

CROWN LANDS (CONTINUED TENURES) ACT 1989 No. 7

NEW SOUTH WALES



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CROWN LANDS (CONTINUED TENURES) ACT 1989 No. 7

NEW SOUTH WALES



Act No. 7, 1989

An Act to provide for the continuation, and administration, of tenures in force under the repealed provisions of the Crown Lands Consolidation Act 1913, the Closer Settlement Acts and certain other Acts. [Assented to 21 March 1989]

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The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Crown Lands (Continued Tenures) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act—

“dealing” means a dealing with land;

“Department” means the Department of Lands;

“holding” means an incomplete purchase, a perpetual lease, a term lease, a yearly lease or a special lease;

“incomplete purchase” means—

(a) a tenure listed in Part 1 of Schedule 1;

(b) a purchase under Schedule 7 of land comprised in a perpetual lease, a term lease or a special lease;

(c) a purchase under section 28BB of the Western Lands Act 1901 (after the commencement of Part 1 of Schedule 1) of land comprised in a lease under that Act;

(d) a tenure created by a subdivision of—

(i) a tenure listed in Part 1 of Schedule 1 to this Act; or

(ii) a purchase referred to in paragraph (b) or (c); or

(e) a tenure created by a redesign of an incomplete purchase in an irrigation area under section 16,

to which either or both of the following provisions apply:

(f) the payment of the purchase price or any other amount due to the Crown in respect of the tenure or purchase is not complete;

(g) if the land comprised in the tenure or purchase has been sold subject to conditions which are recorded in the Register, those conditions have not been performed or complied with;

“permissive occupancy” means—

(a) a permissive occupancy or permission to occupy Crown land granted under section 136K of the Crown Lands Consolidation Act 1913; or

(b) a permit to occupy land granted under section 39 of the Closer Settlement Act 1904,

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and in force immediately before the commencement of section 11;

“perpetual lease” means—

- (a) a tenure listed in Part 2 of Schedule 1 and in force immediately before the commencement of that Part;
- (b) a tenure created by a subdivision of such a tenure; or
- (c) a tenure created by a redesign of a perpetual lease in an irrigation area under section 16;

“Principal Act” means the Crown Lands Act 1989;

“public purpose”, in relation to a provision of this Act, means any purpose for the time being declared by the Minister, by notification in the Gazette, to be a public purpose for the purposes of the provision;

“quarry licence” means a quarry licence or interim quarry licence issued under the Crown Lands Regulations and in force immediately before the commencement of section 12;

“special lease” means a special lease granted under the Crown Lands Consolidation Act 1913 and in force immediately before the commencement of section 10 or a special lease created by a subdivision of such a lease;

“term lease” means a tenure listed in Part 3 of Schedule 1 and in force immediately before the commencement of section 8 or a tenure created by a subdivision of such a tenure;

“the Register” means the Register kept under the Real Property Act 1900;

“Water Administration Ministerial Corporation” means the corporation of that name constituted by the Water Administration Act 1986;

“yearly lease” means a tenure listed in Part 4 of Schedule 1 and in force immediately before the commencement of section 9.

(2) Expressions used in this Act have the same meaning as they have in the Principal Act unless a contrary intention appears.

(3) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, in relation to a duty, a reference to the performance of the duty.

Application of Act

4. This Act applies to and in respect of—

- (a) land in the Eastern and Central Division (and land in irrigation areas that are not in the Eastern and Central Division);
- (b) holdings, permissive occupancies and quarry licences created under the Crown Lands Acts and situated in the Western Division;

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- (c) incomplete purchases of land formerly comprised in leases under the Western Lands Act 1901 and land formerly comprised in those incomplete purchases; and
- (d) land formerly comprised in incomplete purchases created under the Crown Lands Acts and situated in the Western Division.

**PART 2—PROVISIONS APPLICABLE TO CONTINUED TENURES
ETC.**

Continued tenures

5. (1) A tenure in force under a repealed Act immediately before its repeal remains in force subject to the provisions of this Act and the Principal Act.

(2) If the tenure is a lease, occupancy or licence for a defined term, the tenure does not (except as provided in this Act or the Principal Act) continue beyond the end of that term.

(3) A conditional purchase current under section 28B or 28BB of the Western Lands Act 1901 immediately before the commencement of Part 1 of Schedule 1 continues after that commencement as a conditional purchase subject to this Act, the Principal Act and the Western Lands Act 1901.

(4) In this section—

“repealed Act” means an Act repealed by the Principal Act or the Prickly Pear Act 1987;

“tenure” means—

- (a) an incomplete purchase listed in Part 1 of Schedule 1;
- (b) a perpetual lease, term lease, yearly lease or special lease;
- (c) a permissive occupancy;
- (d) a quarry licence; or
- (e) a lease to the Commonwealth under section 69A of the Crown Lands Consolidation Act 1913.

Incomplete purchases etc.

6. (1) Part 1 of Schedule 2 applies—

- (a) to and in respect of incomplete purchases (other than purchases made after the commencement of this section or tenures derived from any such purchases); and
- (b) to the extent that they are expressed to so apply—to and in respect of land formerly comprised in those incomplete purchases.

(2) If Part 1 or 2 of Schedule 3 (transfer restrictions) applies to an incomplete purchase of land which was commenced before and completed after the commencement of this section, it continues to apply to the land after completion of the purchase.

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(3) If Schedule 4 (subdivision of holdings) applies to an incomplete purchase of land in an irrigation area which was commenced before and completed after the commencement of this section, it continues to apply to the land after completion of the purchase.

(4) Subsection (2) does not apply to a purchase of land formerly comprised in an original conditional purchase lease applied for before 1 February 1909, or in an additional conditional purchase lease taken up by virtue of an original conditional purchase lease applied for before 1 February 1909.

(5) In this Act, a reference to land formerly comprised in an incomplete purchase includes a reference to land that was an incomplete purchase at any time before the commencement of this section even if the purchase was completed before that commencement.

Perpetual leases

7. Part 2 of Schedule 2 applies to and in respect of perpetual leases.

Term leases

8. Part 3 of Schedule 2 applies to and in respect of term leases.

Yearly leases

9. Part 4 of Schedule 2 applies to and in respect of yearly leases.

Special leases

10. Part 5 of Schedule 2 applies to and in respect of special leases.

Permissive occupancies

11. Part 6 of Schedule 2 applies to and in respect of permissive occupancies.

Quarry licences

12. Part 7 of Schedule 2 applies to and in respect of quarry licences.

Commonwealth leases

13. Part 8 of Schedule 2 applies to and in respect of leases to the Commonwealth under section 69A of the Crown Lands Consolidation Act 1913.

Freehold land acquired by way of exchange—transfer restrictions

14. In a folio of the Register relating to freehold land acquired by way of exchange for restricted title land a reference to—

(a) section 272 of the Crown Lands Consolidation Act 1913; or

(b) section 31 of the Closer Settlement Act 1904,

in relation to restrictions on dealings shall be taken to be a reference to Part 1 of Schedule 3.

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Land held with closer settlement build-up holdings—transfer restrictions

15. Part 3 of Schedule 3 applies to and in respect of land held with a closer settlement lease, a settlement purchase or land formerly comprised in a settlement purchase under the Closer Settlement Acts.

Schemes for redesign of irrigation area holdings

16. (1) The Minister may—

- (a) on application by or with the consent of the holder of a holding in an irrigation area (or if applicable, the holders of 2 or more holdings in an irrigation area) cause a scheme to be prepared for the redesign of the holding or holdings;
- (b) with the agreement of the holder or holders (and, if the Minister thinks it appropriate, any proposed transferee of, or of part of, the holding or holdings); and
- (c) with the agreement of the Water Administration Ministerial Corporation,

adopt the scheme.

(2) A scheme may provide for the following:

- (a) the addition of vacant Crown land to holdings;
- (b) the addition of holdings or parts of holdings to other holdings;
- (c) the subdivision of land comprised in holdings as if an application for approval to subdivide had been made under clause 2 of Schedule 4;
- (d) the transfer of holdings or parts of holdings between parties;
- (e) the alteration, modification or revocation of, or addition to, the conditions attaching to holdings;
- (f) the declaration by the Minister of 2 or more holdings or parts of holdings as a single farm unit or the revocation of any such declaration previously made;
- (g) the payment by the holders of all costs incurred under the scheme;
- (h) the execution by the holders or any party to the scheme, when called on by the Minister, of such contracts or other instruments as the Minister considers necessary to complete the scheme (or the entering into of an agreement with the Minister and with each other to execute the contracts or instruments when so called upon).

(3) Subject to such terms and conditions as are set out in a scheme, any provisions of the scheme for—

- (a) the subdivision of a holding;
- (b) the addition of Crown land to a holding;
- (c) the addition to a holding of another holding or a part of another holding; or

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(d) the amendment or revocation of, or an addition to, the conditions attached to a holding,
take effect on adoption of the scheme.

(4) So much of an adopted scheme as provides for 2 or more holdings or parts of holdings to be a single farm unit takes effect when the Minister, by order published in the Gazette, declares them to be a single farm unit.

(5) While an order under subsection (4) remains in force (whether or not with amendments) the holdings or parts of holdings to which it for the time being relates—

(a) constitute one holding for the purposes of the Irrigation Act 1912; and

(b) may not, without the consent of the Minister, be transferred separately from each other.

(6) The Minister may—

(a) direct the holder or holders, or any other party, affected by an adopted scheme to take any specified action necessary to implement the scheme; and

(b) by notification in the Gazette, revoke or vary the scheme if the direction is not complied with.

(7) If a scheme is varied by notification under subsection (6)—

(a) the approval for the redesign of the holding or holdings; and

(b) any dealing with the holding or holdings,

have no effect unless stated in the notification to be in accordance with the variation.

(8) The Registrar-General may create such folios of, and make such recordings in, the Register as are in the Registrar-General's opinion necessary to give effect to anything done under this section.

(9) Vacant Crown land may not be added to a holding under this section unless the Minister is satisfied that the land has been assessed under Part 3 of the Principal Act.

(10) In this section—

“holding” includes land formerly comprised in an incomplete purchase.

Increase in irrigable area of holdings in irrigation areas

17. (1) If the irrigable area of a holding in an irrigation area is, with the consent of the holder, increased by the construction of additional works or the provision of additional facilities by the Water Administration Ministerial Corporation, the Minister may—

(a) make such adjustments to—

(i) the purchase price, instalments of purchase money, rent or other money payable in respect of the holding; and

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- (ii) any rent base determined in respect of the holding,
as are necessary to take into account the value added to the holding;
or
- (b) if payment of the purchase money in respect of the holding has been completed, determine the additional amount payable by virtue of the value added to the holding.
- (2) An additional amount determined under subsection (1) (b) shall be payable by the holder on such terms and conditions as the Minister specifies.
- (3) In this section—
“holding” includes land formerly comprised in an incomplete purchase.

Regulations

18. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to the following:

- (a) the functions of officers employed or acting in the administration or execution of this Act;
 - (b) the circumstances in which fees, costs or deposits may be charged or required and the amount of any such fees, costs or deposits;
 - (c) authorising the waiver or refund of the whole or any part of any fee, cost, deposit, interest or rent paid or payable under this Act;
 - (d) determining the person to whom a refund of any fee, cost, deposit, interest or rent is payable;
 - (e) prescribing the periods within which, and the manner in which, notices, objections and appeals may be made;
 - (f) the keeping of records and books of account, the furnishing of returns and records and the inspection of, and the taking of extracts from, records or books;
 - (g) the manner of, and the places and times for, the payment of rent, purchase money or other money;
 - (h) the payment, by an incoming holder, of the value of any improvements on Crown land to the owner of those improvements;
 - (i) the form and lodgment of, and manner of dealing with, applications, dealings, instruments or documents;
 - (j) the execution of applications, dealings, instruments or documents;
 - (k) the powers and functions of the Registrar-General in respect of applications, dealings, instruments or documents.
- (2) A regulation may create an offence punishable by a maximum penalty not exceeding 5 penalty units.

SCHEDULE 1—CONTINUED TENURES

(Sec. 3)

PART 1—INCOMPLETE PURCHASES

- (a) An auction purchase, being land sold by auction under section 63 of the Crown Lands Consolidation Act 1913 or under section 21 (6) of the Closer Settlement (Amendment) Act 1909.
- (b) An after-auction purchase, being land sold under section 64 (1) of the Crown Lands Consolidation Act 1913 or by way of after auction sale under section 4 of the Closer Settlement (Amendment) Act 1914.
- (c) A conditional purchase (whether ordinary, non-residential, for mining purposes or within a special area), including an original and an additional conditional purchase, made under the Crown Lands Acts (other than this Act and the Principal Act).
- (d) A conditional purchase made under section 28B or 28BB of the Western Lands Act 1901 before the commencement of this Part.
- (e) An improvement purchase made under section 62 of the Crown Lands Consolidation Act 1913.
- (f) A residential lease purchase, being a purchase (under section 81 of the Crown Lands Consolidation Act 1913) of land comprised in a residential lease.
- (g) A returned soldiers' special holding purchase, being a purchase (under section 4A of the Returned Soldiers Settlement Act 1916) of land comprised in a returned soldiers' special holding.
- (h) A settlement purchase made under the Closer Settlement Act 1904, the Closer Settlement (Amendment) Act 1909 or the Closer Settlement Amendment (Conversion) Act 1943.
- (i) A soldiers' group purchase made under section 4B of the Returned Soldiers Settlement Act 1916.
- (j) A special purchase made under section 65, 66 or 68 of the Crown Lands Consolidation Act 1913.
- (k) A suburban holding purchase, being a purchase (under section 129B of the Crown Lands Consolidation Act 1913) of the land comprised in a suburban holding.
- (l) A tender purchase, being land sold under section 63A of the Crown Lands Consolidation Act 1913 or under section 21 (6) of the Closer Settlement (Amendment) Act 1909.
- (m) An after-tender purchase, being land sold under section 64 (2) of the Crown Lands Consolidation Act 1913 or by way of after tender sale under section 4 of the Closer Settlement (Amendment) Act 1914.
- (n) A town lands lease purchase, being a purchase (under section 82A of the Crown Lands Consolidation Act 1913) of land comprised in a lease of town lands.

*Crown Lands (Continued Tenures) 1989***SCHEDULE 1—CONTINUED TENURES—*continued***

- (o) A week-end lease purchase, being a purchase (under section 136H of the Crown Lands Consolidation Act 1913) of land comprised in a week-end lease.
- (p) An irrigation farm purchase made under section 139, 144E or 145 of the Crown Lands Consolidation Act 1913.
- (q) A non-irrigable purchase made under section 139, 144E or 145 of the Crown Lands Consolidation Act 1913.
- (r) A town land purchase made under section 139, 144E or 145 of the Crown Lands Consolidation Act 1913.

PART 2—PERPETUAL LEASES

- (a) A closer settlement lease under the Closer Settlement Acts.
- (b) A conditional lease under the Crown Lands Acts (other than a conditional lease for a term of years).
- (c) A conditional purchase lease (whether an original or an additional holding) under the Crown Lands Acts.
- (d) A Crown-lease (whether an original or an additional holding) under the Crown Lands Acts (other than a Crown-lease for a term of years).
- (e) A group purchase lease under the Closer Settlement Acts.
- (f) A homestead farm (whether an original or an additional holding) under the Crown Lands Acts.
- (g) A homestead selection or grant (whether an original or an additional holding) under the Crown Lands Acts.
- (h) A prickly-pear lease, being a lease of infested land under section 17 of the Prickly-pear Act 1924 (other than a prickly-pear lease for a term of years).
- (i) A returned soldiers' special holding, being a lease to a discharged soldier under section 4 of the Returned Soldiers Settlement Act 1916.
- (j) A settlement lease (whether an original or an additional holding) under the Crown Lands Acts.
- (k) A settlement purchase lease under the Closer Settlement Acts.
- (l) A special conditional purchase lease (whether an original or an additional holding) under the Crown Lands Acts.
- (m) A suburban holding (whether an original or an additional holding) under the Crown Lands Acts.
- (n) A town lands lease, being a lease of town lands under section 82A of the Crown Lands Consolidation Act 1913.
- (o) A week-end lease under the Crown Lands Consolidation Act 1913.

*Crown Lands (Continued Tenures) 1989***SCHEDULE 1—CONTINUED TENURES—*continued***

- (p) An irrigation farm lease under the Crown Lands Acts.
- (q) A non-irrigable lease under the Crown Lands Acts.
- (r) A town land lease under the Crown Lands Acts (being a lease within an irrigation area).

PART 3—TERM LEASES

- (a) A conditional lease under the Crown Lands Consolidation Act 1913 for a term of years.
- (b) A Crown-lease (whether an original or an additional holding) under the Crown Lands Consolidation Act 1913 for a term of years.
- (c) A prickly-pear lease, being a lease of infested land or of commons and reserves under section 17 or 18 of the Prickly-pear Act 1924, for a term of years.

PART 4—YEARLY LEASES

- (a) An annual lease under the Crown Lands Acts.
- (b) An occupation licence under the Crown Lands Acts.
- (c) A preferential occupation licence under the Crown Lands Acts.

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.

(Secs. 6–13)

PART 1—INCOMPLETE PURCHASES ETC.

(Sec. 6)

Definition**1. In this Part—**

“incomplete purchase” does not include a purchase made after the commencement of this Part or a tenure derived from any such purchase.

References in folios of the Register**2. In a folio of the Register relating to an incomplete purchase or to land formerly comprised in an incomplete purchase—**

- (a) a reference to an Act repealed by the Principal Act shall be taken to be a reference to the Principal Act and this Act;

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

- (b) a reference to—
- (i) section 129B, 265 or 272 of the Crown Lands Consolidation Act 1913 or to a provision of any of those sections;
 - (ii) section 145A of the Crown Lands Consolidation Act 1913 or to a provision of that section so far as it relates to land comprised or formerly comprised in irrigation farm purchases or non-irrigable purchases;
 - (iii) section 31 of the Closer Settlement Act 1904 or to a provision of that section (other than subsections (2) and (3)); or
 - (iv) section 10 of the Returned Soldiers Settlement Act 1916 or to a provision of that section,
- in relation to restrictions on dealings shall be taken to be a reference to Part 1 of Schedule 3 (transfer restrictions);
- (c) a reference to—
- (i) section 145A of the Crown Lands Consolidation Act 1913 or to a provision of that section so far as it relates to land comprised or formerly comprised in town land purchases;
 - (ii) section 274B of the Crown Lands Consolidation Act 1913 or to a provision of that section;
 - (iii) section 21B of the Closer Settlement (Amendment) Act 1909 or to a provision of that section; or
 - (iv) section 4A of the Closer Settlement (Amendment) Act 1914 or to a provision of that section,
- shall be taken to be a reference to Part 2 of Schedule 3 (transfer restrictions);
- (d) a reference to section 146, 146B or 257 of the Crown Lands Consolidation Act 1913 or to section 3 of the Closer Settlement (Amendment) Act 1918 shall be taken to be a reference to Schedule 4 (subdivision of holdings);
- (e) a reference to section 235A of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to section 172 (land with boundaries to lakes, roads etc.) of the Principal Act;
- (f) a reference to section 12 of the Closer Settlement (Amendment) Act 1919 shall be taken to be a reference to clause 3 (payments generally);
- (g) a reference to section 136L of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to Division 5 of Part 4 of the Principal Act (easements);

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SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued*

- (h) a reference to section 142 of the Crown Lands Consolidation Act 1913 in relation to restrictions on land use shall be taken to be a reference to clause 7 (restrictions on use—certain land in irrigation areas);
- (i) a reference to section 147 of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to Part 6 of the Principal Act (forfeiture of holdings); and
- (j) a reference to section 109 (3), 183 (1) or 184 (1) (h) of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to that provision as continued by clause 17 (4) of Schedule 8 to the Principal Act (payment of cost of deferred surveys).

Payments generally

3. (1) The balance of purchase money and any other money payable under the provisions of an Act repealed by the Principal Act or under section 28B or 28BB of the Western Lands Act 1901 (as in force before the commencement of this clause) in respect of an incomplete purchase are, subject to this Act, payable under this Act as if those provisions were contained in this Act.

(2) An amount shown as payable in the records of the Department in respect of an incomplete purchase is, unless the contrary is proved, payable in the manner and at the time indicated in those records.

(3) If—

- (a) money is payable to the Crown in respect of an incomplete purchase by half-yearly or annual instalments; and
- (b) the annual rate of interest payable on the money would, but for this subclause, be less than 8 per cent,

the annual rate of interest so payable is, from the commencement of this clause, increased to 8 per cent.

(4) If the interest rate in respect of money payable to the Crown is increased, the Minister may adjust the half-yearly or annual instalments so that the total amount owing is paid over the same or a longer period.

(5) If the purchase price (whether with or without interest added) of an incomplete purchase is, immediately before the commencement of this clause, payable by annual instalments of less than \$100, the annual instalments are increased—

- (a) to \$100 as from that commencement; and
- (b) if the regulations provide for a further increase—as provided by the regulations.

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**SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued***

(6) If the balance of purchase money and interest owing in respect of an incomplete purchase is at any time less than the amount to which an instalment is increased under subclause (5), the balance only is payable.

(7) If—

(a) the purchase price for an incomplete purchase; or

(b) any other amount payable in respect of the incomplete purchase, without the interest added, is payable by equal annual instalments over a period, the Minister may vary the manner of payment so that the purchase price or other amount, with the interest added, is payable by equal annual instalments over the same or a longer period.

(8) The balance of purchase money in respect of a conditional purchase taken up before 10 August 1875 which has not been brought under the instalment system is payable in full on the first due date for payment of interest occurring after the commencement of this clause.

(9) On the subdivision of land in an incomplete purchase to which Schedule 4 does not apply the Minister may apportion to each portion of the subdivided land, in a way that to the Minister seems appropriate, the purchase money and any other amounts payable in respect of the incomplete purchase.

(10) Despite the other provisions of this clause but without affecting any liability to make a payment due but unpaid before the commencement of this clause—

(a) any instalment of the value of timber treatment under the Crown Lands (West Bogan Settlers) Improvements Relief Act 1943; and

(b) the interest on such an instalment,

that but for this subclause would be payable after that commencement in respect of an incomplete purchase are waived.

Supplementary provisions applicable to payments on incomplete purchases in irrigation areas

4. (1) This clause supplements clause 3 in relation to incomplete purchases in irrigation areas.

(2) In clause 3 (1) the reference to the provisions of an Act repealed by the Principal Act includes a reference to section 18A of the Irrigation Act 1912 (repealed by the Miscellaneous Acts (Crown Lands) Amendment Act 1989).

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SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued*

(3) In clause 3 (2) the reference to the Department includes, in relation to an incomplete purchase in an irrigation area, a reference to the Water Administration Ministerial Corporation, the Department of Water Resources and the State Bank.

(4) In clause 3 (3) and (4) a reference to the Crown includes, in relation to an incomplete purchase in an irrigation area, a reference to—

- (a) the Water Administration Ministerial Corporation and the Department of Water Resources; and
- (b) the State Bank or, if another person or body is prescribed for the purposes of this paragraph, that other person or body.

(5) If—

- (a) by virtue of clause 3 (1) a provision of an Act repealed by the Principal Act applies to an incomplete purchase in an irrigation area;
- (b) there is a reference to the State Bank in the provision; and
- (c) a person or body other than the State Bank is prescribed for the purposes of this paragraph,

the reference to the State Bank shall be read as a reference to that other person or body.

(6) If the purchase price (whether with or without interest added) of an incomplete purchase in an irrigation area is, immediately before the commencement of this clause, payable by half-yearly instalments of less than \$50, the half-yearly instalments are increased—

- (a) to \$50 as from that commencement; and
- (b) if the regulations provide for a further increase—as provided by the regulations.

(7) If, in respect of an incomplete purchase in an irrigation area, the balance of purchase money and interest owing is at any time less than the amount to which an instalment is required to be increased under subclause (6), the balance only is payable.

(8) If, in respect of an incomplete purchase in an irrigation area—

- (a) the purchase price or any other amount payable (without the interest added) is payable by equal half-yearly instalments over a period; or
- (b) the purchase price or any other amount payable (with the interest added) is payable by equal half-yearly instalments over a period,

the Minister may vary the manner of payment so that the purchase price or other amount, with the interest added, is payable by equal annual instalments over the same or a longer period.

**SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*****Payment of balance of purchase money etc. on transfer**

5. (1) In this clause, a reference to a transfer does not include a reference to a change of ownership arising by way of—

- (a) a devise under a will;
- (b) the taking of an interest under an intestacy;
- (c) survivorship of a joint tenant;
- (d) a discharge of mortgage;
- (e) a transfer to the Official Trustee in Bankruptcy;
- (f) a transfer by order of the Family Court or under a provision of the Family Law Act 1975 of the Commonwealth (other than a transfer to a person who is not a party to, or a child of, the marriage); or
- (g) a transfer by order of any other court (other than a transfer effected under a writ of execution) if the Minister has directed that this clause is not to apply to the transfer.

(2) On the recording in a folio of the Register of the first transfer of the whole or a part of an incomplete purchase after the commencement of this clause, all money owing to the Crown in respect of the holding (whether or not payable by instalments which have not then become due) becomes due and payable.

(3) An amount due under this clause and unpaid is payable by the holder for the time being of the incomplete purchase.

(4) An amount due under this clause bears interest at the following rates from the date the amount becomes due to the date of payment:

- (a) for the first 3 months—a rate which is the same as the rate for the time being applying to the payment of the purchase money for the holding;
- (b) after that—the rate for the time being prescribed for the purposes of this paragraph.

(5) Action to forfeit an incomplete purchase may not be taken in respect of non-payment of an amount due under this clause earlier than 3 months after the due date for payment.

Title and conditions

6. (1) The holder of an incomplete purchase has an estate in fee simple in the land comprised in the purchase subject to any recordings in the folio of the Register created in respect of it and to the provisions of this Act, the Principal Act and, if the purchase is in the Western Division, the Western Lands Act 1901.

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SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued*

- (2) The holder of an incomplete purchase shall—
- (a) comply with any provisions, conditions or covenants recorded in the folio of the Register created for the holding;
 - (b) comply with the requirements of any law relating to the use or management of the land being purchased; and
 - (c) if there are on the land any improvements being purchased from the Crown—
 - (i) maintain those improvements in good order and repair; and
 - (ii) if required by the Minister to do so—keep the improvements insured against fire and any other prescribed risks with an insurer approved by the Minister.
- (3) The holder of an incomplete purchase shall not do, permit or suffer anything that will materially degrade the land being purchased.

Restrictions on use—certain land in irrigation areas

7. Land comprised or formerly comprised in an incomplete purchase in an irrigation area shall not be used to plant—

- (a) an area of orchard or vineyard to a greater extent than 5 000 square metres or, if some other area is specified in the conditions attached to the land, that other area;
- (b) any fruit trees, vines or plantings or a specified class of fruit trees, vines or plantings; or
- (c) an area of fruit trees, vines or plantings, or an area of a specified class of fruit trees, vines or plantings, in excess of a specified area, if a condition to that effect was attached to the land immediately before the commencement of this clause (unless the planting is in accordance with an approval or consent given as provided by the condition).

Restriction on corporations or trustees holding certain land in irrigation areas

8. (1) This clause applies to land comprised, or formerly comprised, in an incomplete purchase in an irrigation area, other than land—

- (a) comprised, or formerly comprised, in a town land purchase;
- (b) formerly comprised in an irrigation farm purchase, being land of an area not exceeding 2 hectares to which no water rights are attached;
- (c) comprised, or formerly comprised, in a non-irrigable purchase of land which was notified for disposal as a non-irrigable lease or non-irrigable purchase suitable for other than farming purposes; or

*Crown Lands (Continued Tenures) 1989***SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued***

- (d) comprised, or formerly comprised, in a non-irrigable purchase of land which is, in the opinion of the Minister, primarily suitable for residential, commercial, industrial or business purposes and is declared by the Minister, by notification published in the Gazette, to be non-farming land.
- (2) A corporation, or a person acting in the capacity of trustee, may not acquire by transfer or otherwise land to which this clause applies.
- (3) Subclause (2) does not apply to the acquisition of land—
- (a) in a representative capacity by the executor of a will, the administrator or trustee of a deceased estate or the person administering the estate of a bankrupt;
 - (b) in accordance with the order of a court; or
 - (c) under Part 2c of the Rural Assistance Act 1932.
- (4) A transfer, conveyance or assignment in contravention of this clause is not valid for any purpose.

PART 2—PERPETUAL LEASES

(Sec. 7)

References in folios of the Register

1. In a folio of the Register relating to a perpetual lease—
 - (a) a reference to an Act repealed by the Principal Act shall be taken to be a reference to the Principal Act and this Act;
 - (b) a reference to—
 - (i) section 101, 129, 265, 272 or 274 of the Crown Lands Consolidation Act 1913 or to a provision of any of those sections;
 - (ii) section 145A of the Crown Lands Consolidation Act 1913 or to a provision of that section so far as it relates to irrigation farm leases or non-irrigable leases;
 - (iii) section 11 of the Closer Settlement Amendment (Conversion) Act 1943 or to a provision of that section (other than subsection (1A));
 - (iv) section 10 of the Returned Soldiers Settlement Act 1916 or to a provision of that section; or
 - (v) section 20 of the Prickly-pear Act 1924 or to a provision of that section.

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SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued*

in relation to restrictions on dealings shall be taken to be a reference to Part 1 of Schedule 3 (transfer restrictions);

- (c) a reference to—
- (i) section 145A of the Crown Lands Consolidation Act 1913 or to a provision of that section so far as it relates to town land leases; or
 - (ii) section 274A of the Crown Lands Consolidation Act 1913 or to a provision of that section,
- shall be taken to be a reference to Part 2 of Schedule 3 (transfer restrictions);
- (d) a reference to section 146 or 257 of the Crown Lands Consolidation Act 1913 or to section 21B of the Prickly-pear Act 1924 shall be taken to be a reference to Schedule 4 (subdivision of holdings);
- (e) a reference to section 142D of the Crown Lands Consolidation Act 1913 in relation to restrictions on land use shall be taken to be a reference to clause 6 (restrictions on use—certain land in irrigation areas);
- (f) a reference to section 147 of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to Part 6 of the Principal Act (forfeiture of holdings);
- (g) a reference to section 235A of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to section 172 (land with boundaries to lakes, roads etc.) of the Principal Act;
- (h) a reference to section 12 of the Closer Settlement (Amendment) Act 1919 shall be taken to be a reference to clause 2 of Schedule 5 (payment of rent etc.); and
- (i) a reference to section 109 (3), 183 (1) or 184 (1) (h) of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to that provision as continued by clause 17 (4) of Schedule 8 to the Principal Act (payment of cost of deferred surveys).

Rent etc.

2. Schedule 5 applies to and in respect of the rent and other money payable in respect of a perpetual lease.

Conditions etc.

3. Schedule 6 applies to and in respect of perpetual leases.

Purchase of land held under perpetual lease

4. (1) Land held under perpetual lease (other than land in an irrigation area) may be purchased under the provisions of Part 1 of Schedule 7.

Crown Lands (Continued Tenures) 1989

**SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued***

(2) Land held under perpetual lease in an irrigation area may be purchased under Part 2 of Schedule 7.

(3) This clause does not apply to land within the Western Division which was held under a homestead selection or grant under the Crown Lands Acts immediately before the commencement of this clause.

Addition of land to perpetual leases

5. (1) The Minister may, on application by the holder of a perpetual lease, add vacant Crown land to the lease.

(2) On the addition of the land to the lease, the lease becomes, in respect of the added land, subject to such rent and conditions as are determined by the Minister.

(3) The Minister shall cause particulars of the addition to be notified in the Gazette.

(4) The Registrar-General may create such folios of, and make such recordings in, the Register as are in the Registrar-General's opinion necessary to give effect to the addition.

(5) Land may not be added to a lease under this clause unless the Minister is satisfied that the land has been assessed under Part 3 of the Principal Act.

Restrictions on use—certain land in irrigation areas

6. Land comprised in an irrigation farm lease or a non-irrigable lease shall not be used to plant—

- (a) an area of orchard or vineyard to a greater extent than 5 000 square metres or, if some other area is specified in the conditions attached to the land, that other area;
- (b) any fruit trees, vines or plantings or a specified class of fruit trees, vines or plantings; or
- (c) an area of fruit trees, vines or plantings, or an area of a specified class of fruit trees, vines or plantings, in excess of a specified area,

if a condition to that effect was attached to the land immediately before the commencement of this clause (unless the planting is in accordance with an approval or consent given as provided by the condition).

Restriction on corporations or trustees holding certain land in irrigation areas

7. (1) This clause applies to land comprised in—

- (a) an irrigation farm lease; or

*Crown Lands (Continued Tenures) 1989***SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued***

- (b) a non-irrigable lease other than a non-irrigable lease—
 - (i) which was notified for disposal for other than farming purposes; or
 - (ii) which is, in the opinion of the Minister, primarily suitable for residential, commercial, industrial or business purposes and is declared by the Minister, by notification published in the Gazette, to be non-farming land.
- (2) A corporation, or a person acting in the capacity of trustee, may not acquire by transfer or otherwise land to which this clause applies.
- (3) Subclause (2) does not apply to the acquisition of land—
 - (a) in a representative capacity by the executor of a will, the administrator or trustee of a deceased estate or the person administering the estate of a bankrupt;
 - (b) in accordance with the order of a court; or
 - (c) under Part 2C of the Rural Assistance Act 1932.
- (4) A transfer, conveyance or assignment in contravention of this clause is not valid for any purpose.

PART 3—TERM LEASES

(Sec. 8)

References in folios of the Register

1. In a folio of the Register relating to a term lease—
 - (a) a reference to an Act repealed by the Principal Act shall be taken to be a reference to the Principal Act and this Act;
 - (b) a reference to—
 - (i) section 265, 272 or 274 of the Crown Lands Consolidation Act 1913 or to a provision of any of those sections; or
 - (ii) section 20 of the Prickly-pear Act 1924 or to a provision of that section,
 in relation to restrictions on dealings shall be taken to be a reference to Part 1 of Schedule 3 (transfer restrictions);
 - (c) a reference to section 257 of the Crown Lands Consolidation Act 1913 or to section 21B of the Prickly-pear Act 1924 shall be taken to be a reference to Schedule 4 (subdivision of holdings);
 - (d) a reference to section 235A of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to section 172 (land with boundaries to lakes, roads etc.) of the Principal Act; and

*Crown Lands (Continued Tenures) 1989***SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued***

- (e) a reference to section 109 (3), 183 (1) or 184 (1) (h) of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to that provision as continued by clause 17 (4) of Schedule 8 to the Principal Act (payment of cost of deferred surveys).

Rent etc.

2. Schedule 5 applies to and in respect of the rent and other money payable in respect of a term lease.

Conditions etc.

3. Schedule 6 applies to and in respect of term leases.

Occupancy after expiration of lease

4. A holder who, with the consent of the Minister, remains in possession of land after the expiration of a term lease, does so as a tenant from month to month—

- (a) at a rent per month equal to one-twelfth of the yearly rent; and
(b) subject to the conditions,

applicable to the lease immediately before its expiration.

Purchase of land held under term lease

5. Land held under a term lease may be purchased under Part 1 of Schedule 7.

PART 4—YEARLY LEASES

(Sec. 9)

Term, renewal etc.

1. (1) A yearly lease current at the commencement of this clause expires on 31 December next succeeding that commencement.
- (2) Each succeeding year for which the lease is renewed expires on 31 December next succeeding the renewal.
- (3) The Minister may renew a yearly lease subject to payment on demand of the rent for the next year.
- (4) If any part of the rent remains unpaid for the prescribed period after demand, the lease terminates.

Rent etc.

2. Schedule 5 applies to and in respect of the rent of a yearly lease.

*Crown Lands (Continued Tenures) 1989***SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued*****Transfer etc.**

3. (1) A yearly lease may not be transferred without the consent of the Minister.

(2) A transfer shall be effected in accordance with the regulations.

(3) A mortgage executed after the commencement of this clause in respect of a yearly lease has effect as a charge only.

Conditions

4. (1) The holder of a yearly lease shall use the land for grazing purposes.

(2) A yearly lease is held subject to the rights of the public or stock to use roads or travelling stock, camping or other reserves within the land leased.

(3) A yearly lease is held subject to such other conditions as may be prescribed.

Cancellation

5. The Minister may cancel a yearly lease, wholly or in part, at any time by giving not less than 3 months' notice to the holder.

PART 5—SPECIAL LEASES

(Sec. 10)

References in folios of the Register

1. In a folio of the Register relating to a special lease—

(a) a reference to the Crown Lands Consolidation Act 1913 shall be taken to be a reference to the Principal Act and this Act;

(b) a reference—

(i) in relation to restrictions on dealings—to section 75A or 75B of the Crown Lands Consolidation Act 1913 or to a provision of either of those sections; or

(ii) to clause (12) of Regulation 106 of the Crown Lands Regulations,

shall be taken to be a reference to Part 1 of Schedule 3 (transfer restrictions);

(c) a reference to section 257 of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to Schedule 4 (subdivision of holdings); and

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

- (d) a reference to section 235A of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to section 172 (land with boundaries to lakes, roads etc.) of the Principal Act.

Rent etc.

2. Schedule 5 applies to and in respect of the rent and any other money payable in respect of a special lease.

Conditions

3. (1) Subject to this Act and the Principal Act, a special lease remains subject to the conditions to which it was subject immediately before the commencement of this clause.

(2) The holder of a special lease which has been brought under the provisions of the Real Property Act 1900 holds the land comprised in the lease subject to any recordings on the folio of the Register created in respect of it and to the provisions of this Act and the Principal Act.

(3) The holder of a special lease shall comply with any conditions to which the lease is subject and with any provisions, conditions or covenants recorded on the folio of the Register created in respect of it.

(4) A condition of a special lease which provides for the determination of a matter by a local land board (other than a determination which is, in effect, a review of a decision of the Minister) shall be read as providing for the determination of the matter by the Minister.

(5) If a condition of a special lease or any law provides for an appeal against any such determination of a local land board, the condition or law shall be read as providing for an appeal against a determination of the Minister.

(6) If a condition of a special lease provides for the exercise of a function by a specified officer, the function may, with the authority of the Minister, be exercised by another officer.

Purchase etc. of certain land leased for a term of years

4. (1) The holder of a special lease for a term of years (other than a special lease granted over an expired conditional lease, the holder of which had failed to apply for extension of the term of the lease) may, during the currency of the lease—

- (a) apply to the Minister to purchase the land leased; or
 - (b) apply to the Minister for a new lease of the land,
- under the provisions of the Principal Act.

*Crown Lands (Continued Tenures) 1989***SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued***

(2) The Minister has an absolute discretion to grant or refuse an application.

Purchase of land leased in perpetuity or certain land leased for a term of years

5. Land held under a special lease in perpetuity or a special lease for a term of years granted over an expired conditional lease (the holder of which had failed to apply for extension of the term of the lease) may be purchased under Part 1 of Schedule 7.

PART 6—PERMISSIVE OCCUPANCIES

(Sec. 11)

Payment of rent etc.

1. (1) The rent, royalty, security deposit and any other money payable under the provisions of an Act repealed by the Principal Act in respect of a permissive occupancy are, subject to this Act and the Principal Act, payable under this Act as if those provisions were contained in this Act.

(2) Subject to this Act and the Principal Act, any amount shown as payable in the records of the Department in respect of a permissive occupancy is, unless the contrary is proved, payable in the manner and at the time indicated in those records.

(3) The rent of a permissive occupancy is payable in advance.

Redetermination of rent

2. (1) The rent of a permissive occupancy may be redetermined by the Minister at any time.

(2) A redetermination of rent takes effect from the first due date that is not earlier than 3 months after notice of the redetermination has been given by the Minister to the holder.

(3) Clauses 11 and 12 of Schedule 5 apply to a redetermination of the rent of a permissive occupancy in the same way as they apply to the redetermination of the rent of a lease.

Review of royalties and security deposits

3. (1) The Minister may from time to time review the amount of royalty payable, and the amount of any security deposited, in respect of a permissive occupancy.

(2) If the Minister is of the opinion that the amount of the royalty or security should be changed the Minister shall serve a notice to that effect on the holder.

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**SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued***

(3) The amount of the royalty or security changes as provided by the notice with effect from a date stated for the purpose in the notice.

Conditions

4. (1) Subject to this Act and the Principal Act, a permissive occupancy remains subject to the conditions to which it was subject immediately before the commencement of this clause.

(2) A condition of a permissive occupancy which provides for the determination of a matter by a local land board shall be read as providing for the determination of the matter by the Minister.

(3) If a condition of a permissive occupancy or any law provides for an appeal against any such determination of a local land board, the condition or law shall be read as providing for an appeal against a determination of the Minister.

(4) If a condition of a permissive occupancy provides for the exercise of a function by a specified officer, the function may, with the authority of the Minister, be exercised by another officer.

Termination

5. A permissive occupancy is terminable at will by the Minister.

PART 7—QUARRY LICENCES

(Sec. 12)

Payment of fees, royalties etc.

1. (1) The licence fee, royalty, security deposit and any other amount payable under the provisions of the Crown Lands Consolidation Act 1913 in respect of a quarry licence are, subject to this Act and the Principal Act, payable under this Act as if those provisions were contained in this Act.

(2) Subject to this Act and the Principal Act, any amount shown as payable in the records of the Department in respect of a quarry licence is, unless the contrary is proved, payable in the manner and at the time indicated in those records.

Conditions

2. (1) Subject to this Act and the Principal Act, a quarry licence remains subject to the conditions to which it was subject immediately before the commencement of this clause.

*Crown Lands (Continued Tenures) 1989***SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued***

(2) If a condition of a quarry licence provides for the exercise of a function by a specified officer, the function may, with the authority of the Minister, be exercised by another officer.

Termination

3. A quarry licence is terminable at will by the Minister.

PART 8—COMMONWEALTH LEASES

(Sec. 13)

Application of Part

1. This Part applies to leases to the Commonwealth under section 69A of the Crown Lands Consolidation Act 1913.

Redetermination of rent

2. Any condition of a lease to the Commonwealth which provides for the redetermination or reappraisal of the rent by a local land board shall be read as providing for the redetermination of the rent by the Minister.

Objections and appeals against redeterminations etc.

3. Clauses 11 and 12 of Schedule 5 apply to a redetermination or reappraisal of the rent of a lease to the Commonwealth in the same way as they apply to the redetermination of the rent of a lease within the meaning of Schedule 5.

SCHEDULE 3—TRANSFER RESTRICTIONS

(Secs. 14, 15, Pts. 1-3, 5 of Sch. 2, cl. 7 (3) of Sch.7)

PART 1—GENERAL RESTRICTIONS**Application of Part**

1. This Part applies to land comprised, or formerly comprised, in a holding but only if—

- (a) the folio of the Register created in respect of the land contains a reference to this Part or a reference to a provision which by this Act is to be taken to be a reference to this Part; or
- (b) it is specifically provided by or under this Act that this Part is to apply to the land.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued***Consent to transfer**

2. (1) Land to which this Part applies may not be transferred, leased, subleased, assigned or otherwise dealt with without the written consent of the Minister.

(2) Subclause (1) does not apply to—

- (a) a mortgage or discharge of mortgage;
- (b) a lease of land formerly comprised in an incomplete purchase (other than an incomplete purchase in an irrigation area); or
- (c) a transfer to a Minister on behalf of the Crown, or to a public authority, of land (other than land in an irrigation area) comprised, or formerly comprised, in an incomplete purchase or comprised in a perpetual lease.

(3) In this clause—

“public authority” means—

- (a) a council as defined in the Local Government Act 1919; or
- (b) a public body declared by the Minister, by order published in the Gazette, to be a public authority for the purposes of this clause.

Invalidation of transfers etc.

3. A transfer, conveyance or assignment in contravention of this Part is not valid for any purpose.

Applications for consent

4. An application for consent shall be made as prescribed.

Dealing with applications

5. (1) The Minister has discretion to give or refuse consent to a dealing with land to which this Part applies.

(2) The Minister may not consent to a dealing if, in the Minister's opinion, the dealing will result in any one person holding an area of land which is substantially in excess of a home maintenance area.

(3) Subclause (2) does not prevent the Minister consenting to a dealing if—

- (a) the dealing is required by a court order;
- (b) the parcel of land involved is a small holding;
- (c) the land is land referred to in subclause (4) and the Minister is of the opinion that the dealing would be in the best interests of land utilisation even though it would result in the proposed transferee holding substantially more than a home maintenance area; or

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*

(d) the land is of a prescribed class or is to be used for a prescribed purpose.

(4) The land referred to in this subclause is land that, in the opinion of the Minister—

(a) has, as its best practicable use, and is required for, the exploitation of its timber or its reforestation for the production of commercial timber;

(b) is required in order to establish, maintain, expand or develop an industry;

(c) is required for any special purpose approved by the Minister;

(d) is of inferior character, or is rough or undeveloped, or has poor access or other disadvantage, and the dealing is the best practicable way of ensuring its development; or

(e) cannot reasonably be disposed of otherwise than by the proposed dealing.

(5) In determining whether an area of land is or is not substantially in excess of a home maintenance area, the Minister—

(a) shall not take into account any land held under a lease then having less than 5 years to run (unless the lease confers a right to purchase the freehold); and

(b) if the proposed transferee's spouse holds land—shall take that land into account as if it were held by the proposed transferee.

(6) In this clause—

“home maintenance area” means an area which, when used for the purpose for which it is reasonably fitted, would be sufficient for the maintenance in average seasons and circumstances of an average family.

Restrictions on exercise of mortgagee's powers

6. (1) A mortgagee who exercises a power to enter into possession of mortgaged land may hold the land for 3 years or such longer period as the Minister approves.

(2) A mortgagee may not, without the Minister's consent—

(a) enter into possession of mortgaged land more than once; or

(b) obtain an order for foreclosure.

(3) A dealing with land by a mortgagee as such is subject to any other provision of this Part.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*

(4) If a mortgagee who has entered into possession of mortgaged land does not, during the period for which the mortgagee is entitled to hold the land, transfer the land or obtain an order for foreclosure—

- (a) the estate or interest of the mortgagee and any other person in the land may be forfeited to the Crown; or
- (b) if the land is land from which the Minister may, under this Part, remove restrictions on a transfer or other dealing, the Minister may certify that this Part has ceased to apply to the land.

(5) If the Minister gives a certificate under subclause (4) (b)—

- (a) the mortgagee becomes liable to pay to the Crown any amount that would have been payable had the holder of the land applied for a certificate under this Part dispensing with the Minister's consent to a transfer of the land; and
- (b) the amount is payable not later than 3 months after demand for the payment is made.

Devolution under a will or an intestacy

7. (1) A person on whom land to which this Part applies devolves under a will or an intestacy may hold the land for 3 years, or such longer period as the Minister approves, after the death of the testator or intestate.

(2) If the person does not, within that period, sell the land or obtain the Minister's consent to hold the land—

- (a) the estate or interest of that and any other person in the land may be forfeited to the Crown; or
- (b) if the land is land from which the Minister may, under this Part, remove the transfer restrictions, the Minister may certify that this Part has ceased to apply to the land.

(3) If the Minister gives a certificate under subclause (2) (b)—

- (a) the holder of the land is liable to pay to the Crown any amount that would have been payable had the holder applied for a certificate dispensing with the Minister's consent to a transfer of the land; and
- (b) that amount is payable not later than 3 months after demand for the payment is made.

(4) Any dealing with the land under this clause is subject to the other provisions of this Part.

(5) Clause 5 applies to an application under subclause (2) for the Minister's consent to hold land in the same way as it applies to an application for consent to a dealing.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued***Removal of restrictions**

8. (1) A holder of land to which this Part applies (other than land in an irrigation area) may apply to the Minister for the issue of a certificate that the land may be transferred or otherwise dealt with without the consent of the Minister.

(2) Such a certificate may be issued by the Minister if the land has a dwelling on it and—

- (a) does not exceed 4 050 square metres in area;
- (b) was made available for the erection of a dwelling;
- (c) is a parcel within the meaning of the Strata Titles Act 1973; or
- (d) is of a prescribed class.

(3) Such a certificate may also be issued by the Minister for other land if—

- (a) the land was formerly comprised in an incomplete purchase; and
- (b) an amount equivalent to 3 per cent of the land value of the land (as shown in a current notice of valuation issued by the Valuer-General under clause 9) is paid to the Crown.

(4) The Minister shall deduct from the amount referred to in subclause (3) any fee paid by the applicant to the Valuer-General in respect of the notice of valuation.

(5) If the Minister issues a certificate under this clause in respect of any land, the Minister's consent is not required to any subsequent transfer of, or other dealing with, the land.

(6) The effect of the issue of a certificate shall be recorded by the Registrar-General in the Register.

Valuation of land

9. (1) In this clause—

“holder” includes a mortgagee in possession;

“land value” has the same meaning as it has in the Valuation of Land Act 1916.

(2) On application, the Valuer-General shall—

- (a) determine (as at the date on which the application is made) the land value of any land to which this Part applies; and
- (b) issue to the applicant (and, if the applicant is not the holder, to the holder) a notice of the valuation.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*

(3) The provisions of Parts 3 (notices and objections) and 4 (reference of objections to Court) of the Valuation of Land Act 1916 apply to a valuation under this clause in the same way as they apply to a valuation under that Act.

(4) A reference in Part 3 of the Valuation of Land Act 1916 to the owner of a freehold estate includes, for the purposes of this clause, a reference to a holder of land to which this Part applies.

(5) A notice of valuation remains current for a period of 1 year from the date of issue or for such other period as may be prescribed.

(6) If an objection is lodged the period referred to in subclause (5) commences from the date on which the objection is finally dealt with.

(7) Except as provided by this clause, the Valuation of Land Act 1916 (section 79 excepted) does not apply to a valuation under this clause.

(8) A determination of land value under this clause may be used for the purposes of this Part only.

(9) An applicant for a determination of land value under this clause shall pay to the Valuer-General such fees as may be prescribed.

Removal of restrictions—irrigation area land

10. (1) If land to which this Part applies is in an irrigation area, the holder of the land may apply to the Minister for the issue of a certificate that the land may be transferred or otherwise dealt with without the consent of the Minister.

(2) Such a certificate may be issued by the Minister if the land—

(a) was formerly comprised in an irrigation farm purchase or in an incomplete purchase under this Act of land comprised in an irrigation farm lease;

(b) does not exceed 2 hectares in area; and

(c) does not have any water rights attached to it.

(3) Such a certificate may also be issued by the Minister if the land—

(a) was formerly comprised in a non-irrigable purchase or in an incomplete purchase under this Act of land comprised in a non-irrigable lease;

(b) is, in the opinion of the Minister, primarily suitable for residential, commercial, industrial or business purposes; and

(c) is declared by the Minister, by notification published in the Gazette, to be non-farming land.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*

(4) If the Minister issues a certificate under this clause in respect of any land, the Minister's consent is not required to any subsequent transfer of, or other dealing with, the land.

(5) The effect of the issue of a certificate shall be recorded by the Registrar-General in the Register.

**PART 2—RESTRICTIONS APPLICABLE TO CERTAIN LAND
(WEEK-END LEASES, AUCTION AND TENDER PURCHASES AND
TOWN LAND LEASES AND PURCHASES)**

Application of Part

1. This Part applies to land comprised, or formerly comprised, in a holding but only if—

- (a) the folio of the Register created in respect of the land contains a reference to a provision which by this Act is taken to be a reference to this Part; or
- (b) it is specifically provided by or under this Act that this Part is to apply to the land.

Consent to transfer

2. (1) Land to which this Part applies shall not be transferred without the written consent of the Minister.

(2) Subclause (1) does not apply to—

- (a) a mortgage or discharge of mortgage; or
- (b) a transfer to a Minister on behalf of the Crown, or to a public authority, of land (other than land in an irrigation area) comprised, or formerly comprised, in an incomplete purchase or comprised in a perpetual lease.

(3) In this clause—

“public authority” means—

- (a) a council as defined in the Local Government Act 1919; or
- (b) a public body declared by the Minister, by order published in the Gazette, to be a public authority for the purposes of this clause.

Invalidation of transfers

3. A transfer in contravention of this Part is not valid for any purpose.

Applications for consent

4. An application for consent shall be made as prescribed.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued***Dealing with applications**

5. (1) The Minister has discretion to give or refuse consent to any transfer of land to which this Part applies.

(2) If the Minister is satisfied that a certificate that the land may be transferred without consent would, on application, be issued under clause 6, the Minister may, instead of giving consent, issue such a certificate as if an application for removal of restrictions had been made.

Removal of restrictions

6. (1) A holder of land to which this Part applies may apply to the Minister for a certificate that the land may be transferred without the consent of the Minister.

(2) A certificate shall not be issued in respect of the land comprised in a perpetual lease that is a week-end lease unless the land does not exceed 4 050 square metres in area and a dwelling is erected on the land.

(3) A certificate may be issued in respect of land comprised or formerly comprised in an incomplete purchase that is an auction purchase, an after-auction purchase, a tender purchase or an after-tender purchase.

(4) A certificate shall be issued if the land was sold subject to a condition requiring the erection of a dwelling on the land and the Minister is satisfied that the dwelling has been erected or has waived compliance with the condition.

(5) A certificate shall also be issued if the land—

- (a) is comprised in a town land lease;
- (b) is comprised, or was formerly comprised, in a town land purchase;
or
- (c) is comprised, or was formerly comprised, in an incomplete purchase under this Act of land comprised in a town land lease,

and there are no special conditions relating to improvements applying to the land or, if there are, the Minister is satisfied that they have been complied with.

(6) If the Minister issues a certificate under this clause in respect of any land, the Minister's consent is not required to any subsequent transfer of the land.

(7) The effect of the issue of a certificate shall, on application, be recorded by the Registrar-General in the Register.

*Crown Lands (Continued Tenures) 1989***SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*****PART 3—RESTRICTIONS APPLICABLE TO LAND HELD WITH CLOSER SETTLEMENT BUILD-UP HOLDINGS****References in folios of the Register**

1. In a folio of the Register, or a recording of a caveat in the Register, relating to land held with—

- (a) a closer settlement lease;
- (b) a settlement purchase; or
- (c) land formerly comprised in a settlement purchase,

under the Closer Settlement Acts, a reference to section 31 (2) or (3) of the Closer Settlement Act 1904, or to section 11 (1A) of the Closer Settlement Amendment (Conversion) Act 1943, shall be taken to be a reference to this Part.

Transfer restrictions

2. (1) Land affected by a reference referred to in clause 1 may not, without the written consent of the Minister, be transferred separately from the closer settlement lease, settlement purchase or land formerly comprised in a settlement purchase with which it is held.

(2) Subclause (1) does not apply to a mortgage or discharge of mortgage.

(3) If consent to transfer land is given under this clause, the Minister's consent is not required to any subsequent transfer of the land.

(4) The effect of a consent under this clause shall be recorded by the Registrar-General in the Register.

SCHEDULE 4—SUBDIVISION OF HOLDINGS

(Pts. 1–3, 5 of Sch. 2, cl. 6 of Pt. 1, cl. 4 of Pt. 2 of Sch. 7)

Application of Schedule

1. This Schedule applies to land comprised in any holding and to land in an irrigation area formerly comprised in a holding but, in either case, only if—

- (a) specific provision to that effect is elsewhere made by or under this Act; or
- (b) the folio of the Register created in respect of the land contains a reference to this Schedule or a reference to a provision which by this Act is taken to be a reference to this Schedule.

Minister's approval

2. (1) A holder may not, without the Minister's approval, subdivide land to which this Schedule applies.

SCHEDULE 4—SUBDIVISION OF HOLDINGS—*continued*

- (2) An application for approval shall be made as prescribed.
- (3) The applicant shall meet all costs incurred in dealing with the application.
- (4) The Minister may refuse the application or, with the consent of the Water Administration Ministerial Corporation, approve the subdivision either unconditionally or conditionally.
- (5) A condition of an approval (including the condition imposed by subclause (8)) also has effect as a condition attaching to any holding resulting from the subdivision that is a holding to which the condition relates.
- (6) The Minister may make such consequential alterations to the conditions or purpose of a subdivided holding as the Minister considers are necessary as a result of the subdivision.
- (7) The cost of any works carried out, or to be carried out, by a Government authority for the purpose of, or incidental to, a subdivision of land in an irrigation area (whether or not carried out on or near the land)—
- (a) is payable by the holder of the land to, and as directed by, the Government authority; and
 - (b) until paid, is a charge on the land.
- (8) Approval to subdivide a holding is conditional on payment being made as provided by subclause (7) (a).
- (9) Any works constructed to comply with a condition of an approval to subdivide land comprised or formerly comprised in a holding in an irrigation area become the property of the Crown without charge unless the condition otherwise provides.

Exclusion of areas required for roads of access

3. (1) The Minister may exclude from a subdivision any areas required for roads of access to the subdivided portions and, if the land is in an irrigation area, any areas required for channels or drainage.
- (2) Excluded areas are, on approval being given to the subdivision, surrendered to the Crown free from any right to compensation.

Apportionment of money payable

4. (1) In this clause—

“rent base”, in respect of a lease the rent of which is not subject to redetermination, means the amount used as the basis for adjusting the rent in line with movements in the Consumer Price Index.

SCHEDULE 4—SUBDIVISION OF HOLDINGS—*continued*

(2) The Minister may apportion—

(a) any purchase price, instalments of purchase money, rent or other money payable in respect of a subdivided holding; or

(b) any rent base for a subdivided holding,

to each portion of the subdivided holding in a way that to the Minister seems appropriate.

(3) If a part of a rent base apportioned under subclause (2) to a portion of a lease is less than \$100, that part of the rent base is increased to \$100.

(4) A part of a purchase price apportioned under subclause (2) to a portion of a subdivided holding shall be taken, for the purposes of clause 11 of Part 1 of Schedule 7 or clause 9 (4) of Part 2 of Schedule 7 (adjustment of purchase price in line with Consumer Price Index), to have been the purchase price of the portion as at the commencement of the clause.

(5) A part of a rent base apportioned under subclause (2) to a portion of a lease (or such a part of a rent base as increased under subclause (3)) shall be taken, for the purposes of clause 5 of Schedule 5 (adjustment of certain rents in line with Consumer Price Index), to have been the annual rent of the portion as at the commencement of the clause.

(6) The annual rent of a portion of a subdivided lease (as apportioned under subclause (2)) is, if it is less than the amount that would have been payable had the portion always been a separate lease subject to a rent base ascertained in respect of it under this clause, increased to that amount.

Subdivided portions to be separate holdings

5. On approval being given to a subdivision of a holding each portion of the subdivided holding shall be held and be transferable as a separate holding of the same kind as the subdivided holding.

Removal of restriction on subdivision of certain land in irrigation areas

6. If a certificate has been issued under clause 10 of Part 1 or clause 6 of Part 2 of Schedule 3 (removal of restrictions on transfer) in respect of—

(a) land formerly comprised in an irrigation farm purchase or in an incomplete purchase of an irrigation farm lease, being land not exceeding 2 hectares in area to which no water rights are attached;

(b) land formerly comprised in a non-irrigable purchase or in an incomplete purchase of a non-irrigable lease, being land declared by the Minister to be non-farming land; or

*Crown Lands (Continued Tenures) 1989***SCHEDULE 4—SUBDIVISION OF HOLDINGS—*continued***

- (c) land formerly comprised in a town land purchase or in an incomplete purchase of a town land lease, being land in respect of which any conditions relating to improvements have been complied with,

the approval of the Minister is not required to any subsequent subdivision of the land.

SCHEDULE 5—RENT ETC.

(Pts. 2-5 of Sch. 2)

Definitions

1. (1) In this Schedule—

“lease” means a perpetual lease, a term lease, a yearly lease or a special lease.

(2) In this Schedule, a reference to the rent of a lease which is subject to periodic redetermination includes a reference to the rent of a lease which may be redetermined at any time.

Payment of rent etc.

2. (1) The rent and any other money payable under the provisions of an Act repealed by the Principal Act or under the provisions of the Prickly-pear Act 1924 (including the provisions of that Act continued by, and repealed under, the Prickly Pear Act 1987) in respect of a lease are, subject to this Act and the Principal Act, payable under this Act as if those provisions were contained in this Act.

(2) Subject to this Act and the Principal Act, any amount shown as payable in the records of the Department in respect of a lease is, until the contrary is proved, payable in the manner and at the time indicated in those records.

(3) The rent of a lease is payable in advance.

(4) If the rent of a lease or any other money payable to the Crown in respect of a lease is payable half-yearly, the rent or other money is, as from a date fixed by the Minister, payable annually.

(5) If—

- (a) money is payable to the Crown in respect of a lease by half-yearly or annual instalments; and
- (b) the annual rate of interest payable on the money would, but for this subclause, be less than 8 per cent,

*Crown Lands (Continued Tenures) 1989***SCHEDULE 5—RENT ETC.—*continued***

the annual rate of interest so payable is, from the commencement of this clause, increased to 8 per cent.

(6) If the interest rate in respect of money payable to the Crown is increased, the Minister may adjust the half-yearly or annual instalments so that the total amount owing is paid over the same or a longer period.

(7) If any money payable to the Crown in respect of a lease, without the interest added, is payable in equal annual instalments over a period, the Minister may vary the manner of payment so that the money, with the interest added, is payable in equal annual instalments over the same or a longer period.

(8) Despite the other provisions of this clause but without affecting any liability to make a payment due and unpaid before the commencement of this clause, any annual payment of 2.5 per cent of the value of timber treatment under the Crown Lands (West Bogan Settlers) Improvements Relief Act 1943 that but for this subclause would be payable after that commencement in respect of a perpetual lease is waived.

Supplementary provisions applicable to payment of rent etc. on leases in irrigation areas

3. (1) This clause supplements clause 2 in relation to leases in irrigation areas.

(2) In clause 2 (1) the reference to the provisions of an Act repealed by the Principal Act includes a reference to section 18A of the Irrigation Act 1912 (repealed by the Miscellaneous Acts (Crown Lands) Amendment Act 1988).

(3) In clause 2 (2) the reference to the Department includes, in relation to a lease in an irrigation area, a reference to the Water Administration Ministerial Corporation, the Department of Water Resources and the State Bank.

(4) In clause 2 (5)–(7) a reference to the Crown includes, in relation to a lease in an irrigation area, a reference to—

- (a) the Water Administration Ministerial Corporation and the Department of Water Resources; and
- (b) the State Bank or, if another person or body is prescribed for the purposes of this paragraph, that other person or body.

(5) If—

- (a) by virtue of clause 2 (1) a provision of an Act repealed by the Principal Act applies to a lease in an irrigation area;
- (b) there is a reference to the State Bank in that provision; and

SCHEDULE 5—RENT ETC.—*continued*

(c) a person or body other than the State Bank is prescribed for the purposes of this paragraph, the reference to the State Bank shall be read as a reference to that other person or body.

(6) After the commencement of this clause the rent of a lease in an irrigation area is payable in advance on each 1 July.

(7) Payment of the rent for the first period in advance after the commencement of this clause shall be deferred (free of interest) but shall be payable on the granting of an application to purchase the land comprised in the lease.

Rent for certain leases

4. (1) If the annual rent of a lease—

(a) was less than \$100 immediately before the commencement of this clause; and

(b) is not subject to periodic redetermination, the annual rent is increased to \$100 with effect from the commencement of this clause.

(2) If the rent for a lease has been paid, or is payable, in advance in respect of a period of 12 months that expires during the year commencing at the commencement of this clause, subclause (1) does not operate to require the payment of any increase of rent in respect of that period of 12 months.

Adjustment of certain rents in line with Consumer Price Index

5. (1) If the rent of a lease is not subject to periodic redetermination, it may be adjusted as at each due date in accordance with the following formula:

$$R = B \times \frac{C}{D}$$

where—

R represents the adjusted rent;

B represents the rent base, being the annual rent as at the commencement of this clause or, if the rent was increased by clause 4, \$100;

C represents the Consumer Price Index number for the last quarter for which such a number was published before the due date; and

D represents the Consumer Price Index number for the last quarter for which such a number was published before the commencement of this clause.

(2) In this clause, “Consumer Price Index number”, in relation to a quarter, means the number for that quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

*Crown Lands (Continued Tenures) 1989*SCHEDULE 5—RENT ETC.—*continued*

(3) If the Australian Statistician publishes in respect of a particular quarter an Index number in substitution for an Index number previously published in respect of that quarter—

(a) except as provided by paragraph (b)—the publication of the later Index number shall be disregarded; or

(b) if the Minister so directs—regard shall be had to the later and not to the earlier number,

for the purposes of this clause.

(4) If the reference base for the Consumer Price Index is changed, regard shall be had only to Index numbers published in terms of the new reference base or to Index numbers converted to the new reference base in accordance with an arithmetical conversion factor specified by the Australian Statistician.

(5) Any rent adjusted under this clause shall be adjusted to the nearest whole dollar.

Redetermination of rent of certain leases

6. (1) This clause applies to—

(a) a lease described in paragraph (b), (d), (f), (g) or (o) of Part 2 of Schedule 1 or paragraph (a) or (b) of Part 3 of Schedule 1, the title to which commenced on or after 23 March 1964;

(b) a prickly-pear lease described in paragraph (h) of Part 2 of Schedule 1;

(c) a suburban holding (other than a suburban holding in respect of a block notified under section 124 of the Crown Lands Consolidation Act 1913 as made available for the erection of a dwelling) the title to which commenced on or after 23 March 1964; and

(d) a special lease in perpetuity applied for before 1 February 1984 or a special lease extended to a lease in perpetuity if the extension was applied for before 1 February 1984.

(2) The Minister shall redetermine the rent of a lease to which this clause applies at 5 yearly intervals commencing as provided by this clause.

(3) If the lease commenced not more than 5 years before the commencement of this clause, the intervals for redeterminations under subclause (2) commence from the date of commencement of the lease.

(4) If the lease was a term lease that was extended to a lease in perpetuity not more than 5 years before the commencement of this clause, the intervals for redeterminations under subclause (2) commence from the date of the extension.

SCHEDULE 5—RENT ETC.—*continued*

(5) If the lease is not a lease to which subclause (3) or (4) applies, the intervals for redeterminations under subclause (2) are intervals of 5 years commencing—

- (a) except as provided by paragraph (b)—5 years before the commencement of this clause; or
- (b) if the rent was last redetermined not more than 5 years before the commencement of this clause—from the effective date of that last redetermination.

(6) A redetermination—

- (a) may be made not more than 6 months before or after the end of the relevant interval and, if so made, takes effect from the end of the interval; or
- (b) may be made more than 6 months after the end of the relevant interval and, if so made, takes effect from the date of the redetermination.

(7) For the purposes of subclause (5) (b), a redetermination of rent made by a local land board under clause 8 (2) (a) of Schedule 8 to the Crown Lands Act 1989 (savings, transitional and other provisions) has effect as if it had been made immediately before the commencement of this clause.

Redetermination of rent of yearly leases

7. The Minister may at any time not more than 3 months before the end of the current year of a yearly lease redetermine the rent of the lease for the ensuing year.

Redetermination of rent of certain special leases

8. (1) In this clause, a reference to a special lease is a reference to—

- (a) a special lease granted for a term of years;
- (b) a special lease in perpetuity applied for on or after 1 February 1984; or
- (c) a special lease extended to a lease in perpetuity where the extension was applied for on or after 1 February 1984,

other than a special lease the rent of which may be redetermined at any time.

(2) Despite any condition of a special lease, the Minister shall redetermine the rent of the lease at the intervals fixed by this clause for the lease.

(3) If the conditions of a special lease provide for redetermination intervals of not more than 5 years, the intervals for redeterminations under subclause (2) are the intervals provided by the lease.

SCHEDULE 5—RENT ETC.—*continued*

(4) If—

- (a) a special lease commenced not more than 5 years before the commencement of this clause; and
- (b) the conditions of the lease provide for redetermination intervals of more than 5 years,

the intervals for redeterminations under subclause (2) are intervals of 5 years commencing from the date of commencement of the lease.

(5) If—

- (a) a special lease was a term lease which was extended to a lease in perpetuity not more than 5 years before the commencement of this clause; and
- (b) the conditions of the lease provide for redetermination intervals of more than 5 years,

the intervals for redeterminations under subclause (2) are intervals of 5 years commencing from the date of the extension.

(6) If a special lease is not a lease to which subclause (3), (4) or (5) applies and the conditions of the lease provide for redetermination intervals of more than 5 years, the intervals for redeterminations under subclause (2) are intervals of 5 years commencing—

- (a) except as provided by paragraph (b)—5 years before the commencement of this clause; or
- (b) if the rent was last redetermined not more than 5 years before the commencement of this clause—from the effective date of that last redetermination.

(7) A redetermination—

- (a) may be made not more than 6 months before or after the end of the relevant interval and if so made, takes effect from the end of the interval; or
- (b) may be made more than 6 months after the end of the relevant interval and, if so made, takes effect from the date of the redetermination.

(8) For the purposes of subclause (6) (b), a redetermination of rent made by a local land board under clause 8 (2) (a) of Schedule 8 to the Crown Lands Act 1989 (savings, transitional and other provisions) has effect as if it had been made immediately before the commencement of this clause.

(9) A condition of a special lease providing that the Minister may at any time direct that the rent be reappraised by the local land board has no effect and, instead, the Minister may redetermine the rent at any time.

SCHEDULE 5—RENT ETC.—*continued***Redetermination of rent of certain irrigation area leases**

9. (1) This clause applies to a lease in an irrigation area the rent of which, immediately before the commencement of this clause, was subject to periodic redetermination being—

- (a) an irrigation farm lease of an area of 2 hectares or less;
- (b) a non-irrigable lease comprising land not used for farming purposes;
or
- (c) a town land lease.

(2) This clause also applies to a non-irrigable lease in an irrigation area—

- (a) the rent of which, immediately before the commencement of this clause, was not subject to periodic redetermination; and
- (b) which comprises land that, under subclause (4), has been declared to be non-farming land.

(3) This clause also applies to a lease which is created in an irrigation area, by subdivision or otherwise, after the commencement of this clause and is—

- (a) an irrigation farm lease of an area of 2 hectares or less;
- (b) a non-irrigable lease comprising land that, under subsection (4), has been declared to be non-farming land; or
- (c) a town land lease.

(4) If the Minister is of the opinion that land comprised in a non-irrigable lease is primarily suitable for residential, commercial, industrial or business purposes, the Minister may by notification in the Gazette declare the land to be non-farming land.

(5) Except as provided by subclause (6), the Minister shall redetermine the rent of a lease to which this clause applies at 5 yearly intervals commencing—

- (a) if the lease commenced not more than 5 years before the commencement of this clause—from the date of commencement of the lease; or
- (b) in any other case—
 - (i) except as provided by subparagraph (ii)—5 years before the commencement of this clause; or
 - (ii) if the rent was last redetermined not more than 5 years before the commencement of this clause—from the effective date of that last redetermination.

SCHEDULE 5—RENT ETC.—*continued*

(6) For the purposes of subclause (5) (b) (ii), a redetermination of rent made by a local land board under clause 8 (2) (a) of Schedule 8 to the Crown Lands Act 1989 (savings, transitional and other provisions) has effect as if it had been made immediately before the commencement of this clause.

(7) If—

- (a) a lease to which this clause applies is a non-irrigable lease the rent of which was not subject to periodic redetermination before the commencement of this clause; and
- (b) the land comprised in the lease has been declared to be non-farming land under subclause (4),

the Minister shall redetermine the rent of the lease as at the date of the declaration and after that at 5 yearly intervals.

(8) A redetermination—

- (a) may be made not more than 6 months before or after the end of the relevant interval and, if so made, takes effect from the end of the interval; or
- (b) may be made more than 6 months after the end of the relevant interval and, if so made, takes effect from the date of the redetermination.

Applications for redetermination of rent of certain leases

10. (1) This clause applies to a lease the rent of which is not subject to periodic redetermination.

(2) The holder of a lease to which this clause applies may apply to the Minister for a redetermination of the rent of the lease.

(3) Any redetermination by the Minister takes effect from the first due date after the application.

(4) The rent of a lease which has been redetermined as a result of an application shall be further redetermined by the Minister at 5 yearly intervals commencing from the date when the first redetermination takes effect.

(5) A redetermination under subclause (4)—

- (a) may be made not more than 6 months before or after the end of the relevant interval and, if so made, takes effect from the end of the interval; or
- (b) may be made more than 6 months after the end of the relevant interval and, if so made, takes effect from the date of the redetermination.

SCHEDULE 5—RENT ETC.—*continued***Objections to, and appeals against, redeterminations**

11. (1) The Minister shall give notice of a redetermination of the rent of a lease to the lessee and include in the notice a statement to the effect that the lessee may object to the redetermined rent.

(2) The Minister shall consider any objection lodged and by notice inform the objector—

- (a) whether the redetermined rent is to stand or be varied; and
- (b) that the objector, if dissatisfied with the Minister's decision, may appeal as provided by subclause (3).

(3) An appeal against the Minister's decision lies—

- (a) to the local land board if the determined or redetermined annual rent does not exceed \$10,000 or such greater amount as may be prescribed; or
- (b) in any other case, to the Land and Environment Court.

(4) The local land board, or the Court, on hearing the appeal, may affirm the Minister's redetermination or substitute its own.

(5) A redetermination of rent takes effect even if an objection or appeal is lodged.

(6) If—

- (a) a redetermination is varied under subclause (2)—the varied redetermination has effect instead of the redetermination varied; or
- (b) a redetermination is substituted under subclause (3)—the substituted redetermination has effect instead of that for which it is substituted.

Redetermination of rent—principles

12. (1) In redetermining the rent of a lease, the Minister, the local land board and the Land and Environment Court shall apply the following principles:

- (a) except in the case of irrigation area leases and prickly-pear leases, the rent shall be the market rent for the land comprised in the lease having regard to any restrictions, conditions or terms to which it is subject;
- (b) any improvements on the land which were made by the holder, or are owned or in the course of being purchased from the Crown by the holder, shall be disregarded;
- (c) regard may be had to any additional value which has accrued, or may reasonably be expected to accrue, to other land held by the holder by reason of holding the lease;

SCHEDULE 5—RENT ETC.—*continued*

- (d) regard may be had to the duration of the time for which the rent determined will be payable.
- (2) The rent of a prickly-pear lease shall be redetermined at 2.5 per cent of the market value of the land.
- (3) Except as provided by clause 13, the rent of an irrigation farm lease, a non-irrigable lease or a town land lease which is subject to periodic redetermination shall be redetermined at 5 per cent of the market value of the land.
- (4) For the purposes of subclauses (2) and (3), the market value of the land is the market value as determined by the Minister, the local land board or the Land and Environment Court as at the date of the redetermination, exclusive of improvements which were made by the holder or are owned or being purchased from the Crown by the holder.
- (5) If it appears to the Minister, the local land board or the Court that the value of the land has been reduced by any act, default or neglect of the holder, the value shall be determined as if the reduction in value had not taken place.
- (6) Subject to section 146 of the Principal Act (minimum rents), a redetermination of the rent of a lease in an irrigation area is subject to any reduction under the Irrigation Areas (Reduction of Rents) Act 1974.

Lower rate for certain redeterminations

13. (1) In this clause, a reference to a relevant lease is a reference to a lease in an irrigation area that—
- (a) was granted under Part 6 of the Crown Lands Consolidation Act 1913 before 1 January 1933;
 - (b) was subsisting on 1 January 1948; and
 - (c) is not a lease excluded by subclause (2) or (3).
- (2) A lease is not a relevant lease unless it is—
- (a) an irrigation farm lease of an area not exceeding 2 hectares; or
 - (b) a non-irrigable lease or town land lease of land notified in the Gazette as available for disposal for the purpose of residence or described in the Gazette as suitable for residential purposes.
- (3) A lease is not a relevant lease—
- (a) if it was notified in the Gazette as available for disposal for the purpose of residence and was the subject of a consent under section 142D (10) of the Crown Lands Consolidation Act 1913, permitting its use for another purpose; or

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(b) if the annual rent for the lease had, before the commencement of this clause, been redetermined because land had been added to the lease.

(4) On the commencement of this clause, the rent of a relevant lease is the same as the rent payable immediately before that commencement (including any reduction made by section 20 of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act 1955).

(5) The annual rent shall, at the intervals provided by clause 12, be redetermined at 3.875 per cent of the market value of the land determined in accordance with clause 12 (4).

(6) This section—

(a) has effect subject to section 146 of the Principal Act (minimum rents); and

(b) ceases to have effect if, in the opinion of the Minister, the lease is being used mainly or substantially for business purposes.

(7) The Minister shall, if of the opinion referred to in subclause (6), redetermine the annual rent for the lease under clause 12 for the unexpired portion of the current rental period and, after that, at 5 yearly intervals.

SCHEDULE 6—CONDITIONS ETC.

(Pts. 2, 3 of Sch. 2)

Definition

1. In this Schedule—

“lease” means a perpetual lease or a term lease.

Conditions

2. (1) The holder of a lease holds the land comprised in the lease subject to any recordings on the folio of the Register created in respect of it and the provisions of this Act and the Principal Act.

(2) The holder of a lease shall—

(a) comply with any provisions, conditions or covenants recorded on the folio of the Register created in respect of it;

(b) comply with the requirements of any law relating to the use or management of the land leased;

(c) comply with any conditions attaching to a Minister's consent given in respect of the land; and

SCHEDULE 6—CONDITIONS ETC.—*continued*

- (d) if there are any improvements on the land in the course of being purchased from the Crown—
 - (i) maintain those improvements in good order and repair; and
 - (ii) if required by the Minister to do so—keep those improvements insured against fire and any other prescribed risks with an insurer approved by the Minister.
- (3) The holder of a lease shall not—
 - (a) degrade the land leased;
 - (b) without the Minister's consent, extract any material in or on the land (not being material required by the holder for building or other purposes on the land or on contiguous land leased from the Crown by the holder);
 - (c) without the Minister's consent, take any timber on the land, other than—
 - (i) timber taken under the authority of a clearing licence issued under the Forestry Act 1916; or
 - (ii) timber required by the holder for building or other purposes on the land or on contiguous land leased from the Crown by the holder; or
 - (d) interfere with or obstruct any person authorised by law to cut timber on, or remove timber or materials from, the land or prevent such a person from using any gate or means of access provided by the person.
- (4) A lease is held subject to the rights of the public or stock to use roads or travelling stock, camping or other reserves within the land leased.
- (5) A Minister's consent required under this clause—
 - (a) may be given or refused at the Minister's absolute discretion; and
 - (b) may be given unconditionally or subject to conditions (including conditions requiring payments by way of royalty or otherwise).
- (6) In this clause—
 - “material” includes gravel, sand, loam, stone, clay, shells and other prescribed material but does not include minerals within the meaning of the Mining Act 1973;
 - “timber” includes the products of growing or dead timber, trees, shrubs and vegetable growth of economic value.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE

(Pts. 2, 3, 5 of Sch. 2)

PART 1—PURCHASE OF LAND NOT IN AN IRRIGATION AREA**Application to purchase****1. (1) The holder of—**

- (a) a perpetual lease;
- (b) a term lease;
- (c) a special lease in perpetuity; or
- (d) a special lease for a term of years granted over an expired conditional lease (the holder of which had failed to apply for extension of the term of the lease),

which is not in an irrigation area and is not liable to forfeiture may apply to purchase the whole or a part of the land comprised in the lease.

(2) A transferee may, with the approval of the Minister and subject to such conditions as the Minister determines, adopt an application made by a previous holder.

(3) An applicant may withdraw an application—

- (a) before it is granted; or
- (b) if an appeal is lodged against the determination of the purchase price by the Minister or the local land board—within 28 days after determination of the appeal,

on payment of such costs as may be assessed by the Minister.

Granting of applications**2. (1) If the application is made in respect of—**

- (a) a special lease—the Minister may, at the Minister's absolute discretion (exercised subject to section 25E of the Forestry Act 1916), grant or refuse the application as to the whole or a part of the land applied to be purchased; or
- (b) any other lease—the Minister shall, subject to subclause (2) and to section 25E of the Forestry Act 1916, grant the application.

(2) If the application is made in respect of a conditional lease, a Crown-lease, a settlement lease or a prickly-pear lease, the Minister shall not grant the application to the extent that it relates to land which is dedicated as a State forest or reserved from sale under the Forestry Act 1909 or the Forestry Act 1916.

(3) If the application is made in respect of a Crown-lease, a settlement lease or a prickly-pear lease, the Minister shall not grant the application to the extent that it relates to land which is reserved from sale under the Crown Lands Acts.

(4) The reservations from sale to be considered when dealing with an application to purchase a Crown-lease, settlement lease or prickly-pear lease include any reservations from sale notified after the application is made.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
*continued***Exclusions for roadways etc.**

3. (1) On the granting of an application to purchase the land, or part of the land, comprised in a lease—

- (a) any areas required for roadways or other public purposes may be excluded from the land;
- (b) the boundaries of the land may be otherwise modified; and
- (c) easements for public access may be created over the land,

at the discretion of the Minister.

(2) Any areas excluded from the land for roadways or other public purposes or because of modification of boundaries are surrendered to the Crown.

(3) The holder may appeal to the local land board against any decision—

- (a) to exclude land; or
- (b) to create an easement for public access,

under this clause.

(4) Sections 56–58 of the Principal Act (section 56 (3) excepted) apply to and in respect of the creation of an easement under this clause in the same way as they apply to and in respect of the creation of easements under section 56 of the Principal Act.

(5) The local land board may hear and determine an appeal under subclause (3) and may make any order or decision which it considers appropriate.

(6) The order or decision of the local land board or, on appeal, of the Land and Environment Court may include—

- (a) an order requiring the creation of an easement for public access under subclause (1) (c) instead of the exclusion of land under subclause (1) (a); or
- (b) a redetermination of the purchase price (or a requirement that the Minister redetermine the purchase price) having regard to any variation in the area of land to be purchased,

or both.

Depth limitations

4. (1) This clause applies to an application to purchase land comprised in a returned soldiers' special holding, a suburban holding, a town lands lease, a week-end lease or a special lease.

*Crown Lands (Continued Tenures) 1989***SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—**
continued

(2) The Minister may limit the granting of an application to the surface of the land or to the surface and a stated depth below the surface.

(3) Land excluded by such a limitation is surrendered to the Crown.

Title and conditions

5. (1) An incomplete purchase under this Part is, in addition to being subject to the provisions of this Act, subject to the provisions of the Principal Act.

(2) Clause 6 of Part 1 of Schedule 2 applies to and in respect of an incomplete purchase under this Part.

(3) An incomplete purchase under this Part of land comprised in a lease is subject to such of the conditions applying to the lease as the Minister specifies at the time of granting the application to purchase.

(4) If an application to purchase land comprised in a lease is not withdrawn in accordance with this Part, the title to the incomplete purchase of the land commences—

(a) except as provided by paragraph (b)—from the date of granting by the Minister of the application; or

(b) if there is a right of appeal against the exclusion of areas, creation of easements or determination of a purchase price—a date determined by the Minister.

(5) The date determined by the Minister shall not be earlier than—

(a) if an appeal is lodged—

(i) the withdrawal of the appeal; or

(ii) 28 days after determination of the appeal (unless the applicant notifies the Minister in writing that the applicant does not wish to withdraw the application); or

(b) if no appeal is lodged—the end of the period for lodgment of the appeal or, if the applicant earlier notifies the Minister in writing that the applicant has waived any right of appeal, the date of the notification.

(6) In any folio of the Register created in respect of land purchased or being purchased under this Part the Registrar-General shall, if the land is affected by a profit à prendre reserved to the Crown under section 25F of the Forestry Act 1916, record a statement to the effect that the land is so affected.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(7) Such a recording has effect as if the reservation of the profit à prendre had been included in an instrument of conveyance or transfer from the Crown.

Subdivision

6. Schedule 4 applies to and in respect of an incomplete purchase under this Part.

Transfer restrictions

7. (1) If the provisions of Part 1 or 2 of Schedule 3 apply to land comprised in a lease at the time an application to purchase the land is granted under this Part, the provisions continue to apply to the land after the grant of the application and completion of the purchase.

(2) Subclause (1) does not apply to—

- (a) land comprised in a week-end lease;
- (b) land formerly comprised in an original conditional purchase lease applied for before 1 February 1909, or in an additional conditional purchase lease taken up by virtue of an original conditional purchase lease applied for before 1 February 1909, after the payment of the purchase money and any other amounts due to the Crown in respect of the land; or
- (c) land comprised in a lease the purchase price of which is, under clause 9 (4) (e), determined by the Minister as at the date of the application to purchase the land.

(3) On the granting of an application to purchase land comprised in a homestead selection, Part 1 of Schedule 3 applies to the land and continues to apply after completion of the purchase.

Payment of balance of purchase money etc. on transfer

8. Clause 5 of Part 1 of Schedule 2 applies to and in respect of an incomplete purchase under this Part.

Price

9. (1) If the purchase price of land comprised in a lease is not determined as at the date of the application to purchase, it is subject to adjustment under clause 11.

(2) If—

- (a) an amount is shown in the records of the Department as the purchase price that would have been payable had the lease been converted into a purchase tenure before the commencement of this clause; or

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

- (b) a purchase price for the land is determinable under a provision repealed by the Principal Act,

that amount or price is the purchase price of the land.

(3) In any other case, the purchase price of the land in a lease is the market value of the land determined by the Minister as at a date specified in subclause (4) or (5) in respect of the purchase.

(4) The purchase price (except in respect of land which has been added to the lease) to be determined by the Minister shall be so determined—

- (a) if the land is comprised in a conditional lease taken up out of a classified area set apart before 23 March 1964 as available for conditional lease (under section 87 of the Crown Lands Consolidation Act 1913)—as at the date of the setting apart of the classified area;
- (b) if the land is comprised in a conditional lease taken up out of an area set apart as available for homestead selection or settlement lease (under section 4 of the Crown Lands Act Amendment Act 1903)—as at the date of application for the conditional lease;
- (c) if the land is comprised in—
- (i) a settlement lease;
 - (ii) a homestead selection acquired under the Church and School Lands Act 1897; or
 - (iii) a prickly-pear lease for a term of years,

the title to which commenced before 23 March 1964, or is comprised in a conditional lease which is a conversion of any such holding—as at the date of application for the settlement lease, homestead selection or prickly-pear lease;

- (d) if the land is comprised in a special lease granted over an expired conditional lease (the holder of which had failed to apply for extension of the term of the lease)—as at the date at which a purchase price would have been determined in respect of the conditional lease if it had, before expiry, been converted into an additional conditional purchase; or
- (e) in any other case—as at the date of the application to purchase the land.

(5) The purchase price of land which has been added to a lease is—

- (a) if the price at which the added land may be purchased was determined under the Crown Lands Acts before the commencement of this clause—the price so determined; or

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(b) in any other case—the price determined by the Minister as at the date of the application to purchase the lease.

(6) Any improvements on the land which were made by the holder, or are owned or in the course of being purchased from the Crown by the holder, shall be disregarded in determining the market value of the land.

(7) If it appears to the Minister that the market value of the land has been reduced by any act, default or neglect of the holder, the Minister shall determine the market value as if the reduction in value had not taken place.

(8) If any areas are to be excluded for roadways or other public purposes or because of modification of boundaries, the purchase price shall be adjusted accordingly.

Objections to, and appeals against, determinations

10. (1) The Minister shall, on determining a purchase price for land comprised in a lease, give notice of the determination to the lessee.

(2) The notice shall include information to the effect that the lessee may object to the purchase price determined by the Minister.

(3) The Minister shall consider any objection lodged and by notice inform the objector—

(a) whether the determination of the purchase price is to stand or be varied; and

(b) that the objector, if dissatisfied with the Minister's decision, may appeal as provided by subclause (4).

(4) An appeal against the Minister's decision lies—

(a) to the local land board if the purchase price determined does not exceed \$150,000 or such greater amount as may be prescribed; or

(b) in any other case, to the Land and Environment Court.

(5) The local land board, or the Court, on hearing the appeal, may affirm the Minister's determination or substitute its own.

Adjustment of purchase price in line with Consumer Price Index

11. (1) The purchase price for land comprised in a lease (other than a purchase price determined as at the date of the application to purchase) shall be adjusted having regard to any movement in the Consumer Price Index between—

(a) the quarter in respect of which the Index was last issued before the commencement of this clause; and

Crown Lands (Continued Tenures) 1989

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(b) the quarter in respect of which the Index was last issued before the date of the application to purchase.

(2) Any such adjustment of the purchase price shall not exceed the relevant movement in the Index.

(3) In this clause and clause 12, a reference to the Consumer Price Index is a reference to the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

(4) If the Australian Statistician publishes in respect of a particular quarter an Index number in substitution for an Index number previously published in respect of that quarter—

(a) except as provided by paragraph (b)—the publication of the later Index number shall be disregarded; or

(b) if the Minister so directs—regard shall be had to the later and not to the earlier number,

for the purposes of this clause.

(5) If the reference base for the Consumer Price Index is changed, regard shall be had only to Index numbers published in terms of the new reference base or to Index numbers converted to the new reference base in accordance with an arithmetical conversion factor specified by the Australian Statistician.

Adjustment of rent etc. where part of a lease other than a special lease is purchased

12. (1) In this clause—

“rent base”, in respect of a lease the rent of which is not subject to redetermination, means the amount used as the basis for adjusting the rent in line with movements in the Consumer Price Index.

(2) If part only of a lease (other than a special lease) is purchased, the remaining part of the lease shall be held subject to such proportionate parts of the rent and rent base as to the Minister seem appropriate.

(3) If a part of a rent base apportioned under subclause (2) to a part of a lease is less than \$100, that part of the rent base is increased to \$100.

(4) A part of a rent base apportioned under subclause (2) to a part of a lease (or such a part of a rent base as increased under subclause (3)) shall be taken, for the purposes of clause 5 of Schedule 5 (adjustment of certain rents in line with Consumer Price Index), to have been the annual rent of the lease as at the commencement of that clause.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(5) The annual rent of the remaining part of a lease (as apportioned under subclause (2)) is, if it is less than the amount that would have been payable had the part always been a separate lease subject to a rent base ascertained in respect of it under this clause, increased to that amount.

Adjustment of rent, purpose and conditions on purchase of part of a special lease

13. (1) If part only of a special lease is purchased, the Minister shall redetermine the annual rent of the remaining part of the lease that is to be payable for the remainder of the current rent redetermination period applicable to the lease.

(2) Clauses 11 and 12 of Schedule 5 apply to a redetermination of rent under this clause in the same way as they apply to a redetermination of rent under that Schedule.

(3) The Minister may make such consequential alterations to the purpose and conditions of a special lease as the Minister considers are necessary when part of the land comprised in the lease is purchased.

Costs of survey

14. (1) An applicant to purchase land comprised in a lease is liable to pay to the Crown—

- (a) if a survey fee has not been paid in respect of the lease—the prescribed survey fee; and
- (b) if a survey is necessary as a result of the purchase and the survey is carried out by the Crown—the cost of survey as assessed by the Minister.

(2) The Minister may permit an applicant to have any necessary survey carried out (at the applicant's own expense) by a surveyor registered under the Surveyors Act 1929 in accordance with any special requirements of the Minister.

(3) If a survey is to be carried out by the Crown, the Minister may require the applicant to pay the estimated cost before survey and refuse the application if the estimated cost is not paid.

Payment of purchase price

15. (1) Subject to this Act, the Principal Act and the regulations, the purchase price for land comprised in a lease, together with interest at the annual rate of 8 per cent, is payable by 33 equal annual instalments.

(2) No instalment payable under this clause shall be less than \$100 or, if another amount is prescribed, that other amount.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
*continued***Payment of other amounts**

16. (1) On the commencement of title to an incomplete purchase under this Part the following amounts are payable to the Crown:

- (a) any stamp duty payable under the Stamp Duties Act 1920 in respect of the purchase;
- (b) any rent (including rent for Crown improvements) payable on the lease up to the commencement of title to the incomplete purchase;
- (c) any outstanding postponed or funded debts in respect of the lease (whether or not due for payment) together with interest up to the commencement of title to the incomplete purchase;
- (d) the cost of any necessary survey carried out by the Crown;
- (e) any other amounts determined by the Minister as payable on the commencement of the title.

(2) Failing payment of any such amount within 3 months of demand, the purchase may be declared by the Minister to be forfeited and any money paid in connection with the purchase may (by the declaration) be forfeited to the Crown.

(3) If there are any other debts outstanding in respect of the lease, they continue (subject to this clause and any increased rate of interest required by this Act) to be payable to the Crown in the same manner as they were payable before the commencement of title to the incomplete purchase.

(4) If any amount payable to the Crown after the commencement of title to an incomplete purchase is payable in equal annual instalments over a period without the interest added, the Minister may vary the manner of payment so that the amount is payable in equal annual instalments over the same or a longer period with the interest added.

Retention of rights of mortgagees

17. If on the granting of an application to purchase land comprised in a lease the lease is subject to a mortgage, the mortgagee—

- (a) retains the rights, powers and remedies which are expressly or impliedly given to the mortgagee against the mortgagor by the mortgage; and
- (b) has, in respect of the land and to the extent that they are relevant, the same rights, powers and remedies as the mortgagee had in respect of the lease.

**SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
*continued*****Easements**

18. The granting of an application to purchase or the purchase of land comprised in a lease does not affect any easement which is appurtenant to or a burden on the land.

PART 2—PURCHASE OF LAND IN AN IRRIGATION AREA**Application to purchase**

1. (1) The holder of a perpetual lease which is in an irrigation area and is not liable to forfeiture may apply to purchase the land comprised in the lease.

(2) A transferee may, with the approval of the Minister and subject to such conditions as the Minister determines, adopt an application made by a previous holder.

(3) An applicant may withdraw an application—

(a) before it is granted; or

(b) if an appeal is lodged against the determination of the purchase price by the Minister or the local land board—within 28 days after determination of the appeal,

on payment of such costs as may be assessed by the Minister.

Granting of applications

2. The Minister shall, subject to this Part, grant an application to purchase the land comprised in a lease.

Title and conditions

3. (1) An incomplete purchase under this Part is, in addition to being subject to the provisions of this Act, subject to the provisions of the Principal Act.

(2) Clause 6 of Part 1 of Schedule 2 applies to and in respect of an incomplete purchase under this Part.

(3) An incomplete purchase under this Part of land comprised in a lease is subject to such of the conditions applying to the lease as the Minister may, after having regard to the views of the Water Administration Ministerial Corporation, specify at the time of granting the application to purchase.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(4) If an application to purchase land comprised in a lease is not withdrawn in accordance with this Part, the title to the incomplete purchase of the land commences—

(a) if the lease—

- (i) was an irrigation farm lease of an area exceeding 2 hectares; or
- (ii) was a non-irrigable lease of an area exceeding 2 hectares used for farming purposes,

from the date of granting by the Minister of the application; or

(b) in any other case—from a date determined by the Minister.

(5) The date determined by the Minister shall not be earlier than—

(a) if an appeal is lodged against the determination of the purchase price—

- (i) the withdrawal of the appeal; or
- (ii) 28 days after determination of the appeal or, if the applicant earlier notifies the Minister in writing that the applicant does not wish to withdraw the application, the date of the notification; or

(b) if no appeal is lodged—the end of the period for lodgment of the appeal or, if the applicant earlier notifies the Minister in writing that the applicant has waived any right of appeal, the date of the notification.

Subdivision

4. Schedule 4 applies to and in respect of the land comprised, or formerly comprised, in an incomplete purchase under this Part.

Transfer restrictions

5. If the provisions of Part 1 or 2 of Schedule 3 apply to land comprised in a lease at the time an application to purchase the land is made under this Part, those provisions continue to apply to the land after the commencement of title to the incomplete purchase and completion of the purchase.

Restrictions on use

6. Land comprised or formerly comprised in an incomplete purchase under this Part shall not be used to plant—

- (a) an area of orchard or vineyard to a greater extent than 5 000 square metres or, if some other area is specified in the conditions attached to the land, that other area;

Crown Lands (Continued Tenures) 1989

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

- (b) any fruit trees, vines or plantings or a specified class of fruit trees, vines or plantings; or
- (c) an area of fruit trees, vines or plantings, or an area of a specified class of fruit trees, vines or plantings, in excess of a specified area, if a condition to that effect was attached to the land at the time when the application to purchase was made (unless the planting is in accordance with an approval or consent given as provided by the condition).

Restriction on corporations or trustees holding certain land

7. (1) This clause applies to land comprised, or formerly comprised, in an incomplete purchase under this Part other than land comprised, or formerly comprised, in an incomplete purchase under this Part of land comprised in—

- (a) a town land lease;
- (b) an irrigation farm lease, being land of an area not exceeding 2 hectares to which no water rights are attached; or
- (c) a non-irrigable lease, being land—
 - (i) which was notified for disposal for other than farming purposes; or
 - (ii) which has been declared by the Minister to be non-farming land.

(2) A corporation, or a person acting in the capacity of trustee, may not acquire by transfer or otherwise land to which this clause applies.

(3) Subclause (2) does not apply to the acquisition of land—

- (a) in a representative capacity by the executor of a will, the administrator or trustee of a deceased estate or the person administering the estate of a bankrupt;
- (b) in accordance with the order of a court; or
- (c) under Part 2C of the Rural Assistance Act 1932.

(4) A transfer, conveyance or assignment in contravention of this clause is not valid for any purpose.

Payment of balance of purchase money etc. on transfer

8. Clause 5 of Part 1 of Schedule 2 applies to and in respect of an incomplete purchase under this Part in the same way as it applies to and in respect of incomplete purchases under Part 1 of Schedule 2.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

Price

9. (1) Subject to any adjustment under subclause (4), the purchase price of land comprised in—

- (a) an irrigation farm lease of an area exceeding 2 hectares; or
- (b) a non-irrigable lease used for farming purposes which is of an area exceeding 2 hectares,

is, unless it is a lease to which land has been added after the commencement of this clause, 20 times the annual rental of the lease as at the date of the application to purchase the land.

(2) If, after the commencement of this clause, land is added to the land comprised in a lease referred to in subclause (1) (a) or (b), the purchase price of the land is the sum of—

- (a) 20 times the annual rent of the lease immediately before that commencement; and
- (b) the price determined by the Minister for the added land as at the date of the application to purchase.

(3) If—

- (a) the purchase is of land in the irrigation area known as the Coleambally Irrigation Area; and
- (b) a remission in annual rental was, by reason of the distance of the land from railway facilities, in force as at 30 June last preceding the date of the application to purchase,

the annual rental of the lease is, for the purposes of this clause but subject to subclause (5), the annual rental that was payable on that 30 June having regard to that remission.

(4) Subject to subclause (5), the purchase price shall, in the same way as is provided by clause 11 of Part 1, be adjusted in line with any movements in the Consumer Price Index after the commencement of this clause.

(5) Subclauses (3) and (4) do not apply in relation to so much of the annual rental for, or so much of the purchase price of, the lease as is attributable to land added to the lease after the commencement of this clause.

(6) In the case of a purchase of land comprised in a lease to which subclauses (1) and (2) do not apply, the purchase price for the land is the market value as determined by the Minister as at the date of the application to purchase.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(7) Any improvements on land being purchased which were made by the holder, or are owned or in the course of being purchased from the Crown by the holder, shall be disregarded in determining the market value of the land.

(8) If it appears to the Minister that the market value of the land has been reduced by any act, default or neglect of the holder, the Minister shall determine the market value as if the reduction in value had not taken place.

Objections to, and appeals against, determinations

10. (1) The Minister shall, on determining a purchase price under clause 9 (6) for land comprised in a lease, give notice of the determination to the lessee.

(2) The notice shall include information to the effect that the lessee may object to the purchase price determined by the Minister.

(3) The Minister shall consider any objection lodged and by notice inform the objector—

- (a) whether the determination of the purchase price is to stand or be varied; and
- (b) that the objector, if dissatisfied with the Minister's decision, may appeal as provided by subclause (4).

(4) An appeal against the Minister's decision lies—

- (a) to the local land board if the purchase price determined does not exceed \$150,000 or such greater amount as may be prescribed; or
- (b) in any other case, to the Land and Environment Court.

(5) The local land board or the Court, on hearing the appeal, may affirm the Minister's determination or substitute its own.

Payment of purchase price and other amounts

11. Clauses 15 and 16 of Part 1 apply to and in respect of incomplete purchases under this Part in the same way as they apply to and in respect of incomplete purchases under Part 1.

Retention of rights of mortgagees

12. Clause 17 of Part 1 applies to and in respect of incomplete purchases under this Part in the same way as it applies to and in respect of incomplete purchases under Part 1.

Crown Lands (Continued Tenures) 1989

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

Easements

13. The granting of an application to purchase or the purchase of land comprised in a lease does not affect any easement which is appurtenant to or a burden on the land.

[*Minister's second reading speech made in—
Legislative Assembly on 15 November 1988
Legislative Council on 2 March 1989 a.m.*]





CROWN LANDS (CONTINUED TENURES) BILL 1989

NEW SOUTH WALES



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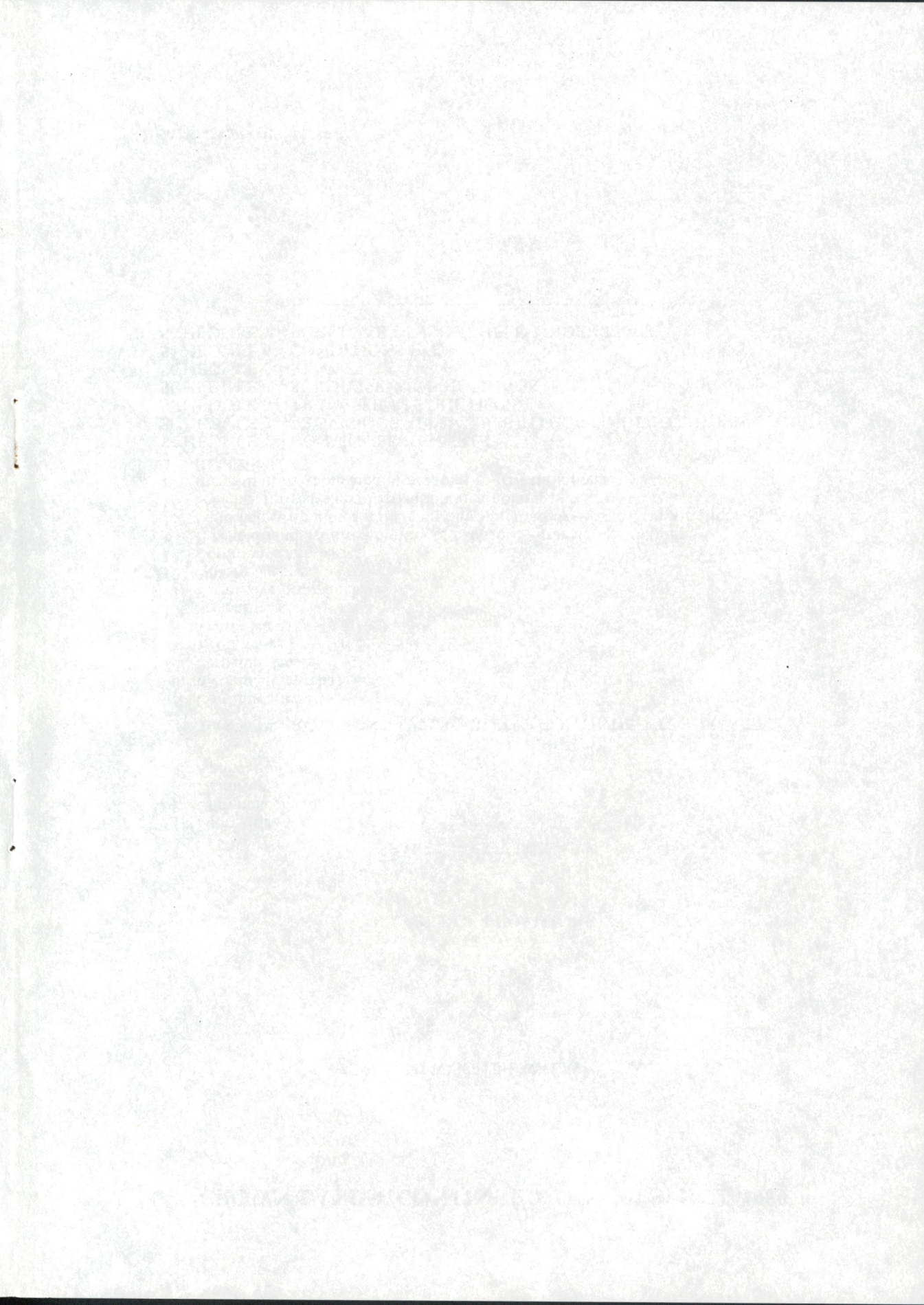
SCHEDULE 3—TRANSFER RESTRICTIONS

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SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE



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.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, , 1989*

NEW SOUTH WALES



Act No. , 1989

An Act to provide for the continuation, and administration, of tenures in force under the repealed provisions of the Crown Lands Consolidation Act 1913, the Closer Settlement Acts and certain other Acts.

*Crown Lands (Continued Tenures) 1989***The Legislature of New South Wales enacts:****PART 1—PRELIMINARY****Short title**

1. This Act may be cited as the Crown Lands (Continued Tenures) Act
5 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

10 3. (1) In this Act—

“dealing” means a dealing with land;

“Department” means the Department of Lands;

“holding” means an incomplete purchase, a perpetual lease, a term lease,
a yearly lease or a special lease;

15 “incomplete purchase” means—

(a) a tenure listed in Part 1 of Schedule 1;

(b) a purchase under Schedule 7 of land comprised in a perpetual
lease, a term lease or a special lease;

20 (c) a purchase under section 28BB of the Western Lands Act 1901
(after the commencement of Part 1 of Schedule 1) of land
comprised in a lease under that Act;

(d) a tenure created by a subdivision of—

(i) a tenure listed in Part 1 of Schedule 1 to this Act; or

(ii) a purchase referred to in paragraph (b) or (c); or

25 (e) a tenure created by a redesign of an incomplete purchase in an
irrigation area under section 16,

to which either or both of the following provisions apply:

(f) the payment of the purchase price or any other amount due to
the Crown in respect of the tenure or purchase is not complete;

30 (g) if the land comprised in the tenure or purchase has been sold
subject to conditions which are recorded in the Register, those
conditions have not been performed or complied with;

“permissive occupancy” means—

35 (a) a permissive occupancy or permission to occupy Crown land
granted under section 136K of the Crown Lands Consolidation Act
1913; or

(b) a permit to occupy land granted under section 39 of the Closer
Settlement Act 1904,

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and in force immediately before the commencement of section 11;

“perpetual lease” means—

- (a) a tenure listed in Part 2 of Schedule 1 and in force immediately before the commencement of that Part;
- 5 (b) a tenure created by a subdivision of such a tenure; or
- (c) a tenure created by a redesign of a perpetual lease in an irrigation area under section 16;

“Principal Act” means the Crown Lands Act 1989;

10 “public purpose”, in relation to a provision of this Act, means any purpose for the time being declared by the Minister, by notification in the Gazette, to be a public purpose for the purposes of the provision;

“quarry licence” means a quarry licence or interim quarry licence issued under the Crown Lands Regulations and in force immediately before the commencement of section 12;

15 “special lease” means a special lease granted under the Crown Lands Consolidation Act 1913 and in force immediately before the commencement of section 10 or a special lease created by a subdivision of such a lease;

20 “term lease” means a tenure listed in Part 3 of Schedule 1 and in force immediately before the commencement of section 8 or a tenure created by a subdivision of such a tenure;

“the Register” means the Register kept under the Real Property Act 1900;

“Water Administration Ministerial Corporation” means the corporation of that name constituted by the Water Administration Act 1986;

25 “yearly lease” means a tenure listed in Part 4 of Schedule 1 and in force immediately before the commencement of section 9.

(2) Expressions used in this Act have the same meaning as they have in the Principal Act unless a contrary intention appears.

(3) In this Act—

- 30 (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, in relation to a duty, a reference to the performance of the duty.

Application of Act

35 4. This Act applies to and in respect of—

- (a) land in the Eastern and Central Division (and land in irrigation areas that are not in the Eastern and Central Division);
- (b) holdings, permissive occupancies and quarry licences created under the Crown Lands Acts and situated in the Western Division;

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- (c) incomplete purchases of land formerly comprised in leases under the Western Lands Act 1901 and land formerly comprised in those incomplete purchases; and
- 5 (d) land formerly comprised in incomplete purchases created under the Crown Lands Acts and situated in the Western Division.

**PART 2—PROVISIONS APPLICABLE TO CONTINUED TENURES
ETC.**

Continued tenures

10 **5. (1)** A tenure in force under a repealed Act immediately before its repeal remains in force subject to the provisions of this Act and the Principal Act.

(2) If the tenure is a lease, occupancy or licence for a defined term, the tenure does not (except as provided in this Act or the Principal Act) continue beyond the end of that term.

15 (3) A conditional purchase current under section 28B or 28BB of the Western Lands Act 1901 immediately before the commencement of Part 1 of Schedule 1 continues after that commencement as a conditional purchase subject to this Act, the Principal Act and the Western Lands Act 1901.

(4) In this section—

20 “repealed Act” means an Act repealed by the Principal Act or the Prickly Pear Act 1987;

“tenure” means—

- (a) an incomplete purchase listed in Part 1 of Schedule 1;
- (b) a perpetual lease, term lease, yearly lease or special lease;
- 25 (c) a permissive occupancy;
- (d) a quarry licence; or
- (e) a lease to the Commonwealth under section 69A of the Crown Lands Consolidation Act 1913.

Incomplete purchases etc.

30 **6. (1)** Part 1 of Schedule 2 applies—

- (a) to and in respect of incomplete purchases (other than purchases made after the commencement of this section or tenures derived from any such purchases); and
- (b) to the extent that they are expressed to so apply—to and in respect
- 35 of land formerly comprised in those incomplete purchases.

(2) If Part 1 or 2 of Schedule 3 (transfer restrictions) applies to an incomplete purchase of land which was commenced before and completed after the commencement of this section, it continues to apply to the land after completion of the purchase.

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(3) If Schedule 4 (subdivision of holdings) applies to an incomplete purchase of land in an irrigation area which was commenced before and completed after the commencement of this section, it continues to apply to the land after completion of the purchase.

5 (4) Subsection (2) does not apply to a purchase of land formerly comprised in an original conditional purchase lease applied for before 1 February 1909, or in an additional conditional purchase lease taken up by virtue of an original conditional purchase lease applied for before 1 February 1909.

10 (5) In this Act, a reference to land formerly comprised in an incomplete purchase includes a reference to land that was an incomplete purchase at any time before the commencement of this section even if the purchase was completed before that commencement.

Perpetual leases

15 7. Part 2 of Schedule 2 applies to and in respect of perpetual leases.

Term leases

8. Part 3 of Schedule 2 applies to and in respect of term leases.

Yearly leases

9. Part 4 of Schedule 2 applies to and in respect of yearly leases.

20 **Special leases**

10. Part 5 of Schedule 2 applies to and in respect of special leases.

Permissive occupancies

11. Part 6 of Schedule 2 applies to and in respect of permissive occupancies.

25 **Quarry licences**

12. Part 7 of Schedule 2 applies to and in respect of quarry licences.

Commonwealth leases

13. Part 8 of Schedule 2 applies to and in respect of leases to the Commonwealth under section 69A of the Crown Lands Consolidation Act
30 1913.

Freehold land acquired by way of exchange—transfer restrictions

14. In a folio of the Register relating to freehold land acquired by way of exchange for restricted title land a reference to—

(a) section 272 of the Crown Lands Consolidation Act 1913; or

35 (b) section 31 of the Closer Settlement Act 1904,

in relation to restrictions on dealings shall be taken to be a reference to Part 1 of Schedule 3.

Land held with closer settlement build-up holdings—transfer restrictions

15. Part 3 of Schedule 3 applies to and in respect of land held with a closer settlement lease, a settlement purchase or land formerly comprised in a settlement purchase under the Closer Settlement Acts.

5 Schemes for redesign of irrigation area holdings

16. (1) The Minister may—

- 10 (a) on application by or with the consent of the holder of a holding in an irrigation area (or if applicable, the holders of 2 or more holdings in an irrigation area) cause a scheme to be prepared for the redesign of the holding or holdings;
- (b) with the agreement of the holder or holders (and, if the Minister thinks it appropriate, any proposed transferee of, or of part of, the holding or holdings); and
- 15 (c) with the agreement of the Water Administration Ministerial Corporation,
adopt the scheme.

(2) A scheme may provide for the following:

- (a) the addition of vacant Crown land to holdings;
- (b) the addition of holdings or parts of holdings to other holdings;
- 20 (c) the subdivision of land comprised in holdings as if an application for approval to subdivide had been made under clause 2 of Schedule 4;
- (d) the transfer of holdings or parts of holdings between parties;
- (e) the alteration, modification or revocation of, or addition to, the
25 conditions attaching to holdings;
- (f) the declaration by the Minister of 2 or more holdings or parts of holdings as a single farm unit or the revocation of any such declaration previously made;
- (g) the payment by the holders of all costs incurred under the scheme;
- 30 (h) the execution by the holders or any party to the scheme, when called on by the Minister, of such contracts or other instruments as the Minister considers necessary to complete the scheme (or the entering into of an agreement with the Minister and with each other to execute the contracts or instruments when so called upon).

35 (3) Subject to such terms and conditions as are set out in a scheme, any provisions of the scheme for—

- (a) the subdivision of a holding;
- (b) the addition of Crown land to a holding;
- 40 (c) the addition to a holding of another holding or a part of another holding; or

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- (d) the amendment or revocation of, or an addition to, the conditions attached to a holding,
take effect on adoption of the scheme.
- (4) So much of an adopted scheme as provides for 2 or more holdings
5 or parts of holdings to be a single farm unit takes effect when the Minister, by order published in the Gazette, declares them to be a single farm unit.
- (5) While an order under subsection (4) remains in force (whether or not with amendments) the holdings or parts of holdings to which it for the time being relates—
- 10 (a) constitute one holding for the purposes of the Irrigation Act 1912; and
(b) may not, without the consent of the Minister, be transferred separately from each other.
- (6) The Minister may—
- 15 (a) direct the holder or holders, or any other party, affected by an adopted scheme to take any specified action necessary to implement the scheme; and
(b) by notification in the Gazette, revoke or vary the scheme if the direction is not complied with.
- 20 (7) If a scheme is varied by notification under subsection (6)—
(a) the approval for the redesign of the holding or holdings; and
(b) any dealing with the holding or holdings,
have no effect unless stated in the notification to be in accordance with the variation.
- 25 (8) The Registrar-General may create such folios of, and make such recordings in, the Register as are in the Registrar-General's opinion necessary to give effect to anything done under this section.
- (9) Vacant Crown land may not be added to a holding under this section unless the Minister is satisfied that the land has been assessed under Part 3
30 of the Principal Act.
- (10) In this section—
“holding” includes land formerly comprised in an incomplete purchase.

Increase in irrigable area of holdings in irrigation areas

- 35 17. (1) If the irrigable area of a holding in an irrigation area is, with the consent of the holder, increased by the construction of additional works or the provision of additional facilities by the Water Administration Ministerial Corporation, the Minister may—
- (a) make such adjustments to—
- 40 (i) the purchase price, instalments of purchase money, rent or other money payable in respect of the holding; and

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(ii) any rent base determined in respect of the holding,
as are necessary to take into account the value added to the holding;
or

5 (b) if payment of the purchase money in respect of the holding has been
completed, determine the additional amount payable by virtue of the
value added to the holding.

(2) An additional amount determined under subsection (1) (b) shall be
payable by the holder on such terms and conditions as the Minister specifies.

(3) In this section—

10 “holding” includes land formerly comprised in an incomplete purchase.

Regulations

18. (1) The Governor may make regulations, not inconsistent with this
Act, for or with respect to any matter that by this Act is required or
permitted to be prescribed or that is necessary or convenient to be
15 prescribed for carrying out or giving effect to this Act and, in particular, for
or with respect to the following:

- (a) the functions of officers employed or acting in the administration or
execution of this Act;
- 20 (b) the circumstances in which fees, costs or deposits may be charged
or required and the amount of any such fees, costs or deposits;
- (c) authorising the waiver or refund of the whole or any part of any fee,
cost, deposit, interest or rent paid or payable under this Act;
- (d) determining the person to whom a refund of any fee, cost, deposit,
interest or rent is payable;
- 25 (e) prescribing the periods within which, and the manner in which,
notices, objections and appeals may be made;
- (f) the keeping of records and books of account, the furnishing of
returns and records and the inspection of, and the taking of extracts
from, records or books;
- 30 (g) the manner of, and the places and times for, the payment of rent,
purchase money or other money;
- (h) the payment, by an incoming holder, of the value of any
improvements on Crown land to the owner of those improvements;
- (i) the form and lodgment of, and manner of dealing with, applications,
35 dealings, instruments or documents;
- (j) the execution of applications, dealings, instruments or documents;
- (k) the powers and functions of the Registrar-General in respect of
applications, dealings, instruments or documents.

(2) A regulation may create an offence punishable by a maximum penalty
40 not exceeding 5 penalty units.

SCHEDULE 1—CONTINUED TENURES

(Sec. 3)

PART 1—INCOMPLETE PURCHASES

- 5 (a) An auction purchase, being land sold by auction under section 63 of the Crown Lands Consolidation Act 1913 or under section 21 (6) of the Closer Settlement (Amendment) Act 1909.
- (b) An after-auction purchase, being land sold under section 64 (1) of the Crown Lands Consolidation Act 1913 or by way of after auction sale under section 4 of the Closer Settlement (Amendment) Act 1914.
- 10 (c) A conditional purchase (whether ordinary, non-residential, for mining purposes or within a special area), including an original and an additional conditional purchase, made under the Crown Lands Acts (other than this Act and the Principal Act).
- 15 (d) A conditional purchase made under section 28B or 28BB of the Western Lands Act 1901 before the commencement of this Part.
- (e) An improvement purchase made under section 62 of the Crown Lands Consolidation Act 1913.
- 20 (f) A residential lease purchase, being a purchase (under section 81 of the Crown Lands Consolidation Act 1913) of land comprised in a residential lease.
- (g) A returned soldiers' special holding purchase, being a purchase (under section 4A of the Returned Soldiers Settlement Act 1916) of land comprised in a returned soldiers' special holding.
- 25 (h) A settlement purchase made under the Closer Settlement Act 1904, the Closer Settlement (Amendment) Act 1909 or the Closer Settlement Amendment (Conversion) Act 1943.
- (i) A soldiers' group purchase made under section 4B of the Returned Soldiers Settlement Act 1916.
- 30 (j) A special purchase made under section 65, 66 or 68 of the Crown Lands Consolidation Act 1913.
- (k) A suburban holding purchase, being a purchase (under section 129B of the Crown Lands Consolidation Act 1913) of the land comprised in a suburban holding.
- 35 (l) A tender purchase, being land sold under section 63A of the Crown Lands Consolidation Act 1913 or under section 21 (6) of the Closer Settlement (Amendment) Act 1909.
- (m) An after-tender purchase, being land sold under section 64 (2) of the Crown Lands Consolidation Act 1913 or by way of after tender sale under section 4 of the Closer Settlement (Amendment) Act 1914.
- 40 (n) A town lands lease purchase, being a purchase (under section 82A of the Crown Lands Consolidation Act 1913) of land comprised in a lease of town lands.

 SCHEDULE 1—CONTINUED TENURES—*continued*

- (o) A week-end lease purchase, being a purchase (under section 136H of the Crown Lands Consolidation Act 1913) of land comprised in a week-end lease.
- 5 (p) An irrigation farm purchase made under section 139, 144E or 145 of the Crown Lands Consolidation Act 1913.
- (q) A non-irrigable purchase made under section 139, 144E or 145 of the Crown Lands Consolidation Act 1913.
- (r) A town land purchase made under section 139, 144E or 145 of the Crown Lands Consolidation Act 1913.

10

PART 2—PERPETUAL LEASES

- (a) A closer settlement lease under the Closer Settlement Acts.
- (b) A conditional lease under the Crown Lands Acts (other than a conditional lease for a term of years).
- 15 (c) A conditional purchase lease (whether an original or an additional holding) under the Crown Lands Acts.
- (d) A Crown-lease (whether an original or an additional holding) under the Crown Lands Acts (other than a Crown-lease for a term of years).
- (e) A group purchase lease under the Closer Settlement Acts.
- 20 (f) A homestead farm (whether an original or an additional holding) under the Crown Lands Acts.
- (g) A homestead selection or grant (whether an original or an additional holding) under the Crown Lands Acts.
- 25 (h) A prickly-pear lease, being a lease of infested land under section 17 of the Prickly-pear Act 1924 (other than a prickly-pear lease for a term of years).
- (i) A returned soldiers' special holding, being a lease to a discharged soldier under section 4 of the Returned Soldiers Settlement Act 1916.
- 30 (j) A settlement lease (whether an original or an additional holding) under the Crown Lands Acts.
- (k) A settlement purchase lease under the Closer Settlement Acts.
- (l) A special conditional purchase lease (whether an original or an additional holding) under the Crown Lands Acts.
- 35 (m) A suburban holding (whether an original or an additional holding) under the Crown Lands Acts.
- (n) A town lands lease, being a lease of town lands under section 82A of the Crown Lands Consolidation Act 1913.
- (o) A week-end lease under the Crown Lands Consolidation Act 1913.

*Crown Lands (Continued Tenures) 1989*SCHEDULE 1—CONTINUED TENURES—*continued*

- (p) An irrigation farm lease under the Crown Lands Acts.
- (q) A non-irrigable lease under the Crown Lands Acts.
- (r) A town land lease under the Crown Lands Acts (being a lease within an irrigation area).

PART 3—TERM LEASES

- 5 (a) A conditional lease under the Crown Lands Consolidation Act 1913 for a term of years.
- (b) A Crown-lease (whether an original or an additional holding) under the Crown Lands Consolidation Act 1913 for a term of years.
- 10 (c) A prickly-pear lease, being a lease of infested land or of commons and reserves under section 17 or 18 of the Prickly-pear Act 1924, for a term of years.

PART 4—YEARLY LEASES

- (a) An annual lease under the Crown Lands Acts.
- (b) An occupation licence under the Crown Lands Acts.
- 15 (c) A preferential occupation licence under the Crown Lands Acts.

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.

(Secs. 6-13)

PART 1—INCOMPLETE PURCHASES ETC.

20

(Sec. 6)

Definition**1.** In this Part—

“incomplete purchase” does not include a purchase made after the commencement of this Part or a tenure derived from any such purchase.

25

References in folios of the Register

2. In a folio of the Register relating to an incomplete purchase or to land formerly comprised in an incomplete purchase—

30

- (a) a reference to an Act repealed by the Principal Act shall be taken to be a reference to the Principal Act and this Act;

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 SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
 TENURES ETC.—*continued*

(b) a reference to—

(i) section 129B, 265 or 272 of the Crown Lands Consolidation Act 1913 or to a provision of any of those sections;

5 (ii) section 145A of the Crown Lands Consolidation Act 1913 or to a provision of that section so far as it relates to land comprised or formerly comprised in irrigation farm purchases or non-irrigable purchases;

(iii) section 31 of the Closer Settlement Act 1904 or to a provision of that section (other than subsections (2) and (3)); or

10 (iv) section 10 of the Returned Soldiers Settlement Act 1916 or to a provision of that section,

in relation to restrictions on dealings shall be taken to be a reference to Part 1 of Schedule 3 (transfer restrictions);

(c) a reference to—

15 (i) section 145A of the Crown Lands Consolidation Act 1913 or to a provision of that section so far as it relates to land comprised or formerly comprised in town land purchases;

(ii) section 274B of the Crown Lands Consolidation Act 1913 or to a provision of that section;

20 (iii) section 21B of the Closer Settlement (Amendment) Act 1909 or to a provision of that section; or

(iv) section 4A of the Closer Settlement (Amendment) Act 1914 or to a provision of that section,

25 shall be taken to be a reference to Part 2 of Schedule 3 (transfer restrictions);

(d) a reference to section 146, 146B or 257 of the Crown Lands Consolidation Act 1913 or to section 3 of the Closer Settlement (Amendment) Act 1918 shall be taken to be a reference to Schedule 4 (subdivision of holdings);

30 (e) a reference to section 235A of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to section 172 (land with boundaries to lakes, roads etc.) of the Principal Act;

(f) a reference to section 12 of the Closer Settlement (Amendment) Act 1919 shall be taken to be a reference to clause 3 (payments generally);

35 (g) a reference to section 136L of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to Division 5 of Part 4 of the Principal Act (easements);

Crown Lands (Continued Tenures) 1989

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

- (h) a reference to section 142 of the Crown Lands Consolidation Act 1913 in relation to restrictions on land use shall be taken to be a reference to clause 7 (restrictions on use—certain land in irrigation areas);
- 5 (i) a reference to section 147 of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to Part 6 of the Principal Act (forfeiture of holdings); and
- 10 (j) a reference to section 109 (3), 183 (1) or 184 (1) (h) of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to that provision as continued by clause 17 (4) of Schedule 8 to the Principal Act (payment of cost of deferred surveys).

Payments generally

3. (1) The balance of purchase money and any other money payable under the provisions of an Act repealed by the Principal Act or under
15 section 28B or 28BB of the Western Lands Act 1901 (as in force before the commencement of this clause) in respect of an incomplete purchase are, subject to this Act, payable under this Act as if those provisions were contained in this Act.

20 (2) An amount shown as payable in the records of the Department in respect of an incomplete purchase is, unless the contrary is proved, payable in the manner and at the time indicated in those records.

(3) If—

- (a) money is payable to the Crown in respect of an incomplete purchase by half-yearly or annual instalments; and
- 25 (b) the annual rate of interest payable on the money would, but for this subclause, be less than 8 per cent,

the annual rate of interest so payable is, from the commencement of this clause, increased to 8 per cent.

30 (4) If the interest rate in respect of money payable to the Crown is increased, the Minister may adjust the half-yearly or annual instalments so that the total amount owing is paid over the same or a longer period.

(5) If the purchase price (whether with or without interest added) of an incomplete purchase is, immediately before the commencement of this clause, payable by annual instalments of less than \$100, the annual
35 instalments are increased—

- (a) to \$100 as from that commencement; and
- (b) if the regulations provide for a further increase—as provided by the regulations.

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

(6) If the balance of purchase money and interest owing in respect of an incomplete purchase is at any time less than the amount to which an instalment is increased under subclause (5), the balance only is payable.

(7) If—

- 5 (a) the purchase price for an incomplete purchase; or
 (b) any other amount payable in respect of the incomplete purchase,
 without the interest added, is payable by equal annual instalments over a
 period, the Minister may vary the manner of payment so that the purchase
 price or other amount, with the interest added, is payable by equal annual
 10 instalments over the same or a longer period.

(8) The balance of purchase money in respect of a conditional purchase taken up before 10 August 1875 which has not been brought under the instalment system is payable in full on the first due date for payment of interest occurring after the commencement of this clause.

- 15 (9) On the subdivision of land in an incomplete purchase to which Schedule 4 does not apply the Minister may apportion to each portion of the subdivided land, in a way that to the Minister seems appropriate, the purchase money and any other amounts payable in respect of the incomplete purchase.

- 20 (10) Despite the other provisions of this clause but without affecting any liability to make a payment due but unpaid before the commencement of this clause—

- (a) any instalment of the value of timber treatment under the Crown
 Lands (West Bogan Settlers) Improvements Relief Act 1943; and
 25 (b) the interest on such an instalment,

that but for this subclause would be payable after that commencement in respect of an incomplete purchase are waived.

Supplementary provisions applicable to payments on incomplete purchases in irrigation areas

- 30 4. (1) This clause supplements clause 3 in relation to incomplete purchases in irrigation areas.

- (2) In clause 3 (1) the reference to the provisions of an Act repealed by the Principal Act includes a reference to section 18A of the Irrigation Act 1912 (repealed by the Miscellaneous Acts (Crown Lands) Amendment Act
 35 1989).

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

- (3) In clause 3 (2) the reference to the Department includes, in relation to an incomplete purchase in an irrigation area, a reference to the Water Administration Ministerial Corporation, the Department of Water Resources and the State Bank.
- 5 (4) In clause 3 (3) and (4) a reference to the Crown includes, in relation to an incomplete purchase in an irrigation area, a reference to—
- (a) the Water Administration Ministerial Corporation and the Department of Water Resources; and
 - (b) the State Bank or, if another person or body is prescribed for the
- 10 purposes of this paragraph, that other person or body.
- (5) If—
- (a) by virtue of clause 3 (1) a provision of an Act repealed by the Principal Act applies to an incomplete purchase in an irrigation area;
 - (b) there is a reference to the State Bank in the provision; and
- 15 (c) a person or body other than the State Bank is prescribed for the purposes of this paragraph,
- the reference to the State Bank shall be read as a reference to that other person or body.
- (6) If the purchase price (whether with or without interest added) of an
- 20 incomplete purchase in an irrigation area is, immediately before the commencement of this clause, payable by half-yearly instalments of less than \$50, the half-yearly instalments are increased—
- (a) to \$50 as from that commencement; and
 - (b) if the regulations provide for a further increase—as provided by the
- 25 regulations.
- (7) If, in respect of an incomplete purchase in an irrigation area, the balance of purchase money and interest owing is at any time less than the amount to which an instalment is required to be increased under subclause (6), the balance only is payable.
- 30 (8) If, in respect of an incomplete purchase in an irrigation area—
- (a) the purchase price or any other amount payable (without the interest added) is payable by equal half-yearly instalments over a period; or
 - (b) the purchase price or any other amount payable (with the interest added) is payable by equal half-yearly instalments over a period,
- 35 the Minister may vary the manner of payment so that the purchase price or other amount, with the interest added, is payable by equal annual instalments over the same or a longer period.

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 SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
 TENURES ETC.—*continued*
Payment of balance of purchase money etc. on transfer

5. (1) In this clause, a reference to a transfer does not include a reference to a change of ownership arising by way of—

- (a) a devise under a will;
- 5 (b) the taking of an interest under an intestacy;
- (c) survivorship of a joint tenant;
- (d) a discharge of mortgage;
- (e) a transfer to the Official Trustee in Bankruptcy;
- 10 (f) a transfer by order of the Family Court or under a provision of the Family Law Act 1975 of the Commonwealth (other than a transfer to a person who is not a party to, or a child of, the marriage); or
- (g) a transfer by order of any other court (other than a transfer effected under a writ of execution) if the Minister has directed that this clause is not to apply to the transfer.

15 (2) On the recording in a folio of the Register of the first transfer of the whole or a part of an incomplete purchase after the commencement of this clause, all money owing to the Crown in respect of the holding (whether or not payable by instalments which have not then become due) becomes due and payable.

20 (3) An amount due under this clause and unpaid is payable by the holder for the time being of the incomplete purchase.

(4) An amount due under this clause bears interest at the following rates from the date the amount becomes due to the date of payment:

- 25 (a) for the first 3 months—a rate which is the same as the rate for the time being applying to the payment of the purchase money for the holding;
- (b) after that—the rate for the time being prescribed for the purposes of this paragraph.

30 (5) Action to forfeit an incomplete purchase may not be taken in respect of non-payment of an amount due under this clause earlier than 3 months after the due date for payment.

Title and conditions

35 6. (1) The holder of an incomplete purchase has an estate in fee simple in the land comprised in the purchase subject to any recordings in the folio of the Register created in respect of it and to the provisions of this Act, the Principal Act and, if the purchase is in the Western Division, the Western Lands Act 1901.

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

(2) The holder of an incomplete purchase shall—

- (a) comply with any provisions, conditions or covenants recorded in the folio of the Register created for the holding;
- 5 (b) comply with the requirements of any law relating to the use or management of the land being purchased; and
- (c) if there are on the land any improvements being purchased from the Crown—
 - (i) maintain those improvements in good order and repair; and
 - 10 (ii) if required by the Minister to do so—keep the improvements insured against fire and any other prescribed risks with an insurer approved by the Minister.

(3) The holder of an incomplete purchase shall not do, permit or suffer anything that will materially degrade the land being purchased.

Restrictions on use—certain land in irrigation areas

- 15 7. Land comprised or formerly comprised in an incomplete purchase in an irrigation area shall not be used to plant—
- (a) an area of orchard or vineyard to a greater extent than 5 000 square metres or, if some other area is specified in the conditions attached to the land, that other area;
 - 20 (b) any fruit trees, vines or plantings or a specified class of fruit trees, vines or plantings; or
 - (c) an area of fruit trees, vines or plantings, or an area of a specified class of fruit trees, vines or plantings, in excess of a specified area,
- 25 if a condition to that effect was attached to the land immediately before the commencement of this clause (unless the planting is in accordance with an approval or consent given as provided by the condition).

Restriction on corporations or trustees holding certain land in irrigation areas

8. (1) This clause applies to land comprised, or formerly comprised, in an incomplete purchase in an irrigation area, other than land—
- 30 (a) comprised, or formerly comprised, in a town land purchase;
 - (b) formerly comprised in an irrigation farm purchase, being land of an area not exceeding 2 hectares to which no water rights are attached;
 - (c) comprised, or formerly comprised, in a non-irrigable purchase of land which was notified for disposal as a non-irrigable lease or non-
 - 35 irrigable purchase suitable for other than farming purposes; or

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**SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued***

- (d) comprised, or formerly comprised, in a non-irrigable purchase of land which is, in the opinion of the Minister, primarily suitable for residential, commercial, industrial or business purposes and is declared by the Minister, by notification published in the Gazette, to be non-farming land.
- 5
- (2) A corporation, or a person acting in the capacity of trustee, may not acquire by transfer or otherwise land to which this clause applies.
- (3) Subclause (2) does not apply to the acquisition of land—
- 10 (a) in a representative capacity by the executor of a will, the administrator or trustee of a deceased estate or the person administering the estate of a bankrupt;
- (b) in accordance with the order of a court; or
- (c) under Part 2c of the Rural Assistance Act 1932.
- (4) A transfer, conveyance or assignment in contravention of this clause
15 is not valid for any purpose.

PART 2—PERPETUAL LEASES

(Sec. 7)

References in folios of the Register

1. In a folio of the Register relating to a perpetual lease—
- 20 (a) a reference to an Act repealed by the Principal Act shall be taken to be a reference to the Principal Act and this Act;
- (b) a reference to—
- 25 (i) section 101, 129, 265, 272 or 274 of the Crown Lands Consolidation Act 1913 or to a provision of any of those sections;
- (ii) section 145A of the Crown Lands Consolidation Act 1913 or to a provision of that section so far as it relates to irrigation farm leases or non-irrigable leases;
- 30 (iii) section 11 of the Closer Settlement Amendment (Conversion) Act 1943 or to a provision of that section (other than subsection (1A));
- (iv) section 10 of the Returned Soldiers Settlement Act 1916 or to a provision of that section; or
- 35 (v) section 20 of the Prickly-pear Act 1924 or to a provision of that section.

SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

in relation to restrictions on dealings shall be taken to be a reference to Part 1 of Schedule 3 (transfer restrictions);

(c) a reference to—

5 (i) section 145A of the Crown Lands Consolidation Act 1913 or to a provision of that section so far as it relates to town land leases; or

(ii) section 274A of the Crown Lands Consolidation Act 1913 or to a provision of that section,

10 shall be taken to be a reference to Part 2 of Schedule 3 (transfer restrictions);

(d) a reference to section 146 or 257 of the Crown Lands Consolidation Act 1913 or to section 21B of the Prickly-pear Act 1924 shall be taken to be a reference to Schedule 4 (subdivision of holdings);

15 (e) a reference to section 142D of the Crown Lands Consolidation Act 1913 in relation to restrictions on land use shall be taken to be a reference to clause 6 (restrictions on use—certain land in irrigation areas);

20 (f) a reference to section 147 of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to Part 6 of the Principal Act (forfeiture of holdings);

(g) a reference to section 235A of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to section 172 (land with boundaries to lakes, roads etc.) of the Principal Act;

25 (h) a reference to section 12 of the Closer Settlement (Amendment) Act 1919 shall be taken to be a reference to clause 2 of Schedule 5 (payment of rent etc.); and

30 (i) a reference to section 109 (3), 183 (1) or 184 (1) (h) of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to that provision as continued by clause 17 (4) of Schedule 8 to the Principal Act (payment of cost of deferred surveys).

Rent etc.

2. Schedule 5 applies to and in respect of the rent and other money payable in respect of a perpetual lease.

Conditions etc.

35 3. Schedule 6 applies to and in respect of perpetual leases.

Purchase of land held under perpetual lease

4. (1) Land held under perpetual lease (other than land in an irrigation area) may be purchased under the provisions of Part 1 of Schedule 7.

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**SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued***

(2) Land held under perpetual lease in an irrigation area may be purchased under Part 2 of Schedule 7.

(3) This clause does not apply to land within the Western Division which was held under a homestead selection or grant under the Crown Lands Acts 5 immediately before the commencement of this clause.

Addition of land to perpetual leases

5. (1) The Minister may, on application by the holder of a perpetual lease, add vacant Crown land to the lease.

10 (2) On the addition of the land to the lease, the lease becomes, in respect of the added land, subject to such rent and conditions as are determined by the Minister.

(3) The Minister shall cause particulars of the addition to be notified in the Gazette.

15 (4) The Registrar-General may create such folios of, and make such recordings in, the Register as are in the Registrar-General's opinion necessary to give effect to the addition.

(5) Land may not be added to a lease under this clause unless the Minister is satisfied that the land has been assessed under Part 3 of the Principal Act.

20 **Restrictions on use—certain land in irrigation areas**

6. Land comprised in an irrigation farm lease or a non-irrigable lease shall not be used to plant—

25 (a) an area of orchard or vineyard to a greater extent than 5 000 square metres or, if some other area is specified in the conditions attached to the land, that other area;

(b) any fruit trees, vines or plantings or a specified class of fruit trees, vines or plantings; or

30 (c) an area of fruit trees, vines or plantings, or an area of a specified class of fruit trees, vines or plantings, in excess of a specified area, if a condition to that effect was attached to the land immediately before the commencement of this clause (unless the planting is in accordance with an approval or consent given as provided by the condition).

Restriction on corporations or trustees holding certain land in irrigation areas

7. (1) This clause applies to land comprised in—

35 (a) an irrigation farm lease; or

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SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED TENURES ETC.—*continued*

- (b) a non-irrigable lease other than a non-irrigable lease—
- (i) which was notified for disposal for other than farming purposes; or
 - 5 (ii) which is, in the opinion of the Minister, primarily suitable for residential, commercial, industrial or business purposes and is declared by the Minister, by notification published in the Gazette, to be non-farming land.
- (2) A corporation, or a person acting in the capacity of trustee, may not acquire by transfer or otherwise land to which this clause applies.
- 10 (3) Subclause (2) does not apply to the acquisition of land—
- (a) in a representative capacity by the executor of a will, the administrator or trustee of a deceased estate or the person administering the estate of a bankrupt;
 - (b) in accordance with the order of a court; or
 - 15 (c) under Part 2C of the Rural Assistance Act 1932.
- (4) A transfer, conveyance or assignment in contravention of this clause is not valid for any purpose.

PART 3—TERM LEASES

(Sec. 8)

20 References in folios of the Register

1. In a folio of the Register relating to a term lease—
- (a) a reference to an Act repealed by the Principal Act shall be taken to be a reference to the Principal Act and this Act;
 - (b) a reference to—
 - 25 (i) section 265, 272 or 274 of the Crown Lands Consolidation Act 1913 or to a provision of any of those sections; or
 - (ii) section 20 of the Prickly-pear Act 1924 or to a provision of that section,
- in relation to restrictions on dealings shall be taken to be a reference to Part 1 of Schedule 3 (transfer restrictions);
- (c) a reference to section 257 of the Crown Lands Consolidation Act 1913 or to section 21B of the Prickly-pear Act 1924 shall be taken to be a reference to Schedule 4 (subdivision of holdings);
 - 30 (d) a reference to section 235A of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to section 172 (land with boundaries to lakes, roads etc.) of the Principal Act; and
 - 35

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**SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued***

- (e) a reference to section 109 (3), 183 (1) or 184 (1) (h) of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to that provision as continued by clause 17 (4) of Schedule 8 to the Principal Act (payment of cost of deferred surveys).

5 Rent etc.

2. Schedule 5 applies to and in respect of the rent and other money payable in respect of a term lease.

Conditions etc.

3. Schedule 6 applies to and in respect of term leases.

10 Occupancy after expiration of lease

4. A holder who, with the consent of the Minister, remains in possession of land after the expiration of a term lease, does so as a tenant from month to month—

- (a) at a rent per month equal to one-twelfth of the yearly rent; and
15 (b) subject to the conditions,
applicable to the lease immediately before its expiration.

Purchase of land held under term lease

5. Land held under a term lease may be purchased under Part 1 of Schedule 7.

20

PART 4—YEARLY LEASES

(Sec. 9)

Term, renewal etc.

1. (1) A yearly lease current at the commencement of this clause expires on 31 December next succeeding that commencement.

- 25 (2) Each succeeding year for which the lease is renewed expires on 31 December next succeeding the renewal.

- (3) The Minister may renew a yearly lease subject to payment on demand of the rent for the next year.

- 30 (4) If any part of the rent remains unpaid for the prescribed period after demand, the lease terminates.

Rent etc.

2. Schedule 5 applies to and in respect of the rent of a yearly lease.

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**SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued***
Transfer etc.

3. (1) A yearly lease may not be transferred without the consent of the Minister.
- (2) A transfer shall be effected in accordance with the regulations.
- 5 (3) A mortgage executed after the commencement of this clause in respect of a yearly lease has effect as a charge only.

Conditions

4. (1) The holder of a yearly lease shall use the land for grazing purposes.
- 10 (2) A yearly lease is held subject to the rights of the public or stock to use roads or travelling stock, camping or other reserves within the land leased.
- (3) A yearly lease is held subject to such other conditions as may be prescribed.

15 Cancellation

5. The Minister may cancel a yearly lease, wholly or in part, at any time by giving not less than 3 months' notice to the holder.

PART 5—SPECIAL LEASES

(Sec. 10)

20 References in folios of the Register

1. In a folio of the Register relating to a special lease—
- (a) a reference to the Crown Lands Consolidation Act 1913 shall be taken to be a reference to the Principal Act and this Act;
- (b) a reference—
- 25 (i) in relation to restrictions on dealings—to section 75A or 75B of the Crown Lands Consolidation Act 1913 or to a provision of either of those sections; or
- (ii) to clause (12) of Regulation 106 of the Crown Lands Regulations,
- 30 shall be taken to be a reference to Part 1 of Schedule 3 (transfer restrictions);
- (c) a reference to section 257 of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to Schedule 4 (subdivision of holdings); and

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 SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
 TENURES ETC.—*continued*

- (d) a reference to section 235A of the Crown Lands Consolidation Act 1913 shall be taken to be a reference to section 172 (land with boundaries to lakes, roads etc.) of the Principal Act.

Rent etc.

- 5 2. Schedule 5 applies to and in respect of the rent and any other money payable in respect of a special lease.

Conditions

- 10 3. (1) Subject to this Act and the Principal Act, a special lease remains subject to the conditions to which it was subject immediately before the commencement of this clause.

(2) The holder of a special lease which has been brought under the provisions of the Real Property Act 1900 holds the land comprised in the lease subject to any recordings on the folio of the Register created in respect of it and to the provisions of this Act and the Principal Act.

- 15 (3) The holder of a special lease shall comply with any conditions to which the lease is subject and with any provisions, conditions or covenants recorded on the folio of the Register created in respect of it.

20 (4) A condition of a special lease which provides for the determination of a matter by a local land board (other than a determination which is, in effect, a review of a decision of the Minister) shall be read as providing for the determination of the matter by the Minister.

25 (5) If a condition of a special lease or any law provides for an appeal against any such determination of a local land board, the condition or law shall be read as providing for an appeal against a determination of the Minister.

(6) If a condition of a special lease provides for the exercise of a function by a specified officer, the function may, with the authority of the Minister, be exercised by another officer.

Purchase etc. of certain land leased for a term of years

- 30 4. (1) The holder of a special lease for a term of years (other than a special lease granted over an expired conditional lease, the holder of which had failed to apply for extension of the term of the lease) may, during the currency of the lease—

(a) apply to the Minister to purchase the land leased; or

- 35 (b) apply to the Minister for a new lease of the land,
 under the provisions of the Principal Act.

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SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

(2) The Minister has an absolute discretion to grant or refuse an application.

Purchase of land leased in perpetuity or certain land leased for a term of years

- 5 5. Land held under a special lease in perpetuity or a special lease for a term of years granted over an expired conditional lease (the holder of which had failed to apply for extension of the term of the lease) may be purchased under Part 1 of Schedule 7.

PART 6—PERMISSIVE OCCUPANCIES

(Sec. 11)

10 Payment of rent etc.

1. (1) The rent, royalty, security deposit and any other money payable under the provisions of an Act repealed by the Principal Act in respect of a permissive occupancy are, subject to this Act and the Principal Act, payable under this Act as if those provisions were contained in this Act.
- 15 (2) Subject to this Act and the Principal Act, any amount shown as payable in the records of the Department in respect of a permissive occupancy is, unless the contrary is proved, payable in the manner and at the time indicated in those records.
- (3) The rent of a permissive occupancy is payable in advance.

20 Redetermination of rent

2. (1) The rent of a permissive occupancy may be redetermined by the Minister at any time.
- (2) A redetermination of rent takes effect from the first due date that is not earlier than 3 months after notice of the redetermination has been given
- 25 by the Minister to the holder.
- (3) Clauses 11 and 12 of Schedule 5 apply to a redetermination of the rent of a permissive occupancy in the same way as they apply to the redetermination of the rent of a lease.

Review of royalties and security deposits

- 30 3. (1) The Minister may from time to time review the amount of royalty payable, and the amount of any security deposited, in respect of a permissive occupancy.
- (2) If the Minister is of the opinion that the amount of the royalty or
- 35 security should be changed the Minister shall serve a notice to that effect on the holder.

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 SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
 TENURES ETC.—*continued*

(3) The amount of the royalty or security changes as provided by the notice with effect from a date stated for the purpose in the notice.

Conditions

4. (1) Subject to this Act and the Principal Act, a permissive occupancy
 5 remains subject to the conditions to which it was subject immediately before
 the commencement of this clause.

(2) A condition of a permissive occupancy which provides for the
 determination of a matter by a local land board shall be read as providing
 for the determination of the matter by the Minister.

10 (3) If a condition of a permissive occupancy or any law provides for an
 appeal against any such determination of a local land board, the condition
 or law shall be read as providing for an appeal against a determination of
 the Minister.

15 (4) If a condition of a permissive occupancy provides for the exercise of
 a function by a specified officer, the function may, with the authority of the
 Minister, be exercised by another officer.

Termination

5. A permissive occupancy is terminable at will by the Minister.

PART 7—QUARRY LICENCES

20

(Sec. 12)

Payment of fees, royalties etc.

1. (1) The licence fee, royalty, security deposit and any other amount
 payable under the provisions of the Crown Lands Consolidation Act 1913
 in respect of a quarry licence are, subject to this Act and the Principal Act,
 25 payable under this Act as if those provisions were contained in this Act.

(2) Subject to this Act and the Principal Act, any amount shown as
 payable in the records of the Department in respect of a quarry licence is,
 unless the contrary is proved, payable in the manner and at the time
 indicated in those records.

30 **Conditions**

2. (1) Subject to this Act and the Principal Act, a quarry licence remains
 subject to the conditions to which it was subject immediately before the
 commencement of this clause.

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SCHEDULE 2—PROVISIONS APPLICABLE TO CONTINUED
TENURES ETC.—*continued*

(2) If a condition of a quarry licence provides for the exercise of a function by a specified officer, the function may, with the authority of the Minister, be exercised by another officer.

5 **Termination**

3. A quarry licence is terminable at will by the Minister.

PART 8—COMMONWEALTH LEASES

(Sec. 13)

Application of Part

10 1. This Part applies to leases to the Commonwealth under section 69A of the Crown Lands Consolidation Act 1913.

Redetermination of rent

2. Any condition of a lease to the Commonwealth which provides for the redetermination or reappraisalment of the rent by a local land board shall be read as providing for the redetermination of the rent by the Minister.

15

Objections and appeals against redeterminations etc.

3. Clauses 11 and 12 of Schedule 5 apply to a redetermination or reappraisalment of the rent of a lease to the Commonwealth in the same way as they apply to the redetermination of the rent of a lease within the meaning of Schedule 5.

20

SCHEDULE 3—TRANSFER RESTRICTIONS

(Secs. 14, 15, Pts. 1–3, 5 of Sch. 2, cl. 7 (3) of Sch.7)

PART 1—GENERAL RESTRICTIONS

Application of Part

25 1. This Part applies to land comprised, or formerly comprised, in a holding but only if—

- (a) the folio of the Register created in respect of the land contains a reference to this Part or a reference to a provision which by this Act is to be taken to be a reference to this Part; or
- 30 (b) it is specifically provided by or under this Act that this Part is to apply to the land.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*
Consent to transfer

2. (1) Land to which this Part applies may not be transferred, leased, subleased, assigned or otherwise dealt with without the written consent of the Minister.

5 (2) Subclause (1) does not apply to—

(a) a mortgage or discharge of mortgage;

(b) a lease of land formerly comprised in an incomplete purchase (other than an incomplete purchase in an irrigation area); or

10 (c) a transfer to a Minister on behalf of the Crown, or to a public authority, of land (other than land in an irrigation area) comprised, or formerly comprised, in an incomplete purchase or comprised in a perpetual lease.

(3) In this clause—

“public authority” means—

15 (a) a council as defined in the Local Government Act 1919; or

(b) a public body declared by the Minister, by order published in the Gazette, to be a public authority for the purposes of this clause.

Invalidation of transfers etc.

3. A transfer, conveyance or assignment in contravention of this Part is
20 not valid for any purpose.

Applications for consent

4. An application for consent shall be made as prescribed.

Dealing with applications

5. (1) The Minister has discretion to give or refuse consent to a dealing
25 with land to which this Part applies.

(2) The Minister may not consent to a dealing if, in the Minister's opinion, the dealing will result in any one person holding an area of land which is substantially in excess of a home maintenance area.

30 (3) Subclause (2) does not prevent the Minister consenting to a dealing if—

(a) the dealing is required by a court order;

(b) the parcel of land involved is a small holding;

35 (c) the land is land referred to in subclause (4) and the Minister is of the opinion that the dealing would be in the best interests of land utilisation even though it would result in the proposed transferee holding substantially more than a home maintenance area; or

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- (d) the land is of a prescribed class or is to be used for a prescribed purpose.
- (4) The land referred to in this subclause is land that, in the opinion of the Minister—
- 5 (a) has, as its best practicable use, and is required for, the exploitation of its timber or its reforestation for the production of commercial timber;
- (b) is required in order to establish, maintain, expand or develop an industry;
- 10 (c) is required for any special purpose approved by the Minister;
- (d) is of inferior character, or is rough or undeveloped, or has poor access or other disadvantage, and the dealing is the best practicable way of ensuring its development; or
- 15 (e) cannot reasonably be disposed of otherwise than by the proposed dealing.
- (5) In determining whether an area of land is or is not substantially in excess of a home maintenance area, the Minister—
- (a) shall not take into account any land held under a lease then having less than 5 years to run (unless the lease confers a right to purchase the freehold); and
- 20 (b) if the proposed transferee's spouse holds land—shall take that land into account as if it were held by the proposed transferee.
- (6) In this clause—
- 25 “home maintenance area” means an area which, when used for the purpose for which it is reasonably fitted, would be sufficient for the maintenance in average seasons and circumstances of an average family.

Restrictions on exercise of mortgagee's powers

- 30 6. (1) A mortgagee who exercises a power to enter into possession of mortgaged land may hold the land for 3 years or such longer period as the Minister approves.
- (2) A mortgagee may not, without the Minister's consent—
- (a) enter into possession of mortgaged land more than once; or
- (b) obtain an order for foreclosure.
- 35 (3) A dealing with land by a mortgagee as such is subject to any other provision of this Part.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*

(4) If a mortgagee who has entered into possession of mortgaged land does not, during the period for which the mortgagee is entitled to hold the land, transfer the land or obtain an order for foreclosure—

- 5 (a) the estate or interest of the mortgagee and any other person in the land may be forfeited to the Crown; or
- (b) if the land is land from which the Minister may, under this Part, remove restrictions on a transfer or other dealing, the Minister may certify that this Part has ceased to apply to the land.

(5) If the Minister gives a certificate under subclause (4) (b)—

- 10 (a) the mortgagee becomes liable to pay to the Crown any amount that would have been payable had the holder of the land applied for a certificate under this Part dispensing with the Minister's consent to a transfer of the land; and
- 15 (b) the amount is payable not later than 3 months after demand for the payment is made.

Devolution under a will or an intestacy

7. (1) A person on whom land to which this Part applies devolves under a will or an intestacy may hold the land for 3 years, or such longer period as the Minister approves, after the death of the testator or intestate.

20 (2) If the person does not, within that period, sell the land or obtain the Minister's consent to hold the land—

- (a) the estate or interest of that and any other person in the land may be forfeited to the Crown; or
- 25 (b) if the land is land from which the Minister may, under this Part, remove the transfer restrictions, the Minister may certify that this Part has ceased to apply to the land.

(3) If the Minister gives a certificate under subclause (2) (b)—

- (a) the holder of the land is liable to pay to the Crown any amount that would have been payable had the holder applied for a certificate dispensing with the Minister's consent to a transfer of the land; and
- 30 (b) that amount is payable not later than 3 months after demand for the payment is made.

(4) Any dealing with the land under this clause is subject to the other provisions of this Part.

35 (5) Clause 5 applies to an application under subclause (2) for the Minister's consent to hold land in the same way as it applies to an application for consent to a dealing.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued***Removal of restrictions**

8. (1) A holder of land to which this Part applies (other than land in an irrigation area) may apply to the Minister for the issue of a certificate that the land may be transferred or otherwise dealt with without the consent of the Minister.

(2) Such a certificate may be issued by the Minister if the land has a dwelling on it and—

- (a) does not exceed 4 050 square metres in area;
- (b) was made available for the erection of a dwelling;
- 10 (c) is a parcel within the meaning of the Strata Titles Act 1973; or
- (d) is of a prescribed class.

(3) Such a certificate may also be issued by the Minister for other land if—

- (a) the land was formerly comprised in an incomplete purchase; and
- 15 (b) an amount equivalent to 3 per cent of the land value of the land (as shown in a current notice of valuation issued by the Valuer-General under clause 9) is paid to the Crown.

(4) The Minister shall deduct from the amount referred to in subclause (3) any fee paid by the applicant to the Valuer-General in respect of the notice of valuation.

(5) If the Minister issues a certificate under this clause in respect of any land, the Minister's consent is not required to any subsequent transfer of, or other dealing with, the land.

(6) The effect of the issue of a certificate shall be recorded by the Registrar-General in the Register.

Valuation of land

9. (1) In this clause—

“holder” includes a mortgagee in possession;

“land value” has the same meaning as it has in the Valuation of Land Act 1916.

(2) On application, the Valuer-General shall—

- (a) determine (as at the date on which the application is made) the land value of any land to which this Part applies; and
- 35 (b) issue to the applicant (and, if the applicant is not the holder, to the holder) a notice of the valuation.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*

(3) The provisions of Parts 3 (notices and objections) and 4 (reference of objections to Court) of the Valuation of Land Act 1916 apply to a valuation under this clause in the same way as they apply to a valuation under that Act.

5 (4) A reference in Part 3 of the Valuation of Land Act 1916 to the owner of a freehold estate includes, for the purposes of this clause, a reference to a holder of land to which this Part applies.

(5) A notice of valuation remains current for a period of 1 year from the date of issue or for such other period as may be prescribed.

10 (6) If an objection is lodged the period referred to in subclause (5) commences from the date on which the objection is finally dealt with.

(7) Except as provided by this clause, the Valuation of Land Act 1916 (section 79 excepted) does not apply to a valuation under this clause.

15 (8) A determination of land value under this clause may be used for the purposes of this Part only.

(9) An applicant for a determination of land value under this clause shall pay to the Valuer-General such fees as may be prescribed.

Removal of restrictions—irrigation area land

20 10. (1) If land to which this Part applies is in an irrigation area, the holder of the land may apply to the Minister for the issue of a certificate that the land may be transferred or otherwise dealt with without the consent of the Minister.

(2) Such a certificate may be issued by the Minister if the land—

25 (a) was formerly comprised in an irrigation farm purchase or in an incomplete purchase under this Act of land comprised in an irrigation farm lease;

(b) does not exceed 2 hectares in area; and

(c) does not have any water rights attached to it.

(3) Such a certificate may also be issued by the Minister if the land—

30 (a) was formerly comprised in a non-irrigable purchase or in an incomplete purchase under this Act of land comprised in a non-irrigable lease;

(b) is, in the opinion of the Minister, primarily suitable for residential, commercial, industrial or business purposes; and

35 (c) is declared by the Minister, by notification published in the Gazette, to be non-farming land.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*

(4) If the Minister issues a certificate under this clause in respect of any land, the Minister's consent is not required to any subsequent transfer of, or other dealing with, the land.

(5) The effect of the issue of a certificate shall be recorded by the
5 Registrar-General in the Register.

**PART 2—RESTRICTIONS APPLICABLE TO CERTAIN LAND
(WEEK-END LEASES, AUCTION AND TENDER PURCHASES AND
TOWN LAND LEASES AND PURCHASES)**

Application of Part

- 10 1. This Part applies to land comprised, or formerly comprised, in a holding but only if—
- (a) the folio of the Register created in respect of the land contains a reference to a provision which by this Act is taken to be a reference to this Part; or
- 15 (b) it is specifically provided by or under this Act that this Part is to apply to the land.

Consent to transfer

2. (1) Land to which this Part applies shall not be transferred without the written consent of the Minister.
- 20 (2) Subclause (1) does not apply to—
- (a) a mortgage or discharge of mortgage; or
- (b) a transfer to a Minister on behalf of the Crown, or to a public authority, of land (other than land in an irrigation area) comprised, or formerly comprised, in an incomplete purchase or comprised in a perpetual lease.
- 25 (3) In this clause—
- “public authority” means—
- (a) a council as defined in the Local Government Act 1919; or
- 30 (b) a public body declared by the Minister, by order published in the Gazette, to be a public authority for the purposes of this clause.

Invalidation of transfers

3. A transfer in contravention of this Part is not valid for any purpose.

Applications for consent

4. An application for consent shall be made as prescribed.

 SCHEDULE 3—TRANSFER RESTRICTIONS—*continued*
Dealing with applications

5. (1) The Minister has discretion to give or refuse consent to any transfer of land to which this Part applies.

(2) If the Minister is satisfied that a certificate that the land may be transferred without consent would, on application, be issued under clause 6, the Minister may, instead of giving consent, issue such a certificate as if an application for removal of restrictions had been made.

Removal of restrictions

6. (1) A holder of land to which this Part applies may apply to the Minister for a certificate that the land may be transferred without the consent of the Minister.

(2) A certificate shall not be issued in respect of the land comprised in a perpetual lease that is a week-end lease unless the land does not exceed 4 050 square metres in area and a dwelling is erected on the land.

(3) A certificate may be issued in respect of land comprised or formerly comprised in an incomplete purchase that is an auction purchase, an after-auction purchase, a tender purchase or an after-tender purchase.

(4) A certificate shall be issued if the land was sold subject to a condition requiring the erection of a dwelling on the land and the Minister is satisfied that the dwelling has been erected or has waived compliance with the condition.

(5) A certificate shall also be issued if the land—

(a) is comprised in a town land lease;

(b) is comprised, or was formerly comprised, in a town land purchase;
or

(c) is comprised, or was formerly comprised, in an incomplete purchase under this Act of land comprised in a town land lease,

and there are no special conditions relating to improvements applying to the land or, if there are, the Minister is satisfied that they have been complied with.

(6) If the Minister issues a certificate under this clause in respect of any land, the Minister's consent is not required to any subsequent transfer of the land.

(7) The effect of the issue of a certificate shall, on application, be recorded by the Registrar-General in the Register.

SCHEDULE 3—TRANSFER RESTRICTIONS—*continued***PART 3—RESTRICTIONS APPLICABLE TO LAND HELD WITH
CLOSER SETTLEMENT BUILD-UP HOLDINGS****References in folios of the Register**

1. In a folio of the Register, or a recording of a caveat in the Register,
5 relating to land held with—

- (a) a closer settlement lease;
- (b) a settlement purchase; or
- (c) land formerly comprised in a settlement purchase,

under the Closer Settlement Acts, a reference to section 31 (2) or (3) of the
10 Closer Settlement Act 1904, or to section 11 (1A) of the Closer Settlement
Amendment (Conversion) Act 1943, shall be taken to be a reference to this
Part.

Transfer restrictions

2. (1) Land affected by a reference referred to in clause 1 may not,
15 without the written consent of the Minister, be transferred separately from
the closer settlement lease, settlement purchase or land formerly comprised
in a settlement purchase with which it is held.

(2) Subclause (1) does not apply to a mortgage or discharge of mortgage.

(3) If consent to transfer land is given under this clause, the Minister's
20 consent is not required to any subsequent transfer of the land.

(4) The effect of a consent under this clause shall be recorded by the
Registrar-General in the Register.

SCHEDULE 4—SUBDIVISION OF HOLDINGS

(Pts. 1-3, 5 of Sch. 2, cl. 6 of Pt. 1, cl. 4 of Pt. 2 of Sch. 7)

25 Application of Schedule

1. This Schedule applies to land comprised in any holding and to land
in an irrigation area formerly comprised in a holding but, in either case,
only if—

- 30 (a) specific provision to that effect is elsewhere made by or under this
Act; or
- (b) the folio of the Register created in respect of the land contains a
reference to this Schedule or a reference to a provision which by this
Act is taken to be a reference to this Schedule.

Minister's approval

35 2. (1) A holder may not, without the Minister's approval, subdivide land
to which this Schedule applies.

SCHEDULE 4—SUBDIVISION OF HOLDINGS—*continued*

(2) An application for approval shall be made as prescribed.

(3) The applicant shall meet all costs incurred in dealing with the application.

(4) The Minister may refuse the application or, with the consent of the Water Administration Ministerial Corporation, approve the subdivision either unconditionally or conditionally.

(5) A condition of an approval (including the condition imposed by subclause (8)) also has effect as a condition attaching to any holding resulting from the subdivision that is a holding to which the condition relates.

(6) The Minister may make such consequential alterations to the conditions or purpose of a subdivided holding as the Minister considers are necessary as a result of the subdivision.

(7) The cost of any works carried out, or to be carried out, by a Government authority for the purpose of, or incidental to, a subdivision of land in an irrigation area (whether or not carried out on or near the land)—

(a) is payable by the holder of the land to, and as directed by, the Government authority; and

(b) until paid, is a charge on the land.

(8) Approval to subdivide a holding is conditional on payment being made as provided by subclause (7) (a).

(9) Any works constructed to comply with a condition of an approval to subdivide land comprised or formerly comprised in a holding in an irrigation area become the property of the Crown without charge unless the condition otherwise provides.

25 Exclusion of areas required for roads of access

3. (1) The Minister may exclude from a subdivision any areas required for roads of access to the subdivided portions and, if the land is in an irrigation area, any areas required for channels or drainage.

(2) Excluded areas are, on approval being given to the subdivision, surrendered to the Crown free from any right to compensation.

Apportionment of money payable

4. (1) In this clause—

“rent base”, in respect of a lease the rent of which is not subject to redetermination, means the amount used as the basis for adjusting the rent in line with movements in the Consumer Price Index.

SCHEDULE 4—SUBDIVISION OF HOLDINGS—*continued*

(2) The Minister may apportion—

- (a) any purchase price, instalments of purchase money, rent or other money payable in respect of a subdivided holding; or
- (b) any rent base for a subdivided holding,

5 to each portion of the subdivided holding in a way that to the Minister seems appropriate.

(3) If a part of a rent base apportioned under subclause (2) to a portion of a lease is less than \$100, that part of the rent base is increased to \$100.

10 (4) A part of a purchase price apportioned under subclause (2) to a portion of a subdivided holding shall be taken, for the purposes of clause 11 of Part 1 of Schedule 7 or clause 9 (4) of Part 2 of Schedule 7 (adjustment of purchase price in line with Consumer Price Index), to have been the purchase price of the portion as at the commencement of the clause.

15 (5) A part of a rent base apportioned under subclause (2) to a portion of a lease (or such a part of a rent base as increased under subclause (3)) shall be taken, for the purposes of clause 5 of Schedule 5 (adjustment of certain rents in line with Consumer Price Index), to have been the annual rent of the portion as at the commencement of the clause.

20 (6) The annual rent of a portion of a subdivided lease (as apportioned under subclause (2)) is, if it is less than the amount that would have been payable had the portion always been a separate lease subject to a rent base ascertained in respect of it under this clause, increased to that amount.

Subdivided portions to be separate holdings

25 5. On approval being given to a subdivision of a holding each portion of the subdivided holding shall be held and be transferable as a separate holding of the same kind as the subdivided holding.

Removal of restriction on subdivision of certain land in irrigation areas

30 6. If a certificate has been issued under clause 10 of Part 1 or clause 6 of Part 2 of Schedule 3 (removal of restrictions on transfer) in respect of—

- (a) land formerly comprised in an irrigation farm purchase or in an incomplete purchase of an irrigation farm lease, being land not exceeding 2 hectares in area to which no water rights are attached;
- 35 (b) land formerly comprised in a non-irrigable purchase or in an incomplete purchase of a non-irrigable lease, being land declared by the Minister to be non-farming land; or

SCHEDULE 4—SUBDIVISION OF HOLDINGS—*continued*

- (c) land formerly comprised in a town land purchase or in an incomplete purchase of a town land lease, being land in respect of which any conditions relating to improvements have been complied with,
- 5 the approval of the Minister is not required to any subsequent subdivision of the land.

SCHEDULE 5—RENT ETC.

(Pts. 2–5 of Sch. 2)

Definitions

10 1. (1) In this Schedule—

“lease” means a perpetual lease, a term lease, a yearly lease or a special lease.

(2) In this Schedule, a reference to the rent of a lease which is subject to periodic redetermination includes a reference to the rent of a lease which
15 may be redetermined at any time.

Payment of rent etc.

2. (1) The rent and any other money payable under the provisions of an Act repealed by the Principal Act or under the provisions of the Prickly-pear Act 1924 (including the provisions of that Act continued by, and
20 repealed under, the Prickly Pear Act 1987) in respect of a lease are, subject to this Act and the Principal Act, payable under this Act as if those provisions were contained in this Act.

(2) Subject to this Act and the Principal Act, any amount shown as payable in the records of the Department in respect of a lease is, until the
25 contrary is proved, payable in the manner and at the time indicated in those records.

(3) The rent of a lease is payable in advance.

(4) If the rent of a lease or any other money payable to the Crown in respect of a lease is payable half-yearly, the rent or other money is, as from
30 a date fixed by the Minister, payable annually.

(5) If—

- (a) money is payable to the Crown in respect of a lease by half-yearly or annual instalments; and
- (b) the annual rate of interest payable on the money would, but for this
35 subclause, be less than 8 per cent,

SCHEDULE 5—RENT ETC.—*continued*

the annual rate of interest so payable is, from the commencement of this clause, increased to 8 per cent.

(6) If the interest rate in respect of money payable to the Crown is increased, the Minister may adjust the half-yearly or annual instalments so that the total amount owing is paid over the same or a longer period.

(7) If any money payable to the Crown in respect of a lease, without the interest added, is payable in equal annual instalments over a period, the Minister may vary the manner of payment so that the money, with the interest added, is payable in equal annual instalments over the same or a longer period.

(8) Despite the other provisions of this clause but without affecting any liability to make a payment due and unpaid before the commencement of this clause, any annual payment of 2.5 per cent of the value of timber treatment under the Crown Lands (West Bogan Settlers) Improvements Relief Act 1943 that but for this subclause would be payable after that commencement in respect of a perpetual lease is waived.

Supplementary provisions applicable to payment of rent etc. on leases in irrigation areas

3. (1) This clause supplements clause 2 in relation to leases in irrigation areas.

(2) In clause 2 (1) the reference to the provisions of an Act repealed by the Principal Act includes a reference to section 18A of the Irrigation Act 1912 (repealed by the Miscellaneous Acts (Crown Lands) Amendment Act 1988).

(3) In clause 2 (2) the reference to the Department includes, in relation to a lease in an irrigation area, a reference to the Water Administration Ministerial Corporation, the Department of Water Resources and the State Bank.

(4) In clause 2 (5)–(7) a reference to the Crown includes, in relation to a lease in an irrigation area, a reference to—

(a) the Water Administration Ministerial Corporation and the Department of Water Resources; and

(b) the State Bank or, if another person or body is prescribed for the purposes of this paragraph, that other person or body.

(5) If—

(a) by virtue of clause 2 (1) a provision of an Act repealed by the Principal Act applies to a lease in an irrigation area;

(b) there is a reference to the State Bank in that provision; and

SCHEDULE 5—RENT ETC.—*continued*

(c) a person or body other than the State Bank is prescribed for the purposes of this paragraph, the reference to the State Bank shall be read as a reference to that other person or body.

5 (6) After the commencement of this clause the rent of a lease in an irrigation area is payable in advance on each 1 July.

(7) Payment of the rent for the first period in advance after the commencement of this clause shall be deferred (free of interest) but shall be payable on the granting of an application to purchase the land comprised
10 in the lease.

Rent for certain leases

4. (1) If the annual rent of a lease—

(a) was less than \$100 immediately before the commencement of this clause; and

15 (b) is not subject to periodic redetermination, the annual rent is increased to \$100 with effect from the commencement of this clause.

(2) If the rent for a lease has been paid, or is payable, in advance in respect of a period of 12 months that expires during the year commencing
20 at the commencement of this clause, subclause (1) does not operate to require the payment of any increase of rent in respect of that period of 12 months.

Adjustment of certain rents in line with Consumer Price Index

25 5. (1) If the rent of a lease is not subject to periodic redetermination, it may be adjusted as at each due date in accordance with the following formula:

$$R = B \times \frac{C}{D}$$

30 where—

R represents the adjusted rent;

B represents the rent base, being the annual rent as at the commencement of this clause or, if the rent was increased by clause 4, \$100;

35 C represents the Consumer Price Index number for the last quarter for which such a number was published before the due date; and

D represents the Consumer Price Index number for the last quarter for which such a number was published before the commencement of this clause.

40 (2) In this clause, “Consumer Price Index number”, in relation to a quarter, means the number for that quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

SCHEDULE 5—RENT ETC.—*continued*

(3) If the Australian Statistician publishes in respect of a particular quarter an Index number in substitution for an Index number previously published in respect of that quarter—

5 (a) except as provided by paragraph (b)—the publication of the later Index number shall be disregarded; or

(b) if the Minister so directs—regard shall be had to the later and not to the earlier number,
for the purposes of this clause.

10 (4) If the reference base for the Consumer Price Index is changed, regard shall be had only to Index numbers published in terms of the new reference base or to Index numbers converted to the new reference base in accordance with an arithmetical conversion factor specified by the Australian Statistician.

15 (5) Any rent adjusted under this clause shall be adjusted to the nearest whole dollar.

Redetermination of rent of certain leases

6. (1) This clause applies to—

20 (a) a lease described in paragraph (b), (d), (f), (g) or (o) of Part 2 of Schedule 1 or paragraph (a) or (b) of Part 3 of Schedule 1, the title to which commenced on or after 23 March 1964;

(b) a prickly-pear lease described in paragraph (h) of Part 2 of Schedule 1;

25 (c) a suburban holding (other than a suburban holding in respect of a block notified under section 124 of the Crown Lands Consolidation Act 1913 as made available for the erection of a dwelling) the title to which commenced on or after 23 March 1964; and

(d) a special lease in perpetuity applied for before 1 February 1984 or a special lease extended to a lease in perpetuity if the extension was applied for before 1 February 1984.

30 (2) The Minister shall redetermine the rent of a lease to which this clause applies at 5 yearly intervals commencing as provided by this clause.

(3) If the lease commenced not more than 5 years before the commencement of this clause, the intervals for redeterminations under subclause (2) commence from the date of commencement of the lease.

35 (4) If the lease was a term lease that was extended to a lease in perpetuity not more than 5 years before the commencement of this clause, the intervals for redeterminations under subclause (2) commence from the date of the extension.

*Crown Lands (Continued Tenures) 1989*SCHEDULE 5—RENT ETC.—*continued*

(5) If the lease is not a lease to which subclause (3) or (4) applies, the intervals for redeterminations under subclause (2) are intervals of 5 years commencing—

- 5 (a) except as provided by paragraph (b)—5 years before the commencement of this clause; or
 (b) if the rent was last redetermined not more than 5 years before the commencement of this clause—from the effective date of that last redetermination.

(6) A redetermination—

- 10 (a) may be made not more than 6 months before or after the end of the relevant interval and, if so made, takes effect from the end of the interval; or
 (b) may be made more than 6 months after the end of the relevant interval and, if so made, takes effect from the date of the
 15 redetermination.

(7) For the purposes of subclause (5) (b), a redetermination of rent made by a local land board under clause 8 (2) (a) of Schedule 8 to the Crown Lands Act 1989 (savings, transitional and other provisions) has effect as if it had been made immediately before the commencement of this clause.

20 **Redetermination of rent of yearly leases**

7. The Minister may at any time not more than 3 months before the end of the current year of a yearly lease redetermine the rent of the lease for the ensuing year.

Redetermination of rent of certain special leases

- 25 8. (1) In this clause, a reference to a special lease is a reference to—
 (a) a special lease granted for a term of years;
 (b) a special lease in perpetuity applied for on or after 1 February 1984;
 or
 (c) a special lease extended to a lease in perpetuity where the extension
 30 was applied for on or after 1 February 1984,

other than a special lease the rent of which may be redetermined at any time.

(2) Despite any condition of a special lease, the Minister shall redetermine the rent of the lease at the intervals fixed by this clause for the
 35 lease.

(3) If the conditions of a special lease provide for redetermination intervals of not more than 5 years, the intervals for redeterminations under subclause (2) are the intervals provided by the lease.

SCHEDULE 5—RENT ETC.—*continued*

(4) If—

- (a) a special lease commenced not more than 5 years before the commencement of this clause; and
- 5 (b) the conditions of the lease provide for redetermination intervals of more than 5 years,

the intervals for redeterminations under subclause (2) are intervals of 5 years commencing from the date of commencement of the lease.

(5) If—

- 10 (a) a special lease was a term lease which was extended to a lease in perpetuity not more than 5 years before the commencement of this clause; and
- (b) the conditions of the lease provide for redetermination intervals of more than 5 years,

15 the intervals for redeterminations under subclause (2) are intervals of 5 years commencing from the date of the extension.

(6) If a special lease is not a lease to which subclause (3), (4) or (5) applies and the conditions of the lease provide for redetermination intervals of more than 5 years, the intervals for redeterminations under subclause (2) are intervals of 5 years commencing—

- 20 (a) except as provided by paragraph (b)—5 years before the commencement of this clause; or
- (b) if the rent was last redetermined not more than 5 years before the commencement of this clause—from the effective date of that last redetermination.

25 (7) A redetermination—

- (a) may be made not more than 6 months before or after the end of the relevant interval and if so made, takes effect from the end of the interval; or
- 30 (b) may be made more than 6 months after the end of the relevant interval and, if so made, takes effect from the date of the redetermination.

(8) For the purposes of subclause (6) (b), a redetermination of rent made by a local land board under clause 8 (2) (a) of Schedule 8 to the Crown Lands Act 1989 (savings, transitional and other provisions) has effect as if 35 it had been made immediately before the commencement of this clause.

(9) A condition of a special lease providing that the Minister may at any time direct that the rent be reappraised by the local land board has no effect and, instead, the Minister may redetermine the rent at any time.

SCHEDULE 5—RENT ETC.—*continued***Redetermination of rent of certain irrigation area leases**

9. (1) This clause applies to a lease in an irrigation area the rent of which, immediately before the commencement of this clause, was subject to periodic redetermination being—

- 5 (a) an irrigation farm lease of an area of 2 hectares or less;
 (b) a non-irrigable lease comprising land not used for farming purposes;
 or
 (c) a town land lease.

(2) This clause also applies to a non-irrigable lease in an irrigation area—

- 10 (a) the rent of which, immediately before the commencement of this clause, was not subject to periodic redetermination; and
 (b) which comprises land that, under subclause (4), has been declared to be non-farming land.

15 (3) This clause also applies to a lease which is created in an irrigation area, by subdivision or otherwise, after the commencement of this clause and is—

- (a) an irrigation farm lease of an area of 2 hectares or less;
 (b) a non-irrigable lease comprising land that, under subsection (4), has been declared to be non-farming land; or
 20 (c) a town land lease.

(4) If the Minister is of the opinion that land comprised in a non-irrigable lease is primarily suitable for residential, commercial, industrial or business purposes, the Minister may by notification in the Gazette declare the land to be non-farming land.

25 (5) Except as provided by subclause (6), the Minister shall redetermine the rent of a lease to which this clause applies at 5 yearly intervals commencing—

- (a) if the lease commenced not more than 5 years before the commencement of this clause—from the date of commencement of the lease; or
 30 (b) in any other case—
 (i) except as provided by subparagraph (ii)—5 years before the commencement of this clause; or
 35 (ii) if the rent was last redetermined not more than 5 years before the commencement of this clause—from the effective date of that last redetermination.

SCHEDULE 5—RENT ETC.—*continued*

(6) For the purposes of subclause (5) (b) (ii), a redetermination of rent made by a local land board under clause 8 (2) (a) of Schedule 8 to the Crown Lands Act 1989 (savings, transitional and other provisions) has effect as if it had been made immediately before the commencement of this clause.

5 (7) If—

(a) a lease to which this clause applies is a non-irrigable lease the rent of which was not subject to periodic redetermination before the commencement of this clause; and

10 (b) the land comprised in the lease has been declared to be non-farming land under subclause (4),

the Minister shall redetermine the rent of the lease as at the date of the declaration and after that at 5 yearly intervals.

(8) A redetermination—

15 (a) may be made not more than 6 months before or after the end of the relevant interval and, if so made, takes effect from the end of the interval; or

(b) may be made more than 6 months after the end of the relevant interval and, if so made, takes effect from the date of the redetermination.

20 **Applications for redetermination of rent of certain leases**

10. (1) This clause applies to a lease the rent of which is not subject to periodic redetermination.

(2) The holder of a lease to which this clause applies may apply to the Minister for a redetermination of the rent of the lease.

25 (3) Any redetermination by the Minister takes effect from the first due date after the application.

(4) The rent of a lease which has been redetermined as a result of an application shall be further redetermined by the Minister at 5 yearly intervals commencing from the date when the first redetermination takes
30 effect.

(5) A redetermination under subclause (4)—

(a) may be made not more than 6 months before or after the end of the relevant interval and, if so made, takes effect from the end of the interval; or

35 (b) may be made more than 6 months after the end of the relevant interval and, if so made, takes effect from the date of the redetermination.

SCHEDULE 5—RENT ETC.—*continued***Objections to, and appeals against, redeterminations**

11. (1) The Minister shall give notice of a redetermination of the rent of a lease to the lessee and include in the notice a statement to the effect that the lessee may object to the redetermined rent.
- 5 (2) The Minister shall consider any objection lodged and by notice inform the objector—
- (a) whether the redetermined rent is to stand or be varied; and
 - (b) that the objector, if dissatisfied with the Minister's decision, may appeal as provided by subclause (3).
- 10 (3) An appeal against the Minister's decision lies—
- (a) to the local land board if the determined or redetermined annual rent does not exceed \$10,000 or such greater amount as may be prescribed; or
 - (b) in any other case, to the Land and Environment Court.
- 15 (4) The local land board, or the Court, on hearing the appeal, may affirm the Minister's redetermination or substitute its own.
- (5) A redetermination of rent takes effect even if an objection or appeal is lodged.
- (6) If—
- 20 (a) a redetermination is varied under subclause (2)—the varied redetermination has effect instead of the redetermination varied; or
 - (b) a redetermination is substituted under subclause (3)—the substituted redetermination has effect instead of that for which it is substituted.

Redetermination of rent—principles

- 25 12. (1) In redetermining the rent of a lease, the Minister, the local land board and the Land and Environment Court shall apply the following principles:
- 30 (a) except in the case of irrigation area leases and prickly-pear leases, the rent shall be the market rent for the land comprised in the lease having regard to any restrictions, conditions or terms to which it is subject;
 - (b) any improvements on the land which were made by the holder, or are owned or in the course of being purchased from the Crown by the holder, shall be disregarded;
 - 35 (c) regard may be had to any additional value which has accrued, or may reasonably be expected to accrue, to other land held by the holder by reason of holding the lease;

*Crown Lands (Continued Tenures) 1989*SCHEDULE 5—RENT ETC.—*continued*

- (d) regard may be had to the duration of the time for which the rent determined will be payable.
- (2) The rent of a prickly-pear lease shall be redetermined at 2.5 per cent of the market value of the land.
- 5 (3) Except as provided by clause 13, the rent of an irrigation farm lease, a non-irrigable lease or a town land lease which is subject to periodic redetermination shall be redetermined at 5 per cent of the market value of the land.
- (4) For the purposes of subclauses (2) and (3), the market value of the
10 land is the market value as determined by the Minister, the local land board or the Land and Environment Court as at the date of the redetermination, exclusive of improvements which were made by the holder or are owned or being purchased from the Crown by the holder.
- (5) If it appears to the Minister, the local land board or the Court that
15 the value of the land has been reduced by any act, default or neglect of the holder, the value shall be determined as if the reduction in value had not taken place.
- (6) Subject to section 146 of the Principal Act (minimum rents), a redetermination of the rent of a lease in an irrigation area is subject to any
20 reduction under the Irrigation Areas (Reduction of Rents) Act 1974.

Lower rate for certain redeterminations

13. (1) In this clause, a reference to a relevant lease is a reference to a lease in an irrigation area that—
- 25 (a) was granted under Part 6 of the Crown Lands Consolidation Act 1913 before 1 January 1933;
- (b) was subsisting on 1 January 1948; and
- (c) is not a lease excluded by subclause (2) or (3).
- (2) A lease is not a relevant lease unless it is—
- (a) an irrigation farm lease of an area not exceeding 2 hectares; or
30 (b) a non-irrigable lease or town land lease of land notified in the Gazette as available for disposal for the purpose of residence or described in the Gazette as suitable for residential purposes.
- (3) A lease is not a relevant lease—
- 35 (a) if it was notified in the Gazette as available for disposal for the purpose of residence and was the subject of a consent under section 142D (10) of the Crown Lands Consolidation Act 1913, permitting its use for another purpose; or

SCHEDULE 5—RENT ETC.—*continued*

(b) if the annual rent for the lease had, before the commencement of this clause, been redetermined because land had been added to the lease.

(4) On the commencement of this clause, the rent of a relevant lease is the same as the rent payable immediately before that commencement (including any reduction made by section 20 of the Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act 1955).

(5) The annual rent shall, at the intervals provided by clause 12, be redetermined at 3.875 per cent of the market value of the land determined in accordance with clause 12 (4).

(6) This section—

(a) has effect subject to section 146 of the Principal Act (minimum rents); and

(b) ceases to have effect if, in the opinion of the Minister, the lease is being used mainly or substantially for business purposes.

(7) The Minister shall, if of the opinion referred to in subclause (6), redetermine the annual rent for the lease under clause 12 for the unexpired portion of the current rental period and, after that, at 5 yearly intervals.

SCHEDULE 6—CONDITIONS ETC.

(Pts. 2, 3 of Sch. 2)

Definition

1. In this Schedule—

“lease” means a perpetual lease or a term lease.

Conditions

2. (1) The holder of a lease holds the land comprised in the lease subject to any recordings on the folio of the Register created in respect of it and the provisions of this Act and the Principal Act.

(2) The holder of a lease shall—

(a) comply with any provisions, conditions or covenants recorded on the folio of the Register created in respect of it;

(b) comply with the requirements of any law relating to the use or management of the land leased;

(c) comply with any conditions attaching to a Minister’s consent given in respect of the land; and

SCHEDULE 6—CONDITIONS ETC.—*continued*

- (d) if there are any improvements on the land in the course of being purchased from the Crown—
- (i) maintain those improvements in good order and repair; and
 - (ii) if required by the Minister to do so—keep those improvements insured against fire and any other prescribed risks with an insurer approved by the Minister.
- 5
- (3) The holder of a lease shall not—
- (a) degrade the land leased;
 - (b) without the Minister's consent, extract any material in or on the land (not being material required by the holder for building or other purposes on the land or on contiguous land leased from the Crown by the holder);
 - (c) without the Minister's consent, take any timber on the land, other than—
- (i) timber taken under the authority of a clearing licence issued under the Forestry Act 1916; or
 - (ii) timber required by the holder for building or other purposes on the land or on contiguous land leased from the Crown by the holder; or
- 10
- (d) interfere with or obstruct any person authorised by law to cut timber on, or remove timber or materials from, the land or prevent such a person from using any gate or means of access provided by the person.
- 15
- (4) A lease is held subject to the rights of the public or stock to use roads or travelling stock, camping or other reserves within the land leased.
- 20
- (5) A Minister's consent required under this clause—
- (a) may be given or refused at the Minister's absolute discretion; and
 - (b) may be given unconditionally or subject to conditions (including conditions requiring payments by way of royalty or otherwise).
- 25
- (6) In this clause—
- “material” includes gravel, sand, loam, stone, clay, shells and other prescribed material but does not include minerals within the meaning of the Mining Act 1973;
- “timber” includes the products of growing or dead timber, trees, shrubs and vegetable growth of economic value.
- 30
- 35

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE

(Pts. 2, 3, 5 of Sch. 2)

PART 1—PURCHASE OF LAND NOT IN AN IRRIGATION AREA**Application to purchase**

1. (1) The holder of—
- (a) a perpetual lease;
 - 5 (b) a term lease;
 - (c) a special lease in perpetuity; or
 - (d) a special lease for a term of years granted over an expired conditional lease (the holder of which had failed to apply for extension of the term of the lease),
- 10 which is not in an irrigation area and is not liable to forfeiture may apply to purchase the whole or a part of the land comprised in the lease.
- (2) A transferee may, with the approval of the Minister and subject to such conditions as the Minister determines, adopt an application made by a previous holder.
- 15 (3) An applicant may withdraw an application—
- (a) before it is granted; or
 - (b) if an appeal is lodged against the determination of the purchase price by the Minister or the local land board—within 28 days after determination of the appeal,
- 20 on payment of such costs as may be assessed by the Minister.

Granting of applications

2. (1) If the application is made in respect of—
- (a) a special lease—the Minister may, at the Minister's absolute discretion (exercised subject to section 25E of the Forestry Act 1916),
 - 25 grant or refuse the application as to the whole or a part of the land applied to be purchased; or
 - (b) any other lease—the Minister shall, subject to subclause (2) and to section 25E of the Forestry Act 1916, grant the application.
- (2) If the application is made in respect of a conditional lease, a Crown-
- 30 lease, a settlement lease or a prickly-pear lease, the Minister shall not grant the application to the extent that it relates to land which is dedicated as a State forest or reserved from sale under the Forestry Act 1909 or the Forestry Act 1916.
- (3) If the application is made in respect of a Crown-lease, a settlement
- 35 lease or a prickly-pear lease, the Minister shall not grant the application to the extent that it relates to land which is reserved from sale under the Crown Lands Acts.
- (4) The reservations from sale to be considered when dealing with an application to purchase a Crown-lease, settlement lease or prickly-pear lease
- 40 include any reservations from sale notified after the application is made.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

Exclusions for roadways etc.

3. (1) On the granting of an application to purchase the land, or part of the land, comprised in a lease—

- 5 (a) any areas required for roadways or other public purposes may be excluded from the land;
- (b) the boundaries of the land may be otherwise modified; and
- (c) easements for public access may be created over the land, at the discretion of the Minister.

10 (2) Any areas excluded from the land for roadways or other public purposes or because of modification of boundaries are surrendered to the Crown.

(3) The holder may appeal to the local land board against any decision—

- (a) to exclude land; or
- (b) to create an easement for public access,
- 15 under this clause.

(4) Sections 56–58 of the Principal Act (section 56 (3) excepted) apply to and in respect of the creation of an easement under this clause in the same way as they apply to and in respect of the creation of easements under section 56 of the Principal Act.

20 (5) The local land board may hear and determine an appeal under subclause (3) and may make any order or decision which it considers appropriate.

(6) The order or decision of the local land board or, on appeal, of the Land and Environment Court may include—

- 25 (a) an order requiring the creation of an easement for public access under subclause (1) (c) instead of the exclusion of land under subclause (1) (a); or
- (b) a redetermination of the purchase price (or a requirement that the Minister redetermine the purchase price) having regard to any
- 30 variation in the area of land to be purchased,

or both.

Depth limitations

4. (1) This clause applies to an application to purchase land comprised in a returned soldiers' special holding, a suburban holding, a town lands

35 lease, a week-end lease or a special lease.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(2) The Minister may limit the granting of an application to the surface of the land or to the surface and a stated depth below the surface.

(3) Land excluded by such a limitation is surrendered to the Crown.

Title and conditions

5 **5. (1)** An incomplete purchase under this Part is, in addition to being subject to the provisions of this Act, subject to the provisions of the Principal Act.

(2) Clause 6 of Part 1 of Schedule 2 applies to and in respect of an incomplete purchase under this Part.

10 **(3)** An incomplete purchase under this Part of land comprised in a lease is subject to such of the conditions applying to the lease as the Minister specifies at the time of granting the application to purchase.

15 **(4)** If an application to purchase land comprised in a lease is not withdrawn in accordance with this Part, the title to the incomplete purchase of the land commences—

(a) except as provided by paragraph (b)—from the date of granting by the Minister of the application; or

20 (b) if there is a right of appeal against the exclusion of areas, creation of easements or determination of a purchase price—a date determined by the Minister.

(5) The date determined by the Minister shall not be earlier than—

(a) if an appeal is lodged—

(i) the withdrawal of the appeal; or

25 (ii) 28 days after determination of the appeal (unless the applicant notifies the Minister in writing that the applicant does not wish to withdraw the application); or

30 (b) if no appeal is lodged—the end of the period for lodgment of the appeal or, if the applicant earlier notifies the Minister in writing that the applicant has waived any right of appeal, the date of the notification.

(6) In any folio of the Register created in respect of land purchased or being purchased under this Part the Registrar-General shall, if the land is affected by a profit à prendre reserved to the Crown under section 25F of the Forestry Act 1916, record a statement to the effect that the land is so affected.

Crown Lands (Continued Tenures) 1989

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(7) Such a recording has effect as if the reservation of the profit à prendre had been included in an instrument of conveyance or transfer from the Crown.

Subdivision

- 5 6. Schedule 4 applies to and in respect of an incomplete purchase under this Part.

Transfer restrictions

10 7. (1) If the provisions of Part 1 or 2 of Schedule 3 apply to land comprised in a lease at the time an application to purchase the land is granted under this Part, the provisions continue to apply to the land after the grant of the application and completion of the purchase.

(2) Subclause (1) does not apply to—

- 15 (a) land comprised in a week-end lease;
- (b) land formerly comprised in an original conditional purchase lease applied for before 1 February 1909, or in an additional conditional purchase lease taken up by virtue of an original conditional purchase lease applied for before 1 February 1909, after the payment of the purchase money and any other amounts due to the Crown in respect of the land; or
- 20 (c) land comprised in a lease the purchase price of which is, under clause 9 (4) (e), determined by the Minister as at the date of the application to purchase the land.

25 (3) On the granting of an application to purchase land comprised in a homestead selection, Part 1 of Schedule 3 applies to the land and continues to apply after completion of the purchase.

Payment of balance of purchase money etc. on transfer

8. Clause 5 of Part 1 of Schedule 2 applies to and in respect of an incomplete purchase under this Part.

Price

30 9. (1) If the purchase price of land comprised in a lease is not determined as at the date of the application to purchase, it is subject to adjustment under clause 11.

(2) If—

- 35 (a) an amount is shown in the records of the Department as the purchase price that would have been payable had the lease been converted into a purchase tenure before the commencement of this clause; or

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SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(b) a purchase price for the land is determinable under a provision repealed by the Principal Act,

that amount or price is the purchase price of the land.

(3) In any other case, the purchase price of the land in a lease is the market value of the land determined by the Minister as at a date specified in subclause (4) or (5) in respect of the purchase.

(4) The purchase price (except in respect of land which has been added to the lease) to be determined by the Minister shall be so determined—

10 (a) if the land is comprised in a conditional lease taken up out of a classified area set apart before 23 March 1964 as available for conditional lease (under section 87 of the Crown Lands Consolidation Act 1913)—as at the date of the setting apart of the classified area;

15 (b) if the land is comprised in a conditional lease taken up out of an area set apart as available for homestead selection or settlement lease (under section 4 of the Crown Lands Act Amendment Act 1903)—as at the date of application for the conditional lease;

(c) if the land is comprised in—

20 (i) a settlement lease;

(ii) a homestead selection acquired under the Church and School Lands Act 1897; or

(iii) a prickly-pear lease for a term of years,
the title to which commenced before 23 March 1964, or is comprised in a conditional lease which is a conversion of any such holding—
25 as at the date of application for the settlement lease, homestead selection or prickly-pear lease;

(d) if the land is comprised in a special lease granted over an expired conditional lease (the holder of which had failed to apply for extension of the term of the lease)—as at the date at which a purchase price would have been determined in respect of the conditional lease if it had, before expiry, been converted into an additional conditional purchase; or

(e) in any other case—as at the date of the application to purchase the land.

35 (5) The purchase price of land which has been added to a lease is—

(a) if the price at which the added land may be purchased was determined under the Crown Lands Acts before the commencement of this clause—the price so determined; or

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(b) in any other case—the price determined by the Minister as at the date of the application to purchase the lease.

(6) Any improvements on the land which were made by the holder, or are owned or in the course of being purchased from the Crown by the holder, shall be disregarded in determining the market value of the land.

(7) If it appears to the Minister that the market value of the land has been reduced by any act, default or neglect of the holder, the Minister shall determine the market value as if the reduction in value had not taken place.

(8) If any areas are to be excluded for roadways or other public purposes or because of modification of boundaries, the purchase price shall be adjusted accordingly.

Objections to, and appeals against, determinations

10. (1) The Minister shall, on determining a purchase price for land comprised in a lease, give notice of the determination to the lessee.

15 (2) The notice shall include information to the effect that the lessee may object to the purchase price determined by the Minister.

(3) The Minister shall consider any objection lodged and by notice inform the objector—

20 (a) whether the determination of the purchase price is to stand or be varied; and

(b) that the objector, if dissatisfied with the Minister's decision, may appeal as provided by subclause (4).

(4) An appeal against the Minister's decision lies—

25 (a) to the local land board if the purchase price determined does not exceed \$150,000 or such greater amount as may be prescribed; or

(b) in any other case, to the Land and Environment Court.

(5) The local land board, or the Court, on hearing the appeal, may affirm the Minister's determination or substitute its own.

Adjustment of purchase price in line with Consumer Price Index

30 11. (1) The purchase price for land comprised in a lease (other than a purchase price determined as at the date of the application to purchase) shall be adjusted having regard to any movement in the Consumer Price Index between—

35 (a) the quarter in respect of which the Index was last issued before the commencement of this clause; and

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SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(b) the quarter in respect of which the Index was last issued before the date of the application to purchase.

(2) Any such adjustment of the purchase price shall not exceed the relevant movement in the Index.

5 (3) In this clause and clause 12, a reference to the Consumer Price Index is a reference to the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

(4) If the Australian Statistician publishes in respect of a particular quarter an Index number in substitution for an Index number previously
10 published in respect of that quarter—

(a) except as provided by paragraph (b)—the publication of the later Index number shall be disregarded; or

(b) if the Minister so directs—regard shall be had to the later and not to the earlier number,

15 for the purposes of this clause.

(5) If the reference base for the Consumer Price Index is changed, regard shall be had only to Index numbers published in terms of the new reference base or to Index numbers converted to the new reference base in accordance with an arithmetical conversion factor specified by the Australian
20 Statistician.

Adjustment of rent etc. where part of a lease other than a special lease is purchased

12. (1) In this clause—

25 “rent base”, in respect of a lease the rent of which is not subject to redetermination, means the amount used as the basis for adjusting the rent in line with movements in the Consumer Price Index.

(2) If part only of a lease (other than a special lease) is purchased, the remaining part of the lease shall be held subject to such proportionate parts of the rent and rent base as to the Minister seem appropriate.

30 (3) If a part of a rent base apportioned under subclause (2) to a part of a lease is less than \$100, that part of the rent base is increased to \$100.

35 (4) A part of a rent base apportioned under subclause (2) to a part of a lease (or such a part of a rent base as increased under subclause (3)) shall be taken, for the purposes of clause 5 of Schedule 5 (adjustment of certain rents in line with Consumer Price Index), to have been the annual rent of the lease as at the commencement of that clause.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(5) The annual rent of the remaining part of a lease (as apportioned under subclause (2)) is, if it is less than the amount that would have been payable had the part always been a separate lease subject to a rent base ascertained in respect of it under this clause, increased to that amount.

5 Adjustment of rent, purpose and conditions on purchase of part of a special lease

10 **13. (1)** If part only of a special lease is purchased, the Minister shall redetermine the annual rent of the remaining part of the lease that is to be payable for the remainder of the current rent redetermination period applicable to the lease.

(2) Clauses 11 and 12 of Schedule 5 apply to a redetermination of rent under this clause in the same way as they apply to a redetermination of rent under that Schedule.

15 (3) The Minister may make such consequential alterations to the purpose and conditions of a special lease as the Minister considers are necessary when part of the land comprised in the lease is purchased.

Costs of survey

14. (1) An applicant to purchase land comprised in a lease is liable to pay to the Crown—

- 20 (a) if a survey fee has not been paid in respect of the lease—the prescribed survey fee; and
(b) if a survey is necessary as a result of the purchase and the survey is carried out by the Crown—the cost of survey as assessed by the Minister.

25 (2) The Minister may permit an applicant to have any necessary survey carried out (at the applicant's own expense) by a surveyor registered under the Surveyors Act 1929 in accordance with any special requirements of the Minister.

30 (3) If a survey is to be carried out by the Crown, the Minister may require the applicant to pay the estimated cost before survey and refuse the application if the estimated cost is not paid.

Payment of purchase price

35 **15. (1)** Subject to this Act, the Principal Act and the regulations, the purchase price for land comprised in a lease, together with interest at the annual rate of 8 per cent, is payable by 33 equal annual instalments.

(2) No instalment payable under this clause shall be less than \$100 or, if another amount is prescribed, that other amount.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

Payment of other amounts

16. (1) On the commencement of title to an incomplete purchase under this Part the following amounts are payable to the Crown:

- 5 (a) any stamp duty payable under the Stamp Duties Act 1920 in respect of the purchase;
- (b) any rent (including rent for Crown improvements) payable on the lease up to the commencement of title to the incomplete purchase;
- 10 (c) any outstanding postponed or funded debts in respect of the lease (whether or not due for payment) together with interest up to the commencement of title to the incomplete purchase;
- (d) the cost of any necessary survey carried out by the Crown;
- (e) any other amounts determined by the Minister as payable on the commencement of the title.

15 (2) Failing payment of any such amount within 3 months of demand, the purchase may be declared by the Minister to be forfeited and any money paid in connection with the purchase may (by the declaration) be forfeited to the Crown.

20 (3) If there are any other debts outstanding in respect of the lease, they continue (subject to this clause and any increased rate of interest required by this Act) to be payable to the Crown in the same manner as they were payable before the commencement of title to the incomplete purchase.

25 (4) If any amount payable to the Crown after the commencement of title to an incomplete purchase is payable in equal annual instalments over a period without the interest added, the Minister may vary the manner of payment so that the amount is payable in equal annual instalments over the same or a longer period with the interest added.

Retention of rights of mortgagees

17. If on the granting of an application to purchase land comprised in a lease the lease is subject to a mortgage, the mortgagee—

- 30 (a) retains the rights, powers and remedies which are expressly or impliedly given to the mortgagee against the mortgagor by the mortgage; and
- 35 (b) has, in respect of the land and to the extent that they are relevant, the same rights, powers and remedies as the mortgagee had in respect of the lease.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

Easements

18. The granting of an application to purchase or the purchase of land comprised in a lease does not affect any easement which is appurtenant to or a burden on the land.

5 **PART 2—PURCHASE OF LAND IN AN IRRIGATION AREA**

Application to purchase

1. (1) The holder of a perpetual lease which is in an irrigation area and is not liable to forfeiture may apply to purchase the land comprised in the lease.
- 10 (2) A transferee may, with the approval of the Minister and subject to such conditions as the Minister determines, adopt an application made by a previous holder.
- (3) An applicant may withdraw an application—
- (a) before it is granted; or
- 15 (b) if an appeal is lodged against the determination of the purchase price by the Minister or the local land board—within 28 days after determination of the appeal,
- on payment of such costs as may be assessed by the Minister.

Granting of applications

- 20 2. The Minister shall, subject to this Part, grant an application to purchase the land comprised in a lease.

Title and conditions

- 25 3. (1) An incomplete purchase under this Part is, in addition to being subject to the provisions of this Act, subject to the provisions of the Principal Act.
- (2) Clause 6 of Part 1 of Schedule 2 applies to and in respect of an incomplete purchase under this Part.
- (3) An incomplete purchase under this Part of land comprised in a lease is subject to such of the conditions applying to the lease as the Minister
- 30 may, after having regard to the views of the Water Administration Ministerial Corporation, specify at the time of granting the application to purchase.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(4) If an application to purchase land comprised in a lease is not withdrawn in accordance with this Part, the title to the incomplete purchase of the land commences—

(a) if the lease—

- 5 (i) was an irrigation farm lease of an area exceeding 2 hectares; or
 (ii) was a non-irrigable lease of an area exceeding 2 hectares used for farming purposes,
 from the date of granting by the Minister of the application; or
 (b) in any other case—from a date determined by the Minister.

10 (5) The date determined by the Minister shall not be earlier than—

(a) if an appeal is lodged against the determination of the purchase price—

- 15 (i) the withdrawal of the appeal; or
 (ii) 28 days after determination of the appeal or, if the applicant earlier notifies the Minister in writing that the applicant does not wish to withdraw the application, the date of the notification; or

20 (b) if no appeal is lodged—the end of the period for lodgment of the appeal or, if the applicant earlier notifies the Minister in writing that the applicant has waived any right of appeal, the date of the notification.

Subdivision

4. Schedule 4 applies to and in respect of the land comprised, or formerly comprised, in an incomplete purchase under this Part.

25 **Transfer restrictions**

5. If the provisions of Part 1 or 2 of Schedule 3 apply to land comprised in a lease at the time an application to purchase the land is made under this Part, those provisions continue to apply to the land after the commencement of title to the incomplete purchase and completion of the purchase.

Restrictions on use

6. Land comprised or formerly comprised in an incomplete purchase under this Part shall not be used to plant—

- 35 (a) an area of orchard or vineyard to a greater extent than 5 000 square metres or, if some other area is specified in the conditions attached to the land, that other area;

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

- (b) any fruit trees, vines or plantings or a specified class of fruit trees, vines or plantings; or
 - (c) an area of fruit trees, vines or plantings, or an area of a specified class of fruit trees, vines or plantings, in excess of a specified area,
- 5 if a condition to that effect was attached to the land at the time when the application to purchase was made (unless the planting is in accordance with an approval or consent given as provided by the condition).

Restriction on corporations or trustees holding certain land

7. (1) This clause applies to land comprised, or formerly comprised, in
10 an incomplete purchase under this Part other than land comprised, or formerly comprised, in an incomplete purchase under this Part of land comprised in—

- (a) a town land lease;
- 15 (b) an irrigation farm lease, being land of an area not exceeding 2 hectares to which no water rights are attached; or
- (c) a non-irrigable lease, being land—
 - (i) which was notified for disposal for other than farming purposes; or
 - 20 (ii) which has been declared by the Minister to be non-farming land.

(2) A corporation, or a person acting in the capacity of trustee, may not acquire by transfer or otherwise land to which this clause applies.

(3) Subclause (2) does not apply to the acquisition of land—

- 25 (a) in a representative capacity by the executor of a will, the administrator or trustee of a deceased estate or the person administering the estate of a bankrupt;
- (b) in accordance with the order of a court; or
- (c) under Part 2C of the Rural Assistance Act 1932.

(4) A transfer, conveyance or assignment in contravention of this clause
30 is not valid for any purpose.

Payment of balance of purchase money etc. on transfer

8. Clause 5 of Part 1 of Schedule 2 applies to and in respect of an incomplete purchase under this Part in the same way as it applies to and in respect of incomplete purchases under Part 1 of Schedule 2.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

Price

9. (1) Subject to any adjustment under subclause (4), the purchase price of land comprised in—

- (a) an irrigation farm lease of an area exceeding 2 hectares; or
- 5 (b) a non-irrigable lease used for farming purposes which is of an area exceeding 2 hectares,

is, unless it is a lease to which land has been added after the commencement of this clause, 20 times the annual rental of the lease as at the date of the application to purchase the land.

10 (2) If, after the commencement of this clause, land is added to the land comprised in a lease referred to in subclause (1) (a) or (b), the purchase price of the land is the sum of—

- (a) 20 times the annual rent of the lease immediately before that commencement; and
- 15 (b) the price determined by the Minister for the added land as at the date of the application to purchase.

(3) If—

- (a) the purchase is of land in the irrigation area known as the Coleambally Irrigation Area; and
- 20 (b) a remission in annual rental was, by reason of the distance of the land from railway facilities, in force as at 30 June last preceding the date of the application to purchase,

the annual rental of the lease is, for the purposes of this clause but subject to subclause (5), the annual rental that was payable on that 30 June having
25 regard to that remission.

(4) Subject to subclause (5), the purchase price shall, in the same way as is provided by clause 11 of Part 1, be adjusted in line with any movements in the Consumer Price Index after the commencement of this clause.

(5) Subclauses (3) and (4) do not apply in relation to so much of the
30 annual rental for, or so much of the purchase price of, the lease as is attributable to land added to the lease after the commencement of this clause.

(6) In the case of a purchase of land comprised in a lease to which subclauses (1) and (2) do not apply, the purchase price for the land is the
35 market value as determined by the Minister as at the date of the application to purchase.

SCHEDULE 7—PURCHASE OF LAND HELD UNDER LEASE—
continued

(7) Any improvements on land being purchased which were made by the holder, or are owned or in the course of being purchased from the Crown by the holder, shall be disregarded in determining the market value of the land.

- 5 (8) If it appears to the Minister that the market value of the land has been reduced by any act, default or neglect of the holder, the Minister shall determine the market value as if the reduction in value had not taken place.

Objections to, and appeals against, determinations

- 10 9 (1) The Minister shall, on determining a purchase price under clause 9 (6) for land comprised in a lease, give notice of the determination to the lessee.

(2) The notice shall include information to the effect that the lessee may object to the purchase price determined by the Minister.

- 15 (3) The Minister shall consider any objection lodged and by notice inform the objector—

- (a) whether the determination of the purchase price is to stand or be varied; and
(b) that the objector, if dissatisfied with the Minister's decision, may appeal as provided by subclause (4).

- 20 (4) An appeal against the Minister's decision lies—

- (a) to the local land board if the purchase price determined does not exceed \$150,000 or such greater amount as may be prescribed; or
(b) in any other case, to the Land and Environment Court.

- 25 (5) The local land board or the Court, on hearing the appeal, may affirm the Minister's determination or substitute its own.

Payment of purchase price and other amounts

cm11. Clauses 15 and 16 of Part 1 apply to and in respect of incomplete purchases under this Part in the same way as they apply to and in respect of incomplete purchases under Part 1.

30 **Retention of rights of mortgagees**

12. Clause 17 of Part 1 applies to and in respect of incomplete purchases under this Part in the same way as it applies to and in respect of incomplete purchases under Part 1.

Easements

- 35 13. The granting of an application to purchase or the purchase of land comprised in a lease does not affect any easement which is appurtenant to or a burden on the land.



