

NORTHERN TERRITORY OF AUSTRALIA

CROWN LANDS FREEHOLD (CONVERSION FROM CROWN  
LEASEHOLD) ACT

As in force at 1 December 2000

**Table of provisions**

1	Short title .....	1
2	Commencement .....	1
3	Principal Act.....	1
5	Savings.....	1
6	Certain interests preserved.....	2
7	Definition.....	2
8	Freeholding of existing leases .....	2
9	Land is land under <i>Land Title Act</i> .....	4
10	Freehold subject to existing interests .....	4
12	Existing town lands subdivision leases.....	5
13	Existing estates in fee simple .....	5

**Schedule 2**

ENDNOTES



# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 December 2000

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## CROWN LANDS FREEHOLD (CONVERSION FROM CROWN LEASEHOLD) ACT

An Act to provide for the conversion of certain Crown leases to freehold and for other purposes

### 1 Short title

This Act may be cited as the *Crown Lands Freehold (Conversion from Crown Leasehold) Act*.

### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

### 3 Principal Act

The *Crown Lands Act* as in force at 1 January 1981 is in this Act referred to as the Principal Act.

### 5 Savings

- (1) A lease referred to in section 8(2) and a town lands subdivision lease, being a lease in force immediately before the commencement of this Act, continues, subject to subsection (2), section 8(3), section 12 and the provisions of the lease, as a lease under the Principal Act as amended by this Act, but an action that can be taken in respect of a lease granted under the Principal Act as amended by this Act can be taken in respect of a lease so continued in force.
- (2) A lease referred to in section 8(2) and a town lands subdivision lease shall be read as though, on the commencement of this Act, a provision had been inserted into the lease that, subject to section 23G of the Principal Act as amended by this Act, the law applying to the lease would be the law in force immediately before the commencement of this Act.
- (3) Where, immediately before the commencement of this Act, a person had the right to be granted a lease of town lands in the town of Yulara, the Minister shall grant him a lease of those lands under the Principal Act as amended by this Act.

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(4) Where, immediately before the commencement of this Act, an amount of money was payable under the *Freehold Titles Act*, it ceases to be payable if it had not then been paid and was not then due, but:

- (a) it remains payable as though that Act had not been repealed if it was then due and had not been paid; and
- (b) it is not refundable if it has been paid.

## **6 Certain interests preserved**

Nothing in this Act derogates the legal or equitable rights of any person that existed in or in relation to land immediately before a grant of an estate in fee simple in that land by or under section 8 (other than the rights of the Crown in right of the Territory as the lessor of the land), and those rights shall continue and may be enforced against the grantee of the land in the same manner as they could have been enforced immediately before the grant.

## **7 Definition**

In this Act, unless the contrary intention appears:

***certificate as to title*** has the same meaning as in the *Land Title Act 2000*.

***land register*** has the same meaning as in the *Land Title Act 2000*.

## **8 Freeholding of existing leases**

(1) Subject to this Act, where, upon the commencement of this Act, a person is the lessee under, or has the right to be granted:

- (a) a lease under section 112A of the *Crown Lands Act* or under Division 4 of Part III of the *Crown Lands Act*,
- (b) a lease under the *Darwin Town Area Leases Act*,
- (c) a lease under the *Church Lands Leases Act*, or
- (d) a lease, granted under section 10 of the *Crown Lands Act* or under Division 1, 2, 3 or 5 of Part III of the *Crown Lands Act*, of an area of land that does not exceed 150 square kilometres,

an estate in fee simple in so much of the leased land as is not a road that is open to and used by the public is, by this Act, granted to that person and the Registrar-General shall, without application, without deed of grant and without charge, but subject to this Act, in

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due course issue to that person, or his successor in title, if requested, a certificate as to title thereto.

- (2) Subsection (1) does not apply in respect of a lease:
- (a) that is specified in Part I of Schedule 2;
  - (b) that is a lease of the whole or a part of an area of land that is described in Part II of Schedule 2;
  - (c) of land in respect of which there was in force, immediately before the commencement of this Act, an approval or consent to subdivide granted in pursuance of an application under an Act; or
  - (d) that is a lease of town lands in the town of Yulara.
- (3) The Minister may, in his discretion, after the commencement of this Act, in the name of the Territory, grant an estate in fee simple in so much of an area of land, or part of an area of land, referred to in subsection (2)(a), (b) or (c) as is not a road that is open to and used by the public.
- (4) Subject to subsection (5), where an estate in fee simple is granted by or under this section, the lease of the land the subject of the grant is surrendered and ceases to have effect.
- (5) The Registrar-General shall, without charge, in due course, issue to a person to whom an estate in fee simple in land is granted under sub-section (3), if requested, a certificate as to title in respect of the land.
- (6) Where the land register in respect of land, an estate in fee simple in which is granted by or under this section, notifies the existence of a part of a road across or on the land:
- (a) that land notified as a road is, and shall be deemed always to have been, excluded from the grant of the estate in fee simple; and
  - (b) land that, by virtue of subsection (1) or (3), was not included in the grant because it formed part of a road open to and used by the public but is not part of a road that is notified in the land register, is and shall be deemed always to have been, part of the land in respect of which the estate in fee simple was granted.

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**9 Land is land under *Land Title Act***

Land in respect of which an estate in fee simple is granted by or under section 8 is, by virtue of that grant, land brought under the provisions of the *Land Title Act*, notwithstanding that the Registrar-General did not, on the date of the grant, issue to the person to whom the estate in fee simple was granted, a certificate as to title in respect of the land.

**10 Freehold subject to existing interests**

- (1) The grant of an estate in fee simple in land by or under section 8 is subject to:
  - (a) a reservation to the Crown of all minerals, mineral substances and ores in or upon the land including gems, stones, sands, valuable earths and fossil fuels, together with the right to authorize any person to enter upon the land to explore for, mine or otherwise recover and remove them or any of them and to do all things necessary or convenient for those purposes; and
  - (b) a reservation of all easements over the land immediately before the commencement of this Act, including easements in favour of the Commonwealth.
- (2) An instrument creating or dealing with an interest in a Crown lease has effect, upon the grant of an estate in fee simple in the land the subject of the lease by or under section 8, as though the fee simple had been granted before the instrument was made and the instrument related accordingly to the estate in fee simple.
- (3) An instrument purporting to create or deal with an interest in a Crown lease, being an instrument that was made after the grant of an estate in fee simple in the land the subject of the lease by or under section 8, but before the expiration of 14 days after the Registrar-General records in the land register the details of the freehold title, has effect as though it related accordingly to the estate in fee simple.
- (4) Where a memorial of a current instrument relating to a Crown lease was entered on the lease when an estate in fee simple in the land the subject of the lease was granted by or under section 8, the Registrar-General shall, subject to subsection (5), enter a memorial of the instrument in the land register.
- (5) The Registrar-General may, in his discretion, register an instrument before he issues a certificate as to title to land, the estate in fee simple in which was granted by or under section 8, and issue the certificate as to title accordingly.

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## **12 Existing town lands subdivision leases**

- (1) Where, upon the commencement of this Act, a person is the lessee under, or has the right to be granted, a town lands subdivision lease, the right of a person, upon surrender of the lease as to all or part of the land contained in the lease, to be granted a new lease in respect of a lot included in the part of the land surrendered on payment of the reserve price and lease grant charges, if any, payable in respect of new lease shall be read as a right to be granted an estate in fee simple in respect of that lot on payment of the purchase price and the amount, if any, payable under section 18A of the Principal Act as amended by this Act in respect of the lot.
- (2) Where, immediately before the commencement of this Act, the consent of the Minister given under section 116A(2) of the Principal Act was current in respect of the right referred to in that section to assign a Crown lease, that consent shall continue to have effect in respect of the town lands subdivision lease to which it related as though that consent were an agreement under section 22 of the Principal Act as amended by this Act binding the Minister to grant the estate in fee simple, at the direction of the developer, to a person or persons other than the developer.

## **13 Existing estates in fee simple**

- (1) A covenant that, immediately before the commencement of this Act, was in force by virtue of section 22A of the *Freehold Titles Act* ceases to have effect.
- (2) Where a covenant referred to in subsection (1) is noted in the land register, the Registrar-General shall, without application and without charge, in due course, note in the land register that it has ceased to have effect by reason of this section.

## **Schedule 2**

section 8(2)

Leases not automatically freeholded

Section 8(1) does not apply in respect of the whole of the area that is contained within each of the following lots

Town of Nightcliff – Lot 4068, 6771, 7122, 8530 and 8569

Town of Sanderson – Lot 1182, 2667 and 2679

Town of Alice Springs – Lot 1078, 1232, 1258, 1356, 1816 and 2453



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**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

**2****LIST OF LEGISLATION*****Crown Lands Amendment (No. 3) Act 1980 (Act No. 59, 1980)***

Assent date	22 December 1980
Commenced	1 January 1981 ( <i>Gaz</i> S41, 31 December 1980)

***Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)***

Assent date	14 September 2000
Commenced	1 December 2000 (s 2, s 2 <i>Land Title Act 2000</i> (Act No. 2, 2000) and <i>Gaz</i> G38, 27 September 2000, p 2)

**3****LIST OF AMENDMENTS**

lt	sub No. 45, 2000, s 3
s 1	amd No. 45, 2000, s 3
s 3	amd No. 45, 2000, s 3
s 4	rep No. 45, 2000, s 3
ss 7 – 10	amd No. 45, 2000, s 3
s 11	rep No. 45, 2000, s 3
s 13	amd No. 45, 2000, s 3
ss 14 – 44	rep No. 45, 2000, s 3
sch 1	rep No. 45, 2000, s 3
sch 2	sub No. 45, 2000, s 3