gradual extinction of, any mortgage debt, and the portion so set apart shall be invested as the Minister directs.

25

37QQ. (1) Lands conveyed to any person pursuant to this Division shall vest in him free from all trusts which affected them in the hands of the persons by whom or on whose behalf they were conveyed. Miscellaneous provisions. cf. No. 15, 1909, s. 12; No. 9, 1924, s. 13.

30 (2) Upon the vesting in a person of any lands conveyed to him pursuant to this Division, any dedication or reservation is revoked to the extent to which it affects the lands.

35 (3) Lands within a reserve may be granted in fee simple for the purpose of carrying out or giving effect to any of the provisions of this Division.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

(4) Without affecting the operation of any other provision of this Act, lands may be granted under subsection (3)—

- 5 (a) subject to such conditions as are imposed by the Minister (which conditions the Minister is hereby authorised to impose) and as are specified in the grant; or
- (b) without any such conditions.

37RR. (1) The trustees of a reserve may—

- 10 (a) without the consent of the Minister, grant temporary licenses for grazing or any other prescribed purpose; or
- (b) with the consent in writing of the Minister, grant temporary licenses for any purpose,

Temporary
licenses.
cf. No. 40,
1912, s. 8.

15 in respect of the whole or any part of the reserve, on such terms and subject to such conditions as, in the case of licenses referred to in paragraph (a), the trustees approve or, in the case of licenses referred to in paragraph (b), the Minister approves.

20 (2) A license shall not be granted under this section for any purpose for which an authority, permit, lease or license may be granted under the Fisheries and Oyster Farms Act, 1935.

25 (3) A license granted under paragraph (a) of subsection (1) shall cease to have effect after it has been in force for a period of two years, but nothing in this subsection affects any right of the trustees—

- (a) to revoke a license before the expiration of that period; or
- 30 (b) to grant a license for a shorter period.

37ss.

Crown Lands and Other Acts (Reserves) Amendment.

37ss. (1) Subject to subsection (3), section 37TT ^{Termination of certain leases and licenses.} and section 37BBB, a lease of, or a license in respect of, any lands within a reserve, being a lease or license granted by the trustees, ceases and determines upon
5 the status of the whole or any part of the lands subject to the lease or license being affected.

(2) For the purposes of this section, the status of any lands within a reserve is affected if and only if—

10 (a) in the case of lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts—the dedication or reservation is revoked; or

15 (b) in the case of lands set apart for any public purpose (but not dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts)—

20 (i) the lands cease to be set apart (whether by the revocation of the notification, if any, by which the lands were set apart or otherwise); or

(ii) the lands are dedicated or reserved under this Act or the Closer Settlement Acts.

25 (3) Where the status of part only of lands the subject of a lease or license is affected, subsection (1) does not apply in respect of the lease or license if, before the status is so affected, the trustees of the reserve comprising the lands and the lessee or licensee agree that the lease or license shall continue in force as if never granted in respect of that part, and upon the status of the lands
30 being so affected, the lease or license shall continue in force accordingly.

(4) No compensation is payable in respect of the determination of a lease or license by virtue of this section.

37TT.

Crown Lands and Other Acts (Reserves) Amendment.

37TT. Where—

Continuance
of certain
leases and
licenses.

- 5 (a) a lease or license has been granted under this
Division in respect of a reserve comprising lands
dedicated or reserved under the Crown Lands
Acts or the Closer Settlement Acts for any public
purpose;
- 10 (b) the dedication or reservation is revoked, by or
under this Act or the Closer Settlement Acts, as
to the whole of the lands in respect of which the
lease or license was in force immediately before
the revocation (which lands are, in this section,
referred to as "the subject lands"); and
- (c) the whole of the subject lands—
- 15 (i) is, under subsection (2) of section 24,
or subsection (2) of section 28, or sub-
section (2) of section 13 of the Closer
Settlement (Amendment) Act, 1914,
added to any lands; or
- 20 (ii) becomes, or becomes part of, a state
recreation area,
- for which trustees hold office under this Part,
the lease or license shall, notwithstanding section 37ss
or any condition in the lease or license, continue in force
as if the dedication or reservation had not been so
25 revoked and shall be deemed to have been granted by
those trustees.

Division 4.

Miscellaneous.

- 30 37UU. Sections 37O, 37P, 37s and 37Z have effect
subject to the provisions of any other Act in force at the
commencement of the Crown Lands and Other Acts
(Reserves) Amendment Act, 1974.

Limitation
on
operation of
sections 37O,
37P, 37s and
37Z.

35—D

37vv.

Crown Lands and Other Acts (Reserves) Amendment.

37vv. (1) The provisions of subsections (2) and (3) have effect in relation to a reserve—

Transfer of
assets, debts
and liabilities
in certain circum-
stances.

5 (a) upon the publication of a notification under
section 37o or 37P appointing a trustee or
trustees of the reserve (other than a reserve in
respect of which a corporation is constituted
under section 37Q), or upon the publication of a
notification under subsection (1) of section 37Q
10 declaring that the trustees of the reserve, and
their successors in office, shall be a corporation
and so have effect as if in those provisions—

(i) “the operative time” meant the
publication of the notification;

15 (ii) “the prior time” meant the time
immediately before that publication or, if
the trustee or trustees of the reserve last
holding office before that publication has
or have vacated office before that
20 publication, the time when he or they so
vacated office;

(iii) “the former controllers” meant the
trustee or trustees of the reserve last
holding office before that publication; and

25 (iv) “the present controllers” meant, if the
notification was published under section
37o or 37P, the trustee or trustees hold-
ing office upon that publication or, if
the notification was published under
30 subsection (1) of section 37Q, the
corporation;

(b) upon an individual vacating his office as trustee
of the reserve (other than a reserve in respect of
which a corporation is constituted under section
37Q), and so have effect as if in those
35 provisions—

(i) “the operative time” meant the time
when he so vacated his office;

(ii)

Crown Lands and Other Acts (Reserves) Amendment.

- 5 (ii) "the prior time" meant the time immediately before he so vacated his office;
- (iii) "the former controllers" meant the trustee or trustees of the reserve last holding office immediately before he so vacated his office; and
- 10 (iv) "the present controllers" meant the trustee or trustees of the reserve holding office immediately after he so vacated office;
- 15 (c) upon the publication of a notification under subsection (2) of section 24 or subsection (2) of section 28, or the publication of a notice under subsection (2) of section 13 of the Closer Settlement (Amendment) Act, 1914, that operates so as to add the whole of the reserve to another reserve, and so have effect as if in those provisions—
- 20 (i) "the operative time" meant the time when a trustee or trustees of the other reserve first holds or hold office at or after the publication of the notification or notice;
- 25 (ii) "the prior time" meant the time immediately before that publication or, if the trustee or trustees of the added reserve last holding office before that publication has or have vacated office before that publication, the time when he or they so vacated office;
- 30 (iii) "the former controllers" meant the trustee or trustees of the added reserve last holding office before that publication; and
- 35 (iv) "the present controllers" meant the trustee or trustees first holding office at or after that publication; (d)

Crown Lands and Other Acts (Reserves) Amendment.

- 5 (d) upon the publication of a notification under subsection (1) or (2) of section 37B that operates so as to reserve the whole of the reserve as part of a state recreation area, and so have effect as if in those provisions—
- (i) “the operative time” meant the publication of the notification;
- 10 (ii) “the prior time” meant the time immediately before that publication or, if the trustee or trustees of the reserve last holding office before that publication has or have vacated office before that publication, the time when he or they so vacated office;
- 15 (iii) “the former controllers” meant the trustee or trustees of the reserve last holding office before that publication; and
- 20 (iv) “the present controllers” meant, if there is a trustee or are trustees of the state recreation area upon that publication, the trustee or trustees or, if there are no such trustees, the Minister;
- 25 (e) upon the publication of a notification under section 37O or 37P appointing a trustee or trustees of a state recreation area the care, control and management of which the Minister was, until that publication, charged with under subsection (8) of section 37B, and so have effect as if in those provisions—
- 30 (i) “the operative time” meant the publication of the notification;
- (ii) “the prior time” meant the time immediately before that publication;
- 35 (iii) “the former controllers” meant the Minister; and
- (iv) “the present controllers” meant the trustee or trustees; or
- (f)

Crown Lands and Other Acts (Reserves) Amendment.

5 (f) subject to subsection (7) of section 37AAA,
upon the taking effect of a notification under
section 37AAA vesting the whole of the lands
within a reserve in a council, and so have effect
as if in those provisions—

(i) “the operative time” meant the date on
which the notification took effect;

10 (ii) “the prior time” meant the time immedi-
ately before that date or, if the trustee
or trustees of the reserve, last holding
office before that date has or have vacated
office before that date, the time when he
or they so vacated office;

15 (iii) “the former controllers” meant the trustee
or trustees of the reserve last holding
office before that date;

(iv) “the present controllers” meant the
council; and

20 (v) “the reserve” meant the lands the subject
of the notification and comprised in the
reserve immediately before that date.

(2) Where this subsection has effect in relation
to a reserve in accordance with subsection (1), then, as
from the operative time—

25 (a) the property of the former controllers relating to
the care, control and management of the reserve,
including all moneys, books of account, registers,
records and all documents and things relating to,
or connected with, the operation of the reserve,
30 shall become the property of the present con-
trollers and any land previously purchased with
the approval of the Minister in pursuance of
section 8A of the Public Parks Act, 1912, or
section 37Y, that at the prior time was
vested in or belonged to the former controllers
35 shall vest in and belong to the present
controllers;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- 5 (b) all moneys and liquidated and unliquidated claims that, at the prior time, were payable to or recoverable by the former controllers in connection with the care, control and management of the reserve shall be moneys and liquidated and unliquidated claims payable to or recoverable by the present controllers;
- 10 (c) all proceedings pending at the prior time at the suit of the former controllers, in connection with the care, control and management of the reserve, shall be deemed to be proceedings pending at the suit of the present controllers and all proceedings so pending at the suit of any person against the former controllers shall be deemed to be proceedings pending at the suit of that person against the present controllers;
- 15 (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the former controllers, in connection with the care, control and management of the reserve, and in force at the prior time shall be deemed to be contracts, agreements, arrangements and undertakings entered into with, and securities given to or by, the present controllers;
- 20 (e) the present controllers may, in connection with the care, control and management of the reserve, in addition to pursuing any other remedies or exercising any other powers that may be available to them, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of proceedings so referred to as the former controllers might have done had the circumstances not arisen by reason of which the provisions of this subsection have effect in accordance with subsection (1);
- 25 (f) the present controllers may enforce and realise any security or charge existing at the prior time in favour of the former controllers in connection with
- 30
- 35

Crown Lands and Other Acts (Reserves) Amendment.

5 with the care, control and management of the reserve, and may exercise any powers thereby conferred on the former controllers as if the security or charge were a security or charge in favour of the present controllers;

10 (g) all debts, moneys and claims, liquidated and unliquidated, that, at the prior time, were due or payable by, or recoverable against, the former controllers in connection with the care, control and management of the reserve shall be debts due, moneys payable by and claims recoverable against, the present controllers;

15 (h) all liquidated and unliquidated claims in connection with the care, control and management of the reserve for which the former controllers would, had the circumstances not arisen by reason of which the provisions of this subsection have effect in accordance with subsection (1), have been liable shall be liquidated and
20 unliquidated claims for which the present controllers shall be liable; and

25 (i) all acts, matters and things done or omitted by, or done or suffered in relation to, the former controllers of the reserve, being acts, matters and things not referred to in the foregoing provisions of this subsection, shall have the same force and effect as if they had been done or omitted by, or done or suffered in relation to, the present controllers of the reserve.

30 (3) No attornment to the present controllers of a reserve by a lessee from the former controllers of the reserve shall be required.

35 (4) The provisions of subsection (2) have effect so as not to affect, or affect the consequences of, the operation of any law or any act, matter or thing lawfully done or omitted between the prior time (within the meaning of any of the paragraphs of subsection (1)) and

Crown Lands and Other Acts (Reserves) Amendment.

and the operative time (within the meaning of the same paragraph) in relation to any circumstances in which subsection (2) has effect.

5 (5) Where part only of a reserve is added to another reserve by a notification published under sub-
section (2) of section 24, subsection (2) of section 28, or section 37B, or by notice published under subsection
10 (2) of section 13 of the Closer Settlement (Amendment) Act, 1914, the trustees of the remaining part of the firstmentioned reserve and the trustees of that other
reserve shall, as soon as practicable after publication of the notification or notice, arrange and agree upon a
15 division of the assets, debts and liabilities of the trustees of that remaining part, so that the assets, debts and liabilities appropriate to that remaining part and the added part may be determined, and—

(a) if any difference arises between the trustees of that remaining part and the trustees of that other reserve, the difference shall be determined in such
20 manner as the Minister directs; or

(b) if there are no trustees of that remaining part, or there are no trustees of that other reserve, for the time being, the assets, debts and liabilities appropriate to that remaining part and that added
25 part shall be determined in accordance with any directions of the Minister.

(6) For the purposes of subsection (5), where a notification published under section 37B operates so as to reserve part only of a reserve as part
30 of a state recreation area, the part so reserved shall be deemed to be added to the state recreation area.

(7)

Crown Lands and Other Acts (Reserves) Amendment.

5 (7) Where a notification under section 37AAA operates so as to vest part only of a reserve in a council, the trustees of the remaining part of the reserve and the council shall, as soon as practicable after the notification takes effect, arrange and agree upon a division of the assets, debts and liabilities of the trustees of that remaining part, so that the assets, debts and liabilities appropriate to that remaining part and the part vested in the council may be determined, and—

10 (a) if any difference arises between the trustees and the council, the difference shall be determined in such manner as the Minister directs; or

15 (b) if there are no trustees of that remaining part for the time being, the assets, debts and liabilities appropriate to that remaining part and the part vested in the council shall be determined in accordance with any directions of the Minister.

20 (8) Where, but for this section, a trustee or former trustee of a reserve would be personally liable for a breach of trust or for any other act or omission in relation to which he would have no right of indemnity from any of the funds of the trustees of the reserve, nothing in this section takes away his liability therefor nor imposes that liability on any other person.

25 37ww. Where—

30 (a) a person was appointed or purported to be appointed, under the Public Trusts Act, 1897, as trustee of any lands set apart, dedicated or reserved (temporarily or otherwise) for any public purpose and was holding or purporting to hold office immediately before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974;

Exclusion
of certain
provisions
in docu-
ments, etc.

(b) the lands are a reserve; and

(c)

Crown Lands and Other Acts (Reserves) Amendment.

(c) a document (other than an Act) or notice issued, made or published before that commencement contains provisions relating to the appointment of trustees of the lands,

5 the provisions of Division 2 have effect to the exclusion of anything contained in the provisions referred to in paragraph (c).

10 37xx. (1) This section applies to lands that are declared by the Minister, by order published in the Gazette, to be lands to which this section applies, being lands—

Extension of certain provisions of Division 2 to certain lands.

(a) that are set apart, reserved, dedicated, granted or held for a public park or for any other public purpose;

15 (b) for which—

(i) by or under any Act enacted before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974 (other than this Act, the Public Trusts Act, 1897, the Public Parks Act, 1912, and section 26 of this Act as applied by Regulation 64 under the Closer Settlement Acts); or

20 (ii) by any document (other than an Act) or notice issued, made or published before that commencement, and creating or authorising the creation of the trust, trustees may be or are required to be appointed; and

25 (c) that are not, or are not part of, a reserve.

30 (2) Subject to subsection (3), the provisions of sections 37o, 37p, 37s and 37t apply to and in respect of any lands to which this section applies and the trustees thereof in the same way as they apply to and in respect of a reserve and the trustees thereof.

(3)

Crown Lands and Other Acts (Reserves) Amendment.

5 (3) The Minister may, by an order under subsection (1) or another order published in the Gazette, direct that subsection (2) shall not operate in relation to any specified lands or specified class of lands to the extent specified in the order, and the direction has effect according to its tenor.

(4) A declaration under subsection (1) may apply to any specified lands or specified class of lands.

10 (5) Subject to subsection (3), subsection (2) has effect in relation to any lands notwithstanding anything contained in the Act by or under which, or in the document or notice by which, trustees may be or are required to be appointed for the lands.

15 37YY. (1) This section applies to lands that are declared by the Minister, by order published in the Gazette, to be lands to which this section applies, being lands—

(a) that are—

20 (i) reserved, dedicated, granted or held for a showground; or

(ii) set apart, dedicated, reserved, granted or held for any public purpose under any Act;

25 (b) of which there are trustees, whether or not appointed under an Act; and

(c) that are not, or are not part of, a reserve.

30 (2) Subject to subsection (3), the provisions of Division 3 (sections 37RR, 37SS and 37TT excepted) apply to and in respect of any lands to which this section applies and the trustees thereof in the same way as they apply to and in respect of a reserve and the trustees thereof.

35 (3) The Minister may, by an order under subsection (1) or another order published in the Gazette, direct that subsection (2) shall not operate in relation

Extension of certain provisions of Division 3 to certain show-grounds and other lands.

cf. No. 15, 1909, s. 2.

cf. No. 9, 1924, s. 2.

Crown Lands and Other Acts (Reserves) Amendment.

relation to any specified lands or specified class of lands to the extent specified in the order, and the direction has effect according to its tenor.

5 (4) A declaration under subsection (1) may apply to any specified lands or specified class of lands.

(5) Nothing in Division 3, as applied by this section, affects any powers that the trustees of any lands to which this section applies would have to sell, lease or mortgage those lands had this section not been enacted.

PART IIIc.

VESTING OF CERTAIN LANDS IN COUNCILS.

37zz. In this Part, except in so far as the context or Interpretation subject-matter otherwise indicates or requires—

15 “area” has the meaning ascribed thereto in the Local Government Act, 1919;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

“prescribed lands” means—

- 20 (a) lands within a reserve; or
(b) Crown lands not within a reserve.

but does not include—

(c) any lands within a national park, state park, historic site, aboriginal area or protected archaeological area within the meaning of the National Parks and Wildlife Act, 1967;

(d) any lands dedicated as a nature reserve, or declared to be a wildlife refuge or game reserve, under the Fauna Protection Act, 1948;

30 (e) any lands in respect of which any Act (other than this Act or the Closer Settlement Acts) provides that the lands shall be

Crown Lands and Other Acts (Reserves) Amendment.

be used for a purpose referred to in the Act or shall not be used for any purpose other than that referred to in the Act; or

- 5 (f) any lands within a state recreation area;
“reserve” has the meaning ascribed thereto in Part III.B.

10 37AAA. (1) Subject to this section, the Minister may, by notification published in the Gazette, at his discretion, vest any prescribed lands described in the notification in a council specified in the notification for an estate in fee simple, where the Minister is of the opinion that—

(a) the lands—

- 15 (i) are a public reserve within the meaning of the Local Government Act, 1919, or are suitable for use as such a public reserve; or

- 20 (ii) are used for any other purpose for which lands may be acquired by a council under the Local Government Act, 1919, or are suitable for use for any such other purpose; and

- 25 (b) it is proper that, having regard to the purpose (if any) for which the lands are used, the lands should be vested in the council.

(2) Lands shall not be vested under this section in a council—

- 30 (a) without the concurrence of the council; and
(b) unless the lands are wholly within the area of the council.

35 (3) Where the area of lands described in a notification under subsection (1) is not affected by a Crown grant or certificate of title, that area may be limited to the surface only of the lands, or to the surface thereof and to such depth below the surface as the Minister may specify therein.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

5 (4) A notification by which a vesting of lands under this section is effected shall, where those lands are not affected by a Crown grant or certificate of title, contain a reservation of all minerals in the lands and shall contain such other reservations and exceptions as the Minister deems expedient in the public interest.

10 (5) A vesting of lands under this section takes effect subject to the reservations and exceptions contained in the notification by which the vesting is effected or contained in any Crown grant or certificate of title affecting the lands immediately before the notification takes effect.

15 (6) The Minister may, in a notification under subsection (1), declare the lands described therein to be a public reserve for the purposes of the Local Government Act, 1919.

(7) Where—

- 20 (a) the whole of the lands comprised in a reserve are vested in a council under this section;
- (b) there were trustees holding office before the notification by which the vesting was effected took effect; and
- 25 (c) the Minister and the council agreed, before the notification took effect, to modify the operation of subsection (2) of section 37vv in relation to the vesting, so that it is agreed that any assets, debts and liabilities specified or described in the agreement that would, but for this subsection, be transferred to or vested in the
- 30 council should not be so transferred or vested,

the provisions of subsection (2) of section 37vv shall, in relation to the vesting, have effect as modified in accordance with the agreement.

35 (8) A notification published under subsection (1) shall take effect on and from the date of publication or a later date specified in the notification.

Crown Lands and Other Acts (Reserves) Amendment.

37BBB. (1) Upon a notification under section 37AAA Effect of vesting.
taking effect in relation to any lands—

- 5 (a) the lands shall be deemed to have been acquired under the Local Government Act, 1919, by the council specified in the notification, but nothing in this paragraph affects the operation of subsection (2) or (5) of section 518 of that Act;
- 10 (b) any dedication, reservation, notification of a special area under section 59 or notification of a classified area is revoked to the extent to which it affects the lands;
- 15 (c) every provision for forfeiture or reverter in respect of any breach or non-performance of any condition, trust or proviso contained in any Crown grant shall be deemed to have been released by the Crown to the extent to which the grant affects the lands;
- 20 (d) where a trustee of all or any part of the lands was holding office immediately before the notification took effect, the trustee shall cease to hold that office in respect of those lands or that part, as the case may be; and
- 25 (e) any by-laws that, immediately before the notification took effect, applied to all or any of the lands shall cease to apply to the lands.

30 (2) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (1) shall, in so far as they applied to those lands, be deemed to have been repealed.

(3)

Crown Lands and Other Acts (Reserves) Amendment.

5 (3) Where section 37vv, in its operation in relation to a lease of, or a license in respect of, lands vested in a council under section 37AAA, has the effect of deeming the lease or license to be granted by the council, the lease or license shall, notwithstanding section 37ss or any condition in the lease or license, continue in force and shall, notwithstanding any Act or other law to the contrary, be deemed to have been granted—

10 (a) where the council granted the lease or license in its capacity as trustee of the reserve—by the council otherwise than in that capacity; or

(b) in any other case—by the council.

15 (4) The revocation of a dedication or reservation in respect of any lands under subsection (1) does not effect a revocation of a Crown grant or certificate of title issued in respect of those lands.

8. The Principal Act is further amended—

Further amendment of Act No. 7, 1913.

20 (a) (i) by omitting from section 25 the words “both Houses of Parliament within one month after the publication thereof in the Gazette if Parliament be then in session, or otherwise within one month after the commencement of the next ensuing session. If Parliament shall within one month declare by resolution that it does not assent to the proposals set forth in such notice, no further action shall be taken in the matter. If no such resolution be passed, then after the expiration of thirty clear days after the date

25

when

Crown Lands and Other Acts (Reserves) Amendment.

- 5 when the notice was laid before Parliament,"
and by inserting instead the words "each House
of Parliament within the prescribed time after
publication thereof. Where a House of Parlia-
ment passes a resolution of which notice has
been given within fifteen sitting days of that
House after a copy of the notice so published
has been laid before it under this section,
whether or not those sitting days occur during
10 the same session, and the resolution disallows
the proposals set forth in the notice, no further
action shall be taken in the matter. If no such
resolution is passed,";
- 15 (ii) by inserting at the end of the same section the
following new paragraph :—
- In this section, "prescribed time", in relation
to a House of Parliament, means fourteen
sitting days of that House, whether or not they
occur during the same session.
- 20 (b) (i) by omitting from section 25A the words "to Sec. 25A.
reserve from sale or lease generally any land (Disposal
which before or after the commencement of of certain
the Crown Lands (Amendment) Act, 1957," Crown
and by inserting instead the words "for the lands.)
Minister in respect of any land that before or
25 after the commencement of the Crown Lands
and Other Acts (Reserves) Amendment Act,
1974,";
- 30 (ii) by omitting from section 25A (b) the words
"the Water Conservation and Irrigation Com-
mission" and by inserting instead the words "a
public authority";
- 35 (iii) by omitting from section 25A (b) the words
"the said Commission" and by inserting instead
the words "a public authority";

Crown Lands and Other Acts (Reserves) Amendment.

- (iv) by omitting from section 25A the words "and upon revocation of any such reservation," and by inserting instead the words "by notification published in the Gazette to declare that";
- 5 (v) by inserting in section 25A after the words "this Act" the words ", and upon the publication of the notification in the Gazette the land may be so dealt with";
- 10 (vi) by inserting at the end of section 25A the following new subsections :—
- (2) The area of land described in a notification under subsection (1) may be limited to the surface only of the land, or to the surface thereof and to such depth below the surface
- 15 as the Minister may specify therein.
- (3) A declaration shall not be made under subsection (1) in respect of land vested in or acquired by or on behalf of a public authority without the consent of that public authority.
- 20 (4) In this section, "public authority" means The Water Conservation and Irrigation Commission or any public body declared by the Minister by order published in the Gazette to be a public authority for the purposes of this
- 25 section.

9. The Closer Settlement (Amendment) Act, 1914, is amended by inserting at the end of section 13 the following new subsections :—

Amendment
of Act
No. 7, 1914.
Sec. 13.
(Reser-
vation or
dedication
of lands.)

- 30 (2) The Minister by notice published in the Gazette may declare that lands acquired under the Closer Settlement Acts or within a settlement purchase area or Crown lands shall be added to any lands reserved or dedicated under subsection (1).

(3)

Crown Lands and Other Acts (Reserves) Amendment.

(3) Upon the publication of a notice under subsection (2), the lands to which the notice relates shall be added to the lands reserved or dedicated under subsection (1), as specified in the notice, shall form part of the reserved or dedicated lands and may at any time be granted for the same purpose in fee simple and shall be subject to the like reservation or dedication and the like trusts as the reserved or dedicated lands, any rules and regulations or by-laws applicable to the reserved or dedicated lands shall be applicable to the added lands and any trustees of the reserved or dedicated lands shall be deemed to be appointed trustees of the added lands under the provisions of the Act whereby they were appointed trustees of the reserved or dedicated lands.

(4) Subsection (3) of section 24 of the Crown Lands Consolidation Act, 1913, applies to and in respect of a notice under subsection (1) or (2) of this section in the same way as it applies to and in respect of a notification under subsection (1) or (2) of section 24 of that Act.

(5) Without affecting the operation of any other provision of the Closer Settlement Acts, lands may be granted under this section—

- (a) subject to such conditions as are imposed by the Minister (which conditions the Minister is hereby authorised to impose) and as are specified in the grant; or
- (b) without any such conditions.

10. The Local Government Act, 1919, is amended—

Amendment
of Act No.
41, 1919.

- (a) by inserting in the definition of "Public reserve" in section 4 after the words "of this Act," where secondly occurring the words "any land vested in the council, and declared to be a public reserve, under section 37AAA of the Crown Lands Consolidation Act, 1913,";

Sec. 4.
(Defini-
tions.)

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) by inserting at the end of section 343 the following new subsection :—

Sec. 343.
(Applica-
tion.)

(2) Notwithstanding anything in this Part, but subject to section 37BB of the Crown Lands Consolidation Act, 1913, where, under Part IIIb of that Act, a council holds office as trustee of a public reserve that is wholly or partly outside the area of the council, the powers and duties conferred and imposed upon the council under this Part (other than sections 344 and 345) shall apply in relation to the reserve as if the reserve were wholly within that area.

- (c) by inserting at the end of section 518 the following new subsection :—

Sec. 518.
(Power to
sell or
exchange
property.)

(5) Any land, other than a public reserve, vested in the council under section 37AAA of the Crown Lands Consolidation Act, 1913, shall not be sold or exchanged except with the approval of the Minister given before the sale or exchange takes place.

11. (1) The Mining Act, 1906, is amended—

Amendment
of Act No.
49, 1906.

- (a) by inserting next after section 28 (2) the following new subsection :—

Sec. 28.
(Applicant
may mine
upon land.)

(3) The consent of the Minister under paragraph (a) of subsection (1) shall not be granted in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—

- (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.
- 5 (b) by inserting next after section 83D (2) the following new subsection :—
- (3) The Minister shall not grant his consent under this section in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—
- 10 (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or
- 15 (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.
- (2) The Petroleum Act, 1955, is amended by inserting next after section 46 (2) the following new subsection :—
- 20 (3) The Minister shall not grant his consent under this section in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—
- (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for
- 25 Lands; or
- (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.
- (3) The Mining Act, 1973, is amended by inserting
- 30 next after section 86 (4) the following new subsection :—
- (5) In the case of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, the
- Minister

Sec. 83D.
(Restriction
on rights
of holders
of licenses
over certain
lands.)

Amendment
of Act No.
28, 1955.
Sec. 46.
(Restriction
on rights
of holders
of licences
and leases
over certain
lands.)

Amendment
of Act No.
42, 1973.
Sec. 86.
(Rights of
registered
holder
of an
exploration
licence.)

Crown Lands and Other Acts (Reserves) Amendment.

Minister shall not give his consent under subsection (3) without the approval of—

- 5 (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or
- (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

(4) The amendment made by subsection (3) to the
10 Mining Act, 1973, shall take effect—

- (a) on and from the commencement of this Act or the commencement of section 86 of the Mining Act, 1973, whichever is the later; or
- 15 (b) if this Act and that section commence on the same day—on and from that day.

(5) On a day to be appointed by the Governor for the purposes of this subsection and notified by proclamation published in the Gazette, subsection (1) is repealed.

12. The Closer Settlement and Public Reserves Fund Act, Amendment
20 1970, is amended— of Act No. 26, 1970.

- (a) (i) by inserting in the definition of “Public reserve” in section 3 after the word “means” the words “reserve within the meaning of Part IIIB of the Crown Lands Consolidation Act, 1913, and includes any other”;
25
- (ii) by omitting from the definition of “Public reserve” in section 3 the words “and includes land to which the provisions of the Public Parks Act, 1912, apply”;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) by inserting next after section 5 (g) the following new paragraph :—
- Sec. 5.
(Payments
into Closer
Settlement
and Public
Reserves
Fund.)
- 5 (g1) any moneys directed by the Minister to be paid into the Closer Settlement and Public Reserves Fund out of the proceeds of the disposal of property under section 37HH of the Crown Lands Consolidation Act, 1913;
- (c) by inserting next after section 6 (3) (d) the following new paragraphs :—
- Sec. 6.
(Payments
out of
Closer
Settlement
and Public
Reserves
Fund.)
- 10 (d1) the remuneration, including travelling expenses, of an administrator appointed under Part IIIB of the Crown Lands Consolidation Act, 1913;
- 15 (d2) any costs incurred in disposing of property under section 37HH of the Crown Lands Consolidation Act, 1913, and any moneys paid into the Closer Settlement and Public Reserves Fund under paragraph (g1) of section 5 pending payment out of the Fund
- 20 in accordance with directions of the Minister under section 37HH of that Act.

13. (1) The Sydney Sports Ground and Sydney Cricket Ground Amalgamation Act, 1951, is amended—

Amendment
of Act No.
32, 1951.

- 25 (a) by omitting from section 2 (3) (b) the words “section twenty-six” and by inserting instead the words “subsection (5) of section 37o”;
- Sec. 2.
(Divesting
and re-
dedication
of certain
lands, re-
constitution
of certain
trusts, and
action
consequent
thereon.)
- (b) by omitting from section 2 (3) (b) the words “wherever occurring”;
- (c) by omitting section 2 (3) (c).

Crown Lands and Other Acts (Reserves) Amendment.

(2) The Sydney Sports Ground and Sydney Cricket Ground Amalgamation (Amendment) Act, 1959, is amended—

- 5 (a) in section 2 (1) (a) by omitting from subsection (4) (b) contained therein the words "section twenty-six" and by inserting instead the words "subsection (5) of section 37o";
- 10 (b) in section 2 (1) (a) by omitting from subsection (4) (b) contained therein the words "wherever occurring";
- (c) in section 2 (1) (a) by omitting subsection (4) (c) contained therein;
- 15 (d) in section 2 (1) (a) by omitting from subsection (4) (d) contained therein the words "section twenty-six of" and by inserting instead the words "section 37o of".

(3) The Newcastle International Sports Centre Act, 1967, is amended—

- 20 (a) (i) by omitting from section 3 the words "Section twenty-six" and by inserting instead the words "Subsection (5) of section 37o";
- (ii) by omitting from section 3 the words "wherever occurring";
- (b) by omitting section 4;
- 25 (c) (i) by omitting from section 8 (1) the words "Subsection two of section twenty-six" and by inserting instead the words "Subsection (1) of section 37ii";
- 30 (ii) by omitting from section 8 (2) the words "Rules and regulations made (whether before or after the commencement of this Act) under section twenty-six of the Crown Lands Consolidation Act, 1913, or any Act amending

or

Crown Lands and Other Acts (Reserves) Amendment.

or replacing that Act," and by inserting instead the words "By-laws made under section 37II of the Crown Lands Consolidation Act, 1913, including by-laws deemed to have been made under that section,".

5

(4) The Aborigines Act, 1969, is amended—

Amendment
of Act No.
7, 1969.

(a) by omitting from section 14 (1) (a) the words "two of the Public Trusts Act, 1897," and by inserting instead the words "37P of the Crown Lands Consolidation Act, 1913,";

10

(b) by omitting section 14 (2) and (3) and by inserting instead the following subsections :—

(2) Section 37T of the Crown Lands Consolidation Act, 1913, does not apply to or in respect of the corporation.

15

(3) The powers conferred on the Governor by subsection (1) of section 37II of the Crown Lands Consolidation Act, 1913, shall, in relation to a reserve of which the corporation is trustee by virtue of subsection (1)—

20

(a) be deemed not to include powers exercisable by virtue of paragraphs (c), (d), (e), (f), (g), (n), (p), (r) and (s) of that subsection; and

25

(b) not be exercised except with the concurrence of the Minister administering this section.

PART III.

SAVINGS AND MISCELLANEOUS PROVISIONS.

14. In this Part—

30 "Part IIIB" means Part IIIB of the Principal Act, as amended by this Act;

Inter-
pretation.

"the

Crown Lands and Other Acts (Reserves) Amendment.

5 "the repealed enactments" means the Public Trusts Act, 1897, the Public Parks Act, 1912, and section 26 of the Principal Act, and includes that section as applied by Regulation 64 under the Closer Settlement Acts.

15 15. (1) An individual appointed or deemed to be Trustees. appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands shall be deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of those lands.

15 (2) An individual appointed or deemed to be appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands by virtue of his holding any office or position shall be deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of those lands by virtue of his holding that office or position.

20 (3) A corporation appointed or deemed to be appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands shall be deemed to have been appointed under section 37P of the Principal Act, as amended by this Act, to be trustee of those lands.

(4) Where—

- 30 (a) by reason of the operation of subsection (1) or (2) a person is deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of any lands; and
- (b) another person is, immediately before the commencement of this Act, also holding office as

trustee

Crown Lands and Other Acts (Reserves) Amendment.

trustee of those lands by virtue of his being appointed under a document (other than an Act) or notice issued, made or published before that commencement,

- 5 that other person shall be deemed to have been appointed under that section to be a trustee of those lands.

(5) Where a body corporate (in this subsection referred to as "the existing body corporate") constituted and incorporated, or deemed to have been constituted and incorporated, under the Public Parks Act, 1912, was in existence immediately before the commencement of this Act—

- 15 (a) the existing body corporate shall be deemed to be a corporation (in this subsection referred to as "the continued corporation") constituted under section 37Q of the Principal Act, as amended by this Act;
- (b) the corporate name of the existing body corporate shall be deemed to have been assigned to the continued corporation under that section; and
- 20 (c) the existing body corporate and the continued corporation shall be deemed to be the same corporate person.

16. (1) Any rules and regulations or by-laws made under any of the repealed enactments, and in force immediately before the commencement of this Act, shall, to the extent to which they are not inconsistent with the Principal Act, as amended by this Act, be deemed to be by-laws made under Part IIIB.

(2) A reference (however expressed) in any Act enacted before the commencement of this Act, other than this Act, or in any instrument under an Act issued, made or published before that commencement, to rules and regulations or by-laws made under any of the repealed enactments shall be construed as a reference to by-laws made under Part IIIB.

Crown Lands and Other Acts (Reserves) Amendment.

17. (1) Where—

(a) a lease or license granted in pursuance of any powers referred to in section 3 of the Public Trusts Act, 1897;

Leases,
licenses and
other
matters
respecting
land.

5 (b) a lease or license granted under section 8 of the Public Parks Act, 1912; or

(c) a lease granted under section 26 of the Principal Act or that section as applied by Regulation 64 under the Closer Settlement Acts,

10 was in force immediately before the commencement of this Act, the lease or license shall be deemed to have been granted under Part IIIB.

(2) Any vesting of lands in trustees under section 3 of the Public Trusts Act, 1897, is rescinded, and the trustees
15 are divested of any estate or interest in the lands arising by reason only of the vesting, but nothing in this subsection affects the validity of a lease or license that was granted in pursuance of any powers referred to in that section and that was in force immediately before the commencement of this Act.

20 (3) A lease taken under section 8A (a) of the Public Parks Act, 1912, and in force immediately before the commencement of this Act, shall be deemed to have been taken under section 37Y (a) of the Principal Act, as amended by this Act.

25 (4) An approval or consent given for the purposes of section 8A of the Public Parks Act, 1912, before the commencement of this Act shall, to the extent to which it had force and effect immediately before that commencement, be deemed to have been given for the purposes of section 37Y of
30 the Principal Act, as amended by this Act.

(5) Section 37RR (3) of the Principal Act, as amended by this Act, does not apply to or in respect of a license referred to in subsection (1).

18.

Crown Lands and Other Acts (Reserves) Amendment.

18. Where a copy of a notice setting forth proposals (within the meaning of section 25 of the Principal Act) in relation to any land has been laid before a House of Parliament before the commencement of this Act, that section, as in force immediately before that commencement, shall continue to apply to and in respect of that land as if section 8 (a) had not been enacted.

Revocation of dedications under section 25 of Principal Act.

19. Where land was reserved under section 25A of the Principal Act and the reservation had not been revoked before the commencement of this Act, that section, as in force immediately before that commencement, shall continue to apply to and in respect of that land as if section 8 (b) had not been enacted.

Reservations under section 25A of Principal Act.

20. (1) Where a special resolution has, before the commencement of this Act, been passed under section 3 of the Trustees of Show-grounds Enabling Act, 1909, in respect of any lands (within the meaning of that Act) or part thereof, the provisions of that Act shall, in connection only with any act, matter or thing done or to be done or that may be done in consequence of that resolution, continue to apply to and in respect of those lands or that part as if this Act had not been enacted, but where the Minister's consent has not been given before that commencement to a mortgage the subject of the resolution, that Act shall be deemed to be amended by omitting section 7 (3) and by inserting instead the subsection set out in subsection (3) of this section.

Trustees of Show-grounds Enabling Act, 1909, and Trustees of Public Reserves Enabling Act, 1924.

(2) Where a special resolution has, before the commencement of this Act, been passed under section 5 of the Trustees of Public Reserves Enabling Act, 1924, in respect of any public reserve (within the meaning of that Act) or part thereof, the provisions of that Act shall, in connection only with any act, matter or thing done or to be done or that may be done in consequence of that resolution, continue to apply to and in respect of that public reserve or part as

if

Crown Lands and Other Acts (Reserves) Amendment.

if this Act had not been enacted, but where the Minister's consent has not been given before that commencement to a mortgage the subject of the resolution, that Act shall be deemed to be amended by omitting section 8 (3) and by
 5 inserting instead the subsection set out in subsection (3) of this section.

(3) For the purposes of subsections (1) and (2), the subsection to be inserted is as follows :—

10 (3) In the case of an application for consent to a mortgage under this Act, the Minister's consent shall not be given generally, but the terms of the proposed mortgage shall in each case be submitted to him for approval.

SCHEDULE.

Sec. 5.

Column 1.		Column 2.
15 Year and number of Act.	Short title of Act.	Extent of repeal.
1897, No. 8..	Public Trusts Act, 1897.	The whole Act.
20 1909, No. 15..	Trustees of Show-grounds Enabling Act, 1909.	The whole Act.
1912, No. 21..	Trustees Audit Act, 1912.	So much of Schedule 1 as amended Act 61 Vic. No. 8 (Act No. 8, 1897).
25 1912, No. 40..	Public Parks Act, 1912.	The whole Act.
1913, No. 7..	Crown Lands Consolidation Act, 1913.	Section 26. So much of the First Schedule as amended Act No. 8, 1897.
30 1924, No. 9..	Trustees of Public Reserves Enabling Act, 1924.	The whole Act.

SCHEDULE

*Crown Lands and Other Acts (Reserves) Amendment.*SCHEDULE—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
5	1937, No. 35.. Statute Law Revision Act, 1937.	So much of the Second Schedule as amended Act No. 40, 1912.
10	1938, No. 29.. Crown Lands and Closer Settlement (Amendment) Act, 1938.	Section 8 (b).
15	1941, No. 51.. Trustees of Public Reserves (Limitation of Numbers and Retirement) Act, 1941.	The whole Act.
	1944, No. 8 .. Public Trusts (Amendment) Act, 1944.	The whole Act.
20	1955, No. 53.. Public Parks and Reserves Act, 1955.	Sections 2, 3 and 4.
	1957, No. 30.. Crown Lands (Amendment) Act, 1957.	Section 9.
	1964, No. 7 .. Crown Lands (Amendment) Act, 1964.	Section 7 (1) (c).
25	1971, No. 29.. Public Trusts and Other Acts (Amendment) Act, 1971.	Sections 2, 4, 5 (a) and 5 (c).
30	1971, No. 31.. Trustees of Showgrounds Enabling (Amendment) Act, 1971.	The whole Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974
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New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 37, 1974.

An Act to provide for the reservation of certain lands as state recreation areas; to consolidate and amend certain laws relating to the appointment, powers and duties of trustees of certain lands; to provide for the vesting of certain lands in the council of a local government area; for these and other purposes to amend the Crown Lands Consolidation Act, 1913, the Closer Settlement (Amendment) Act, 1914, the Local Government Act, 1919, and certain other Acts; to repeal the Public Trusts Act, 1897, the Trustees of Show-grounds Enabling Act, 1909, the Public Parks Act, 1912, the Trustees of Public Reserves Enabling Act, 1924, and certain other enactments; and for purposes connected therewith. [Assented to, 23rd April, 1974.]

BE

Crown Lands and Other Acts (Reserves) Amendment.

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 :—

PART I.**PRELIMINARY.**

Short
title.

1. This Act may be cited as the "Crown Lands and Other Acts (Reserves) Amendment Act, 1974".

Commence-
ment.

2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Reference to
Principal
Act.

3. The Crown Lands Consolidation Act, 1913, is, in this Act, referred to as the Principal Act.

Division of
Act.

4. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–5.

PART II.—AMENDMENTS OF ACTS—ss. 6–13.

**PART III.—SAVINGS AND MISCELLANEOUS PROVISIONS
—ss. 14–20.**

SCHEDULE.

Crown Lands and Other Acts (Reserves) Amendment.

5. An Act specified in Column 1 of the Schedule is, to Repeals. the extent specified opposite that Act in Column 2 of the Schedule, hereby repealed.

PART II.

AMENDMENTS OF ACTS.

6. The Principal Act is amended—

Amendment
of Act No.
7, 1913.

(a) by inserting in section 1 (b) next after the matter relating to Part III the following new matter :—

Sec. 1 (b).
(Division
into Parts.)

PART IIIA.—STATE RECREATION AREAS—
sections 37A–37L.

PART IIIB.—MANAGEMENT OF AND DEALINGS
WITH DEDICATED OR RESERVED LANDS AND
CERTAIN OTHER LANDS—sections 37M–
37YY.

Division 1.—PRELIMINARY—sections 37M,
37N.

Division 2.—MANAGEMENT OF RESERVES—
sections 37O–37II.

Division 3.—SALE, LEASE, ETC., OF
RESERVES—sections 37JJ–37TT.

Division 4.—MISCELLANEOUS—sections
37UU–37YY.

PART IIIC.—VESTING OF CERTAIN LANDS IN
COUNCILS—sections 37zz–37BBB.

(b)

Crown Lands and Other Acts (Reserves) Amendment.

Sec. 5.
(Interpretation of terms.)

- (b) (i) by inserting next before the definition of "Catchment Areas Protection Board" in section 5 (1) the following new definition :—

"By-laws" means by-laws made under the authority of this Act.

- (ii) by inserting next after the definition of "Series" in section 5 (1) the following new definition :—

"State recreation area" means state recreation area under Part IIIA.

Sec. 24.
(Dedication of Crown lands for public purposes.)

- (c) (i) by inserting in section 24 (1) after the word "enjoyment" the words "—public park";
- (ii) by inserting in section 24 (2) after the words "Crown lands" the words "or closer settlement lands";
- (iii) by inserting in section 24 (3) after the words "this Act," the words "or the Closer Settlement Acts,";
- (iv) by inserting in section 24 (3) after the words "classified areas" wherever occurring the words " , settlement areas";
- (v) by inserting next after section 24 (4) the following new subsections :—

(5) Without affecting the operation of any other provision of this Act, lands may be granted under this section—

- (a) subject to such conditions as are imposed by the Minister (which conditions the Minister is hereby authorised to impose) and as are specified in the grant; or

- (b) without any such conditions.

Crown Lands and Other Acts (Reserves) Amendment.

(6) In this section—

“closer settlement lands” means lands acquired under the Closer Settlement Acts, and, without affecting the generality of the foregoing provisions of this definition, includes lands within a settlement purchase area set apart under section 21 of the Closer Settlement (Amendment) Act, 1909, but does not include—

- (a) any lands reserved or dedicated under section 13 of the Closer Settlement (Amendment) Act, 1914;
- (b) any lands granted or lawfully contracted to be granted in fee-simple under the Closer Settlement Acts;
- (c) any lands disposed of under subsection (6) of section 21 of the Closer Settlement (Amendment) Act, 1909; or
- (d) any lands held under a lease under the Closer Settlement Acts;

“settlement area” means—

- (a) settlement purchase area set apart under section 21 of the Closer Settlement (Amendment) Act, 1909; or
- (b) closer settlement lease area set apart under section 7 of the Closer Settlement Amendment (Conversion) Act, 1943.

(d)

Crown Lands and Other Acts (Reserves) Amendment.

Sec. 28.
(Temporary
reserves
from sale
for public
purposes.)

- (d) (i) by inserting in section 28 (2) after the words "Crown lands" the words "or closer settlement lands";
- (ii) by inserting in section 28 (3) after the words "this Act," the words "or the Closer Settlement Acts,";
- (iii) by inserting in section 28 (3) after the words "classified areas" wherever occurring the words ", settlement areas";
- (iv) by inserting next after section 28 (3) the following new subsection :—

(4) In this section, "closer settlement lands" and "settlement area" have the meanings respectively ascribed thereto in section 24.

Sec. 253.
(Recovery
of
penalties.)

- (e) by inserting in section 253 after the word "thereunder" the words "or by any by-law".

**Further
amendment
of Act No.
7, 1913.**

**New Parts
IIIA, IIIB,
IIIC.**

7. The Principal Act is further amended by inserting next after Part III the following new Parts :—

PART IIIA.

STATE RECREATION AREAS.

**Interpreta-
tion.**

37A. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

"Coal Mining Act" means an Act, whether enacted before or after the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974, that makes provision with respect to prospecting for or mining coal or shale, other than the Mining Act, 1906;

"lands of the Crown" means lands vested in a Minister of the Crown or in a public authority;

"prescribed

cf. No. 35,
1967, s. 3.

Crown Lands and Other Acts (Reserves) Amendment.

“prescribed lands” means—

- (a) lands within a reserve;
- (b) Crown lands not within a reserve; or
- (c) lands of the Crown,

but does not include—

- (d) any lands within a national park, state park, historic site, aboriginal area or protected archaeological area within the meaning of the National Parks and Wildlife Act, 1967;
- (e) any lands dedicated as a nature reserve, or declared to be a wildlife refuge or game reserve, under the Fauna Protection Act, 1948;
- (f) any lands in respect of which any Act (other than this Act or the Closer Settlement Acts) provides that the lands shall be used for a purpose referred to in the Act or shall not be used for any purpose other than that referred to in the Act; or
- (g) any lands within a state recreation area;

“prescribed time”, in relation to a House of Parliament, means fourteen sitting days of that House, whether or not they occur during the same session;

“public authority” means any public body declared by the Minister by order published in the Gazette to be a public authority for the purposes of this Part;

“public purpose” has the meaning ascribed thereto in Part IIIB;

“reserve” has the meaning ascribed thereto in Part IIIB.

Crown Lands and Other Acts (Reserves) Amendment.

Reservation
of state
recreation
area.

cf. No. 35,
1967, s. 20.

37B. (1) Subject to this section, the Minister may, by notification published in the Gazette, permanently reserve, as a state recreation area, any prescribed lands described in the notification, for the purpose of public recreation and enjoyment.

(2) Subject to this section, the Minister may, by notification published in the Gazette, permanently reserve, as part of a state recreation area specified in the notification, any prescribed lands described in the notification, for the purpose of public recreation and enjoyment.

(3) A reservation under subsection (1) or (2) shall not be made—

- (a) in any case—without the concurrence in writing of the Minister for Mines; and
- (b) in respect of lands submerged by waters—without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(4) A reservation under subsection (1) or (2) shall not be made in respect of lands of the Crown except with the concurrence in writing of the Minister or public authority in whom they were vested immediately before the reservation.

(5) Upon the publication of a notification under subsection (1)—

- (a) where a trustee of all or any part of the lands described in the notification was holding office under Part IIIB immediately before that publication and—
 - (i) where the trustee so held office in respect of all of those lands, the trustee shall, subject to this Act, continue to be trustee of those lands; or

(ii)

Crown Lands and Other Acts (Reserves) Amendment.

- (ii) where the trustee so held office in respect of part only of those lands, the trustee shall cease to hold that office in respect of that part of those lands;
- (b) any by-laws that, immediately before that publication, applied to all of the lands described in the notification and not to any other lands, shall continue to apply to the lands so described, but without affecting the power of the Governor to amend or repeal those by-laws; and
- (c) any by-laws that, immediately before that publication, applied to—
 - (i) part only of the lands described in the notification; or
 - (ii) all of the lands so described and also to any other lands,
 shall cease to apply to the lands so described.
- (6) Upon the publication of a notification under subsection (2)—
 - (a) where a trustee of all or any part of the lands described in the notification was holding office under Part IIIB immediately before that publication, the trustee shall cease to hold that office in respect of those lands or that part, as the case may be;
 - (b) where a trustee was holding office as trustee of the state recreation area specified in the notification immediately before that publication, the trustee shall be deemed to have been appointed trustee of the lands described in the notification;
 - (c) any by-laws that, immediately before that publication, applied to the state recreation area specified in the notification shall apply to the lands described in the notification; and

(d)

Crown Lands and Other Acts (Reserves) Amendment.

- (d) any by-laws that, immediately before that publication, applied to all or any part of the lands described in the notification shall cease to apply to the lands so described.

(7) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (5) or (6) shall, in so far as they applied to those lands, be deemed to have been repealed.

(8) Upon the publication of a notification under subsection (1) or (2)—

- (a) the lands described in the notification become Crown lands to the extent to which they were not Crown lands immediately before that publication; and
- (b) except in any case where subparagraph (i) of paragraph (a) of subsection (5) or paragraph (b) of subsection (6) operates, the Minister shall be charged with the care, control and management of the lands so described until trustees are appointed under Part IIIB.

(9) To the extent to which a dedication, reservation (other than a reservation under this Part) Crown grant or vesting affects lands described in a notification published under subsection (1) or (2), the publication revokes the dedication, reservation, grant or vesting.

(10) The Minister may, by a notification published under subsection (1) or (2) or by another notification published in the Gazette, assign a name to a state recreation area, and may, from time to time, by such a notification, alter any name assigned under this subsection or assign a different name in its place.

Crown Lands and Other Acts (Reserves) Amendment.

37C. (1) A copy of a notification published under subsection (1) or (2) of section 37B shall be laid before each House of Parliament within the prescribed time after publication thereof.

Tabling of
notifications
and
disallow-
ance.

(2) Where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a notification has been laid before it under subsection (1), whether or not those sitting days occur during the same session, and the resolution disallows the reservation effected by the notification or any part thereof—

- (a) the reservation thereupon ceases, to the extent of the disallowance, to have effect; and
- (b) to the extent to which the reservation ceases to affect them, the lands described in the notification thereupon cease to be, or to be part of, a state recreation area.

(3) Where any lands cease to be, or to be part of, a state recreation area by virtue of the disallowance of a reservation under this Part—

- (a) any person holding office as trustee of the state recreation area immediately before the disallowance shall cease to be trustee of those lands;
- (b) any by-laws applicable to the state recreation area immediately before the disallowance shall cease to apply to those lands; and
- (c) subject to subsection (4), those lands may be dealt with as if they had been acquired under the Closer Settlement Acts or as Crown lands.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

(4) Notwithstanding anything in paragraph (c) of subsection (3), where any lands cease to be, or to be part of, a state recreation area by virtue of the disallowance of a reservation under this Part and those lands were, immediately before the reservation—

- (a) lands dedicated under the Crown Lands Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be dedicated under this Act for that purpose;
- (b) lands dedicated under the Closer Settlement Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be dedicated under those Acts for that purpose; or
- (c) lands reserved under the Closer Settlement Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be reserved under those Acts for that purpose,

as from the date on which the disallowance took effect.

(5) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (3) shall, in so far as they applied to those lands, be deemed to have been repealed.

Term of
office of
trustees
of state
recreation
area.

37D. (1) A trustee of a state recreation area continued in office by subparagraph (i) of paragraph (a) of subsection (5) of section 37B shall, unless he sooner vacates his office, hold office for a term of five years commencing on the date of publication in the Gazette of the notification under subsection (1) of that section in relation to the state recreation area, but is, subject to Division 2 of Part IIIB, eligible for further appointment as a trustee of the state recreation area.

Crown Lands and Other Acts (Reserves) Amendment.

(2) A trustee of a state recreation area (other than a trustee continued in office, as referred to in subsection (1)) shall, unless he sooner vacates his office, hold office for such term as is specified in the notification by which he was so appointed, but is, subject to Division 2 of Part IIIB, eligible for further appointment as a trustee of the state recreation area.

(3) Nothing in this section applies to a corporation appointed to be a trustee under section 37P or to an administrator appointed under Division 2 of Part IIIB.

37E. (1) In this section, "existing interest" means— Existing interests.
 (a) any authority, permit, lease, license, or occupancy, otherwise than under a Coal Mining Act; cf. No. 35, 1967, ss. 22, 22A.
 or

(b) any lease or other interest under a Coal Mining Act, being a lease or other interest of a class or description prescribed by regulations made under section 37G for the purposes of this paragraph.

(2) Except as provided in this Act, the reservation of lands as, or as part of, a state recreation area does not affect—

- (a) the terms and conditions of any existing interest in respect of those lands from the Crown or the trustees, current and in force at the time of the reservation; or
- (b) the use permitted of those lands under the interest.

(3) Subject to subsection (4), no such interest shall be renewed nor shall the term of any such interest be extended except with the approval of the Minister and subject to such conditions as the Minister determines.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

(4) The provisions of subsection (3) do not apply to—

- (a) any authority, lease or license under the Mining Act, 1906, the Fisheries and Oyster Farms Act, 1935, the Petroleum Act, 1955, or the Mining Act, 1973, or any permit or licence under the Petroleum (Submerged Lands) Act, 1967; or
- (b) any lease or other interest under a Coal Mining Act of a class or description prescribed by regulations made under section 37G for the purposes of paragraph (b) of the definition of “existing interest” in subsection (1).

(5) Upon the termination, surrender, forfeiture or determination of any existing interest (otherwise than for the purpose of renewing it or extending its term) referred to in subsection (2), the lands the subject of the interest are, to the extent to which they would not, but for this subsection, be lands reserved as part of the state recreation area within which they are situated. hereby so reserved.

Restrictions on disposal of or dealing with lands within state recreation areas.

cf. No. 35, 1967, s. 23.

37F. (1) Notwithstanding anything in this or any other Act, lands within a state recreation area shall not be sold, leased or otherwise dealt with except as provided in this Part or Part IIIB.

(2) Without affecting the generality of subsection (1), lands within a state recreation area shall not be dedicated, reserved or otherwise dealt with under Part III or the Closer Settlement Acts.

Provisions relating to mining.

cf. No. 35, 1967, s. 24.

37G. (1) In this section, “mining interest” means—

- (a) any authority or lease granted under the Mining Act, 1906, or the Petroleum Act, 1955;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) an authority (other than an exploration licence) under the Mining Act, 1973; or
- (c) any lease or other interest under a Coal Mining Act, being a lease or other interest of a class or description prescribed by regulations made under subsection (8) for the purposes of this paragraph.

(2) Subject to this section, the Mining Act, 1906, the Petroleum Act, 1955, the Petroleum (Submerged Lands) Act, 1967, the Mining Act, 1973, and a Coal Mining Act apply, at any time, to lands within a state recreation area to the extent to which those Acts are in force at that time.

(3) A mining interest shall not be granted in respect of lands within a state recreation area without the concurrence in writing of the Minister.

(4) A renewal of, or extension of the term of, a mining interest in respect of lands within a state recreation area (other than an existing interest referred to in subsection (2) of section 37E) shall not be granted under the Mining Act, 1906, the Petroleum Act, 1955, the Mining Act, 1973, or a Coal Mining Act without the concurrence in writing of the Minister.

(5) Except as provided in this section, nothing in this Part affects the right, title or interest of any person (other than a person who is or was trustee of the lands comprised in a state recreation area) in respect of minerals in any such lands.

(6) Lands within a state recreation area are hereby exempted from occupation under any miner's right or business license issued under the Mining Act, 1906.

(7)

Crown Lands and Other Acts (Reserves) Amendment.

(7) Where a provision of a Coal Mining Act prevents, or has the effect of preventing, a person from exercising in lands within a state recreation area any of the rights conferred by that Act or by an instrument under that Act, except with the consent of the Minister for the time being administering that Act, that Minister shall not, in the case of any such lands, give his consent under that provision without the approval of—

- (a) where the lands are not within an irrigation area—the Minister for Lands; or
- (b) where the lands are within an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

(8) The Governor may make regulations for or with respect to—

- (a) prescribing a class or description of leases or other interests under a Coal Mining Act for the purposes of paragraph (b) of the definition of “existing interest” in subsection (1) of section 37E;
- (b) prescribing a class or description of leases or other interests under a Coal Mining Act for the purposes of paragraph (c) of the definition of “mining interest” in subsection (1).

(9) The regulations under subsection (8) shall be made on the recommendation of the Minister and with the concurrence of the Minister for Mines.

(10) Section 41 of the Interpretation Act, 1897, applies in respect of the regulations made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(11) A reference to the Mining Act, 1906, in this section or section 37E does not, if that Act is repealed, extend to a reference to that Act as re-enacted, whether it is re-enacted with or without modification.

Crown Lands and Other Acts (Reserves) Amendment.

37H. (1) The Forestry Act, 1916, does not apply to or in respect of lands within a state recreation area.

Application of Forestry Act, 1916. cf. No. 35, 1967, s. 25.

(2) Notwithstanding anything in subsection (1), all licenses and permits under the Forestry Act, 1916, affecting lands within a state recreation area shall, unless sooner cancelled under the Forestry Act, 1916, continue in force until the expiration of the respective terms for which they were granted, and that Act shall continue to apply to and in respect of those licenses and permits until they respectively expire or are cancelled.

37I. (1) The Soil Conservation Act, 1938, applies to and in respect of lands within a state recreation area.

Application of Soil Conservation Act, 1938, and Fisheries and Oyster Farms Act, 1935. cf. No. 35, 1967, ss. 23 (3), 33.

(2) Subject to subsection (3), nothing in this Part affects the operation of the Fisheries and Oyster Farms Act, 1935, in relation to lands within a state recreation area.

(3) A lease under the Fisheries and Oyster Farms Act, 1935, shall not, without the concurrence of the Minister in writing, be granted in respect of lands within a state recreation area or in respect of any waters beneath which those lands are submerged.

37J. (1) The Minister may, upon such terms as he thinks fit, grant for joint or several use easements or rights of way through, upon or in a state recreation area for the purpose of providing access to any area included in any lease or license within the state recreation area, or for the construction of pipelines, or for the erection of standards, posts, wires and appliances for the conveyance or transmission of electricity, or for any other purpose deemed necessary by the Minister.

Easements, etc. cf. No. 35, 1967, s. 31.

Crown Lands and Other Acts (Reserves) Amendment.

(2) The Minister may accept a surrender of any easement or right of way through, upon or in a state recreation area.

(3) Any easement or right of way over any lands within a state recreation area and in force immediately before those lands were reserved under section 37B shall be deemed to have been granted under this section.

Limitation
on use of
expression
"state
recreation
area".

cf. No. 35,
1967, s. 13.

37K. The expression "state recreation area" shall not be used either alone or in conjunction with other words as the name of any lands used for the purpose of public recreation and enjoyment unless the lands are within a state recreation area reserved under this Part.

Revocation,
appropriation or
resumption
of state
recreation
area.

cf. No. 7,
1913, s. 25;
No. 35,
1967, s. 21
(1).

37L. (1) Notwithstanding anything in any other Part or in any other Act, but subject to section 37QQ (2)—

- (a) the reservation of lands as, or as part of, a state recreation area shall not be revoked; or
- (b) lands within a state recreation area shall not be appropriated or resumed,

except in accordance with this section.

(2) Where the Minister is of the opinion that the reservation of lands as, or as part of, a state recreation area should be revoked as to the whole or any part of those lands, he may cause a notice under his hand to be published in the Gazette, setting forth the mode in which it is proposed to deal with the lands.

(3)

Crown Lands and Other Acts (Reserves) Amendment.

(3) Where in any Act provisions are contained enabling the appropriation or resumption of Crown lands and a Minister of the Crown is of the opinion that it is in the public interest to appropriate or resume any lands within a state recreation area under those provisions, he may cause a notice under his hand to be published in the Gazette, setting forth the mode in which it is proposed to deal with the lands and drawing attention to the fact that the lands are within a state recreation area.

(4) Where a notice is published under subsection (2) or (3), a copy of the notice shall be laid before each House of Parliament within the prescribed time after publication thereof.

(5) Where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of the notice so published has been laid before it under subsection (4), whether or not those sitting days occur during the same session, and the resolution disallows the proposal set forth in the notice, no further action shall be taken in the matter.

(6) If no such resolution is passed, it shall be lawful for the proposal so set forth to be carried out—

- (a) in the case of a proposal that the reservation of lands as, or as part of, a state recreation area be revoked as to the whole or any part of those lands—by the Minister, by notification published in the Gazette, revoking the reservation in accordance with the proposal ; or
- (b) in the case of a proposal for the appropriation or resumption of any lands within a state recreation area—by the appropriation or resumption of the lands, as specified in the proposal, being

effected

Crown Lands and Other Acts (Reserves) Amendment.

effected in accordance with and subject to the provisions of the Act enabling the appropriation or resumption.

(7) Upon the publication of a notification under paragraph (a) of subsection (6) revoking the reservation of lands as, or as part of, a state recreation area as to the whole or any part thereof, the whole of the lands or that part, as the case may be, shall cease to be, or to be part of, a state recreation area, as the case may be.

PART IIIb.

**MANAGEMENT OF AND DEALINGS WITH DEDICATED OR
RESERVED LANDS AND CERTAIN OTHER LANDS.**

Division 1.

Preliminary.

**Interpreta-
tion.**

37M. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“area” has the meaning ascribed thereto in the Local Government Act, 1919;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

“public purpose”, in relation to lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts, means a purpose that is a public purpose in relation to the provision of the Act under which the lands were so dedicated or reserved;

“reserve”

Crown Lands and Other Acts (Reserves) Amendment.

“reserve” means—

- (a) lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts for any public purpose; or
- (b) any other lands in respect of which a trustee appointed or purporting to have been appointed under the Public Trusts Act, 1897, or the Public Parks Act, 1912, was holding or purporting to hold office immediately before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974,

and includes lands within a state recreation area, but does not include—

- (c) any common within the meaning of the Commons Regulation Act, 1898 ;
- (d) any lands within the meaning of the Trustees of Schools of Arts Enabling Act, 1902; or
- (e) any lands or class of lands in respect of which an order under section 37N is in force.

(2) In this or any other Act, or in any instrument under an Act, except in so far as the context or subject-matter otherwise indicates or requires, a reference (however expressed) to the trustees of a reserve includes, where a corporation is the sole trustee of a reserve, a reference to that trustee.

37N. The Minister may, by order published in the Gazette, declare that any lands or class of lands specified or described in the order are not to be subject to the provisions of this Part.

Order
declaring
lands not
to be
reserve.

Crown Lands and Other Acts (Reserves) Amendment.

Division 2.*Management of Reserves.*

Appoint-
ment of
individuals
as trustees.
cf. No. 8,
1897, ss. 1,
4, 4A, 4E;
No. 40,
1912, ss. 4
(1), 7, 7A,
7E; No. 7,
1913, s. 26
(1) (1A)
(1E).

37o. (1) In this section, "person" means individual.

(2) Subject to subsection (5), the Minister may, by notification published in the Gazette, appoint not less than three persons to be trustees of a reserve.

(3) Subject to subsection (5), the Minister may, by notification published in the Gazette, appoint a person to be a trustee of a reserve—

- (a) in the place of a person who is deemed to have vacated his office as a trustee; or
- (b) in addition to persons already holding office as trustees of the reserve.

(4) Without affecting the generality of subsection (2) or (3), the Minister may, under either of those subsections, appoint a person who holds a particular office or position to be a trustee by virtue of his holding that office or position.

(5) An appointment shall not be made under this section, whether to fill a vacancy or otherwise, which would result in the total number of trustees for the time being of a reserve exceeding, or being maintained or increased beyond, seven.

(6) Where a person is appointed to be a trustee of a reserve by virtue of his holding a particular office or position, then, in ascertaining the number of trustees of the reserve for the purposes of subsection (5), that person shall not be counted.

(7) A person of or above the age of seventy years is not eligible for appointment under this section as a trustee.

(8) Subject to section 37D, a person appointed to be a trustee of a reserve under this section shall continue to hold office as such until he is deemed to have vacated that office under this Act.

(9)

Crown Lands and Other Acts (Reserves) Amendment.

(9) This section has effect subject to section 37UU.

37P. (1) The Minister may, by notification published in the Gazette, appoint a corporation, whether—

(a) a council;

(b) a corporation constituted or created by or under any Act providing for the holding or managing of or dealing with church property; or

(c) any other corporation whatsoever,

to be sole trustee of a reserve.

Appointment of corporation as sole trustee.
cf. No. 8, 1897, s. 2; No. 40, 1912, s. 6.

(2) A corporation shall have authority to accept appointment under this section as trustee and to exercise and perform all the powers, authorities, duties and functions necessary for the purpose of carrying its trusteeship into full effect.

(3) A council shall not be appointed to be trustee of a reserve that is wholly or partly within the area of another council except with the consent of that other council.

(4) Without affecting the generality of subsection (1), this section authorises the appointment as trustee of a reserve, being the whole or part of lands set apart, dedicated or reserved for the purposes of a cemetery, of a corporation referred to in paragraph (b) of subsection (1).

(5) This section has effect subject to section 37UU.

37Q. (1) The Minister may, by notification published in the Gazette—

(a) declare that the trustees (appointed under section 37O) of a reserve specified in the notification, and their successors in office, shall be a corporation; and

(b) assign a corporate name to the corporation.

Incorporation of certain trustees.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

cf. No. 40,
1912, s. 4
(2); No. 6,
1972, ss. 4,
5, 8 (1).

(2) On and from the publication in the Gazette of a notification under subsection (1)—

- (a) the trustees of the reserve specified in the notification, and their successors in office, shall be a corporation under the corporate name assigned in the notification to the corporation; and
- (b) the powers, authorities, duties and functions of the trustees of the reserve, whether conferred or imposed by this Act or otherwise, shall be deemed to be conferred or imposed on the corporation alone.

(3) The Minister may, from time to time, by notification published in the Gazette, assign a new corporate name to a corporation constituted under this section, and, on and from the publication in the Gazette of the notification, the corporate name of the corporation shall, without affecting the continuity of the corporation, be the name so assigned.

(4) Where a corporation is constituted under this section in relation to the trustees of a reserve, the common seal of the corporation shall, except in so far as the by-laws applicable to the reserve otherwise provide, be kept by such trustee or officer of the trustees as the trustees from time to time determine.

(5) Where a corporation is constituted under this section in relation to the trustees of a reserve—

- (a) subject to paragraph (b), the liability of a trustee of the reserve shall be the same as if the corporation had been appointed sole trustee under section 37P and as if the trustees were the members of the corporation; and

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) no matter or thing done, and no contract entered into, by the trustees of the reserve in their corporate capacity, and no matter or thing done by a trustee or by any other person acting under the direction of the trustees in their corporate capacity, shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this or any other Act in so far as it confers or imposes powers, authorities, duties or functions on the trustees, subject a trustee, or other person so acting, personally to any action, liability, claim or demand.

(6) The Minister may, by notification published in the Gazette, dissolve a corporation constituted under this section.

(7) Subject to subsection (3) of section 37EE, where—

- (a) a corporation is constituted under this section in relation to the trustees of a reserve;
- (b) there are no trustees of the reserve for the time being; and
- (c) the corporation does not have an estate in fee simple in the reserve otherwise than by the operation of section 37X,

section 344 of the Local Government Act, 1919, has effect in relation to the reserve as if the corporation had not been so constituted.

(8) A notification under subsection (1) may be contained in the same instrument as a notification under section 37O.

(9) A notification under subsection (1), (3) or (6) may be made in relation to one or more reserves.

Crown Lands and Other Acts (Reserves) Amendment.

Trustees
charged
with care,
control
and
manage-
ment.

37R. The trustees of a reserve appointed under this Division are charged with the care, control and management of the reserve.

Vacation
of
office of
trustees.

37s. (1) A trustee (appointed under section 37o) of a reserve shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he resigns his office by writing under his hand addressed to the Minister;
- (c) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) if he is removed from office by the Minister;
- (e) if the Minister declares, by notification published in the Gazette, that, from information contained in a report forwarded to the Minister under section 37r, the number of duly convened meetings of the trustees of the reserve held during any year of the trust at which the trustee was present was less than forty per centum of the total number of duly convened meetings of the trustees during the year;
- (f) on the day on which he attains the age of seventy years;
- (g) in the case of a person who was appointed to be a trustee by virtue of his holding a particular office or position and who ceases to hold that office or position, except as provided in paragraph (h), upon his so ceasing to hold that office or position; or
- (h) in the case of a person who was appointed to be a trustee by virtue of his holding the office of member of a council or mayor, Lord Mayor or president

Crown Lands and Other Acts (Reserves) Amendment.

president of an area, and who ceases to hold that office otherwise than in circumstances giving rise to an extraordinary vacancy under section 35 of the Local Government Act, 1919, and otherwise than by reason of the removal of the members of a council under section 86 of that Act—

- (i) upon the expiration of one month after his so ceasing to hold that office, unless he is elected or appointed, or re-elected or re-appointed, to that office; or
- (ii) upon the election or appointment of another person to that office,

whichever first occurs.

(2) A corporation that is appointed under section 37P to be trustee of a reserve shall be deemed to have vacated its office—

- (a) if it resigns its office by writing under its seal addressed to the Minister; or
- (b) if it is removed from office by the Minister.

(3) The Minister may, by notification published in the Gazette, remove from office any trustee appointed under section 37O or 37P for any cause which to the Minister seems sufficient.

(4) Nothing in this section affects the operation of the provisions of subsection (12) of section 37AA relating to the vacation of office of a trustee.

(5) This section has effect subject to section 37UU.

37T. (1) Trustees appointed under section 37O shall cause to be forwarded to the Minister during the month next following the close of the year of the trust financial and other statements in relation to such matters arising out of the trust as the Minister either generally or in any particular case or class of cases may require.

Trustees to report to Minister.
cf. No. 8, 1897, s. 4c; No. 40, 1912, s. 7c; No. 7, 1913, s. 26 (1c).

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) A corporation that is appointed under section 37P to be trustee of a reserve shall cause to be forwarded to the Minister in the month of January in the year 1976 and thereafter in the month of January in every third succeeding year a statement concerning such activities of the corporation in relation to the trust during the preceding three years as the Minister either generally or in any particular case or class of cases may require.

(3) The Minister may, in any particular case or class of cases, waive the requirements of subsection (1) or (2) either wholly or in part, and for such periods as he may determine, if in his opinion the circumstances of the case or class of cases are such that it is desirable to do so.

Adoption of
plan of
manage-
ment.
cf. No. 35,
1967, s. 29.

37U. (1) The Minister may cause a plan of management to be prepared with respect to any reserve.

(2) The plan of management for a reserve shall contain a detailed written scheme of the operations which it is proposed to undertake in or in relation to the reserve, and, without affecting the generality of the foregoing provisions of this subsection, may specify any activity proposed to be permitted in any part of the reserve and the nature of any development proposed to be carried out to encourage the use of that part for the activity so specified.

(3) In the preparation of a plan of management for a reserve, regard shall be had to the encouragement and regulation of the appropriate use, understanding and enjoyment of the reserve by the public and to any other objectives which the Minister thinks fit in any particular case.

(4) Where a plan of management has been prepared for a reserve, the Minister—

(a) shall refer a copy of the plan to the trustees of the reserve (if any); and

(b) may refer a copy to any other person, for consideration.

(5)

Crown Lands and Other Acts (Reserves) Amendment.

(5) The persons to whom a copy of a plan of management has been referred under subsection (4) may, within such period as the Minister approves, make representations to him in connection with the plan.

(6) The Minister shall, before adopting a plan of management, consider the representations received by him in pursuance of subsection (5).

(7) The Minister may adopt a plan of management without alteration or with such alterations as he thinks fit.

(8) Where the Minister has adopted a plan of management—

- (a) the plan shall be carried out and given effect to by the trustees of the reserve to which the plan relates; and
- (b) no operations shall be undertaken on or in relation to the lands to which the plan relates unless the operations are in accordance with the plan,

and, without affecting the generality of paragraph (b), that paragraph applies where a council has the care, control and management of the lands under section 344 of the Local Government Act, 1919, by reason of the fact that there are no trustees of the reserve for the time being.

(9) A reference in paragraphs (a) and (b) of subsection (8) to a plan of management is, where the plan has been amended or altered under section 37v, a reference to the plan as so amended or altered.

Crown Lands and Other Acts (Reserves) Amendment.

Amend-
ment, altera-
tion or
cancellation
of plan of
manage-
ment.

37v. (1) The Minister may, from time to time, amend or alter a plan of management that has been adopted under section 37U or may cancel such a plan of management.

(2) Where the Minister cancels a plan of management for any reserve under subsection (1), he may, at the same time or subsequently, adopt a new plan of management in accordance with section 37U.

(3) Where the Minister proposes to amend or alter a plan of management under subsection (1), he shall cause the amendment or alteration to be prepared, and, in the preparation of the amendment or alteration, regard shall be had to subsection (2) of section 37U.

(4) The provisions of subsections (3), (4), (5), (6) and (7) of section 37U apply to and in respect of an amendment or alteration under subsection (1) of this section in the same way as they apply to and in respect of a plan of management.

Plan of
management
for lands
submerged
by water.

37w. (1) Where lands submerged by water are lands that are the subject of any part of a plan of management, the Minister shall, before its adoption under section 37U, refer the plan to the Minister administering the Fisheries and Oyster Farms Act, 1935.

(2) A plan of management referred to in subsection (1) shall not be adopted, amended, altered or cancelled under section 37v in so far as it relates to lands referred to in that subsection without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

Estate of
trustees.
cf. No. 40,
1912, s. 8.

37x. (1) Except to the extent that the trustees of a reserve have an estate in fee simple in the reserve apart from this section, the trustees shall, for the purposes only of this Part and of any by-law, be deemed to have that estate in the reserve.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) The trustees of a reserve are not capable of alienating, charging, granting leases of, or licenses in respect of, or in any way disposing of the reserve or any part of the reserve except in accordance with Division 3.

(3) The removal of a trustee under this Part shall divest the trustee so removed of any estate in the lands subject to the trust. cf. No. 8,
1897, s. 4.

(4) The revocation of the setting apart, dedication or reservation as to the whole or a part of a reserve divests the trustees of any estate in the whole or that part of the reserve, as the case may be.

37Y. The trustees of a reserve—

- (a) may, with the approval of the Minister, purchase or take a lease of any lands (whether or not adjoining the reserve) required by them for use in connection with the reserve; Purchase
or lease
of lands,
etc., outside
trust area.
cf. No. 40,
1912, s. 8A.
- (b) may expend trust moneys in using or improving any lands purchased by them or of which they have taken a lease under and in accordance with paragraph (a), or, before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974, under and in accordance with paragraph (a) of section 8A of the Public Parks Act, 1912; and
- (c) may, with the approval of the Minister and the consent of the owner, expend trust moneys for or in connection with the improvement of any lands, where in their opinion that expenditure is desirable to provide or improve access to the reserve, or to provide or improve facilities or amenities for persons visiting the reserve.

37z.

Crown Lands and Other Acts (Reserves) Amendment.

Quorum.
cf. No. 8,
1897,
s. 4B;
No. 40,
1912,
s. 7B;
No. 7, 1913,
s. 26 (1B).

37Z. (1) The number ascertained by dividing the total number of trustees of a reserve by two and adding one to the quotient (any fractional remainder being disregarded) shall, unless a greater number is fixed by any by-law having effect in relation to the reserve, be the number of trustees necessary to form a quorum at any meeting of the trustees.

(2) Any duly convened meeting of the trustees at which a quorum is present shall be competent to transact any business of the trustees.

(3) A decision of the majority of the trustees present at a meeting shall be the decision of the trustees.

(4) This section does not apply to a corporation appointed under section 37P to be trustee of a reserve.

(5) This section has effect subject to section 37UU.

Pecuniary
interest
in contract.
cf. No. 41,
1919, s. 30A.

37AA. (1) A person who is a trustee of a reserve may have a pecuniary interest, direct or indirect, in a contract or proposed contract with the trustees of the reserve.

(2) Where a person who is a trustee of a reserve has a pecuniary interest, direct or indirect, in a contract or proposed contract with the trustees of the reserve and he is present at a meeting of the trustees at which the contract or proposed contract is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose his interest, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or proposed contract.

(3) Subject to subsection (4), where it has been disclosed to the trustees of a reserve, or they have reason to believe, that one of the trustees has or may

have

Crown Lands and Other Acts (Reserves) Amendment.

have a pecuniary interest, direct or indirect, in a proposed contract with the trustees, the trustees shall not enter into that contract unless—

- (a) the trustees have caused to be published in a newspaper circulating in the district in which the reserve is situated a notice—
 - (i) setting out the nature of work or services to be performed, or goods to be supplied, or both, as the case may be, under the contract; and
 - (ii) inviting persons willing to perform the work or services, or supply the goods, or both, as the case may be, to submit tenders to the trustees on or before a date and time specified in the notice (being not earlier than twenty-one days after the publication of the notice) to the trustees at an address specified in the notice; and
- (b) the trustees are satisfied, after considering all the tenders submitted in accordance with the notice, that, having regard to all the circumstances, none of the tenders is more advantageous than that submitted in relation to that contract.

(4) Nothing in subsection (3) applies in the case of an emergency.

(5) For the purposes of this section, a person shall be treated as having an indirect pecuniary interest in a contract or proposed contract if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made,

B

but

Crown Lands and Other Acts (Reserves) Amendment.

but a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body.

(6) Where a trustee has an indirect pecuniary interest in a contract or proposed contract and would not be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body, then, if the total nominal value of those shares does not exceed one thousand dollars or one-hundredth of the total nominal value of the issued share capital of the company or other body, whichever is the lesser, so much of subsection (2) as prohibits him from taking part in the consideration or discussion of, or from voting on any question with respect to, the contract or proposed contract shall not apply to him, without prejudice, however, to the duty of disclosure imposed by that subsection.

(7) Where the share capital of the company or other body referred to in subsection (6) is of more than one class, subsection (6) shall not apply if the total nominal value of all the shares of any one class in which the trustee so referred to has a beneficial interest exceeds one-hundredth part of the total issued share capital of that class of the company or other body.

(8) In the case of a married man and his wife who are living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of the other spouse.

(9) A general notice given in writing by a trustee of a reserve to each of the other trustees, or to the secretary of the trustees (if any), to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person,

shall.

Crown Lands and Other Acts (Reserves) Amendment.

shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract or proposed contract relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(10) The trustees of a reserve shall cause to be recorded in a book to be kept for the purpose particulars of any disclosure made under subsection (2), and of any notice given under subsection (9).

(11) If a person fails to comply with the provisions of subsection (2), he shall for each offence be liable to a penalty not exceeding two hundred dollars, unless he proves that he did not know that a contract or proposed contract in which he had a pecuniary interest was the subject of consideration at the meeting.

(12) Where a person is convicted of an offence against this section, he shall be deemed to have vacated his office as trustee of any reserve of which he is, at the time of conviction, holding office as trustee, unless the court by which he is convicted sees fit in the circumstances of the case to declare that he shall not by virtue of his conviction be deemed to have vacated his office as such a trustee.

(13) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by subsection (2) in any case in which the number of trustees so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.

(14) The trustees of a reserve may by resolution provide for the exclusion of a trustee from a meeting of the trustees while any contract or proposed contract in which he has an interest, as referred to in this section, is under consideration.

(15)

Crown Lands and Other Acts (Reserves) Amendment.

(15) This section does not apply to or in respect of a corporation that is appointed under section 37P to be trustee of a reserve.

(16) In this section, "shares" includes stock, and "share capital" shall be construed accordingly.

Application
of Local
Government
Act, 1919,
to councils.

37BB. (1) Where a council is appointed under section 37P to be trustee of a reserve that is a public reserve, the council shall, in relation to the reserve, have, in addition to the powers, authorities, duties and functions conferred or imposed on the council as trustee by or under this Act, the powers, authorities, duties and functions conferred or imposed on councils by or under the Local Government Act, 1919, in relation to public reserves, but the provisions of this Act shall prevail to the extent of any inconsistency.

(2) In subsection (1), "public reserve" has the meaning ascribed thereto in the Local Government Act, 1919.

Power of
Minister
to enter
reserves.
cf. No. 8,
1897, s. 9.

37CC. (1) The Minister, or any person authorised by him for the purpose, may enter any reserve at any time and may inspect the reserve.

(2) A person who obstructs the Minister or a person authorised by him in the exercise of his power under this section is guilty of an offence and liable to a penalty not exceeding one hundred dollars.

Aid of
police may
be called
in.
cf. No. 40,
1912, s. 11.

37DD. The trustees of a reserve, or any ranger or other officer appointed by the trustees, may call in the aid of the police for the removal, by force if necessary, of any person who is found committing a breach of any by-law applicable to the reserve, or who by disorderly or insulting conduct on the reserve or on any public place within the meaning of the Summary Offences Act, 1970, causes annoyance or inconvenience to persons on the reserve or going to or coming from the reserve.

37EE.

Crown Lands and Other Acts (Reserves) Amendment.

37EE. (1) Where all the trustees of a reserve for which a corporation is constituted under section 37Q have vacated their offices as trustees, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

Administrator of reserve for which corporation constituted under this Division.

(2) The administrator of a reserve appointed under this section shall have the powers, authorities, duties and functions that trustees of the reserve, if appointed, would have in their corporate capacity, and any act, matter or thing done or omitted by the administrator shall have the same effect as if done or omitted by trustees of the reserve.

(3) Section 344 of the Local Government Act, 1919, does not apply in relation to a reserve in respect of which an administrator is for the time being holding office under this section.

37FF. (1) Where all the trustees (appointed under section 37O) of a reserve, other than a reserve for which a corporation is constituted under section 37Q, have vacated their offices as trustees, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

Administrator of reserve for which corporation not constituted under this Division.

(2) Where a corporation appointed under section 37P to be trustee of a reserve has vacated its office as trustee, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

(3) On the publication in the Gazette of a notification under subsection (1) or (2) in relation to a reserve, the administrator of the reserve is constituted a corporation sole under the name assigned to him under

subsection

Crown Lands and Other Acts (Reserves) Amendment.

subsection (4), and the corporation sole shall be deemed to be appointed sole trustee of the reserve under section 37P.

(4) For the purposes of subsection (3), the Minister shall, in the notification under subsection (1) or (2) appointing an administrator, assign a corporate name to the administrator.

(5) The Minister may, from time to time, by notification published in the Gazette, assign a new corporate name to a corporation sole constituted under this section and, on the publication in the Gazette of the notification, the corporate name of the corporation sole shall, without affecting the continuity of the corporation, be the name so assigned.

(6) A corporation sole constituted under this section ceases to be the trustee of a reserve and is dissolved—

- (a) upon the appointment of trustees under section 37O or 37P for the reserve; or
- (b) if the Minister, by notification published in the Gazette, so declares.

(7) A corporation sole constituted under this section shall have an official seal.

(8) Subsection (I) (paragraph (b) excepted) and subsection (III) of section 38 of the Interpretation Act, 1897, apply to and in respect of a corporation sole constituted under this section.

Provisions
applicable
to adminis-
trators
generally.

37GG. (1) The Minister may, by notification published in the Gazette—

- (a) remove from office any person appointed as administrator under section 37EE or 37FF; and
- (b) fill any vacancy in the office of administrator.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) If the Minister so directs, an administrator holding office under section 37EE or 37FF shall, out of the Closer Settlement and Public Reserves Fund or out of moneys provided by Parliament, be paid such remuneration, including travelling expenses, as the Minister determines.

(3) The office of administrator under this Division shall not be deemed to be an office of profit under the Crown for the purposes of the Constitution Act, 1902.

37HH. (1) Where lands have ceased to be a reserve, and there were formerly trustees of the reserve, any real or personal property (other than the lands comprising the former reserve, but including lands purchased in connection with the former reserve under section 37Y of this Act or section 8A of the Public Parks Act, 1912) that would, if the lands were a reserve and trustees were holding office in respect thereof, be held by or vested in them in their capacity as trustees and not otherwise, may, unless otherwise lawfully dealt with, be disposed of by the Minister in such manner as he may consider appropriate, and for this purpose he may deal with any lands so purchased as if they had been acquired under the Closer Settlement Acts or as Crown lands.

Disposal
of certain
property.

(2) The Minister shall have power to execute all conveyances and instruments and do all things necessary for the due exercise of his powers under this section.

(3) Where any property is disposed of under this section by way of sale or otherwise, the Minister may give directions as to the disposal of the proceeds arising therefrom, and the proceeds shall be disposed of in accordance with those directions.

37II. (1) The Governor may make by-laws for or with respect to—

By-laws.
cf. No. 8,
1897, s. 1
(2); No. 40,
1912, s. 9
(1); No. 7,
1913, s. 26
(2).

(a) the care, control and management of any reserve;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) the regulation of the use and enjoyment of any reserve;
- (c) the regulation of meetings of the trustees (appointed under section 37o) of any reserve and the conduct of business thereat;
- (d) the custody and use of the common seal of a corporation constituted under section 37q;
- (e) the securing of decency and order upon any reserve;
- (f) the removal of trespassers and other persons causing annoyance or inconvenience upon any reserve;
- (g) the regulation or prevention of the taking of intoxicants on to and the consuming thereof upon any reserve;
- (h) the regulation and control of the taking of animals on to any reserve or the permitting or suffering of animals to be on any reserve;
- (i) the regulation, control or prohibition of parking, camping or residing on any reserve, the making of charges for any such parking, camping or residing, and the collecting and receiving of any such charges;
- (j) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage, or other vegetative cover on any reserve;
- (k) the protection or removal of all dead timber, logs and stumps on any reserve, whether standing or fallen;
- (l) the preservation, protection or removal of any rocks, soil, sand, stone or other similar substances on or under or comprising part of any reserve;
- (m) the preservation or protection of any animals, birds and any other fauna of any nature whatsoever and whether natural or introduced on any reserve;

(n)

Crown Lands and Other Acts (Reserves) Amendment.

- (n) the making of charges or entrance fees on persons, clubs or associations using or entering upon any reserve or improvements thereon, or any specified part or parts of the reserve or improvements, and the collecting and receiving of any such charges and fees;
- (o) the reservation of any portion of any reserve for such separate or exclusive uses as the by-laws may prescribe;
- (p) the closing of any reserve or parts thereof and the conditions to be observed with regard thereto;
- (q) the regulation, control or prohibition of private trading upon any reserve;
- (r) the appointment and removal of rangers in respect of any reserve and the defining of their powers and duties;
- (s) the prescription of all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) By-laws may be made so as to apply to—

- (a) any specified reserve, or all reserves, or any specified class of reserves;
- (b) all reserves, other than a specified reserve or specified class of reserves; or
- (c) any specified class of reserves, other than a specified reserve or specified class of reserves.

(3) By-laws may be made so as to apply differently according to such factors as may be specified in the by-laws.

- (4) A by-law may impose a penalty not exceeding one hundred dollars for any breach thereof.
- (5) cf. No. 8,
1897, s. 1
(3); No. 40,
1912, s. 9
(2); No. 7,
1913, s. 26
(1) (2A).

Crown Lands and Other Acts (Reserves) Amendment.

cf. No. 40,
1912, s. 12
(2).

(5) Any penalty recovered for a breach of a by-law shall, where there are trustees of the reserve in or in relation to which the breach was committed, be paid to those trustees for the purposes of their trust.

cf. No. 40,
1912, s. 9
(1A).

(6) By-laws made for or with respect to the matters referred to in paragraph (i) of subsection (1) shall have effect notwithstanding anything contained in section 37x or any other provision of this or any other Act.

cf. No. 7,
1913, s. 26
(2).

(7) Subsection (1) does not apply to the extent to which, under the provisions of any other Act, power is conferred on the trustees of a reserve, or the Governor or the Minister, to make rules, regulations, rules and regulations, by-laws or ordinances for or with respect to any of the matters referred to in that subsection in relation to that reserve.

(8) Section 41 of the Interpretation Act, 1897, applies in respect of a by-law as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

cf. No. 8,
1897, s. 1
(5); No. 40,
1912, s. 9
(4); No. 7,
1913, s. 26
(4).

(9) The trustees of a reserve shall cause a copy of any by-laws applicable to the reserve to be posted in some conspicuous place in the reserve.

(10) In this section—

cf. No. 35,
1967, s. 49
(5).

“animals” and “fauna” do not include fish within the meaning of the Fisheries and Oyster Farms Act, 1935;

“reserve” includes any land purchased or leased under section 37y of this Act or section 8A of the Public Parks Act, 1912.

Crown Lands and Other Acts (Reserves) Amendment.

Division 3.

Sale, Lease, etc., of Reserves.

37JJ. (1) Nothing in this Division affects any of the provisions of any Act relating to any particular reserve or the trustees thereof.

Operation of this Division. cf. No. 9, 1924, s. 4 (a).

(2) Without affecting the generality of this Division, this Division applies to and in respect of a council that is trustee of a reserve.

(3) This Division does not authorise the sale of lands within a state recreation area, except in pursuance of a power of sale referred to in subsection (4) of section 37MM.

(4) The powers of the trustees of a reserve and the Minister under this Division are not affected by anything contained in any grant issued for the reserve.

37KK. (1) Where—

(a) the trustees of a reserve have passed a resolution that it is desirable to sell, lease or mortgage the reserve or any part thereof upon specified terms or conditions;

Consent of Minister to sale, lease or mortgage. cf. No. 15, 1909, ss. 3, 5, 7; No. 9, 1924, ss. 5 (1), 6, 8.

(b) in the case of a reserve comprising lands reserved, dedicated, granted or held for a showground and the showground is managed by an association, the resolution has been approved of by a meeting of members of the association;

(c) the trustees have applied in writing to the Minister for his consent to the proposed sale, lease or mortgage and have furnished a full statement of the facts relating thereto; and

(d)

Crown Lands and Other Acts (Reserves) Amendment.

(d) in the case of a proposed sale of a reserve or any part thereof—

- (i) the trustees have caused to be published in a newspaper circulating in the locality in which the reserve is situated a notice setting out the date and terms of the resolution referred to in paragraph (a), the location of the lands proposed to be sold and such other particulars (if any) as are prescribed; and
- (ii) the application was made after the expiration of fourteen days after the date of publication of the notice referred to in subparagraph (i),

the Minister may give his consent in writing either as to the whole or as to part of the lands in respect of which the application was made, or may refuse to grant the application.

(2) In the case of an application for consent to a sale or lease under this Division, the Minister may give his consent either generally by authorising the sale or lease subject to such conditions, restrictions, reservations and covenants, and in such manner and within such time, as he thinks desirable, or by approving of a particular contract of sale or lease.

(3) In the case of an application for consent to a mortgage under this Division, the Minister's consent shall not be given generally, but the terms of the proposed mortgage shall in each case be submitted to him for approval.

(4) Without affecting the operation of subsections (2) and (3), the Minister may, in giving his consent under this section—

- (a) vary the terms or conditions referred to in paragraph (a) of subsection (1); or
- (b) impose such terms and conditions as he thinks desirable.

Crown Lands and Other Acts (Reserves) Amendment.

37LL. The Minister may, at any time, withdraw, either wholly or in part, his consent given under section 37KK, or vary the terms thereof, if he can do so without prejudice to the rights of third parties.

Withdrawal or variation of consent.
cf. No. 15, 1909, s. 7 (1); No. 9, 1924, s. 8 (1).

37MM. (1) After obtaining the consent of the Minister under section 37KK, and not otherwise, the trustees of a reserve may sell, lease or mortgage lands within the reserve according to the terms of the consent.

Sale, lease or mortgage.
cf. No. 15, 1909, s. 8; No. 9, 1924, s. 9.

(2) Notwithstanding subsection (1), where the Minister has given his consent generally under section 37KK to the sale or lease of lands within a reserve, the lands shall not be sold or leased in pursuance of the consent unless the price agreed upon or rent reserved has been submitted to him and approved of by him.

(3) A mortgage under this Division may contain a power of sale.

(4) Where lands within a state recreation area are the subject of a mortgage under this Division, a power of sale, whether contained in the mortgage or conferred on the mortgagee by the Conveyancing Act, 1919, shall not be exercised in relation to those lands until after the expiration of one month after a written notice of intention to do so has been given to the Minister.

(5) For the purposes of subsection (4), a notice shall be deemed not to have been given to the Minister if it is given before the power of sale would, but for that subsection, have become exercisable.

(6) A lease shall not be granted under this Division for any purpose for which an authority, permit, lease or license may be granted under the Fisheries and Oyster Farms Act, 1935.

37NN. (1) In any case in which trustees desire to exercise the powers conferred by this Division, the Minister may appoint a person who shall have power to execute all conveyances and instruments and do all things necessary for the due exercise of those powers.

(2) Minister may appoint person to execute conveyance.
cf. No. 15, 1909, s. 9; No. 9, 1924, s. 10.

Crown Lands and Other Acts (Reserves) Amendment.

(2) The receipt of the person so appointed shall be a sufficient discharge to any purchaser, lessee or mortgagee bona fide paying money in respect of any sale, lease or mortgage under this Division.

(3) Any transfer, mortgage or lease of land under the provisions of the Real Property Act, 1900, signed by the person so appointed, shall have the same effect as if signed by the registered proprietor of the land.

37oo. No purchaser, lessee or mortgagee dealing bona fide with a person appointed under section 37NN shall be prejudiced or affected by any omission or irregularity in respect of any of the matters prescribed by this Division.

37PP. (1) The proceeds of a sale, lease or mortgage under this Division shall be held by the trustees, after payment of costs, expenses and encumbrances, for the general purposes of the trust, and may be invested or applied by them accordingly, but, where the Minister gives any direction as to the application of the proceeds, the proceeds shall be applied in accordance with the direction.

(2) The Minister may direct that any portion of the income or revenue of the trustees shall be set apart for payment of interest on, or gradual extinction of, any mortgage debt, and the portion so set apart shall be invested as the Minister directs.

37QQ. (1) Lands conveyed to any person pursuant to this Division shall vest in him free from all trusts which affected them in the hands of the persons by whom or on whose behalf they were conveyed.

(2) Upon the vesting in a person of any lands conveyed to him pursuant to this Division, any dedication or reservation is revoked to the extent to which it affects the lands.

(3) Lands within a reserve may be granted in fee simple for the purpose of carrying out or giving effect to any of the provisions of this Division.

(4)

Bona fide
purchaser
protected.
cf. No. 15,
1909, s. 10;
No. 9, 1924,
s. 11.

Proceeds.
cf. No. 15,
1909, s. 11;
No. 9, 1924,
s. 12.

Miscellan-
eous
provisions.
cf. No. 15,
1909, s. 12;
No. 9, 1924,
s. 13.

Crown Lands and Other Acts (Reserves) Amendment.

(4) Without affecting the operation of any other provision of this Act, lands may be granted under subsection (3)—

- (a) subject to such conditions as are imposed by the Minister (which conditions the Minister is hereby authorised to impose) and as are specified in the grant; or
- (b) without any such conditions.

37RR. (1) The trustees of a reserve may—

- (a) without the consent of the Minister, grant ^{Temporary licenses.} cf. No. 40, 1912, s. 8. temporary licenses for grazing or any other prescribed purpose; or
- (b) with the consent in writing of the Minister, grant temporary licenses for any purpose,

in respect of the whole or any part of the reserve, on such terms and subject to such conditions as, in the case of licenses referred to in paragraph (a), the trustees approve or, in the case of licenses referred to in paragraph (b), the Minister approves.

(2) A license shall not be granted under this section for any purpose for which an authority, permit, lease or license may be granted under the Fisheries and Oyster Farms Act, 1935.

(3) A license granted under paragraph (a) of subsection (1) shall cease to have effect after it has been in force for a period of two years, but nothing in this subsection affects any right of the trustees—

- (a) to revoke a license before the expiration of that period; or
- (b) to grant a license for a shorter period.

Crown Lands and Other Acts (Reserves) Amendment.

Termination of certain leases and licenses.

37ss. (1) Subject to subsection (3), section 37TT and section 37BBB, a lease of, or a license in respect of, any lands within a reserve, being a lease or license granted by the trustees, ceases and determines upon the status of the whole or any part of the lands subject to the lease or license being affected.

(2) For the purposes of this section, the status of any lands within a reserve is affected if and only if—

- (a) in the case of lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts—the dedication or reservation is revoked; or
- (b) in the case of lands set apart for any public purpose (but not dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts)—
 - (i) the lands cease to be set apart (whether by the revocation of the notification, if any, by which the lands were set apart or otherwise); or
 - (ii) the lands are dedicated or reserved under this Act or the Closer Settlement Acts.

(3) Where the status of part only of lands the subject of a lease or license is affected, subsection (1) does not apply in respect of the lease or license if, before the status is so affected, the trustees of the reserve comprising the lands and the lessee or licensee agree that the lease or license shall continue in force as if never granted in respect of that part, and upon the status of the lands being so affected, the lease or license shall continue in force accordingly.

(4) No compensation is payable in respect of the determination of a lease or license by virtue of this section.

37TT.

Crown Lands and Other Acts (Reserves) Amendment.

37TT. Where—

Continuance
of certain
leases and
licenses.

- (a) a lease or license has been granted under this Division in respect of a reserve comprising lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts for any public purpose;
- (b) the dedication or reservation is revoked, by or under this Act or the Closer Settlement Acts, as to the whole of the lands in respect of which the lease or license was in force immediately before the revocation (which lands are, in this section, referred to as "the subject lands"); and
- (c) the whole of the subject lands—
 - (i) is, under subsection (2) of section 24, or subsection (2) of section 28, or subsection (2) of section 13 of the Closer Settlement (Amendment) Act, 1914, added to any lands; or
 - (ii) becomes, or becomes part of, a state recreation area,

for which trustees hold office under this Part,

the lease or license shall, notwithstanding section 37ss or any condition in the lease or license, continue in force as if the dedication or reservation had not been so revoked and shall be deemed to have been granted by those trustees.

Division 4.*Miscellaneous.*

37UU. Sections 37o, 37p, 37s and 37z have effect subject to the provisions of any other Act in force at the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974.

Limitation
on
operation of
sections 37o,
37p, 37s and
37z.

37vv.

Crown Lands and Other Acts (Reserves) Amendment.

Transfer of assets, debts and liabilities in certain circumstances.

37vv. (1) The provisions of subsections (2) and (3) have effect in relation to a reserve—

(a) upon the publication of a notification under section 37o or 37P appointing a trustee or trustees of the reserve (other than a reserve in respect of which a corporation is constituted under section 37Q), or upon the publication of a notification under subsection (1) of section 37Q declaring that the trustees of the reserve, and their successors in office, shall be a corporation and so have effect as if in those provisions—

- (i) “the operative time” meant the publication of the notification;
- (ii) “the prior time” meant the time immediately before that publication or, if the trustee or trustees of the reserve last holding office before that publication has or have vacated office before that publication, the time when he or they so vacated office;
- (iii) “the former controllers” meant the trustee or trustees of the reserve last holding office before that publication; and
- (iv) “the present controllers” meant, if the notification was published under section 37o or 37P, the trustee or trustees holding office upon that publication or, if the notification was published under subsection (1) of section 37Q, the corporation;

(b) upon an individual vacating his office as trustee of the reserve (other than a reserve in respect of which a corporation is constituted under section 37Q), and so have effect as if in those provisions—

- (i) “the operative time” meant the time when he so vacated his office;

(ii)

Crown Lands and Other Acts (Reserves) Amendment.

- (ii) "the prior time" meant the time immediately before he so vacated his office;
 - (iii) "the former controllers" meant the trustee or trustees of the reserve last holding office immediately before he so vacated his office; and
 - (iv) "the present controllers" meant the trustee or trustees of the reserve holding office immediately after he so vacated office;
- (c) upon the publication of a notification under subsection (2) of section 24 or subsection (2) of section 28, or the publication of a notice under subsection (2) of section 13 of the Closer Settlement (Amendment) Act, 1914, that operates so as to add the whole of the reserve to another reserve, and so have effect as if in those provisions—
- (i) "the operative time" meant the time when a trustee or trustees of the other reserve first holds or hold office at or after the publication of the notification or notice;
 - (ii) "the prior time" meant the time immediately before that publication or, if the trustee or trustees of the added reserve last holding office before that publication has or have vacated office before that publication, the time when he or they so vacated office;
 - (iii) "the former controllers" meant the trustee or trustees of the added reserve last holding office before that publication; and
 - (iv) "the present controllers" meant the trustee or trustees first holding office at or after that publication;
- (d)

Crown Lands and Other Acts (Reserves) Amendment.

- (d) upon the publication of a notification under subsection (1) or (2) of section 37B that operates so as to reserve the whole of the reserve as part of a state recreation area, and so have effect as if in those provisions—
- (i) “the operative time” meant the publication of the notification;
 - (ii) “the prior time” meant the time immediately before that publication or, if the trustee or trustees of the reserve last holding office before that publication has or have vacated office before that publication, the time when he or they so vacated office;
 - (iii) “the former controllers” meant the trustee or trustees of the reserve last holding office before that publication; and
 - (iv) “the present controllers” meant, if there is a trustee or are trustees of the state recreation area upon that publication, the trustee or trustees or, if there are no such trustees, the Minister;
- (e) upon the publication of a notification under section 37O or 37P appointing a trustee or trustees of a state recreation area the care, control and management of which the Minister was, until that publication, charged with under subsection (8) of section 37B, and so have effect as if in those provisions—
- (i) “the operative time” meant the publication of the notification;
 - (ii) “the prior time” meant the time immediately before that publication;
 - (iii) “the former controllers” meant the Minister; and
 - (iv) “the present controllers” meant the trustee or trustees; or
- (f)

Crown Lands and Other Acts (Reserves) Amendment.

(f) subject to subsection (7) of section 37AAA, upon the taking effect of a notification under section 37AAA vesting the whole of the lands within a reserve in a council, and so have effect as if in those provisions—

- (i) “the operative time” meant the date on which the notification took effect;
- (ii) “the prior time” meant the time immediately before that date or, if the trustee or trustees of the reserve, last holding office before that date has or have vacated office before that date, the time when he or they so vacated office;
- (iii) “the former controllers” meant the trustee or trustees of the reserve last holding office before that date;
- (iv) “the present controllers” meant the council; and
- (v) “the reserve” meant the lands the subject of the notification and comprised in the reserve immediately before that date.

(2) Where this subsection has effect in relation to a reserve in accordance with subsection (1), then, as from the operative time—

- (a) the property of the former controllers relating to the care, control and management of the reserve, including all moneys, books of account, registers, records and all documents and things relating to, or connected with, the operation of the reserve, shall become the property of the present controllers and any land previously purchased with the approval of the Minister in pursuance of section 8A of the Public Parks Act, 1912, or section 37Y, that at the prior time was vested in or belonged to the former controllers shall vest in and belong to the present controllers;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) all moneys and liquidated and unliquidated claims that, at the prior time, were payable to or recoverable by the former controllers in connection with the care, control and management of the reserve shall be moneys and liquidated and unliquidated claims payable to or recoverable by the present controllers;
- (c) all proceedings pending at the prior time at the suit of the former controllers, in connection with the care, control and management of the reserve, shall be deemed to be proceedings pending at the suit of the present controllers and all proceedings so pending at the suit of any person against the former controllers shall be deemed to be proceedings pending at the suit of that person against the present controllers;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the former controllers, in connection with the care, control and management of the reserve, and in force at the prior time shall be deemed to be contracts, agreements, arrangements and undertakings entered into with, and securities given to or by, the present controllers;
- (e) the present controllers may, in connection with the care, control and management of the reserve, in addition to pursuing any other remedies or exercising any other powers that may be available to them, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of proceedings so referred to as the former controllers might have done had the circumstances not arisen by reason of which the provisions of this subsection have effect in accordance with subsection (1);
- (f) the present controllers may enforce and realise any security or charge existing at the prior time in favour of the former controllers in connection with

Crown Lands and Other Acts (Reserves) Amendment.

with the care, control and management of the reserve, and may exercise any powers thereby conferred on the former controllers as if the security or charge were a security or charge in favour of the present controllers;

- (g) all debts, moneys and claims, liquidated and unliquidated, that, at the prior time, were due or payable by, or recoverable against, the former controllers in connection with the care, control and management of the reserve shall be debts due, moneys payable by and claims recoverable against, the present controllers;
- (h) all liquidated and unliquidated claims in connection with the care, control and management of the reserve for which the former controllers would, had the circumstances not arisen by reason of which the provisions of this subsection have effect in accordance with subsection (1), have been liable shall be liquidated and unliquidated claims for which the present controllers shall be liable; and
- (i) all acts, matters and things done or omitted by, or done or suffered in relation to, the former controllers of the reserve, being acts, matters and things not referred to in the foregoing provisions of this subsection, shall have the same force and effect as if they had been done or omitted by, or done or suffered in relation to, the present controllers of the reserve.

(3) No attornment to the present controllers of a reserve by a lessee from the former controllers of the reserve shall be required.

(4) The provisions of subsection (2) have effect so as not to affect, or affect the consequences of, the operation of any law or any act, matter or thing lawfully done or omitted between the prior time (within the meaning of any of the paragraphs of subsection (1))
and

Crown Lands and Other Acts (Reserves) Amendment.

and the operative time (within the meaning of the same paragraph) in relation to any circumstances in which subsection (2) has effect.

cf. No. 35,
1967, s. 26
(2).

(5) Where part only of a reserve is added to another reserve by a notification published under subsection (2) of section 24, subsection (2) of section 28, or section 37B, or by notice published under subsection (2) of section 13 of the Closer Settlement (Amendment) Act, 1914, the trustees of the remaining part of the firstmentioned reserve and the trustees of that other reserve shall, as soon as practicable after publication of the notification or notice, arrange and agree upon a division of the assets, debts and liabilities of the trustees of that remaining part, so that the assets, debts and liabilities appropriate to that remaining part and the added part may be determined, and—

- (a) if any difference arises between the trustees of that remaining part and the trustees of that other reserve, the difference shall be determined in such manner as the Minister directs; or
- (b) if there are no trustees of that remaining part, or there are no trustees of that other reserve, for the time being, the assets, debts and liabilities appropriate to that remaining part and that added part shall be determined in accordance with any directions of the Minister.

(6) For the purposes of subsection (5), where a notification published under section 37B operates so as to reserve part only of a reserve as part of a state recreation area, the part so reserved shall be deemed to be added to the state recreation area.

(7)

Crown Lands and Other Acts (Reserves) Amendment.

(7) Where a notification under section 37AAA operates so as to vest part only of a reserve in a council, the trustees of the remaining part of the reserve and the council shall, as soon as practicable after the notification takes effect, arrange and agree upon a division of the assets, debts and liabilities of the trustees of that remaining part, so that the assets, debts and liabilities appropriate to that remaining part and the part vested in the council may be determined, and—

- (a) if any difference arises between the trustees and the council, the difference shall be determined in such manner as the Minister directs; or
- (b) if there are no trustees of that remaining part for the time being, the assets, debts and liabilities appropriate to that remaining part and the part vested in the council shall be determined in accordance with any directions of the Minister.

(8) Where, but for this section, a trustee or former trustee of a reserve would be personally liable for a breach of trust or for any other act or omission in relation to which he would have no right of indemnity from any of the funds of the trustees of the reserve, nothing in this section takes away his liability therefor nor imposes that liability on any other person.

37ww. Where—

- (a) a person was appointed or purported to be appointed, under the Public Trusts Act, 1897, as trustee of any lands set apart, dedicated or reserved (temporarily or otherwise) for any public purpose and was holding or purporting to hold office immediately before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974;
- (b) the lands are a reserve; and

Exclusion
of certain
provisions
in docu-
ments, etc.

(c)

Crown Lands and Other Acts (Reserves) Amendment.

- (c) a document (other than an Act) or notice issued, made or published before that commencement contains provisions relating to the appointment of trustees of the lands,

the provisions of Division 2 have effect to the exclusion of anything contained in the provisions referred to in paragraph (c).

Extension
of certain
provisions
of Division
2 to certain
lands.

37xx. (1) This section applies to lands that are declared by the Minister, by order published in the Gazette, to be lands to which this section applies, being lands—

- (a) that are set apart, reserved, dedicated, granted or held for a public park or for any other public purpose;

- (b) for which—

- (i) by or under any Act enacted before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974 (other than this Act, the Public Trusts Act, 1897, the Public Parks Act, 1912, and section 26 of this Act as applied by Regulation 64 under the Closer Settlement Acts); or

- (ii) by any document (other than an Act) or notice issued, made or published before that commencement, and creating or authorising the creation of the trust,

trustees may be or are required to be appointed; and

- (c) that are not, or are not part of, a reserve.

(2) Subject to subsection (3), the provisions of sections 37o, 37p, 37s and 37t apply to and in respect of any lands to which this section applies and the trustees thereof in the same way as they apply to and in respect of a reserve and the trustees thereof.

(3)

Crown Lands and Other Acts (Reserves) Amendment.

(3) The Minister may, by an order under subsection (1) or another order published in the Gazette, direct that subsection (2) shall not operate in relation to any specified lands or specified class of lands to the extent specified in the order, and the direction has effect according to its tenor.

(4) A declaration under subsection (1) may apply to any specified lands or specified class of lands.

(5) Subject to subsection (3), subsection (2) has effect in relation to any lands notwithstanding anything contained in the Act by or under which, or in the document or notice by which, trustees may be or are required to be appointed for the lands.

37YY. (1) This section applies to lands that are declared by the Minister, by order published in the Gazette, to be lands to which this section applies, being lands—

Extension of certain provisions of Division 3 to certain show-grounds and other lands.

(a) that are—

(i) reserved, dedicated, granted or held for a showground; or cf. No. 15, 1909, s. 2.

(ii) set apart, dedicated, reserved, granted or held for any public purpose under any Act; cf. No. 9, 1924, s. 2.

(b) of which there are trustees, whether or not appointed under an Act; and

(c) that are not, or are not part of, a reserve.

(2) Subject to subsection (3), the provisions of Division 3 (sections 37RR, 37SS and 37TT excepted) apply to and in respect of any lands to which this section applies and the trustees thereof in the same way as they apply to and in respect of a reserve and the trustees thereof.

(3) The Minister may, by an order under subsection (1) or another order published in the Gazette, direct that subsection (2) shall not operate in relation

Crown Lands and Other Acts (Reserves) Amendment.

relation to any specified lands or specified class of lands to the extent specified in the order, and the direction has effect according to its tenor.

(4) A declaration under subsection (1) may apply to any specified lands or specified class of lands.

(5) Nothing in Division 3, as applied by this section, affects any powers that the trustees of any lands to which this section applies would have to sell, lease or mortgage those lands had this section not been enacted.

PART IIIc.

VESTING OF CERTAIN LANDS IN COUNCILS.

Interpreta-
tion.

37zz. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“area” has the meaning ascribed thereto in the Local Government Act, 1919;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

“prescribed lands” means—

- (a) lands within a reserve; or
- (b) Crown lands not within a reserve,

but does not include—

- (c) any lands within a national park, state park, historic site, aboriginal area or protected archaeological area within the meaning of the National Parks and Wildlife Act, 1967;
- (d) any lands dedicated as a nature reserve, or declared to be a wildlife refuge or game reserve, under the Fauna Protection Act, 1948;
- (e) any lands in respect of which any Act (other than this Act or the Closer Settlement Acts) provides that the lands shall be

Crown Lands and Other Acts (Reserves) Amendment.

be used for a purpose referred to in the Act or shall not be used for any purpose other than that referred to in the Act; or

- (f) any lands within a state recreation area; “reserve” has the meaning ascribed thereto in Part IIIB.

37AAA. (1) Subject to this section, the Minister may, by notification published in the Gazette, at his discretion, vest any prescribed lands described in the notification in a council specified in the notification for an estate in fee simple, where the Minister is of the opinion that—

(a) the lands—

- (i) are a public reserve within the meaning of the Local Government Act, 1919, or are suitable for use as such a public reserve; or
- (ii) are used for any other purpose for which lands may be acquired by a council under the Local Government Act, 1919, or are suitable for use for any such other purpose; and
- (b) it is proper that, having regard to the purpose (if any) for which the lands are used, the lands should be vested in the council.

(2) Lands shall not be vested under this section in a council—

- (a) without the concurrence of the council; and
- (b) unless the lands are wholly within the area of the council.

(3) Where the area of lands described in a notification under subsection (1) is not affected by a Crown grant or certificate of title, that area may be limited to the surface only of the lands, or to the surface thereof and to such depth below the surface as the Minister may specify therein.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

(4) A notification by which a vesting of lands under this section is effected shall, where those lands are not affected by a Crown grant or certificate of title, contain a reservation of all minerals in the lands and shall contain such other reservations and exceptions as the Minister deems expedient in the public interest.

(5) A vesting of lands under this section takes effect subject to the reservations and exceptions contained in the notification by which the vesting is effected or contained in any Crown grant or certificate of title affecting the lands immediately before the notification takes effect.

(6) The Minister may, in a notification under subsection (1), declare the lands described therein to be a public reserve for the purposes of the Local Government Act, 1919.

(7) Where—

- (a) the whole of the lands comprised in a reserve are vested in a council under this section;
- (b) there were trustees holding office before the notification by which the vesting was effected took effect; and
- (c) the Minister and the council agreed, before the notification took effect, to modify the operation of subsection (2) of section 37vv in relation to the vesting, so that it is agreed that any assets, debts and liabilities specified or described in the agreement that would, but for this subsection, be transferred to or vested in the council should not be so transferred or vested,

the provisions of subsection (2) of section 37vv shall, in relation to the vesting, have effect as modified in accordance with the agreement.

(8) A notification published under subsection (1) shall take effect on and from the date of publication or a later date specified in the notification.

Crown Lands and Other Acts (Reserves) Amendment.

37BBB. (1) Upon a notification under section 37AAA Effect of vesting.
taking effect in relation to any lands—

- (a) the lands shall be deemed to have been acquired under the Local Government Act, 1919, by the council specified in the notification, but nothing in this paragraph affects the operation of subsection (2) or (5) of section 518 of that Act;
- (b) any dedication, reservation, notification of a special area under section 59 or notification of a classified area is revoked to the extent to which it affects the lands;
- (c) every provision for forfeiture or reverter in respect of any breach or non-performance of any condition, trust or proviso contained in any Crown grant shall be deemed to have been released by the Crown to the extent to which the grant affects the lands;
- (d) where a trustee of all or any part of the lands was holding office immediately before the notification took effect, the trustee shall cease to hold that office in respect of those lands or that part, as the case may be; and
- (e) any by-laws that, immediately before the notification took effect, applied to all or any of the lands shall cease to apply to the lands.

(2) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (1) shall, in so far as they applied to those lands, be deemed to have been repealed.

Crown Lands and Other Acts (Reserves) Amendment.

(3) Where section 37vv, in its operation in relation to a lease of, or a license in respect of, lands vested in a council under section 37AAA, has the effect of deeming the lease or license to be granted by the council, the lease or license shall, notwithstanding section 37ss or any condition in the lease or license, continue in force and shall, notwithstanding any Act or other law to the contrary, be deemed to have been granted—

- (a) where the council granted the lease or license in its capacity as trustee of the reserve—by the council otherwise than in that capacity; or
- (b) in any other case—by the council.

(4) The revocation of a dedication or reservation in respect of any lands under subsection (1) does not effect a revocation of a Crown grant or certificate of title issued in respect of those lands.

Further
amendment
of Act No.
7, 1913.

8. The Principal Act is further amended—

Sec. 25.
(Revocation
of dedica-
tions.)

- (a) (i) by omitting from section 25 the words “both Houses of Parliament within one month after the publication thereof in the Gazette if Parliament be then in session, or otherwise within one month after the commencement of the next ensuing session. If Parliament shall within one month declare by resolution that it does not assent to the proposals set forth in such notice, no further action shall be taken in the matter. If no such resolution be passed, then after the expiration of thirty clear days after the date

when

Crown Lands and Other Acts (Reserves) Amendment.

when the notice was laid before Parliament," and by inserting instead the words "each House of Parliament within the prescribed time after publication thereof. Where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of the notice so published has been laid before it under this section, whether or not those sitting days occur during the same session, and the resolution disallows the proposals set forth in the notice, no further action shall be taken in the matter. If no such resolution is passed,";

- (ii) by inserting at the end of the same section the following new paragraph :—

In this section, "prescribed time", in relation to a House of Parliament, means fourteen sitting days of that House, whether or not they occur during the same session.

- (b) (i) by omitting from section 25A the words "to reserve from sale or lease generally any land which before or after the commencement of the Crown Lands (Amendment) Act, 1957," and by inserting instead the words "for the Minister in respect of any land that before or after the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974,";
- (ii) by omitting from section 25A (b) the words "the Water Conservation and Irrigation Commission" and by inserting instead the words "a public authority";
- (iii) by omitting from section 25A (b) the words "the said Commission" and by inserting instead the words "a public authority";

Sec. 25A.
(Disposal of certain lands as Crown lands.)

Crown Lands and Other Acts (Reserves) Amendment.

- (iv) by omitting from section 25A the words “and upon revocation of any such reservation,” and by inserting instead the words “by notification published in the Gazette to declare that”;
- (v) by inserting in section 25A after the words “this Act” the words “, and upon the publication of the notification in the Gazette the land may be so dealt with”;
- (vi) by inserting at the end of section 25A the following new subsections :—

(2) The area of land described in a notification under subsection (1) may be limited to the surface only of the land, or to the surface thereof and to such depth below the surface as the Minister may specify therein.

(3) A declaration shall not be made under subsection (1) in respect of land vested in or acquired by or on behalf of a public authority without the consent of that public authority.

(4) In this section, “public authority” means The Water Conservation and Irrigation Commission or any public body declared by the Minister by order published in the Gazette to be a public authority for the purposes of this section.

Amendment
of Act
No. 7, 1914.
Sec. 13.
(Reser-
vation or
dedication
of lands.)

9. The Closer Settlement (Amendment) Act, 1914, is amended by inserting at the end of section 13 the following new subsections :—

(2) The Minister by notice published in the Gazette may declare that lands acquired under the Closer Settlement Acts or within a settlement purchase area or Crown lands shall be added to any lands reserved or dedicated under subsection (1).

(3)

Crown Lands and Other Acts (Reserves) Amendment.

(3) Upon the publication of a notice under subsection (2), the lands to which the notice relates shall be added to the lands reserved or dedicated under subsection (1), as specified in the notice, shall form part of the reserved or dedicated lands and may at any time be granted for the same purpose in fee simple and shall be subject to the like reservation or dedication and the like trusts as the reserved or dedicated lands, any rules and regulations or by-laws applicable to the reserved or dedicated lands shall be applicable to the added lands and any trustees of the reserved or dedicated lands shall be deemed to be appointed trustees of the added lands under the provisions of the Act whereby they were appointed trustees of the reserved or dedicated lands.

(4) Subsection (3) of section 24 of the Crown Lands Consolidation Act, 1913, applies to and in respect of a notice under subsection (1) or (2) of this section in the same way as it applies to and in respect of a notification under subsection (1) or (2) of section 24 of that Act.

(5) Without affecting the operation of any other provision of the Closer Settlement Acts, lands may be granted under this section—

- (a) subject to such conditions as are imposed by the Minister (which conditions the Minister is hereby authorised to impose) and as are specified in the grant; or
- (b) without any such conditions.

10. The Local Government Act, 1919, is amended—

Amendment
of Act No.
41, 1919.

- (a) by inserting in the definition of "Public reserve" in section 4 after the words "of this Act," where secondly occurring the words "any land vested in the council, and declared to be a public reserve, under section 37AAA of the Crown Lands Consolidation Act, 1913,"; Sec. 4.
(Definitions.)

(b)

Crown Lands and Other Acts (Reserves) Amendment.

Sec. 343.
(Applica-
tion.)

- (b) by inserting at the end of section 343 the following new subsection :—

(2) Notwithstanding anything in this Part, but subject to section 37BB of the Crown Lands Consolidation Act, 1913, where, under Part IIIB of that Act, a council holds office as trustee of a public reserve that is wholly or partly outside the area of the council, the powers and duties conferred and imposed upon the council under this Part (other than sections 344 and 345) shall apply in relation to the reserve as if the reserve were wholly within that area.

Sec. 518.
(Power to
sell or
exchange
property.)

- (c) by inserting at the end of section 518 the following new subsection :—

(5) Any land, other than a public reserve, vested in the council under section 37AAA of the Crown Lands Consolidation Act, 1913, shall not be sold or exchanged except with the approval of the Minister given before the sale or exchange takes place.

Amendment
of Act No.
49, 1906.

11. (1) The Mining Act, 1906, is amended—

Sec. 28.
(Applicant
may mine
upon land.)

- (a) by inserting next after section 28 (2) the following new subsection :—

(3) The consent of the Minister under paragraph (a) of subsection (1) shall not be granted in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—

- (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or

(b)

Crown Lands and Other Acts (Reserves) Amendment.

(b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

(b) by inserting next after section 83D (2) the following new subsection :—

Sec. 83D.
(Restriction on rights of holders of licences over certain lands.)

(3) The Minister shall not grant his consent under this section in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—

(a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or

(b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

(2) The Petroleum Act, 1955, is amended by inserting next after section 46 (2) the following new subsection :—

Amendment of Act No. 28, 1955.

(3) The Minister shall not grant his consent under this section in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—

Sec. 46.
(Restriction on rights of holders of licences and leases over certain lands.)

(a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or

(b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

(3) The Mining Act, 1973, is amended by inserting next after section 86 (4) the following new subsection :—

Amendment of Act No. 42, 1973.

(5) In the case of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, the

Sec. 86.
(Rights of registered holder of an exploration licence.)

Minister

Crown Lands and Other Acts (Reserves) Amendment.

Minister shall not give his consent under subsection (3) without the approval of—

- (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or
- (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

(4) The amendment made by subsection (3) to the Mining Act, 1973, shall take effect—

- (a) on and from the commencement of this Act or the commencement of section 86 of the Mining Act, 1973, whichever is the later; or
- (b) if this Act and that section commence on the same day—on and from that day.

(5) On a day to be appointed by the Governor for the purposes of this subsection and notified by proclamation published in the Gazette, subsection (1) is repealed.

Amendment
of Act No.
26, 1970.

12. The Closer Settlement and Public Reserves Fund Act, 1970, is amended—

Sec. 3.
(Inter-
pretation.)

- (a) (i) by inserting in the definition of “Public reserve” in section 3 after the word “means” the words “reserve within the meaning of Part IIIB of the Crown Lands Consolidation Act, 1913, and includes any other”;
- (ii) by omitting from the definition of “Public reserve” in section 3 the words “and includes land to which the provisions of the Public Parks Act, 1912, apply”;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) by inserting next after section 5 (g) the following new paragraph :—
- Sec. 5.
(Payments into Closer Settlement and Public Reserves Fund.)
- (g1) any moneys directed by the Minister to be paid into the Closer Settlement and Public Reserves Fund out of the proceeds of the disposal of property under section 37HH of the Crown Lands Consolidation Act, 1913;
- (c) by inserting next after section 6 (3) (d) the following new paragraphs :—
- Sec. 6.
(Payments out of Closer Settlement and Public Reserves Fund.)
- (d1) the remuneration, including travelling expenses, of an administrator appointed under Part IIIB of the Crown Lands Consolidation Act, 1913;
- (d2) any costs incurred in disposing of property under section 37HH of the Crown Lands Consolidation Act, 1913, and any moneys paid into the Closer Settlement and Public Reserves Fund under paragraph (g1) of section 5 pending payment out of the Fund in accordance with directions of the Minister under section 37HH of that Act.

13. (1) The Sydney Sports Ground and Sydney Cricket Ground Amalgamation Act, 1951, is amended—

Amendment of Act No. 32, 1951.

- (a) by omitting from section 2 (3) (b) the words “section twenty-six” and by inserting instead the words “subsection (5) of section 37o”;
- Sec. 2.
(Divesting and re-dedication of certain lands, re-constitution of certain trusts, and action consequent thereon.)
- (b) by omitting from section 2 (3) (b) the words “wherever occurring”;
- (c) by omitting section 2 (3) (c).

Crown Lands and Other Acts (Reserves) Amendment.

Amendment
of Act No.
15, 1959.

(2) The Sydney Sports Ground and Sydney Cricket Ground Amalgamation (Amendment) Act, 1959, is amended—

Sec. 2.
(Amend-
ment of Act
No. 32,
1951.)

- (a) in section 2 (1) (a) by omitting from subsection (4) (b) contained therein the words “section twenty-six” and by inserting instead the words “subsection (5) of section 37o”;
- (b) in section 2 (1) (a) by omitting from subsection (4) (b) contained therein the words “wherever occurring”;
- (c) in section 2 (1) (a) by omitting subsection (4) (c) contained therein;
- (d) in section 2 (1) (a) by omitting from subsection (4) (d) contained therein the words “section twenty-six of” and by inserting instead the words “section 37o of”.

Amendment
of Act No.
63, 1967.

(3) The Newcastle International Sports Centre Act, 1967, is amended—

Sec. 3.
(Appoint-
ment of
additional
trustees.)

- (a) (i) by omitting from section 3 the words “Section twenty-six” and by inserting instead the words “Subsection (5) of section 37o”;
- (ii) by omitting from section 3 the words “wherever occurring”;

Sec. 4.
(Mortgage
of land by
trustees.)

- (b) by omitting section 4;

Sec. 8.
(By-laws.)

- (c) (i) by omitting from section 8 (1) the words “Subsection two of section twenty-six” and by inserting instead the words “Subsection (1) of section 37ii”;
- (ii) by omitting from section 8 (2) the words “Rules and regulations made (whether before or after the commencement of this Act) under section twenty-six of the Crown Lands Consolidation Act, 1913, or any Act amending

or

Crown Lands and Other Acts (Reserves) Amendment.

or replacing that Act,” and by inserting instead the words “By-laws made under section 37II of the Crown Lands Consolidation Act, 1913, including by-laws deemed to have been made under that section,”.

(4) The Aborigines Act, 1969, is amended—

Amendment
of Act No.
7, 1969.

- (a) by omitting from section 14 (1) (a) the words “two of the Public Trusts Act, 1897,” and by inserting instead the words “37P of the Crown Lands Consolidation Act, 1913,”; Sec. 14.
(Control of reserves.)
- (b) by omitting section 14 (2) and (3) and by inserting instead the following subsections :—

(2) Section 37T of the Crown Lands Consolidation Act, 1913, does not apply to or in respect of the corporation.

(3) The powers conferred on the Governor by subsection (1) of section 37II of the Crown Lands Consolidation Act, 1913, shall, in relation to a reserve of which the corporation is trustee by virtue of subsection (1)—

- (a) be deemed not to include powers exercisable by virtue of paragraphs (c), (d), (e), (f), (g), (n), (p), (r) and (s) of that subsection; and
- (b) not be exercised except with the concurrence of the Minister administering this section.

PART III.

SAVINGS AND MISCELLANEOUS PROVISIONS.

14. In this Part—

“Part IIIB” means Part IIIB of the Principal Act, as amended by this Act;

Inter-
pretation.

“the

Crown Lands and Other Acts (Reserves) Amendment.

“the repealed enactments” means the Public Trusts Act, 1897, the Public Parks Act, 1912, and section 26 of the Principal Act, and includes that section as applied by Regulation 64 under the Closer Settlement Acts.

Trustees.

15. (1) An individual appointed or deemed to be appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands shall be deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of those lands.

(2) An individual appointed or deemed to be appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands by virtue of his holding any office or position shall be deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of those lands by virtue of his holding that office or position.

(3) A corporation appointed or deemed to be appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands shall be deemed to have been appointed under section 37P of the Principal Act, as amended by this Act, to be trustee of those lands.

(4) Where—

- (a) by reason of the operation of subsection (1) or (2) a person is deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of any lands; and
- (b) another person is, immediately before the commencement of this Act, also holding office as

trustee

Crown Lands and Other Acts (Reserves) Amendment.

trustee of those lands by virtue of his being appointed under a document (other than an Act) or notice issued, made or published before that commencement,

that other person shall be deemed to have been appointed under that section to be a trustee of those lands.

(5) Where a body corporate (in this subsection referred to as "the existing body corporate") constituted and incorporated, or deemed to have been constituted and incorporated, under the Public Parks Act, 1912, was in existence immediately before the commencement of this Act—

- (a) the existing body corporate shall be deemed to be a corporation (in this subsection referred to as "the continued corporation") constituted under section 37Q of the Principal Act, as amended by this Act;
- (b) the corporate name of the existing body corporate shall be deemed to have been assigned to the continued corporation under that section; and
- (c) the existing body corporate and the continued corporation shall be deemed to be the same corporate person.

16. (1) Any rules and regulations or by-laws made under any of the repealed enactments, and in force immediately before the commencement of this Act, shall, to the extent to which they are not inconsistent with the Principal Act, as amended by this Act, be deemed to be by-laws made under Part IIIB. Rules,
regulations
and
by-laws.

(2) A reference (however expressed) in any Act enacted before the commencement of this Act, other than this Act, or in any instrument under an Act issued, made or published before that commencement, to rules and regulations or by-laws made under any of the repealed enactments shall be construed as a reference to by-laws made under Part IIIB.

Crown Lands and Other Acts (Reserves) Amendment.

Leases,
licenses and
other
matters
respecting
land.

17. (1) Where—

- (a) a lease or license granted in pursuance of any powers referred to in section 3 of the Public Trusts Act, 1897;
- (b) a lease or license granted under section 8 of the Public Parks Act, 1912; or
- (c) a lease granted under section 26 of the Principal Act or that section as applied by Regulation 64 under the Closer Settlement Acts,

was in force immediately before the commencement of this Act, the lease or license shall be deemed to have been granted under Part IIIB.

(2) Any vesting of lands in trustees under section 3 of the Public Trusts Act, 1897, is rescinded, and the trustees are divested of any estate or interest in the lands arising by reason only of the vesting, but nothing in this subsection affects the validity of a lease or license that was granted in pursuance of any powers referred to in that section and that was in force immediately before the commencement of this Act.

(3) A lease taken under section 8A (a) of the Public Parks Act, 1912, and in force immediately before the commencement of this Act, shall be deemed to have been taken under section 37Y (a) of the Principal Act, as amended by this Act.

(4) An approval or consent given for the purposes of section 8A of the Public Parks Act, 1912, before the commencement of this Act shall, to the extent to which it had force and effect immediately before that commencement, be deemed to have been given for the purposes of section 37Y of the Principal Act, as amended by this Act.

(5) Section 37RR (3) of the Principal Act, as amended by this Act, does not apply to or in respect of a license referred to in subsection (1).

Crown Lands and Other Acts (Reserves) Amendment.

18. Where a copy of a notice setting forth proposals (within the meaning of section 25 of the Principal Act) in relation to any land has been laid before a House of Parliament before the commencement of this Act, that section, as in force immediately before that commencement, shall continue to apply to and in respect of that land as if section 8 (a) had not been enacted.

Revocation of dedications under section 25 of Principal Act.

19. Where land was reserved under section 25A of the Principal Act and the reservation had not been revoked before the commencement of this Act, that section, as in force immediately before that commencement, shall continue to apply to and in respect of that land as if section 8 (b) had not been enacted.

Reservations under section 25A of Principal Act.

20. (1) Where a special resolution has, before the commencement of this Act, been passed under section 3 of the Trustees of Show-grounds Enabling Act, 1909, in respect of any lands (within the meaning of that Act) or part thereof, the provisions of that Act shall, in connection only with any act, matter or thing done or to be done or that may be done in consequence of that resolution, continue to apply to and in respect of those lands or that part as if this Act had not been enacted, but where the Minister's consent has not been given before that commencement to a mortgage the subject of the resolution, that Act shall be deemed to be amended by omitting section 7 (3) and by inserting instead the subsection set out in subsection (3) of this section.

Trustees of Show-grounds Enabling Act, 1909, and Trustees of Public Reserves Enabling Act, 1924.

(2) Where a special resolution has, before the commencement of this Act, been passed under section 5 of the Trustees of Public Reserves Enabling Act, 1924, in respect of any public reserve (within the meaning of that Act) or part thereof, the provisions of that Act shall, in connection only with any act, matter or thing done or to be done or that may be done in consequence of that resolution, continue to apply to and in respect of that public reserve or part as

if

Crown Lands and Other Acts (Reserves) Amendment.

if this Act had not been enacted, but where the Minister's consent has not been given before that commencement to a mortgage the subject of the resolution, that Act shall be deemed to be amended by omitting section 8 (3) and by inserting instead the subsection set out in subsection (3) of this section.

(3) For the purposes of subsections (1) and (2), the subsection to be inserted is as follows :—

(3) In the case of an application for consent to a mortgage under this Act, the Minister's consent shall not be given generally, but the terms of the proposed mortgage shall in each case be submitted to him for approval.

Sec. 5.**SCHEDULE.**

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1897, No. 8..	Public Trusts Act, 1897.	The whole Act.
1909, No. 15..	Trustees of Show-grounds Enabling Act, 1909.	The whole Act.
1912, No. 21..	Trustees Audit Act, 1912.	So much of Schedule 1 as amended Act 61 Vic. No. 8 (Act No. 8, 1897).
1912, No. 40..	Public Parks Act, 1912.	The whole Act.
1913, No. 7..	Crown Lands Consolidation Act, 1913.	Section 26. So much of the First Schedule as amended Act No. 8, 1897.
1924, No. 9..	Trustees of Public Reserves Enabling Act, 1924.	The whole Act.

SCHEDULE

*Crown Lands and Other Acts (Reserves) Amendment.*SCHEDULE—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1937, No. 35..	Statute Law Revision Act, 1937.	So much of the Second Schedule as amended Act No. 40, 1912.
1938, No. 29..	Crown Lands and Closer Settlement (Amendment) Act, 1938.	Section 8 (b).
1941, No. 51..	Trustees of Public Reserves (Limitation of Numbers and Retirement) Act, 1941.	The whole Act.
1944, No. 8 ..	Public Trusts (Amendment) Act, 1944.	The whole Act.
1955, No. 53..	Public Parks and Reserves Act, 1955.	Sections 2, 3 and 4.
1957, No. 30..	Crown Lands (Amendment) Act, 1957.	Section 9.
1964, No. 7 ..	Crown Lands (Amendment) Act, 1964.	Section 7 (1) (c).
1971, No. 29..	Public Trusts and Other Acts (Amendment) Act, 1971.	Sections 2, 4, 5 (a) and 5 (c).
1971, No. 31..	Trustees of Showgrounds Enabling (Amendment) Act, 1971.	The whole Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

Original from the

Smithsonian Institution

U.S. National Museum

Washington, D.C.

June 18, 1904

Dear Sir,

I have the honor

to acknowledge the

receipt of your

letter of the 14th

inst.

and in reply to

inform you that

the same has been

forwarded to the

proper authorities

for their consideration.

I am, Sir, very

truly yours,

Very truly yours,

John W. Foster

Secretary

U.S. National Museum

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 27 March, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 37, 1974.

An Act to provide for the reservation of certain lands as state recreation areas; to consolidate and amend certain laws relating to the appointment, powers and duties of trustees of certain lands; to provide for the vesting of certain lands in the council of a local government area; for these and other purposes to amend the Crown Lands Consolidation Act, 1913, the Closer Settlement (Amendment) Act, 1914, the Local Government Act, 1919, and certain other Acts; to repeal the Public Trusts Act, 1897, the Trustees of Show-grounds Enabling Act, 1909, the Public Parks Act, 1912, the Trustees of Public Reserves Enabling Act, 1924, and certain other enactments; and for purposes connected therewith. [Assented to, 23rd April, 1974.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

Crown Lands and Other Acts (Reserves) Amendment.

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 :—

PART I.

PRELIMINARY.

Short
title.

1. This Act may be cited as the "Crown Lands and Other Acts (Reserves) Amendment Act, 1974".

Commence-
ment.

2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Reference to
Principal
Act.

3. The Crown Lands Consolidation Act, 1913, is, in this Act, referred to as the Principal Act.

Division of
Act.

4. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–5.

PART II.—AMENDMENTS OF ACTS—ss. 6–13.

**PART III.—SAVINGS AND MISCELLANEOUS PROVISIONS
—ss. 14–20.**

SCHEDULE.

Crown Lands and Other Acts (Reserves) Amendment.

5. An Act specified in Column 1 of the Schedule is, to Repeals.
the extent specified opposite that Act in Column 2 of the
Schedule, hereby repealed.

PART II.

AMENDMENTS OF ACTS.

6. The Principal Act is amended—

Amendment
of Act No.
7, 1913.

(a) by inserting in section 1 (b) next after the matter relating to Part III the following new matter :—

Sec. 1 (b).
(Division
into Parts.)

PART IIIA.—STATE RECREATION AREAS—
sections 37A–37L.

PART IIIB.—MANAGEMENT OF AND DEALINGS
WITH DEDICATED OR RESERVED LANDS AND
CERTAIN OTHER LANDS—*sections 37M–*
37YY.

Division 1.—PRELIMINARY—*sections 37M,*
37N.

Division 2.—MANAGEMENT OF RESERVES—
sections 37O–37II.

Division 3.—SALE, LEASE, ETC., OF
RESERVES—*sections 37JJ–37TT.*

Division 4.—MISCELLANEOUS—*sections*
37UU–37YY.

PART IIIC.—VESTING OF CERTAIN LANDS IN
COUNCILS—*sections 37ZZ–37BBB.*

(b)

Crown Lands and Other Acts (Reserves) Amendment.

Sec. 5.
(Interpreta-
tion of
terms.)

- (b) (i) by inserting next before the definition of "Catchment Areas Protection Board" in section 5 (1) the following new definition :—

"By-laws" means by-laws made under the authority of this Act.

- (ii) by inserting next after the definition of "Series" in section 5 (1) the following new definition :—

"State recreation area" means state recreation area under Part IIIA.

Sec. 24.
(Dedication
of Crown
lands for
public
purposes.)

- (c) (i) by inserting in section 24 (1) after the word "enjoyment" the words "—public park";
- (ii) by inserting in section 24 (2) after the words "Crown lands" the words "or closer settlement lands";
- (iii) by inserting in section 24 (3) after the words "this Act," the words "or the Closer Settlement Acts,";
- (iv) by inserting in section 24 (3) after the words "classified areas" wherever occurring the words ", settlement areas";
- (v) by inserting next after section 24 (4) the following new subsections :—

(5) Without affecting the operation of any other provision of this Act, lands may be granted under this section—

- (a) subject to such conditions as are imposed by the Minister (which conditions the Minister is hereby authorised to impose) and as are specified in the grant; or

- (b) without any such conditions.

(6)

Crown Lands and Other Acts (Reserves) Amendment.

(6) In this section—

“closer settlement lands” means lands acquired under the Closer Settlement Acts, and, without affecting the generality of the foregoing provisions of this definition, includes lands within a settlement purchase area set apart under section 21 of the Closer Settlement (Amendment) Act, 1909, but does not include—

- (a) any lands reserved or dedicated under section 13 of the Closer Settlement (Amendment) Act, 1914;
- (b) any lands granted or lawfully contracted to be granted in fee-simple under the Closer Settlement Acts;
- (c) any lands disposed of under subsection (6) of section 21 of the Closer Settlement (Amendment) Act, 1909; or
- (d) any lands held under a lease under the Closer Settlement Acts;

“settlement area” means—

- (a) settlement purchase area set apart under section 21 of the Closer Settlement (Amendment) Act, 1909; or
- (b) closer settlement lease area set apart under section 7 of the Closer Settlement Amendment (Conversion) Act, 1943.

(d)

Crown Lands and Other Acts (Reserves) Amendment.

Sec. 28.
(Temporary
reserves
from sale
for public
purposes.)

- (d) (i) by inserting in section 28 (2) after the words "Crown lands" the words "or closer settlement lands";
- (ii) by inserting in section 28 (3) after the words "this Act," the words "or the Closer Settlement Acts,";
- (iii) by inserting in section 28 (3) after the words "classified areas" wherever occurring the words ", settlement areas";
- (iv) by inserting next after section 28 (3) the following new subsection :—

(4) In this section, "closer settlement lands" and "settlement area" have the meanings respectively ascribed thereto in section 24.

Sec. 253.
(Recovery
of
penalties.)

- (e) by inserting in section 253 after the word "thereunder" the words "or by any by-law".

Further
amendment
of Act No.
7, 1913.

New Parts
IIIA, IIIB,
IIIC.

7. The Principal Act is further amended by inserting next after Part III the following new Parts :—

PART IIIA.

STATE RECREATION AREAS.

Interpreta-
tion.

37A. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

"Coal Mining Act" means an Act, whether enacted before or after the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974, that makes provision with respect to prospecting for or mining coal or shale, other than the Mining Act, 1906;

cf. No. 35,
1967, s. 3.

"lands of the Crown" means lands vested in a Minister of the Crown or in a public authority;

"prescribed

Crown Lands and Other Acts (Reserves) Amendment.

“prescribed lands” means—

- (a) lands within a reserve;
- (b) Crown lands not within a reserve; or
- (c) lands of the Crown,

but does not include—

- (d) any lands within a national park, state park, historic site, aboriginal area or protected archaeological area within the meaning of the National Parks and Wildlife Act, 1967;
- (e) any lands dedicated as a nature reserve, or declared to be a wildlife refuge or game reserve, under the Fauna Protection Act, 1948;
- (f) any lands in respect of which any Act (other than this Act or the Closer Settlement Acts) provides that the lands shall be used for a purpose referred to in the Act or shall not be used for any purpose other than that referred to in the Act; or
- (g) any lands within a state recreation area;

“prescribed time”, in relation to a House of Parliament, means fourteen sitting days of that House, whether or not they occur during the same session;

“public authority” means any public body declared by the Minister by order published in the Gazette to be a public authority for the purposes of this Part;

“public purpose” has the meaning ascribed thereto in Part IIIB;

“reserve” has the meaning ascribed thereto in Part IIIB.

Crown Lands and Other Acts (Reserves) Amendment.

Reservation
of state
recreation
area.
cf. No. 35,
1967, s. 20.

37B. (1) Subject to this section, the Minister may, by notification published in the Gazette, permanently reserve, as a state recreation area, any prescribed lands described in the notification, for the purpose of public recreation and enjoyment.

(2) Subject to this section, the Minister may, by notification published in the Gazette, permanently reserve, as part of a state recreation area specified in the notification, any prescribed lands described in the notification, for the purpose of public recreation and enjoyment.

(3) A reservation under subsection (1) or (2) shall not be made—

- (a) in any case—without the concurrence in writing of the Minister for Mines; and
- (b) in respect of lands submerged by waters—without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

(4) A reservation under subsection (1) or (2) shall not be made in respect of lands of the Crown except with the concurrence in writing of the Minister or public authority in whom they were vested immediately before the reservation.

(5) Upon the publication of a notification under subsection (1)—

- (a) where a trustee of all or any part of the lands described in the notification was holding office under Part IIIb immediately before that publication and—
 - (i) where the trustee so held office in respect of all of those lands, the trustee shall, subject to this Act, continue to be trustee of those lands; or

(ii)

Crown Lands and Other Acts (Reserves) Amendment.

(ii) where the trustee so held office in respect of part only of those lands, the trustee shall cease to hold that office in respect of that part of those lands;

(b) any by-laws that, immediately before that publication, applied to all of the lands described in the notification and not to any other lands, shall continue to apply to the lands so described, but without affecting the power of the Governor to amend or repeal those by-laws; and

(c) any by-laws that, immediately before that publication, applied to—

(i) part only of the lands described in the notification; or

(ii) all of the lands so described and also to any other lands,

shall cease to apply to the lands so described.

(6) Upon the publication of a notification under subsection (2)—

(a) where a trustee of all or any part of the lands described in the notification was holding office under Part IIIb immediately before that publication, the trustee shall cease to hold that office in respect of those lands or that part, as the case may be;

(b) where a trustee was holding office as trustee of the state recreation area specified in the notification immediately before that publication, the trustee shall be deemed to have been appointed trustee of the lands described in the notification;

(c) any by-laws that, immediately before that publication, applied to the state recreation area specified in the notification shall apply to the lands described in the notification; and

(d)

Crown Lands and Other Acts (Reserves) Amendment.

- (d) any by-laws that, immediately before that publication, applied to all or any part of the lands described in the notification shall cease to apply to the lands so described.

(7) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (5) or (6) shall, in so far as they applied to those lands, be deemed to have been repealed.

(8) Upon the publication of a notification under subsection (1) or (2)—

- (a) the lands described in the notification become Crown lands to the extent to which they were not Crown lands immediately before that publication; and
- (b) except in any case where subparagraph (i) of paragraph (a) of subsection (5) or paragraph (b) of subsection (6) operates, the Minister shall be charged with the care, control and management of the lands so described until trustees are appointed under Part IIIB.

(9) To the extent to which a dedication, reservation (other than a reservation under this Part) Crown grant or vesting affects lands described in a notification published under subsection (1) or (2), the publication revokes the dedication, reservation, grant or vesting.

(10) The Minister may, by a notification published under subsection (1) or (2) or by another notification published in the Gazette, assign a name to a state recreation area, and may, from time to time, by such a notification, alter any name assigned under this subsection or assign a different name in its place.

Crown Lands and Other Acts (Reserves) Amendment.

37c. (1) A copy of a notification published under subsection (1) or (2) of section 37B shall be laid before each House of Parliament within the prescribed time after publication thereof. Tabling of notifications and disallowance.

(2) Where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of a notification has been laid before it under subsection (1), whether or not those sitting days occur during the same session, and the resolution disallows the reservation effected by the notification or any part thereof—

- (a) the reservation thereupon ceases, to the extent of the disallowance, to have effect; and
- (b) to the extent to which the reservation ceases to affect them, the lands described in the notification thereupon cease to be, or to be part of, a state recreation area.

(3) Where any lands cease to be, or to be part of, a state recreation area by virtue of the disallowance of a reservation under this Part—

- (a) any person holding office as trustee of the state recreation area immediately before the disallowance shall cease to be trustee of those lands;
- (b) any by-laws applicable to the state recreation area immediately before the disallowance shall cease to apply to those lands; and
- (c) subject to subsection (4), those lands may be dealt with as if they had been acquired under the Closer Settlement Acts or as Crown lands.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

(4) Notwithstanding anything in paragraph (c) of subsection (3), where any lands cease to be, or to be part of, a state recreation area by virtue of the disallowance of a reservation under this Part and those lands were, immediately before the reservation—

- (a) lands dedicated under the Crown Lands Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be dedicated under this Act for that purpose;
- (b) lands dedicated under the Closer Settlement Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be dedicated under those Acts for that purpose; or
- (c) lands reserved under the Closer Settlement Acts for any public purpose—those lands shall, by virtue of this subsection, be deemed to be reserved under those Acts for that purpose,

as from the date on which the disallowance took effect.

(5) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (3) shall, in so far as they applied to those lands, be deemed to have been repealed.

Term of
office of
trustees
of state
recreation
area.

37D. (1) A trustee of a state recreation area continued in office by subparagraph (i) of paragraph (a) of subsection (5) of section 37B shall, unless he sooner vacates his office, hold office for a term of five years commencing on the date of publication in the Gazette of the notification under subsection (1) of that section in relation to the state recreation area, but is, subject to Division 2 of Part IIIB, eligible for further appointment as a trustee of the state recreation area.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) A trustee of a state recreation area (other than a trustee continued in office, as referred to in subsection (1)) shall, unless he sooner vacates his office, hold office for such term as is specified in the notification by which he was so appointed, but is, subject to Division 2 of Part IIIB, eligible for further appointment as a trustee of the state recreation area.

(3) Nothing in this section applies to a corporation appointed to be a trustee under section 37P or to an administrator appointed under Division 2 of Part IIIB.

- 37E. (1) In this section, "existing interest" means—
- (a) any authority, permit, lease, license, or occupancy, otherwise than under a Coal Mining Act; or
 - (b) any lease or other interest under a Coal Mining Act, being a lease or other interest of a class or description prescribed by regulations made under section 37G for the purposes of this paragraph.

Existing
interests.
cf. No. 35,
1967, ss. 22,
22A.

(2) Except as provided in this Act, the reservation of lands as, or as part of, a state recreation area does not affect—

- (a) the terms and conditions of any existing interest in respect of those lands from the Crown or the trustees, current and in force at the time of the reservation; or
- (b) the use permitted of those lands under the interest.

(3) Subject to subsection (4), no such interest shall be renewed nor shall the term of any such interest be extended except with the approval of the Minister and subject to such conditions as the Minister determines.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

(4) The provisions of subsection (3) do not apply to—

- (a) any authority, lease or license under the Mining Act, 1906, the Fisheries and Oyster Farms Act, 1935, the Petroleum Act, 1955, or the Mining Act, 1973, or any permit or licence under the Petroleum (Submerged Lands) Act, 1967; or
- (b) any lease or other interest under a Coal Mining Act of a class or description prescribed by regulations made under section 37G for the purposes of paragraph (b) of the definition of "existing interest" in subsection (1).

(5) Upon the termination, surrender, forfeiture or determination of any existing interest (otherwise than for the purpose of renewing it or extending its term) referred to in subsection (2), the lands the subject of the interest are, to the extent to which they would not, but for this subsection, be lands reserved as part of the state recreation area within which they are situated, hereby so reserved.

Restrictions
on disposal
of or
dealing
with lands
within state
recreation
areas.

cf. No. 35,
1967, s. 23.

37F. (1) Notwithstanding anything in this or any other Act, lands within a state recreation area shall not be sold, leased or otherwise dealt with except as provided in this Part or Part IIIB.

(2) Without affecting the generality of subsection (1), lands within a state recreation area shall not be dedicated, reserved or otherwise dealt with under Part III or the Closer Settlement Acts.

Provisions
relating to
mining.
cf. No. 35,
1967, s. 24.

37G. (1) In this section, "mining interest" means—

- (a) any authority or lease granted under the Mining Act, 1906, or the Petroleum Act, 1955;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) an authority (other than an exploration licence) under the Mining Act, 1973; or
- (c) any lease or other interest under a Coal Mining Act, being a lease or other interest of a class or description prescribed by regulations made under subsection (8) for the purposes of this paragraph.

(2) Subject to this section, the Mining Act, 1906, the Petroleum Act, 1955, the Petroleum (Submerged Lands) Act, 1967, the Mining Act, 1973, and a Coal Mining Act apply, at any time, to lands within a state recreation area to the extent to which those Acts are in force at that time.

(3) A mining interest shall not be granted in respect of lands within a state recreation area without the concurrence in writing of the Minister.

(4) A renewal of, or extension of the term of, a mining interest in respect of lands within a state recreation area (other than an existing interest referred to in subsection (2) of section 37E) shall not be granted under the Mining Act, 1906, the Petroleum Act, 1955, the Mining Act, 1973, or a Coal Mining Act without the concurrence in writing of the Minister.

(5) Except as provided in this section, nothing in this Part affects the right, title or interest of any person (other than a person who is or was trustee of the lands comprised in a state recreation area) in respect of minerals in any such lands.

(6) Lands within a state recreation area are hereby exempted from occupation under any miner's right or business license issued under the Mining Act, 1906.

(7)

Crown Lands and Other Acts (Reserves) Amendment.

(7) Where a provision of a Coal Mining Act prevents, or has the effect of preventing, a person from exercising in lands within a state recreation area any of the rights conferred by that Act or by an instrument under that Act, except with the consent of the Minister for the time being administering that Act, that Minister shall not, in the case of any such lands, give his consent under that provision without the approval of—

- (a) where the lands are not within an irrigation area—the Minister for Lands; or
- (b) where the lands are within an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

(8) The Governor may make regulations for or with respect to—

- (a) prescribing a class or description of leases or other interests under a Coal Mining Act for the purposes of paragraph (b) of the definition of “existing interest” in subsection (1) of section 37E;
- (b) prescribing a class or description of leases or other interests under a Coal Mining Act for the purposes of paragraph (c) of the definition of “mining interest” in subsection (1).

(9) The regulations under subsection (8) shall be made on the recommendation of the Minister and with the concurrence of the Minister for Mines.

(10) Section 41 of the Interpretation Act, 1897, applies in respect of the regulations made under this section as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(11) A reference to the Mining Act, 1906, in this section or section 37E does not, if that Act is repealed, extend to a reference to that Act as re-enacted, whether it is re-enacted with or without modification.

Crown Lands and Other Acts (Reserves) Amendment.

37H. (1) The Forestry Act, 1916, does not apply to or in respect of lands within a state recreation area.

Application of Forestry Act, 1916.
cf. No. 35, 1967, s. 25.

(2) Notwithstanding anything in subsection (1), all licenses and permits under the Forestry Act, 1916, affecting lands within a state recreation area shall, unless sooner cancelled under the Forestry Act, 1916, continue in force until the expiration of the respective terms for which they were granted, and that Act shall continue to apply to and in respect of those licenses and permits until they respectively expire or are cancelled.

37I. (1) The Soil Conservation Act, 1938, applies to and in respect of lands within a state recreation area.

Application of Soil Conservation Act, 1938, and Fisheries and Oyster Farms Act, 1935.
cf. No. 35, 1967, ss. 23 (3), 33.

(2) Subject to subsection (3), nothing in this Part affects the operation of the Fisheries and Oyster Farms Act, 1935, in relation to lands within a state recreation area.

(3) A lease under the Fisheries and Oyster Farms Act, 1935, shall not, without the concurrence of the Minister in writing, be granted in respect of lands within a state recreation area or in respect of any waters beneath which those lands are submerged.

37J. (1) The Minister may, upon such terms as he thinks fit, grant for joint or several use easements or rights of way through, upon or in a state recreation area for the purpose of providing access to any area included in any lease or license within the state recreation area, or for the construction of pipelines, or for the erection of standards, posts, wires and appliances for the conveyance or transmission of electricity, or for any other purpose deemed necessary by the Minister.

Easements, etc.
cf. No. 35, 1967, s. 31.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) The Minister may accept a surrender of any easement or right of way through, upon or in a state recreation area.

(3) Any easement or right of way over any lands within a state recreation area and in force immediately before those lands were reserved under section 37B shall be deemed to have been granted under this section.

Limitation
on use of
expression
"state
recreation
area".

cf. No. 35,
1967, s. 13.

37K. The expression "state recreation area" shall not be used either alone or in conjunction with other words as the name of any lands used for the purpose of public recreation and enjoyment unless the lands are within a state recreation area reserved under this Part.

Revocation,
appropriation
or
resumption
of state
recreation
area.

cf. No. 7,
1913, s. 25;
No. 35,
1967, s. 21
(1).

37L. (1) Notwithstanding anything in any other Part or in any other Act, but subject to section 37QQ (2)—

- (a) the reservation of lands as, or as part of, a state recreation area shall not be revoked; or
- (b) lands within a state recreation area shall not be appropriated or resumed,

except in accordance with this section.

(2) Where the Minister is of the opinion that the reservation of lands as, or as part of, a state recreation area should be revoked as to the whole or any part of those lands, he may cause a notice under his hand to be published in the Gazette, setting forth the mode in which it is proposed to deal with the lands.

(3)

Crown Lands and Other Acts (Reserves) Amendment.

(3) Where in any Act provisions are contained enabling the appropriation or resumption of Crown lands and a Minister of the Crown is of the opinion that it is in the public interest to appropriate or resume any lands within a state recreation area under those provisions, he may cause a notice under his hand to be published in the Gazette, setting forth the mode in which it is proposed to deal with the lands and drawing attention to the fact that the lands are within a state recreation area.

(4) Where a notice is published under subsection (2) or (3), a copy of the notice shall be laid before each House of Parliament within the prescribed time after publication thereof.

(5) Where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of the notice so published has been laid before it under subsection (4), whether or not those sitting days occur during the same session, and the resolution disallows the proposal set forth in the notice, no further action shall be taken in the matter.

(6) If no such resolution is passed, it shall be lawful for the proposal so set forth to be carried out—

- (a) in the case of a proposal that the reservation of lands as, or as part of, a state recreation area be revoked as to the whole or any part of those lands—by the Minister, by notification published in the Gazette, revoking the reservation in accordance with the proposal ; or
- (b) in the case of a proposal for the appropriation or resumption of any lands within a state recreation area—by the appropriation or resumption of the lands, as specified in the proposal, being

effected

Crown Lands and Other Acts (Reserves) Amendment.

effected in accordance with and subject to the provisions of the Act enabling the appropriation or resumption.

(7) Upon the publication of a notification under paragraph (a) of subsection (6) revoking the reservation of lands as, or as part of, a state recreation area as to the whole or any part thereof, the whole of the lands or that part, as the case may be, shall cease to be, or to be part of, a state recreation area, as the case may be.

PART IIIb.

**MANAGEMENT OF AND DEALINGS WITH DEDICATED OR
RESERVED LANDS AND CERTAIN OTHER LANDS.**

Division 1.

Preliminary.

**Interpreta-
tion.**

37M. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“area” has the meaning ascribed thereto in the Local Government Act, 1919;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

“public purpose”, in relation to lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts, means a purpose that is a public purpose in relation to the provision of the Act under which the lands were so dedicated or reserved;

“reserve”

Crown Lands and Other Acts (Reserves) Amendment.

“reserve” means—

- (a) lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts for any public purpose; or
- (b) any other lands in respect of which a trustee appointed or purporting to have been appointed under the Public Trusts Act, 1897, or the Public Parks Act, 1912, was holding or purporting to hold office immediately before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974,

and includes lands within a state recreation area, but does not include—

- (c) any common within the meaning of the Commons Regulation Act, 1898 ;
- (d) any lands within the meaning of the Trustees of Schools of Arts Enabling Act, 1902; or
- (e) any lands or class of lands in respect of which an order under section 37N is in force.

(2) In this or any other Act, or in any instrument under an Act, except in so far as the context or subject-matter otherwise indicates or requires, a reference (however expressed) to the trustees of a reserve includes, where a corporation is the sole trustee of a reserve, a reference to that trustee.

37N. The Minister may, by order published in the Gazette, declare that any lands or class of lands specified or described in the order are not to be subject to the provisions of this Part,

Order
declaring
lands not
to be
reserve.

Division

Crown Lands and Other Acts (Reserves) Amendment.

Division 2.*Management of Reserves.*

Appoint-
ment of
individuals
as trustees.
cf. No. 8,
1897, ss. 1,
4, 4A, 4E;
No. 40,
1912, ss. 4
(1), 7, 7A,
7E; No. 7,
1913, s. 26
(1) (1A)
(1E).

37o. (1) In this section, "person" means individual.

(2) Subject to subsection (5), the Minister may, by notification published in the Gazette, appoint not less than three persons to be trustees of a reserve.

(3) Subject to subsection (5), the Minister may, by notification published in the Gazette, appoint a person to be a trustee of a reserve—

- (a) in the place of a person who is deemed to have vacated his office as a trustee; or
- (b) in addition to persons already holding office as trustees of the reserve.

(4) Without affecting the generality of subsection (2) or (3), the Minister may, under either of those subsections, appoint a person who holds a particular office or position to be a trustee by virtue of his holding that office or position.

(5) An appointment shall not be made under this section, whether to fill a vacancy or otherwise, which would result in the total number of trustees for the time being of a reserve exceeding, or being maintained or increased beyond, seven.

(6) Where a person is appointed to be a trustee of a reserve by virtue of his holding a particular office or position, then, in ascertaining the number of trustees of the reserve for the purposes of subsection (5), that person shall not be counted.

(7) A person of or above the age of seventy years is not eligible for appointment under this section as a trustee.

(8) Subject to section 37D, a person appointed to be a trustee of a reserve under this section shall continue to hold office as such until he is deemed to have vacated that office under this Act.

(9)

Crown Lands and Other Acts (Reserves) Amendment.

(9) This section has effect subject to section 37UU.

37P. (1) The Minister may, by notification published in the Gazette, appoint a corporation, whether—

(a) a council;

(b) a corporation constituted or created by or under any Act providing for the holding or managing of or dealing with church property; or

(c) any other corporation whatsoever,

to be sole trustee of a reserve.

Appoint-
ment of
corporation
as sole
trustee.
cf. No. 8,
1897, s. 2;
No. 40,
1912, s. 6.

(2) A corporation shall have authority to accept appointment under this section as trustee and to exercise and perform all the powers, authorities, duties and functions necessary for the purpose of carrying its trusteeship into full effect.

(3) A council shall not be appointed to be trustee of a reserve that is wholly or partly within the area of another council except with the consent of that other council.

(4) Without affecting the generality of subsection (1), this section authorises the appointment as trustee of a reserve, being the whole or part of lands set apart, dedicated or reserved for the purposes of a cemetery, of a corporation referred to in paragraph (b) of subsection (1).

(5) This section has effect subject to section 37UU.

37Q. (1) The Minister may, by notification published in the Gazette—

(a) declare that the trustees (appointed under section 37O) of a reserve specified in the notification, and their successors in office, shall be a corporation; and

(b) assign a corporate name to the corporation.

Incorpor-
ation of
certain
trustees.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

cf. No. 40,
1912, s. 4
(2); No. 6,
1972, ss. 4,
5, 8 (1).

(2) On and from the publication in the Gazette of a notification under subsection (1)—

- (a) the trustees of the reserve specified in the notification, and their successors in office, shall be a corporation under the corporate name assigned in the notification to the corporation; and
- (b) the powers, authorities, duties and functions of the trustees of the reserve, whether conferred or imposed by this Act or otherwise, shall be deemed to be conferred or imposed on the corporation alone.

(3) The Minister may, from time to time, by notification published in the Gazette, assign a new corporate name to a corporation constituted under this section, and, on and from the publication in the Gazette of the notification, the corporate name of the corporation shall, without affecting the continuity of the corporation, be the name so assigned.

(4) Where a corporation is constituted under this section in relation to the trustees of a reserve, the common seal of the corporation shall, except in so far as the by-laws applicable to the reserve otherwise provide, be kept by such trustee or officer of the trustees as the trustees from time to time determine.

(5) Where a corporation is constituted under this section in relation to the trustees of a reserve—

- (a) subject to paragraph (b), the liability of a trustee of the reserve shall be the same as if the corporation had been appointed sole trustee under section 37P and as if the trustees were the members of the corporation; and

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) no matter or thing done, and no contract entered into, by the trustees of the reserve in their corporate capacity, and no matter or thing done by a trustee or by any other person acting under the direction of the trustees in their corporate capacity, shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this or any other Act in so far as it confers or imposes powers, authorities, duties or functions on the trustees, subject a trustee, or other person so acting, personally to any action, liability, claim or demand.

(6) The Minister may, by notification published in the Gazette, dissolve a corporation constituted under this section.

(7) Subject to subsection (3) of section 37EE, where—

- (a) a corporation is constituted under this section in relation to the trustees of a reserve;
- (b) there are no trustees of the reserve for the time being; and
- (c) the corporation does not have an estate in fee simple in the reserve otherwise than by the operation of section 37x,

section 344 of the Local Government Act, 1919, has effect in relation to the reserve as if the corporation had not been so constituted.

(8) A notification under subsection (1) may be contained in the same instrument as a notification under section 37o.

(9) A notification under subsection (1), (3) or (6) may be made in relation to one or more reserves.

Crown Lands and Other Acts (Reserves) Amendment.

Trustees
charged
with care,
control
and
manage-
ment.

37R. The trustees of a reserve appointed under this Division are charged with the care, control and management of the reserve.

Vacation
of
office of
trustees.

37S. (1) A trustee (appointed under section 37O) of a reserve shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he resigns his office by writing under his hand addressed to the Minister;
- (c) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) if he is removed from office by the Minister;
- (e) if the Minister declares, by notification published in the Gazette, that, from information contained in a report forwarded to the Minister under section 37T, the number of duly convened meetings of the trustees of the reserve held during any year of the trust at which the trustee was present was less than forty per centum of the total number of duly convened meetings of the trustees during the year;
- (f) on the day on which he attains the age of seventy years;
- (g) in the case of a person who was appointed to be a trustee by virtue of his holding a particular office or position and who ceases to hold that office or position, except as provided in paragraph (h), upon his so ceasing to hold that office or position; or
- (h) in the case of a person who was appointed to be a trustee by virtue of his holding the office of member of a council or mayor, Lord Mayor or president

Crown Lands and Other Acts (Reserves) Amendment.

president of an area, and who ceases to hold that office otherwise than in circumstances giving rise to an extraordinary vacancy under section 35 of the Local Government Act, 1919, and otherwise than by reason of the removal of the members of a council under section 86 of that Act—

- (i) upon the expiration of one month after his so ceasing to hold that office, unless he is elected or appointed, or re-elected or re-appointed, to that office; or
- (ii) upon the election or appointment of another person to that office,

whichever first occurs.

(2) A corporation that is appointed under section 37P to be trustee of a reserve shall be deemed to have vacated its office—

- (a) if it resigns its office by writing under its seal addressed to the Minister; or
- (b) if it is removed from office by the Minister.

(3) The Minister may, by notification published in the Gazette, remove from office any trustee appointed under section 37O or 37P for any cause which to the Minister seems sufficient.

(4) Nothing in this section affects the operation of the provisions of subsection (12) of section 37AA relating to the vacation of office of a trustee.

(5) This section has effect subject to section 37UU.

37T. (1) Trustees appointed under section 37O shall cause to be forwarded to the Minister during the month next following the close of the year of the trust financial and other statements in relation to such matters arising out of the trust as the Minister either generally or in any particular case or class of cases may require.

Trustees to report to Minister.
cf. No. 8, 1897, s. 4c; No. 40, 1912, s. 7c; No. 7, 1913, s. 26 (1c).

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) A corporation that is appointed under section 37P to be trustee of a reserve shall cause to be forwarded to the Minister in the month of January in the year 1976 and thereafter in the month of January in every third succeeding year a statement concerning such activities of the corporation in relation to the trust during the preceding three years as the Minister either generally or in any particular case or class of cases may require.

(3) The Minister may, in any particular case or class of cases, waive the requirements of subsection (1) or (2) either wholly or in part, and for such periods as he may determine, if in his opinion the circumstances of the case or class of cases are such that it is desirable to do so.

Adoption of
plan of
manage-
ment.
cf. No. 35,
1967, s. 29.

37U. (1) The Minister may cause a plan of management to be prepared with respect to any reserve.

(2) The plan of management for a reserve shall contain a detailed written scheme of the operations which it is proposed to undertake in or in relation to the reserve, and, without affecting the generality of the foregoing provisions of this subsection, may specify any activity proposed to be permitted in any part of the reserve and the nature of any development proposed to be carried out to encourage the use of that part for the activity so specified.

(3) In the preparation of a plan of management for a reserve, regard shall be had to the encouragement and regulation of the appropriate use, understanding and enjoyment of the reserve by the public and to any other objectives which the Minister thinks fit in any particular case.

(4) Where a plan of management has been prepared for a reserve, the Minister—

(a) shall refer a copy of the plan to the trustees of the reserve (if any); and

(b) may refer a copy to any other person, for consideration.

(5)

Crown Lands and Other Acts (Reserves) Amendment.

(5) The persons to whom a copy of a plan of management has been referred under subsection (4) may, within such period as the Minister approves, make representations to him in connection with the plan.

(6) The Minister shall, before adopting a plan of management, consider the representations received by him in pursuance of subsection (5).

(7) The Minister may adopt a plan of management without alteration or with such alterations as he thinks fit.

(8) Where the Minister has adopted a plan of management—

- (a) the plan shall be carried out and given effect to by the trustees of the reserve to which the plan relates; and
- (b) no operations shall be undertaken on or in relation to the lands to which the plan relates unless the operations are in accordance with the plan,

and, without affecting the generality of paragraph (b), that paragraph applies where a council has the care, control and management of the lands under section 344 of the Local Government Act, 1919, by reason of the fact that there are no trustees of the reserve for the time being.

(9) A reference in paragraphs (a) and (b) of subsection (8) to a plan of management is, where the plan has been amended or altered under section 37v, a reference to the plan as so amended or altered.

Crown Lands and Other Acts (Reserves) Amendment.

Amend-
ment, altera-
tion or
cancellation
of plan of
manage-
ment.

37v. (1) The Minister may, from time to time, amend or alter a plan of management that has been adopted under section 37U or may cancel such a plan of management.

(2) Where the Minister cancels a plan of management for any reserve under subsection (1), he may, at the same time or subsequently, adopt a new plan of management in accordance with section 37U.

(3) Where the Minister proposes to amend or alter a plan of management under subsection (1), he shall cause the amendment or alteration to be prepared, and, in the preparation of the amendment or alteration, regard shall be had to subsection (2) of section 37U.

(4) The provisions of subsections (3), (4), (5), (6) and (7) of section 37U apply to and in respect of an amendment or alteration under subsection (1) of this section in the same way as they apply to and in respect of a plan of management.

Plan of
management
for lands
submerged
by water.

37w. (1) Where lands submerged by water are lands that are the subject of any part of a plan of management, the Minister shall, before its adoption under section 37U, refer the plan to the Minister administering the Fisheries and Oyster Farms Act, 1935.

(2) A plan of management referred to in subsection (1) shall not be adopted, amended, altered or cancelled under section 37v in so far as it relates to lands referred to in that subsection without the concurrence in writing of the Minister administering the Fisheries and Oyster Farms Act, 1935.

Estate of
trustees.
cf. No. 40,
1912, s. 8.

37x. (1) Except to the extent that the trustees of a reserve have an estate in fee simple in the reserve apart from this section, the trustees shall, for the purposes only of this Part and of any by-law, be deemed to have that estate in the reserve.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) The trustees of a reserve are not capable of alienating, charging, granting leases of, or licenses in respect of, or in any way disposing of the reserve or any part of the reserve except in accordance with Division 3.

(3) The removal of a trustee under this Part shall divest the trustee so removed of any estate in the lands subject to the trust. cf. No. 8, 1897, s. 4.

(4) The revocation of the setting apart, dedication or reservation as to the whole or a part of a reserve divests the trustees of any estate in the whole or that part of the reserve, as the case may be.

37y. The trustees of a reserve—

(a) may, with the approval of the Minister, purchase or take a lease of any lands (whether or not adjoining the reserve) required by them for use in connection with the reserve;

Purchase
or lease
of lands,
etc., outside
trust area.
cf. No. 40,
1912, s. 8A.

(b) may expend trust moneys in using or improving any lands purchased by them or of which they have taken a lease under and in accordance with paragraph (a), or, before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974, under and in accordance with paragraph (a) of section 8A of the Public Parks Act, 1912; and

(c) may, with the approval of the Minister and the consent of the owner, expend trust moneys for or in connection with the improvement of any lands, where in their opinion that expenditure is desirable to provide or improve access to the reserve, or to provide or improve facilities or amenities for persons visiting the reserve.

37z.

Crown Lands and Other Acts (Reserves) Amendment.

Quorum.
cf. No. 8,
1897,
s. 4B;
No. 40,
1912,
s. 7B;
No. 7, 1913,
s. 26 (1B).

37Z. (1) The number ascertained by dividing the total number of trustees of a reserve by two and adding one to the quotient (any fractional remainder being disregarded) shall, unless a greater number is fixed by any by-law having effect in relation to the reserve, be the number of trustees necessary to form a quorum at any meeting of the trustees.

(2) Any duly convened meeting of the trustees at which a quorum is present shall be competent to transact any business of the trustees.

(3) A decision of the majority of the trustees present at a meeting shall be the decision of the trustees.

(4) This section does not apply to a corporation appointed under section 37P to be trustee of a reserve.

(5) This section has effect subject to section 37UU.

Pecuniary
interest
in contract.
cf. No. 41,
1919, s. 30A.

37AA. (1) A person who is a trustee of a reserve may have a pecuniary interest, direct or indirect, in a contract or proposed contract with the trustees of the reserve.

(2) Where a person who is a trustee of a reserve has a pecuniary interest, direct or indirect, in a contract or proposed contract with the trustees of the reserve and he is present at a meeting of the trustees at which the contract or proposed contract is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose his interest, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or proposed contract.

(3) Subject to subsection (4), where it has been disclosed to the trustees of a reserve, or they have reason to believe, that one of the trustees has or may

have

Crown Lands and Other Acts (Reserves) Amendment.

have a pecuniary interest, direct or indirect, in a proposed contract with the trustees, the trustees shall not enter into that contract unless—

- (a) the trustees have caused to be published in a newspaper circulating in the district in which the reserve is situated a notice—
 - (i) setting out the nature of work or services to be performed, or goods to be supplied, or both, as the case may be, under the contract; and
 - (ii) inviting persons willing to perform the work or services, or supply the goods, or both, as the case may be, to submit tenders to the trustees on or before a date and time specified in the notice (being not earlier than twenty-one days after the publication of the notice) to the trustees at an address specified in the notice; and
- (b) the trustees are satisfied, after considering all the tenders submitted in accordance with the notice, that, having regard to all the circumstances, none of the tenders is more advantageous than that submitted in relation to that contract.

(4) Nothing in subsection (3) applies in the case of an emergency.

(5) For the purposes of this section, a person shall be treated as having an indirect pecuniary interest in a contract or proposed contract if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made,

but

Crown Lands and Other Acts (Reserves) Amendment.

but a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body.

(6) Where a trustee has an indirect pecuniary interest in a contract or proposed contract and would not be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body, then, if the total nominal value of those shares does not exceed one thousand dollars or one-hundredth of the total nominal value of the issued share capital of the company or other body, whichever is the lesser, so much of subsection (2) as prohibits him from taking part in the consideration or discussion of, or from voting on any question with respect to, the contract or proposed contract shall not apply to him, without prejudice, however, to the duty of disclosure imposed by that subsection.

(7) Where the share capital of the company or other body referred to in subsection (6) is of more than one class, subsection (6) shall not apply if the total nominal value of all the shares of any one class in which the trustee so referred to has a beneficial interest exceeds one-hundredth part of the total issued share capital of that class of the company or other body.

(8) In the case of a married man and his wife who are living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of the other spouse.

(9) A general notice given in writing by a trustee of a reserve to each of the other trustees, or to the secretary of the trustees (if any), to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person,

shall,

Crown Lands and Other Acts (Reserves) Amendment.

shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract or proposed contract relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(10) The trustees of a reserve shall cause to be recorded in a book to be kept for the purpose particulars of any disclosure made under subsection (2), and of any notice given under subsection (9).

(11) If a person fails to comply with the provisions of subsection (2), he shall for each offence be liable to a penalty not exceeding two hundred dollars, unless he proves that he did not know that a contract or proposed contract in which he had a pecuniary interest was the subject of consideration at the meeting.

(12) Where a person is convicted of an offence against this section, he shall be deemed to have vacated his office as trustee of any reserve of which he is, at the time of conviction, holding office as trustee, unless the court by which he is convicted sees fit in the circumstances of the case to declare that he shall not by virtue of his conviction be deemed to have vacated his office as such a trustee.

(13) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by subsection (2) in any case in which the number of trustees so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.

(14) The trustees of a reserve may by resolution provide for the exclusion of a trustee from a meeting of the trustees while any contract or proposed contract in which he has an interest, as referred to in this section, is under consideration.

(15)

Crown Lands and Other Acts (Reserves) Amendment.

(15) This section does not apply to or in respect of a corporation that is appointed under section 37P to be trustee of a reserve.

(16) In this section, "shares" includes stock, and "share capital" shall be construed accordingly.

Application
of Local
Government
Act, 1919,
to councils.

37BB. (1) Where a council is appointed under section 37P to be trustee of a reserve that is a public reserve, the council shall, in relation to the reserve, have, in addition to the powers, authorities, duties and functions conferred or imposed on the council as trustee by or under this Act, the powers, authorities, duties and functions conferred or imposed on councils by or under the Local Government Act, 1919, in relation to public reserves, but the provisions of this Act shall prevail to the extent of any inconsistency.

(2) In subsection (1), "public reserve" has the meaning ascribed thereto in the Local Government Act, 1919.

Power of
Minister
to enter
reserves.
cf. No. 8,
1897, s. 9.

37CC. (1) The Minister, or any person authorised by him for the purpose, may enter any reserve at any time and may inspect the reserve.

(2) A person who obstructs the Minister or a person authorised by him in the exercise of his power under this section is guilty of an offence and liable to a penalty not exceeding one hundred dollars.

Aid of
police may
be called
in.
cf. No. 40,
1912, s. 11.

37DD. The trustees of a reserve, or any ranger or other officer appointed by the trustees, may call in the aid of the police for the removal, by force if necessary, of any person who is found committing a breach of any by-law applicable to the reserve, or who by disorderly or insulting conduct on the reserve or on any public place within the meaning of the Summary Offences Act, 1970, causes annoyance or inconvenience to persons on the reserve or going to or coming from the reserve.

37EE.

Crown Lands and Other Acts (Reserves) Amendment.

37EE. (1) Where all the trustees of a reserve for which a corporation is constituted under section 37Q have vacated their offices as trustees, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

Adminis-
trator of
reserve for
which
corporation
constituted
under this
Division.

(2) The administrator of a reserve appointed under this section shall have the powers, authorities, duties and functions that trustees of the reserve, if appointed, would have in their corporate capacity, and any act, matter or thing done or omitted by the administrator shall have the same effect as if done or omitted by trustees of the reserve.

(3) Section 344 of the Local Government Act, 1919, does not apply in relation to a reserve in respect of which an administrator is for the time being holding office under this section.

37FF. (1) Where all the trustees (appointed under section 37O) of a reserve, other than a reserve for which a corporation is constituted under section 37Q, have vacated their offices as trustees, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

Adminis-
trator
of reserve
for which
corporation
not consti-
tuted
under this
Division.

(2) Where a corporation appointed under section 37P to be trustee of a reserve has vacated its office as trustee, the Minister may, by notification published in the Gazette, appoint a person to be administrator of the reserve.

(3) On the publication in the Gazette of a notification under subsection (1) or (2) in relation to a reserve, the administrator of the reserve is constituted a corporation sole under the name assigned to him under subsection

Crown Lands and Other Acts (Reserves) Amendment.

subsection (4), and the corporation sole shall be deemed to be appointed sole trustee of the reserve under section 37P.

(4) For the purposes of subsection (3), the Minister shall, in the notification under subsection (1) or (2) appointing an administrator, assign a corporate name to the administrator.

(5) The Minister may, from time to time, by notification published in the Gazette, assign a new corporate name to a corporation sole constituted under this section and, on the publication in the Gazette of the notification, the corporate name of the corporation sole shall, without affecting the continuity of the corporation, be the name so assigned.

(6) A corporation sole constituted under this section ceases to be the trustee of a reserve and is dissolved—

- (a) upon the appointment of trustees under section 37O or 37P for the reserve; or
- (b) if the Minister, by notification published in the Gazette, so declares.

(7) A corporation sole constituted under this section shall have an official seal.

(8) Subsection (I) (paragraph (b) excepted) and subsection (III) of section 38 of the Interpretation Act, 1897, apply to and in respect of a corporation sole constituted under this section.

Provisions
applicable
to adminis-
trators
generally.

37GG. (1) The Minister may, by notification published in the Gazette—

- (a) remove from office any person appointed as administrator under section 37EE or 37FF; and
- (b) fill any vacancy in the office of administrator.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) If the Minister so directs, an administrator holding office under section 37EE or 37FF shall, out of the Closer Settlement and Public Reserves Fund or out of moneys provided by Parliament, be paid such remuneration, including travelling expenses, as the Minister determines.

(3) The office of administrator under this Division shall not be deemed to be an office of profit under the Crown for the purposes of the Constitution Act, 1902.

37HH. (1) Where lands have ceased to be a reserve, and there were formerly trustees of the reserve, any real or personal property (other than the lands comprising the former reserve, but including lands purchased in connection with the former reserve under section 37Y of this Act or section 8A of the Public Parks Act, 1912) that would, if the lands were a reserve and trustees were holding office in respect thereof, be held by or vested in them in their capacity as trustees and not otherwise, may, unless otherwise lawfully dealt with, be disposed of by the Minister in such manner as he may consider appropriate, and for this purpose he may deal with any lands so purchased as if they had been acquired under the Closer Settlement Acts or as Crown lands.

Disposal
of certain
property.

(2) The Minister shall have power to execute all conveyances and instruments and do all things necessary for the due exercise of his powers under this section.

(3) Where any property is disposed of under this section by way of sale or otherwise, the Minister may give directions as to the disposal of the proceeds arising therefrom, and the proceeds shall be disposed of in accordance with those directions.

37II. (1) The Governor may make by-laws for or with respect to—

By-laws.
cf. No. 8,
1897, s. 1
(2); No. 40,
1912, s. 9
(1); No. 7,
1913, s. 26
(2).

(a) the care, control and management of any reserve;

(b) (2).

Crown Lands and Other Acts (Reserves) Amendment.

- (b) the regulation of the use and enjoyment of any reserve;
- (c) the regulation of meetings of the trustees (appointed under section 37O) of any reserve and the conduct of business thereat;
- (d) the custody and use of the common seal of a corporation constituted under section 37Q;
- (e) the securing of decency and order upon any reserve;
- (f) the removal of trespassers and other persons causing annoyance or inconvenience upon any reserve;
- (g) the regulation or prevention of the taking of intoxicants on to and the consuming thereof upon any reserve;
- (h) the regulation and control of the taking of animals on to any reserve or the permitting or suffering of animals to be on any reserve;
- (i) the regulation, control or prohibition of parking, camping or residing on any reserve, the making of charges for any such parking, camping or residing, and the collecting and receiving of any such charges;
- (j) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage, or other vegetative cover on any reserve;
- (k) the protection or removal of all dead timber, logs and stumps on any reserve, whether standing or fallen;
- (l) the preservation, protection or removal of any rocks, soil, sand, stone or other similar substances on or under or comprising part of any reserve;
- (m) the preservation or protection of any animals, birds and any other fauna of any nature whatsoever and whether natural or introduced on any reserve;

(n)

Crown Lands and Other Acts (Reserves) Amendment.

- (n) the making of charges or entrance fees on persons, clubs or associations using or entering upon any reserve or improvements thereon, or any specified part or parts of the reserve or improvements, and the collecting and receiving of any such charges and fees;
- (o) the reservation of any portion of any reserve for such separate or exclusive uses as the by-laws may prescribe;
- (p) the closing of any reserve or parts thereof and the conditions to be observed with regard thereto;
- (q) the regulation, control or prohibition of private trading upon any reserve;
- (r) the appointment and removal of rangers in respect of any reserve and the defining of their powers and duties;
- (s) the prescription of all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) By-laws may be made so as to apply to—

- (a) any specified reserve, or all reserves, or any specified class of reserves;
- (b) all reserves, other than a specified reserve or specified class of reserves; or
- (c) any specified class of reserves, other than a specified reserve or specified class of reserves.

(3) By-laws may be made so as to apply differently according to such factors as may be specified in the by-laws.

(4) A by-law may impose a penalty not exceeding one hundred dollars for any breach thereof.

cf. No. 8,
1897, s. 1
(3); No. 40,
1912, s. 9
(2); No. 7,
1913, s. 26
(1) (2A).

(5)

Crown Lands and Other Acts (Reserves) Amendment.

cf. No. 40,
1912, s. 12
(2).

(5) Any penalty recovered for a breach of a by-law shall, where there are trustees of the reserve in or in relation to which the breach was committed, be paid to those trustees for the purposes of their trust.

cf. No. 40,
1912, s. 9
(1A).

(6) By-laws made for or with respect to the matters referred to in paragraph (i) of subsection (1) shall have effect notwithstanding anything contained in section 37x or any other provision of this or any other Act.

cf. No. 7,
1913, s. 26
(2).

(7) Subsection (1) does not apply to the extent to which, under the provisions of any other Act, power is conferred on the trustees of a reserve, or the Governor or the Minister, to make rules, regulations, rules and regulations, by-laws or ordinances for or with respect to any of the matters referred to in that subsection in relation to that reserve.

(8) Section 41 of the Interpretation Act, 1897, applies in respect of a by-law as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

cf. No. 8,
1897, s. 1
(5); No. 40,
1912, s. 9
(4); No. 7,
1913, s. 26
(4).

(9) The trustees of a reserve shall cause a copy of any by-laws applicable to the reserve to be posted in some conspicuous place in the reserve.

(10) In this section—

cf. No. 35,
1967, s. 49
(5).

“animals” and “fauna” do not include fish within the meaning of the Fisheries and Oyster Farms Act, 1935;

“reserve” includes any land purchased or leased under section 37Y of this Act or section 8A of the Public Parks Act, 1912.

Division

Crown Lands and Other Acts (Reserves) Amendment.

Division 3.

Sale, Lease, etc., of Reserves.

37JJ. (1) Nothing in this Division affects any of the provisions of any Act relating to any particular reserve or the trustees thereof.

Operation of this Division. cf. No. 9, 1924, s. 4 (a).

(2) Without affecting the generality of this Division, this Division applies to and in respect of a council that is trustee of a reserve.

(3) This Division does not authorise the sale of lands within a state recreation area, except in pursuance of a power of sale referred to in subsection (4) of section 37MM.

(4) The powers of the trustees of a reserve and the Minister under this Division are not affected by anything contained in any grant issued for the reserve.

37KK. (1) Where—

- (a) the trustees of a reserve have passed a resolution that it is desirable to sell, lease or mortgage the reserve or any part thereof upon specified terms or conditions;
- (b) in the case of a reserve comprising lands reserved, dedicated, granted or held for a showground and the showground is managed by an association, the resolution has been approved of by a meeting of members of the association;
- (c) the trustees have applied in writing to the Minister for his consent to the proposed sale, lease or mortgage and have furnished a full statement of the facts relating thereto; and

Consent of Minister to sale, lease or mortgage. cf. No. 15, 1909, ss. 3, 5, 7; No. 9, 1924, ss. 5 (1), 6, 8.

(d)

Crown Lands and Other Acts (Reserves) Amendment.

- (d) in the case of a proposed sale of a reserve or any part thereof—
 - (i) the trustees have caused to be published in a newspaper circulating in the locality in which the reserve is situated a notice setting out the date and terms of the resolution referred to in paragraph (a), the location of the lands proposed to be sold and such other particulars (if any) as are prescribed; and
 - (ii) the application was made after the expiration of fourteen days after the date of publication of the notice referred to in subparagraph (i),

the Minister may give his consent in writing either as to the whole or as to part of the lands in respect of which the application was made, or may refuse to grant the application.

(2) In the case of an application for consent to a sale or lease under this Division, the Minister may give his consent either generally by authorising the sale or lease subject to such conditions, restrictions, reservations and covenants, and in such manner and within such time, as he thinks desirable, or by approving of a particular contract of sale or lease.

(3) In the case of an application for consent to a mortgage under this Division, the Minister's consent shall not be given generally, but the terms of the proposed mortgage shall in each case be submitted to him for approval.

(4) Without affecting the operation of subsections (2) and (3), the Minister may, in giving his consent under this section—

- (a) vary the terms or conditions referred to in paragraph (a) of subsection (1); or
- (b) impose such terms and conditions as he thinks desirable.

Crown Lands and Other Acts (Reserves) Amendment.

37LL. The Minister may, at any time, withdraw, either wholly or in part, his consent given under section 37KK, or vary the terms thereof, if he can do so without prejudice to the rights of third parties.

Withdrawal or variation of consent.
cf. No. 15, 1909, s. 7 (1); No. 9, 1924, s. 8 (1).

37MM. (1) After obtaining the consent of the Minister under section 37KK, and not otherwise, the trustees of a reserve may sell, lease or mortgage lands within the reserve according to the terms of the consent.

Sale, lease or mortgage.
cf. No. 15, 1909, s. 8; No. 9, 1924, s. 9.

(2) Notwithstanding subsection (1), where the Minister has given his consent generally under section 37KK to the sale or lease of lands within a reserve, the lands shall not be sold or leased in pursuance of the consent unless the price agreed upon or rent reserved has been submitted to him and approved of by him.

(3) A mortgage under this Division may contain a power of sale.

(4) Where lands within a state recreation area are the subject of a mortgage under this Division, a power of sale, whether contained in the mortgage or conferred on the mortgagee by the Conveyancing Act, 1919, shall not be exercised in relation to those lands until after the expiration of one month after a written notice of intention to do so has been given to the Minister.

(5) For the purposes of subsection (4), a notice shall be deemed not to have been given to the Minister if it is given before the power of sale would, but for that subsection, have become exercisable.

(6) A lease shall not be granted under this Division for any purpose for which an authority, permit, lease or license may be granted under the Fisheries and Oyster Farms Act, 1935.

37NN. (1) In any case in which trustees desire to exercise the powers conferred by this Division, the Minister may appoint a person who shall have power to execute all conveyances and instruments and do all things necessary for the due exercise of those powers.

Minister may appoint person to execute conveyance.
cf. No. 15, 1909, s. 9; No. 9, 1924, s. 10.

(2)

Crown Lands and Other Acts (Reserves) Amendment.

(2) The receipt of the person so appointed shall be a sufficient discharge to any purchaser, lessee or mortgagee bona fide paying money in respect of any sale, lease or mortgage under this Division.

(3) Any transfer, mortgage or lease of land under the provisions of the Real Property Act, 1900, signed by the person so appointed, shall have the same effect as if signed by the registered proprietor of the land.

3700. No purchaser, lessee or mortgagee dealing bona fide with a person appointed under section 37NN shall be prejudiced or affected by any omission or irregularity in respect of any of the matters prescribed by this Division.

37PP. (1) The proceeds of a sale, lease or mortgage under this Division shall be held by the trustees, after payment of costs, expenses and encumbrances, for the general purposes of the trust, and may be invested or applied by them accordingly, but, where the Minister gives any direction as to the application of the proceeds, the proceeds shall be applied in accordance with the direction.

(2) The Minister may direct that any portion of the income or revenue of the trustees shall be set apart for payment of interest on, or gradual extinction of, any mortgage debt, and the portion so set apart shall be invested as the Minister directs.

37QQ. (1) Lands conveyed to any person pursuant to this Division shall vest in him free from all trusts which affected them in the hands of the persons by whom or on whose behalf they were conveyed.

(2) Upon the vesting in a person of any lands conveyed to him pursuant to this Division, any dedication or reservation is revoked to the extent to which it affects the lands.

(3) Lands within a reserve may be granted in fee simple for the purpose of carrying out or giving effect to any of the provisions of this Division.

(4)

Bona fide purchaser protected.
cf. No. 15, 1909, s. 10;
No. 9, 1924, s. 11.

Proceeds.
cf. No. 15, 1909, s. 11;
No. 9, 1924, s. 12.

Miscellaneous provisions.
cf. No. 15, 1909, s. 12;
No. 9, 1924, s. 13.

Crown Lands and Other Acts (Reserves) Amendment.

(4) Without affecting the operation of any other provision of this Act, lands may be granted under subsection (3)—

- (a) subject to such conditions as are imposed by the Minister (which conditions the Minister is hereby authorised to impose) and as are specified in the grant; or
- (b) without any such conditions.

37RR. (1) The trustees of a reserve may—

- (a) without the consent of the Minister, grant ^{Temporary licenses.} cf. No. 40, temporary licenses for grazing or any other ^{1912, s. 8.} prescribed purpose; or
- (b) with the consent in writing of the Minister, grant temporary licenses for any purpose,

in respect of the whole or any part of the reserve, on such terms and subject to such conditions as, in the case of licenses referred to in paragraph (a), the trustees approve or, in the case of licenses referred to in paragraph (b), the Minister approves.

(2) A license shall not be granted under this section for any purpose for which an authority, permit, lease or license may be granted under the Fisheries and Oyster Farms Act, 1935.

(3) A license granted under paragraph (a) of subsection (1) shall cease to have effect after it has been in force for a period of two years, but nothing in this subsection affects any right of the trustees—

- (a) to revoke a license before the expiration of that period; or
- (b) to grant a license for a shorter period.

Crown Lands and Other Acts (Reserves) Amendment.

Termination of certain leases and licenses.

37ss. (1) Subject to subsection (3), section 37TT and section 37BBB, a lease of, or a license in respect of, any lands within a reserve, being a lease or license granted by the trustees, ceases and determines upon the status of the whole or any part of the lands subject to the lease or license being affected.

(2) For the purposes of this section, the status of any lands within a reserve is affected if and only if—

(a) in the case of lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts—the dedication or reservation is revoked; or

(b) in the case of lands set apart for any public purpose (but not dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts)—

(i) the lands cease to be set apart (whether by the revocation of the notification, if any, by which the lands were set apart or otherwise); or

(ii) the lands are dedicated or reserved under this Act or the Closer Settlement Acts.

(3) Where the status of part only of lands the subject of a lease or license is affected, subsection (1) does not apply in respect of the lease or license if, before the status is so affected, the trustees of the reserve comprising the lands and the lessee or licensee agree that the lease or license shall continue in force as if never granted in respect of that part, and upon the status of the lands being so affected, the lease or license shall continue in force accordingly.

(4) No compensation is payable in respect of the determination of a lease or license by virtue of this section.

37TT.

Crown Lands and Other Acts (Reserves) Amendment.

37TT. Where—

- (a) a lease or license has been granted under this Division in respect of a reserve comprising lands dedicated or reserved under the Crown Lands Acts or the Closer Settlement Acts for any public purpose;
- (b) the dedication or reservation is revoked, by or under this Act or the Closer Settlement Acts, as to the whole of the lands in respect of which the lease or license was in force immediately before the revocation (which lands are, in this section, referred to as “the subject lands”); and
- (c) the whole of the subject lands—
 - (i) is, under subsection (2) of section 24, or subsection (2) of section 28, or subsection (2) of section 13 of the Closer Settlement (Amendment) Act, 1914, added to any lands; or
 - (ii) becomes, or becomes part of, a state recreation area,

Continuance
of certain
leases and
licenses.

for which trustees hold office under this Part,
the lease or license shall, notwithstanding section 37ss
or any condition in the lease or license, continue in force
as if the dedication or reservation had not been so
revoked and shall be deemed to have been granted by
those trustees.

Division 4.

Miscellaneous.

37UU. Sections 37o, 37P, 37s and 37z have effect
subject to the provisions of any other Act in force at the
commencement of the Crown Lands and Other Acts
(Reserves) Amendment Act, 1974.

Limitation
on
operation of
sections 37o,
37P, 37s and
37z.

37vv.

Crown Lands and Other Acts (Reserves) Amendment.

Transfer of
assets, debts
and liabilities in cer-
tain circum-
stances.

37vv. (1) The provisions of subsections (2) and (3) have effect in relation to a reserve—

(a) upon the publication of a notification under section 37O or 37P appointing a trustee or trustees of the reserve (other than a reserve in respect of which a corporation is constituted under section 37Q), or upon the publication of a notification under subsection (1) of section 37Q declaring that the trustees of the reserve, and their successors in office, shall be a corporation and so have effect as if in those provisions—

(i) “the operative time” meant the publication of the notification;

(ii) “the prior time” meant the time immediately before that publication or, if the trustee or trustees of the reserve last holding office before that publication has or have vacated office before that publication, the time when he or they so vacated office;

(iii) “the former controllers” meant the trustee or trustees of the reserve last holding office before that publication; and

(iv) “the present controllers” meant, if the notification was published under section 37O or 37P, the trustee or trustees holding office upon that publication or, if the notification was published under subsection (1) of section 37Q, the corporation;

(b) upon an individual vacating his office as trustee of the reserve (other than a reserve in respect of which a corporation is constituted under section 37Q), and so have effect as if in those provisions—

(i) “the operative time” meant the time when he so vacated his office;

(ii)

Crown Lands and Other Acts (Reserves) Amendment.

- (ii) "the prior time" meant the time immediately before he so vacated his office;
 - (iii) "the former controllers" meant the trustee or trustees of the reserve last holding office immediately before he so vacated his office; and
 - (iv) "the present controllers" meant the trustee or trustees of the reserve holding office immediately after he so vacated office;
- (c) upon the publication of a notification under subsection (2) of section 24 or subsection (2) of section 28, or the publication of a notice under subsection (2) of section 13 of the Closer Settlement (Amendment) Act, 1914, that operates so as to add the whole of the reserve to another reserve, and so have effect as if in those provisions—
- (i) "the operative time" meant the time when a trustee or trustees of the other reserve first holds or hold office at or after the publication of the notification or notice;
 - (ii) "the prior time" meant the time immediately before that publication or, if the trustee or trustees of the added reserve last holding office before that publication has or have vacated office before that publication, the time when he or they so vacated office;
 - (iii) "the former controllers" meant the trustee or trustees of the added reserve last holding office before that publication; and
 - (iv) "the present controllers" meant the trustee or trustees first holding office at or after that publication;
- (d)

Crown Lands and Other Acts (Reserves) Amendment.

(d) upon the publication of a notification under subsection (1) or (2) of section 37B that operates so as to reserve the whole of the reserve as part of a state recreation area, and so have effect as if in those provisions—

- (i) “the operative time” meant the publication of the notification;
- (ii) “the prior time” meant the time immediately before that publication or, if the trustee or trustees of the reserve last holding office before that publication has or have vacated office before that publication, the time when he or they so vacated office;
- (iii) “the former controllers” meant the trustee or trustees of the reserve last holding office before that publication; and
- (iv) “the present controllers” meant, if there is a trustee or are trustees of the state recreation area upon that publication, the trustee or trustees or, if there are no such trustees, the Minister;

(e) upon the publication of a notification under section 37O or 37P appointing a trustee or trustees of a state recreation area the care, control and management of which the Minister was, until that publication, charged with under subsection (8) of section 37B, and so have effect as if in those provisions—

- (i) “the operative time” meant the publication of the notification;
- (ii) “the prior time” meant the time immediately before that publication;
- (iii) “the former controllers” meant the Minister; and
- (iv) “the present controllers” meant the trustee or trustees; or

(f)

Crown Lands and Other Acts (Reserves) Amendment.

(f) subject to subsection (7) of section 37AAA, upon the taking effect of a notification under section 37AAA vesting the whole of the lands within a reserve in a council, and so have effect as if in those provisions—

- (i) “the operative time” meant the date on which the notification took effect;
- (ii) “the prior time” meant the time immediately before that date or, if the trustee or trustees of the reserve, last holding office before that date has or have vacated office before that date, the time when he or they so vacated office;
- (iii) “the former controllers” meant the trustee or trustees of the reserve last holding office before that date;
- (iv) “the present controllers” meant the council; and
- (v) “the reserve” meant the lands the subject of the notification and comprised in the reserve immediately before that date.

(2) Where this subsection has effect in relation to a reserve in accordance with subsection (1), then, as from the operative time—

- (a) the property of the former controllers relating to the care, control and management of the reserve, including all moneys, books of account, registers, records and all documents and things relating to, or connected with, the operation of the reserve, shall become the property of the present controllers and any land previously purchased with the approval of the Minister in pursuance of section 8A of the Public Parks Act, 1912, or section 37Y, that at the prior time was vested in or belonged to the former controllers shall vest in and belong to the present controllers;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) all moneys and liquidated and unliquidated claims that, at the prior time, were payable to or recoverable by the former controllers in connection with the care, control and management of the reserve shall be moneys and liquidated and unliquidated claims payable to or recoverable by the present controllers;
- (c) all proceedings pending at the prior time at the suit of the former controllers, in connection with the care, control and management of the reserve, shall be deemed to be proceedings pending at the suit of the present controllers and all proceedings so pending at the suit of any person against the former controllers shall be deemed to be proceedings pending at the suit of that person against the present controllers;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the former controllers, in connection with the care, control and management of the reserve, and in force at the prior time shall be deemed to be contracts, agreements, arrangements and undertakings entered into with, and securities given to or by, the present controllers;
- (e) the present controllers may, in connection with the care, control and management of the reserve, in addition to pursuing any other remedies or exercising any other powers that may be available to them, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of proceedings so referred to as the former controllers might have done had the circumstances not arisen by reason of which the provisions of this subsection have effect in accordance with subsection (1);
- (f) the present controllers may enforce and realise any security or charge existing at the prior time in favour of the former controllers in connection with
with

Crown Lands and Other Acts (Reserves) Amendment.

with the care, control and management of the reserve, and may exercise any powers thereby conferred on the former controllers as if the security or charge were a security or charge in favour of the present controllers;

- (g) all debts, moneys and claims, liquidated and unliquidated, that, at the prior time, were due or payable by, or recoverable against, the former controllers in connection with the care, control and management of the reserve shall be debts due, moneys payable by and claims recoverable against, the present controllers;
- (h) all liquidated and unliquidated claims in connection with the care, control and management of the reserve for which the former controllers would, had the circumstances not arisen by reason of which the provisions of this subsection have effect in accordance with subsection (1), have been liable shall be liquidated and unliquidated claims for which the present controllers shall be liable; and
- (i) all acts, matters and things done or omitted by, or done or suffered in relation to, the former controllers of the reserve, being acts, matters and things not referred to in the foregoing provisions of this subsection, shall have the same force and effect as if they had been done or omitted by, or done or suffered in relation to, the present controllers of the reserve.

(3) No attornment to the present controllers of a reserve by a lessee from the former controllers of the reserve shall be required.

(4) The provisions of subsection (2) have effect so as not to affect, or affect the consequences of, the operation of any law or any act, matter or thing lawfully done or omitted between the prior time (within the meaning of any of the paragraphs of subsection (1)) and

Crown Lands and Other Acts (Reserves) Amendment.

and the operative time (within the meaning of the same paragraph) in relation to any circumstances in which subsection (2) has effect.

cf. No. 35,
1967, s. 26
(2).

(5) Where part only of a reserve is added to another reserve by a notification published under subsection (2) of section 24, subsection (2) of section 28, or section 37B, or by notice published under subsection (2) of section 13 of the Closer Settlement (Amendment) Act, 1914, the trustees of the remaining part of the firstmentioned reserve and the trustees of that other reserve shall, as soon as practicable after publication of the notification or notice, arrange and agree upon a division of the assets, debts and liabilities of the trustees of that remaining part, so that the assets, debts and liabilities appropriate to that remaining part and the added part may be determined, and—

- (a) if any difference arises between the trustees of that remaining part and the trustees of that other reserve, the difference shall be determined in such manner as the Minister directs; or
- (b) if there are no trustees of that remaining part, or there are no trustees of that other reserve, for the time being, the assets, debts and liabilities appropriate to that remaining part and that added part shall be determined in accordance with any directions of the Minister.

(6) For the purposes of subsection (5), where a notification published under section 37B operates so as to reserve part only of a reserve as part of a state recreation area, the part so reserved shall be deemed to be added to the state recreation area.

(7)

Crown Lands and Other Acts (Reserves) Amendment.

(7) Where a notification under section 37AAA operates so as to vest part only of a reserve in a council, the trustees of the remaining part of the reserve and the council shall, as soon as practicable after the notification takes effect, arrange and agree upon a division of the assets, debts and liabilities of the trustees of that remaining part, so that the assets, debts and liabilities appropriate to that remaining part and the part vested in the council may be determined, and—

- (a) if any difference arises between the trustees and the council, the difference shall be determined in such manner as the Minister directs; or
- (b) if there are no trustees of that remaining part for the time being, the assets, debts and liabilities appropriate to that remaining part and the part vested in the council shall be determined in accordance with any directions of the Minister.

(8) Where, but for this section, a trustee or former trustee of a reserve would be personally liable for a breach of trust or for any other act or omission in relation to which he would have no right of indemnity from any of the funds of the trustees of the reserve, nothing in this section takes away his liability therefor nor imposes that liability on any other person.

37ww. Where—

- (a) a person was appointed or purported to be appointed, under the Public Trusts Act, 1897, as trustee of any lands set apart, dedicated or reserved (temporarily or otherwise) for any public purpose and was holding or purporting to hold office immediately before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974;
- (b) the lands are a reserve; and

Exclusion
of certain
provisions
in docu-
ments, etc.

(c)

Crown Lands and Other Acts (Reserves) Amendment.

- (c) a document (other than an Act) or notice issued, made or published before that commencement contains provisions relating to the appointment of trustees of the lands,

the provisions of Division 2 have effect to the exclusion of anything contained in the provisions referred to in paragraph (c).

Extension
of certain
provisions
of Division
2 to certain
lands.

37xx. (1) This section applies to lands that are declared by the Minister, by order published in the Gazette, to be lands to which this section applies, being lands—

- (a) that are set apart, reserved, dedicated, granted or held for a public park or for any other public purpose;

- (b) for which—

- (i) by or under any Act enacted before the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974 (other than this Act, the Public Trusts Act, 1897, the Public Parks Act, 1912, and section 26 of this Act as applied by Regulation 64 under the Closer Settlement Acts); or

- (ii) by any document (other than an Act) or notice issued, made or published before that commencement, and creating or authorising the creation of the trust,

trustees may be or are required to be appointed; and

- (c) that are not, or are not part of, a reserve.

(2) Subject to subsection (3), the provisions of sections 37O, 37P, 37S and 37T apply to and in respect of any lands to which this section applies and the trustees thereof in the same way as they apply to and in respect of a reserve and the trustees thereof.

(3)

Crown Lands and Other Acts (Reserves) Amendment.

(3) The Minister may, by an order under subsection (1) or another order published in the Gazette, direct that subsection (2) shall not operate in relation to any specified lands or specified class of lands to the extent specified in the order, and the direction has effect according to its tenor.

(4) A declaration under subsection (1) may apply to any specified lands or specified class of lands.

(5) Subject to subsection (3), subsection (2) has effect in relation to any lands notwithstanding anything contained in the Act by or under which, or in the document or notice by which, trustees may be or are required to be appointed for the lands.

37YY. (1) This section applies to lands that are declared by the Minister, by order published in the Gazette, to be lands to which this section applies, being lands—

Extension of certain provisions of Division 3 to certain show-grounds and other lands.

(a) that are—

(i) reserved, dedicated, granted or held for a showground; or

cf. No. 15, 1909, s. 2.

(ii) set apart, dedicated, reserved, granted or held for any public purpose under any Act;

cf. No. 9, 1924, s. 2.

(b) of which there are trustees, whether or not appointed under an Act; and

(c) that are not, or are not part of, a reserve.

(2) Subject to subsection (3), the provisions of Division 3 (sections 37RR, 37SS and 37TT excepted) apply to and in respect of any lands to which this section applies and the trustees thereof in the same way as they apply to and in respect of a reserve and the trustees thereof.

(3) The Minister may, by an order under subsection (1) or another order published in the Gazette, direct that subsection (2) shall not operate in relation

Crown Lands and Other Acts (Reserves) Amendment.

relation to any specified lands or specified class of lands to the extent specified in the order, and the direction has effect according to its tenor.

(4) A declaration under subsection (1) may apply to any specified lands or specified class of lands.

(5) Nothing in Division 3, as applied by this section, affects any powers that the trustees of any lands to which this section applies would have to sell, lease or mortgage those lands had this section not been enacted.

PART IIIc.

VESTING OF CERTAIN LANDS IN COUNCILS.

Interpreta-
tion.

37zz. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“area” has the meaning ascribed thereto in the Local Government Act, 1919;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

“prescribed lands” means—

(a) lands within a reserve; or

(b) Crown lands not within a reserve,

but does not include—

(c) any lands within a national park, state park, historic site, aboriginal area or protected archaeological area within the meaning of the National Parks and Wildlife Act, 1967;

(d) any lands dedicated as a nature reserve, or declared to be a wildlife refuge or game reserve, under the Fauna Protection Act, 1948;

(e) any lands in respect of which any Act (other than this Act or the Closer Settlement Acts) provides that the lands shall be

Crown Lands and Other Acts (Reserves) Amendment.

be used for a purpose referred to in the Act or shall not be used for any purpose other than that referred to in the Act; or

- (f) any lands within a state recreation area; “reserve” has the meaning ascribed thereto in Part IIIB.

37AAA. (1) Subject to this section, the Minister may, by notification published in the Gazette, at his discretion, vest any prescribed lands described in the notification in a council specified in the notification for an estate in fee simple, where the Minister is of the opinion that—

(a) the lands—

- (i) are a public reserve within the meaning of the Local Government Act, 1919, or are suitable for use as such a public reserve; or
 - (ii) are used for any other purpose for which lands may be acquired by a council under the Local Government Act, 1919, or are suitable for use for any such other purpose; and
- (b) it is proper that, having regard to the purpose (if any) for which the lands are used, the lands should be vested in the council.

(2) Lands shall not be vested under this section in a council—

- (a) without the concurrence of the council; and
- (b) unless the lands are wholly within the area of the council.

(3) Where the area of lands described in a notification under subsection (1) is not affected by a Crown grant or certificate of title, that area may be limited to the surface only of the lands, or to the surface thereof and to such depth below the surface as the Minister may specify therein.

(4)

Crown Lands and Other Acts (Reserves) Amendment.

(4) A notification by which a vesting of lands under this section is effected shall, where those lands are not affected by a Crown grant or certificate of title, contain a reservation of all minerals in the lands and shall contain such other reservations and exceptions as the Minister deems expedient in the public interest.

(5) A vesting of lands under this section takes effect subject to the reservations and exceptions contained in the notification by which the vesting is effected or contained in any Crown grant or certificate of title affecting the lands immediately before the notification takes effect.

(6) The Minister may, in a notification under subsection (1), declare the lands described therein to be a public reserve for the purposes of the Local Government Act, 1919.

(7) Where—

- (a) the whole of the lands comprised in a reserve are vested in a council under this section;
- (b) there were trustees holding office before the notification by which the vesting was effected took effect; and
- (c) the Minister and the council agreed, before the notification took effect, to modify the operation of subsection (2) of section 37vv in relation to the vesting, so that it is agreed that any assets, debts and liabilities specified or described in the agreement that would, but for this subsection, be transferred to or vested in the council should not be so transferred or vested,

the provisions of subsection (2) of section 37vv shall, in relation to the vesting, have effect as modified in accordance with the agreement.

(8) A notification published under subsection (1) shall take effect on and from the date of publication or a later date specified in the notification.

Crown Lands and Other Acts (Reserves) Amendment.

37BBB. (1) Upon a notification under section 37AAA taking effect in relation to any lands— Effect of vesting.

- (a) the lands shall be deemed to have been acquired under the Local Government Act, 1919, by the council specified in the notification, but nothing in this paragraph affects the operation of subsection (2) or (5) of section 518 of that Act;
- (b) any dedication, reservation, notification of a special area under section 59 or notification of a classified area is revoked to the extent to which it affects the lands;
- (c) every provision for forfeiture or reverter in respect of any breach or non-performance of any condition, trust or proviso contained in any Crown grant shall be deemed to have been released by the Crown to the extent to which the grant affects the lands;
- (d) where a trustee of all or any part of the lands was holding office immediately before the notification took effect, the trustee shall cease to hold that office in respect of those lands or that part, as the case may be; and
- (e) any by-laws that, immediately before the notification took effect, applied to all or any of the lands shall cease to apply to the lands.

(2) For the purposes of section 43 of the Interpretation Act, 1897, any by-laws that cease to apply to any lands by virtue of subsection (1) shall, in so far as they applied to those lands, be deemed to have been repealed.

(3)

Crown Lands and Other Acts (Reserves) Amendment.

(3) Where section 37vv, in its operation in relation to a lease of, or a license in respect of, lands vested in a council under section 37AAA, has the effect of deeming the lease or license to be granted by the council, the lease or license shall, notwithstanding section 37ss or any condition in the lease or license, continue in force and shall, notwithstanding any Act or other law to the contrary, be deemed to have been granted—

- (a) where the council granted the lease or license in its capacity as trustee of the reserve—by the council otherwise than in that capacity; or
- (b) in any other case—by the council.

(4) The revocation of a dedication or reservation in respect of any lands under subsection (1) does not effect a revocation of a Crown grant or certificate of title issued in respect of those lands.

Further
amendment
of Act No.
7, 1913.

8. The Principal Act is further amended—

Sec. 25.
(Revocation
of dedica-
tions.)

- (a) (i) by omitting from section 25 the words “both Houses of Parliament within one month after the publication thereof in the Gazette if Parliament be then in session, or otherwise within one month after the commencement of the next ensuing session. If Parliament shall within one month declare by resolution that it does not assent to the proposals set forth in such notice, no further action shall be taken in the matter. If no such resolution be passed, then after the expiration of thirty clear days after the date

when

Crown Lands and Other Acts (Reserves) Amendment.

when the notice was laid before Parliament," and by inserting instead the words "each House of Parliament within the prescribed time after publication thereof. Where a House of Parliament passes a resolution of which notice has been given within fifteen sitting days of that House after a copy of the notice so published has been laid before it under this section, whether or not those sitting days occur during the same session, and the resolution disallows the proposals set forth in the notice, no further action shall be taken in the matter. If no such resolution is passed,";

- (ii) by inserting at the end of the same section the following new paragraph :—

In this section, "prescribed time", in relation to a House of Parliament, means fourteen sitting days of that House, whether or not they occur during the same session.

- (b) (i) by omitting from section 25A the words "to Sec. 25A. reserve from sale or lease generally any land (Disposal of certain lands as the Crown Lands (Amendment) Act, 1957," and by inserting instead the words "for the Minister in respect of any land that before or after the commencement of the Crown Lands and Other Acts (Reserves) Amendment Act, 1974,";
- (ii) by omitting from section 25A (b) the words "the Water Conservation and Irrigation Commission" and by inserting instead the words "a public authority";
- (iii) by omitting from section 25A (b) the words "the said Commission" and by inserting instead the words "a public authority";

(iv)

Crown Lands and Other Acts (Reserves) Amendment.

- (iv) by omitting from section 25A the words "and upon revocation of any such reservation," and by inserting instead the words "by notification published in the Gazette to declare that";
- (v) by inserting in section 25A after the words "this Act" the words ", and upon the publication of the notification in the Gazette the land may be so dealt with";
- (vi) by inserting at the end of section 25A the following new subsections :—

(2) The area of land described in a notification under subsection (1) may be limited to the surface only of the land, or to the surface thereof and to such depth below the surface as the Minister may specify therein.

(3) A declaration shall not be made under subsection (1) in respect of land vested in or acquired by or on behalf of a public authority without the consent of that public authority.

(4) In this section, "public authority" means The Water Conservation and Irrigation Commission or any public body declared by the Minister by order published in the Gazette to be a public authority for the purposes of this section.

Amendment of Act No. 7, 1914. Sec. 13. (Reservation or dedication of lands.)

9. The Closer Settlement (Amendment) Act, 1914, is amended by inserting at the end of section 13 the following new subsections :—

(2) The Minister by notice published in the Gazette may declare that lands acquired under the Closer Settlement Acts or within a settlement purchase area or Crown lands shall be added to any lands reserved or dedicated under subsection (1).

(3)

Crown Lands and Other Acts (Reserves) Amendment.

(3) Upon the publication of a notice under subsection (2), the lands to which the notice relates shall be added to the lands reserved or dedicated under subsection (1), as specified in the notice, shall form part of the reserved or dedicated lands and may at any time be granted for the same purpose in fee simple and shall be subject to the like reservation or dedication and the like trusts as the reserved or dedicated lands, any rules and regulations or by-laws applicable to the reserved or dedicated lands shall be applicable to the added lands and any trustees of the reserved or dedicated lands shall be deemed to be appointed trustees of the added lands under the provisions of the Act whereby they were appointed trustees of the reserved or dedicated lands.

(4) Subsection (3) of section 24 of the Crown Lands Consolidation Act, 1913, applies to and in respect of a notice under subsection (1) or (2) of this section in the same way as it applies to and in respect of a notification under subsection (1) or (2) of section 24 of that Act.

(5) Without affecting the operation of any other provision of the Closer Settlement Acts, lands may be granted under this section—

- (a) subject to such conditions as are imposed by the Minister (which conditions the Minister is hereby authorised to impose) and as are specified in the grant; or
- (b) without any such conditions.

10. The Local Government Act, 1919, is amended—

Amendment
of Act No.
41, 1919.

- (a) by inserting in the definition of "Public reserve" in section 4 after the words "of this Act," where secondly occurring the words "any land vested in the council, and declared to be a public reserve, under section 37AAA of the Crown Lands Consolidation Act, 1913,"; Sec. 4.
(Definitions.)

(b)

Crown Lands and Other Acts (Reserves) Amendment.

Sec. 343.
(Applica-
tion.)

- (b) by inserting at the end of section 343 the following new subsection :—

(2) Notwithstanding anything in this Part, but subject to section 37BB of the Crown Lands Consolidation Act, 1913, where, under Part IIIB of that Act, a council holds office as trustee of a public reserve that is wholly or partly outside the area of the council, the powers and duties conferred and imposed upon the council under this Part (other than sections 344 and 345) shall apply in relation to the reserve as if the reserve were wholly within that area.

Sec. 518.
(Power to
sell or
exchange
property.)

- (c) by inserting at the end of section 518 the following new subsection :—

(5) Any land, other than a public reserve, vested in the council under section 37AAA of the Crown Lands Consolidation Act, 1913, shall not be sold or exchanged except with the approval of the Minister given before the sale or exchange takes place.

Amendment
of Act No.
49, 1906.

11. (1) The Mining Act, 1906, is amended—

Sec. 28.
(Applicant
may mine
upon land.)

- (a) by inserting next after section 28 (2) the following new subsection :—

(3) The consent of the Minister under paragraph (a) of subsection (1) shall not be granted in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—

- (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.
- (b) by inserting next after section 83D (2) the following new subsection :—
 - (3) The Minister shall not grant his consent under this section in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—
 - (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or
 - (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.
- (2) The Petroleum Act, 1955, is amended by inserting next after section 46 (2) the following new subsection :—
 - (3) The Minister shall not grant his consent under this section in respect of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, without the concurrence in writing of—
 - (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or
 - (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.
- (3) The Mining Act, 1973, is amended by inserting next after section 86 (4) the following new subsection :—
 - (5) In the case of lands within a state recreation area under the Crown Lands Consolidation Act, 1913, the

Sec. 83D.
(Restriction on rights of holders of licenses over certain lands.)

Amendment of Act No. 28, 1955.
Sec. 46.
(Restriction on rights of holders of licences and leases over certain lands.)

Amendment of Act No. 42, 1973.
Sec. 86.
(Rights of registered holder of an exploration licence.)

Minister

Crown Lands and Other Acts (Reserves) Amendment.

Minister shall not give his consent under subsection (3) without the approval of—

- (a) where the lands are not within an irrigation area within the meaning of that Act—the Minister for Lands; or
- (b) where the lands are within such an irrigation area—the Minister for the time being administering the Irrigation Act, 1912.

(4) The amendment made by subsection (3) to the Mining Act, 1973, shall take effect—

- (a) on and from the commencement of this Act or the commencement of section 86 of the Mining Act, 1973, whichever is the later; or
- (b) if this Act and that section commence on the same day—on and from that day.

(5) On a day to be appointed by the Governor for the purposes of this subsection and notified by proclamation published in the Gazette, subsection (1) is repealed.

Amendment
of Act No.
26, 1970.

12. The Closer Settlement and Public Reserves Fund Act, 1970, is amended—

Sec. 3.
(Inter-
pretation.)

- (a) (i) by inserting in the definition of “Public reserve” in section 3 after the word “means” the words “reserve within the meaning of Part III B of the Crown Lands Consolidation Act, 1913, and includes any other”;
- (ii) by omitting from the definition of “Public reserve” in section 3 the words “and includes land to which the provisions of the Public Parks Act, 1912, apply”;

(b)

Crown Lands and Other Acts (Reserves) Amendment.

- (b) by inserting next after section 5 (g) the following new paragraph :—
- (g1) any moneys directed by the Minister to be paid into the Closer Settlement and Public Reserves Fund out of the proceeds of the disposal of property under section 37HH of the Crown Lands Consolidation Act, 1913;
- (c) by inserting next after section 6 (3) (d) the following new paragraphs :—
- (d1) the remuneration, including travelling expenses, of an administrator appointed under Part IIIB of the Crown Lands Consolidation Act, 1913;
- (d2) any costs incurred in disposing of property under section 37HH of the Crown Lands Consolidation Act, 1913, and any moneys paid into the Closer Settlement and Public Reserves Fund under paragraph (g1) of section 5 pending payment out of the Fund in accordance with directions of the Minister under section 37HH of that Act.

Sec. 5.
(Payments into Closer Settlement and Public Reserves Fund.)

Sec. 6.
(Payments out of Closer Settlement and Public Reserves Fund.)

13. (1) The Sydney Sports Ground and Sydney Cricket Ground Amalgamation Act, 1951, is amended—

Amendment of Act No. 32, 1951.

- (a) by omitting from section 2 (3) (b) the words “section twenty-six” and by inserting instead the words “subsection (5) of section 37o”;
- (b) by omitting from section 2 (3) (b) the words “wherever occurring”;
- (c) by omitting section 2 (3) (c).

Sec. 2.
(Divesting and re-dedication of certain lands, re-constitution of certain trusts, and action consequent thereon.)

Crown Lands and Other Acts (Reserves) Amendment.

Amendment
of Act No.
15, 1959.

(2) The Sydney Sports Ground and Sydney Cricket Ground Amalgamation (Amendment) Act, 1959, is amended—

Sec. 2.
(Amend-
ment of Act
No. 32,
1951.)

- (a) in section 2 (1) (a) by omitting from subsection (4) (b) contained therein the words "section twenty-six" and by inserting instead the words "subsection (5) of section 37o";
- (b) in section 2 (1) (a) by omitting from subsection (4) (b) contained therein the words "wherever occurring";
- (c) in section 2 (1) (a) by omitting subsection (4) (c) contained therein;
- (d) in section 2 (1) (a) by omitting from subsection (4) (d) contained therein the words "section twenty-six of" and by inserting instead the words "section 37o of".

Amendment
of Act No.
63, 1967.

(3) The Newcastle International Sports Centre Act, 1967, is amended—

Sec. 3.
(Appoint-
ment of
additional
trustees.)

- (a) (i) by omitting from section 3 the words "Section twenty-six" and by inserting instead the words "Subsection (5) of section 37o";
- (ii) by omitting from section 3 the words "wherever occurring";

Sec. 4.
(Mortgage
of land by
trustees.)

- (b) by omitting section 4;

Sec. 8.
(By-laws.)

- (c) (i) by omitting from section 8 (1) the words "Subsection two of section twenty-six" and by inserting instead the words "Subsection (1) of section 37π";
- (ii) by omitting from section 8 (2) the words "Rules and regulations made (whether before or after the commencement of this Act) under section twenty-six of the Crown Lands Consolidation Act, 1913, or any Act amending

or

Crown Lands and Other Acts (Reserves) Amendment.

or replacing that Act," and by inserting instead the words "By-laws made under section 37II of the Crown Lands Consolidation Act, 1913, including by-laws deemed to have been made under that section,".

(4) The Aborigines Act, 1969, is amended—

Amendment
of Act No.
7, 1969.

- (a) by omitting from section 14 (1) (a) the words "two of the Public Trusts Act, 1897," and by inserting instead the words "37P of the Crown Lands Consolidation Act, 1913,"; Sec. 14.
(Control of reserves.)
- (b) by omitting section 14 (2) and (3) and by inserting instead the following subsections :—

(2) Section 37T of the Crown Lands Consolidation Act, 1913, does not apply to or in respect of the corporation.

(3) The powers conferred on the Governor by subsection (1) of section 37II of the Crown Lands Consolidation Act, 1913, shall, in relation to a reserve of which the corporation is trustee by virtue of subsection (1)—

- (a) be deemed not to include powers exercisable by virtue of paragraphs (c), (d), (e), (f), (g), (n), (p), (r) and (s) of that subsection; and
- (b) not be exercised except with the concurrence of the Minister administering this section.

PART III.

SAVINGS AND MISCELLANEOUS PROVISIONS.

14. In this Part—

"Part IIIb" means Part IIIb of the Principal Act, as amended by this Act;

Inter-
pretation.

"the

Crown Lands and Other Acts (Reserves) Amendment.

“the repealed enactments” means the Public Trusts Act, 1897, the Public Parks Act, 1912, and section 26 of the Principal Act, and includes that section as applied by Regulation 64 under the Closer Settlement Acts.

Trustees.

15. (1) An individual appointed or deemed to be appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands shall be deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of those lands.

(2) An individual appointed or deemed to be appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands by virtue of his holding any office or position shall be deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of those lands by virtue of his holding that office or position.

(3) A corporation appointed or deemed to be appointed under any of the repealed enactments and holding office immediately before the commencement of this Act as trustee of any lands shall be deemed to have been appointed under section 37p of the Principal Act, as amended by this Act, to be trustee of those lands.

(4) Where—

- (a) by reason of the operation of subsection (1) or (2) a person is deemed to have been appointed under section 37o of the Principal Act, as amended by this Act, to be trustee of any lands; and
- (b) another person is immediately before the commencement of this Act, also holding office as

trustee

Crown Lands and Other Acts (Reserves) Amendment.

trustee of those lands by virtue of his being appointed under a document (other than an Act) or notice issued, made or published before that commencement,

that other person shall be deemed to have been appointed under that section to be a trustee of those lands.

(5) Where a body corporate (in this subsection referred to as "the existing body corporate") constituted and incorporated, or deemed to have been constituted and incorporated, under the Public Parks Act, 1912, was in existence immediately before the commencement of this Act—

- (a) the existing body corporate shall be deemed to be a corporation (in this subsection referred to as "the continued corporation") constituted under section 37Q of the Principal Act, as amended by this Act;
- (b) the corporate name of the existing body corporate shall be deemed to have been assigned to the continued corporation under that section; and
- (c) the existing body corporate and the continued corporation shall be deemed to be the same corporate person.

16. (1) Any rules and regulations or by-laws made under any of the repealed enactments, and in force immediately before the commencement of this Act, shall, to the extent to which they are not inconsistent with the Principal Act, as amended by this Act, be deemed to be by-laws made under Part IIIb.

(2) A reference (however expressed) in any Act enacted before the commencement of this Act, other than this Act, or in any instrument under an Act issued, made or published before that commencement, to rules and regulations or by-laws made under any of the repealed enactments shall be construed as a reference to by-laws made under Part IIIb.

Crown Lands and Other Acts (Reserves) Amendment.

Leases,
licenses and
other
matters
respecting
land.

17. (1) Where—

- (a) a lease or license granted in pursuance of any powers referred to in section 3 of the Public Trusts Act, 1897;
- (b) a lease or license granted under section 8 of the Public Parks Act, 1912; or
- (c) a lease granted under section 26 of the Principal Act or that section as applied by Regulation 64 under the Closer Settlement Acts,

was in force immediately before the commencement of this Act, the lease or license shall be deemed to have been granted under Part IIIB.

(2) Any vesting of lands in trustees under section 3 of the Public Trusts Act, 1897, is rescinded, and the trustees are divested of any estate or interest in the lands arising by reason only of the vesting, but nothing in this subsection affects the validity of a lease or license that was granted in pursuance of any powers referred to in that section and that was in force immediately before the commencement of this Act.

(3) A lease taken under section 8A (a) of the Public Parks Act, 1912, and in force immediately before the commencement of this Act, shall be deemed to have been taken under section 37Y (a) of the Principal Act, as amended by this Act.

(4) An approval or consent given for the purposes of section 8A of the Public Parks Act, 1912, before the commencement of this Act shall, to the extent to which it had force and effect immediately before that commencement, be deemed to have been given for the purposes of section 37Y of the Principal Act, as amended by this Act.

(5) Section 37RR (3) of the Principal Act, as amended by this Act, does not apply to or in respect of a license referred to in subsection (1).

Crown Lands and Other Acts (Reserves) Amendment.

18. Where a copy of a notice setting forth proposals (within the meaning of section 25 of the Principal Act) in relation to any land has been laid before a House of Parliament before the commencement of this Act, that section, as in force immediately before that commencement, shall continue to apply to and in respect of that land as if section 8 (a) had not been enacted.

Revocation
of dedica-
tions under
section 25
of Principal
Act.

19. Where land was reserved under section 25A of the Principal Act and the reservation had not been revoked before the commencement of this Act, that section, as in force immediately before that commencement, shall continue to apply to and in respect of that land as if section 8 (b) had not been enacted.

Reserva-
tions under
section 25A
of
Principal
Act.

20. (1) Where a special resolution has, before the commencement of this Act, been passed under section 3 of the Trustees of Show-grounds Enabling Act, 1909, in respect of any lands (within the meaning of that Act) or part thereof, the provisions of that Act shall, in connection only with any act, matter or thing done or to be done or that may be done in consequence of that resolution, continue to apply to and in respect of those lands or that part as if this Act had not been enacted, but where the Minister's consent has not been given before that commencement to a mortgage the subject of the resolution, that Act shall be deemed to be amended by omitting section 7 (3) and by inserting instead the subsection set out in subsection (3) of this section.

Trustees of
Show-
grounds
Enabling
Act, 1909,
and
Trustees
of Public
Reserves
Enabling
Act, 1924.

(2) Where a special resolution has, before the commencement of this Act, been passed under section 5 of the Trustees of Public Reserves Enabling Act, 1924, in respect of any public reserve (within the meaning of that Act) or part thereof, the provisions of that Act shall, in connection only with any act, matter or thing done or to be done or that may be done in consequence of that resolution, continue to apply to and in respect of that public reserve or part as

if

Crown Lands and Other Acts (Reserves) Amendment.

if this Act had not been enacted, but where the Minister's consent has not been given before that commencement to a mortgage the subject of the resolution, that Act shall be deemed to be amended by omitting section 8 (3) and by inserting instead the subsection set out in subsection (3) of this section.

(3) For the purposes of subsections (1) and (2), the subsection to be inserted is as follows :—

(3) In the case of an application for consent to a mortgage under this Act, the Minister's consent shall not be given generally, but the terms of the proposed mortgage shall in each case be submitted to him for approval.

Sec. 5.

SCHEDULE.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1897, No. 8..	Public Trusts Act, 1897.	The whole Act.
1909, No. 15..	Trustees of Show-grounds Enabling Act, 1909.	The whole Act.
1912, No. 21..	Trustees Audit Act, 1912.	So much of Schedule 1 as amended Act 61 Vic. No. 8 (Act No. 8, 1897).
1912, No. 40..	Public Parks Act, 1912.	The whole Act.
1913, No. 7..	Crown Lands Consolidation Act, 1913.	Section 26. So much of the First Schedule as amended Act No. 8, 1897.
1924, No. 9..	Trustees of Public Reserves Enabling Act, 1924.	The whole Act.

SCHEDULE

*Crown Lands and Other Acts (Reserves) Amendment.*SCHEDULE—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1937, No. 35..	Statute Law Revision Act, 1937.	So much of the Second Schedule as amended Act No. 40, 1912.
1938, No. 29..	Crown Lands and Closer Settlement (Amendment) Act, 1938.	Section 8 (b).
1941, No. 51..	Trustees of Public Reserves (Limitation of Numbers and Retirement) Act, 1941.	The whole Act.
1944, No. 8 ..	Public Trusts (Amendment) Act, 1944.	The whole Act.
1955, No. 53..	Public Parks and Reserves Act, 1955.	Sections 2, 3 and 4.
1957, No. 30..	Crown Lands (Amendment) Act, 1957.	Section 9.
1964, No. 7 ..	Crown Lands (Amendment) Act, 1964.	Section 7 (1) (c).
1971, No. 29..	Public Trusts and Other Acts (Amendment) Act, 1971.	Sections 2, 4, 5 (a) and 5 (c).
1971, No. 31..	Trustees of Showgrounds Enabling (Amendment) Act, 1971.	The whole Act.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 23rd April, 1974.

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