

# NORTHERN TERRITORY OF AUSTRALIA

## CROWN LANDS ACT

As in force at 12 April 2000

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 12 April 2000

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## CROWN LANDS ACT

An Act relating to Crown lands

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Crown Lands Act*.

#### 2 Commencement

This Act shall come into operation on the commencement of the *Pastoral Land Act 1992*.

#### 3 Definitions

In this Act, unless the contrary intention appears:

***agricultural development***, in relation to land, means the development of the land for the purpose of cultivation or mixed farming and grazing and the use of the land for cultivation or mixed farming and grazing, and includes such other activities as are incidental or ancillary to that development or use of the land.

***condition***, in relation to a lease, includes a covenant and a term.

***Conservation Commission*** means the Conservation Commission of the Northern Territory established by section 9(1) of the *Conservation Commission Act*.

***Crown lands*** means all lands of the Territory, including the bed of the sea within the territorial limits of the Northern Territory, and including an estate in fee simple that is registered in the name of the Territory, but does not include reserved or dedicated lands.

***Darwin town area*** means the land described in the Schedule to the *Darwin Lands Acquisition Act 1945*.

***improvements*** has the same meaning as in the *Valuation of Land Act*.

**interest**, in relation to Crown land, does not include a pastoral lease.

**Land and Valuation Review Tribunal** or **The Tribunal** means the Land and Valuation Review Tribunal established by the *Valuation of Land Act*.

**lease** does not include a pastoral lease.

**lease grant charges** means the charges payable under section 30.

**lessee** includes the person to whom a lease passes, whether by transfer or devolution.

**local government council** means a municipal or community government council constituted under the *Local Government Act*.

**local government area** means a municipality or community government area constituted under the *Local Government Act*.

**pastoral lease** has the same meaning as in the *Pastoral Land Act*.

**Register** means the Register under the *Real Property Act*.

**rent** means annual rental.

**reserve price**, in relation to the sale of, or an interest in, land, means the minimum amount payable, whether in one sum or by instalments, for the land or interest.

**site for a town** means an area surveyed as a town but not constituted and defined as a town.

**Surveyor-General** has the same meaning as in the *Licensed Surveyors Act*.

**this Act** includes the regulations made thereunder.

**town** means a town constituted and defined in accordance with this Act or in accordance with a law in force in the Territory before the commencement of this Act.

**town lands** means lands set apart as town lands under this Act or of a law in force in the Territory before the commencement of this Act.

**unimproved value** means unimproved capital value as defined in the *Valuation of Land Act*.

**Valuer-General** has the same meaning as in the *Valuation of Land Act*.

**4 How Crown lands may be alienated**

- (1) Subject to subsection (2), Crown lands shall not be alienated from the Crown otherwise than in pursuance of this Act.
- (2) This section does not affect:
  - (a) the granting of a lease in pursuance of an agreement or right in existence at the commencement of this Act;
  - (b) the granting of an estate in fee simple in pursuance of an Act;
  - (c) the granting of a lease in pursuance of an Act; or
  - (d) the granting of an estate in fee simple under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

**5 Leases of land on which there are Territory buildings**

- (1) Notwithstanding anything in this Act, the Minister may, without inviting applications, by agreement in writing, grant a lease of Crown land on which there is a building the property of the Territory.
- (2) A lease may be granted under this section for business or residential purposes or for both business and residential purposes.
- (3) A lease may be granted under this section on a weekly, fortnightly, monthly or quarterly tenancy.
- (4) A lease under this section:
  - (a) shall contain the prescribed reservations, conditions and provisions and such additional reservations, conditions and provisions as the Minister thinks fit and specifies in the agreement; and
  - (b) shall take effect according to its tenor.
- (5) This Act, other than this section, does not apply to or in relation to a lease granted under this section, but the law that would apply to and in relation to a lease of land held for an estate in fee simple shall apply to and in relation to a lease granted under this section as if the land leased were held by the Minister for an estate in fee simple.
- (6) The *Real Property Act* does not apply to leases granted under this section.

(7) Where:

- (a) there is on Crown land a building the property of the Territory;  
and
- (b) a person is in occupation of that Crown land after having acknowledged in writing that he or she will occupy the Crown land as a tenant of the Territory from week to week, from fortnight to fortnight, from month to month or from quarter to quarter,

that Crown land shall be deemed to be leased to the person under this section and the document containing the acknowledgement shall operate and have effect according to its tenor as if it were the grant of a lease of that Crown land under subsection (1).

## **Part 2 Administration**

### **6 Power to enter on lands**

The Minister or a person authorised in writing by the Minister may, at any time, enter on any Crown lands including reserved or dedicated lands for the purpose of giving effect to this Act.

### **7 Delegation**

- (1) The Minister may, by instrument in writing, delegate to a person any of the Minister's powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

### **8 Fees**

The Minister may, by notice in the *Gazette*, prescribe the fees to be charged in connection with matters under this Act.



## **Part 3            Estates in fee simple and leases**

### **Division 1        Alienation of land**

#### **9                Power to alienate land**

- (1) Subject to this Act, the Minister may, in the name of the Territory by instrument in the prescribed form under the *Real Property Act*, grant an estate in fee simple in or a lease of Crown land.
- (2) A power to grant under subsection (1) an estate in fee simple includes a power to grant an estate in fee simple to the Territory and, subject to section 11, an estate in fee simple so granted or otherwise obtained by the Territory shall not merge with the radical title to the land.
- (3) A reference in this Act to the grant of an estate in fee simple in land shall include, where the Territory is the registered proprietor of an estate in fee simple in land, a reference to the transferring of the estate in fee simple in that land under the *Real Property Act*.

#### **10              Agreement to grant estate in fee simple or lease of Crown Land**

- (1) Where a person has a right to be granted an estate in fee simple in or a lease of Crown land, the Minister may, in the Minister's discretion and in the prescribed form, lodge with the Registrar-General details of the means by which the right arose.
- (2) On the lodgement of the details referred to in subsection (1), the Registrar-General shall, under the *Real Property Act*, create a folio of the Register and shall issue a certificate as to title in relation to the land.
- (3) Notwithstanding that a lease of Crown land has not been signed by the lessee or the lessor, a folio of the Register created, and a certificate as to title issued, in relation to the land by the Registrar-General shall be deemed to be a lease.

#### **11              Certain land to revert**

- (1) Where the Territory is the owner of land in which no person other than the Crown has a registered interest, the Minister may, by instrument accompanied by the certificate as to title or other evidence as to title, direct the Registrar-General to cancel the folio of the Register and the certificate as to title in respect of the land and the Registrar shall comply with the direction.

- (2) Where a folio of the Register is cancelled in accordance with subsection (1), the land to which it relates is, on that cancellation, unalienated Crown land.

## **12            Methods of disposal of Crown lands**

- (1) In this section **Crown land** does not include land held for an estate in fee simple that is registered under the *Real Property Act* in the name of the Territory.
- (2) Subject to this Act, the Minister shall not grant an estate in fee simple in, or a lease of, Crown land unless the Minister has first:
- (a) invited applications for that estate in, or lease of, the land; or
  - (b) offered the estate in, or lease of, the land for sale by auction, tender or ballot.
- (3) Notwithstanding subsection (4), where the Minister, by instrument in writing, so determines, the Minister may grant an estate in fee simple in, or a lease of, Crown land without complying with subsection (2) in relation to the land.
- (4) The Minister may grant an estate in fee simple in, or a lease of, land without complying with subsection (2) where the Minister does so:
- (a) in pursuance of a provision of a lease to which the land is subject; or
  - (b) for the purpose only of exercising a power to add an area of adjoining or nearby land to an area of land that is the subject of an existing estate in fee simple or lease.
- (5) Notwithstanding subsection (4), the Minister may grant a lease of land without complying with subsection (2) where the Minister does so for the purpose only of consolidating existing leases or of subdividing or renewing an existing lease.
- (6) The Minister shall cause notice of each determination made for the purposes of subsection (3) to be published in the *Gazette* within 60 days after the date on which the determination was made.
- (7) Without limiting the generality of subsection (2) or (3):
- (a) a ballot conducted for the purposes of subsection (2) may be a ballot to determine eligibility:
    - (i) to bid at an auction; or

- (ii) to tender; or
- (b) a ballot may be conducted for the purposes of determining the right of a person to purchase land or an interest in land at a fixed price.

**13 Notice of lands available, &c.**

- (1) Where the Minister proposes:
  - (a) to invite applications for a lease or for the grant of an estate in fee simple; or
  - (b) to sell an estate in fee simple in or a lease of Crown land by auction, ballot or tender,he or she shall give notice in the *Gazette* of:
  - (c) in the case of an inviting of applications – the closing date for receipt of applications and the place where applications must be lodged;
  - (d) in the case of a sale by auction or ballot – the date, time and place at which the auction or ballot will be conducted;
  - (e) in the case of a sale by tender – the closing date for the submission of tenders, and the place where they must be submitted;
  - (f) a general description of the lands and the nature of the interests that will be sold; and
  - (g) the place at which a member of the public may obtain details of the lands and the interests that will be sold.
- (2) A notice referred to in subsection (1) shall be published in the *Gazette* not earlier than 3 months or later than 28 days before the applications are to close or the sale is to take place.
- (3) Where the Minister proposes to include in a lease a provision by virtue of which the lessee may acquire or claim a right to an estate in fee simple or another lease, the description, referred to in subsection (1)(f), of the nature of the interests that will be sold shall include a reference to that right.
- (4) Where a notice referred to in subsection (1) relating to the sale of land by tender specifies a date as the closing date for the submission of tenders, the Minister may before that closing date, by notice in the *Gazette*, specify a later date as the closing date for the submission of those tenders and that later date so specified shall

be the closing date accordingly.

- (5) The Minister may include in a proposal for the sale by tender of an estate in fee simple in or a lease of Crown land an invitation for tenderers to submit proposals to the Minister in relation to the use of the land, the terms and conditions to which the sale should be subject and the covenants, if any, that should apply.
- (6) A tender for the purchase of an estate in fee simple in or a lease of Crown land may indicate the date until which the offer to purchase remains open but, notwithstanding that such a date is indicated, the offer may be withdrawn at any time before it is accepted.
- (7) Where the Minister proposes to sell an estate in fee simple in or a lease of Crown land by tender, the Minister may, before accepting an offer by tender, negotiate with a tenderer the terms and conditions to which the sale will be subject and the covenants, if any, that will apply.
- (8) The Minister is not bound to accept the highest, or any, tender for the purchase of an estate in fee simple in or a lease of Crown land offered for sale in pursuance of this section.
- (9) The Minister may withdraw land from sale at any time before a person obtains, or obtains a right to, an estate in fee simple in or a lease of that land, notwithstanding that the Minister has given notice under subsection (1) in relation to the land.

#### **14 Procedures at auctions, &c.**

- (1) The Minister shall determine:
  - (a) the procedures to be followed in conducting an auction or ballot or in calling for tenders in relation to the sale of an interest in Crown land; and
  - (b) the persons who will be eligible to bid at such an auction, to participate in such a ballot or to submit tenders for such a purpose.
- (2) For the purposes of subsection (1)(b), the Minister may:
  - (a) compile waiting lists of persons who want land; and
  - (b) determine factors to be considered in determining a person's position on such a waiting list and the weight to be given to each of those factors.
- (3) The conduct of an auction or ballot in relation to the sale of an interest in Crown land shall be open to the public.

## **15 Applications for leases or freehold**

Where the Minister invites applications for a lease or an estate in fee simple:

- (a) an application:
  - (i) shall be in a form approved by the Minister; and
  - (ii) shall be accompanied by a deposit of such amount as the Minister, in the notice under section 13 in relation to the estate in fee simple or lease, specifies;
- (b) notice of the names of the successful applicants together with particulars of the lands to be granted or leased to them and the rentals and such other particulars, if any, as the Minister thinks necessary shall be published in the *Gazette* and in a newspaper circulating in the area in which the land is situated; and
- (c) all moneys deposited by an unsuccessful applicant shall be repaid to the applicant within 21 days after the application is rejected.

## **16 Purchase price**

- (1) The Minister may determine that a purchase price is payable in respect of an estate in fee simple or a lease, with or without improvements, and, where the Minister does so, the Minister shall fix the purchase price or the reserve price, or determine the manner in which the purchase price shall be fixed, and may determine the amount or the percentage of the purchase price or reserve price that shall be paid by a successful purchaser on entering into a contract for the purchase of the estate in fee simple or the lease.
- (2) For the purposes of subsection (1), the Minister may require the Valuer-General to make a valuation of an area of land or of a proposed lease.

## **17 Payment of deposit**

Where the Minister has determined under section 16 that a deposit is payable in respect of the grant of an estate in fee simple or a lease, a person shall, on entering into a contract for the purchase of the land or the lease, as the case may be, pay the deposit to the Territory and, if the person does not complete the purchase as required by the contract, the deposit shall be forfeited to the Territory.

**18            Costs of survey, &c.**

The Minister may determine that the person to whom an estate in fee simple or a lease is granted shall pay an amount towards the costs of:

- (a) surveying the land the subject of the grant; and
- (b) preparation and registration of the grant,

and, where the Minister does so, the Minister may fix that amount or determine the manner in which the amount shall be fixed.

**Division 2            Estates in fee simple**

**19            Reservations and restrictive covenants**

- (1) The power of the Minister to grant an estate in fee simple includes power to grant it subject to such reservations (including the reservation of easements) and restrictive covenants, if any, as the Minister thinks fit.
- (2) At any time while the Territory is the registered proprietor of an estate in fee simple in land, the Minister may, by instrument lodged with the Registrar-General, declare that the land is or shall cease to be subject to a reservation, easement or restrictive covenant and, on the instrument being so lodged, the land shall be or cease to be, as the case may be, subject accordingly.
- (3) A reservation or restrictive covenant in favour of the Crown or the Territory is not and does not become ineffective by reason only that the Territory is or becomes the registered proprietor of the land that is the subject of the reservation, easement or covenant.

**20            Reservations relating to Aboriginal community living areas**

- (1) There is reserved to the Territory in every grant effected by section 46(1A) of the *Lands Acquisition Act* of an estate in fee simple to an association for the purposes of an Aboriginal community living area such interests (including the reservation of easements and easements in gross) as are reasonably necessary for the provision of essential services and facilities, being power (including gas), water, sewerage, road or communication services and facilities, to or across the land comprising the grant or access to any of them.
- (2) There is reserved to the Territory in every grant referred to in subsection (1) such interests (including the reservation of easements and easements in gross) as are necessary to provide

such services (including the provision of health, education and police services) as are agreed on between the association to which the grant is made, at any time after it is made, and the Minister.

## **21            Reservation of minerals**

- (1) An estate in fee simple, however acquired, is subject to a reservation to the Crown of all minerals, mineral substances and ores in or on the land including gems, stones, sands, valuable earths and fossil fuels, together with the right to authorise any person to enter upon the land to explore for and to mine or otherwise recover and remove them and to do all things necessary or convenient for those purposes.
- (2) The folio in the Register and the certificate as to title in relation to an estate in fee simple, however acquired, shall be construed as containing the reservation referred to in subsection (1).

## **22            Water rights**

The ownership of an estate in fee simple, whether acquired under this or any other Act, does not of itself confer on the owner any property in, or the right to the use or flow or to the control of, the water at any time in a lake, spring or watercourse on, in or under the land comprised in the estate or contained by, or forming part of, the boundaries of the land.

## **23            Maximum size of freehold grant**

The Minister shall not grant an estate in fee simple in an area of land greater than 150 square kilometres.

## **24            Development agreements**

- (1) The power of the Minister to sell land includes power to enter into an agreement relating to the development of the land or of land that includes that land.
- (2) An agreement entered into under subsection (1) shall include a provision that the party undertaking the development shall lodge with the Minister a bond, in a form and in an amount satisfactory to the Minister, as security that he or she will complete the development.
- (3) Where the Minister enters into an agreement under subsection (1), the Minister may thereupon:
  - (a) grant the estate in fee simple in the land; or

- (b) grant a licence to go onto the land and carry out the development, and bind himself or herself to grant the estate in fee simple on completion of the development, or progressively on completion of the various stages of development, or otherwise, including the grant, at the direction of the developer, to a person or persons other than the developer.
- (4) Where the Minister enters into an agreement under subsection (1) binding the proprietor of an estate in fee simple in land to subdivide the land, the land that is so required to be subdivided is, while it is not so subdivided, exempt from payment of rates under the *Local Government Act*.

## **25            Grant before payment**

Where the Minister grants an estate in fee simple to a person who is required to pay, but has not paid in full, in relation to the grant a purchase price or an amount under section 18, the Minister shall secure the out-standing balance, together with interest at such rate as is agreed between the parties, owing by mortgage.

## **Division 3            Leases**

### **26            Classes of crown leases**

Subject to this Act, a Crown lease that is granted under this Act shall be:

- (a) a lease for a term of years; or
- (b) a lease in perpetuity (being a lease that continues indefinitely).

### **27            General conditions of leases**

Subject to section 28, leases under this Act (other than leases under section 5) shall contain reservations, conditions and provisions as follows:

- (a) a reservation of a right of entry and inspection;
- (b) a reservation of all minerals, mineral substances and ores in or on the land, including gems, stones, sands, valuable earths and fossil fuels;
- (c) a reservation of a power of resumption;
- (d) a covenant to pay the rent annually in advance;
- (e) a covenant by the lessee that the lessee will, subject to this Act, use the land only for the purposes for which it is leased;



- (f) a provision that the lessee, having paid all rent due by the lessee at any time, in the manner prescribed, surrender the lease;
- (g) a provision that the lease shall be liable to forfeiture if the rent is unpaid for 6 months or more;
- (h) a provision that the lease shall, subject to this Act, be liable to forfeiture for non-compliance on the part of the lessee with a condition of the lease; and
- (j) any other reservations, conditions and provisions which are prescribed, or which are considered by the Minister to be necessary under the circumstances.

## **28        Fixing of rent**

- (1) The Minister may determine that rent is not payable in respect of a lease.
- (2) Subject to this Act the Minister shall, before any land is offered for leasing, unless rent is not payable in respect of the lease, fix the rent payable in respect of the first period of the lease.
- (3) Where rent is payable in respect of a lease, the rent is subject to re-appraisal in accordance with this Act.

## **29        Reduction of rent**

A lease may contain a provision for or in relation to reduction of rent.

## **30        Lease grant charges**

- (1) Subject to subsection (2), the Minister shall not grant a lease to a person until the person has paid in full as lease grant charges:
  - (a) if a purchase price is payable in respect of the lease – the purchase price;
  - (b) if an amount is payable under section 18 in respect of the lease – that amount; and
  - (c) if rent is payable in respect of the lease – the first year's rent.
- (2) The Minister may grant a lease to a person who is required to pay, but has not paid in full, in relation to the lease a purchase price or an amount under section 18 but, where the Minister does so, he or she shall secure the outstanding balance owing, together with interest at such rate as is agreed between the parties, by lease

covenant or by mortgage.

**31            Exemption from rates**

Where, in pursuance of a covenant contained in a lease, the lessee is required to subdivide land that is the subject of a lease, the land is, while it is not so subdivided, exempt from payment of rates under the *Local Government Act*.

**32            Failure to accept offer of lease**

- (1) Where a person is offered a lease and he or she fails, within such time as the Minister allows, to accept the offer or to pay an amount that is due and payable in respect of the lease, the Minister may, by notice in writing to the person, revoke the offer for the lease and retain all or such part as the Minister thinks fit of the money that the person has already paid in respect of the lease.
- (2) Where the Minister retains money in respect of a lease in pursuance of subsection (1) in circumstances where all or part of the money would be payable to an outgoing lessee, the Minister may pay all or part of the money to the outgoing lessee.

**33            Abandonment of right to lease**

A person who has a right to be granted a lease may, at any time before the lease is granted, by notice in writing to the Minister, and after paying all money, if any, due and payable in respect of the right, abandon the right.

**34            Variation of lease provisions**

The Minister may, in the Minister's discretion, on application in writing by the lessee, vary a reservation in or a condition or provision of a lease.

**35            Minister may grant a moratorium**

The power to vary a provision of a lease includes power to vary a provision for the purpose of allowing a moratorium.

**36            Noting variation of lease**

- (1) A variation of a reservation in or a term, condition or provision of a lease (including a variation referred to in section 56) does not have effect until notice in writing of the variation, in a form approved and signed by the Minister, is lodged with the Registrar-General.
- (2) On receipt of a notice referred to in subsection (1), the Registrar-General shall record the details in the Register.

### **37            Reservations in leases**

- (1) In a lease under this Act:
- (a) a reservation of a right of entry and inspection shall be read as a reservation of a right in favour of the Minister, or a person authorised in writing by the Minister, at all reasonable times and in a reasonable manner, to enter on the leased land or a part of it and to inspect the leased lands and any improvements, stock, and crops on it;
  - (b) a reservation of minerals shall be read as a reservation to the Crown of all minerals and extracted minerals within the meaning of the *Mining Act*, and all petroleum, within the meaning of the *Petroleum Act*, together with the right to authorise a person to enter on the land to mine, work for, win, recover and remove them or any of them, and to do all things necessary or convenient for those purposes;
  - (c) a reservation of a power of resumption shall be read as a power to resume the land in accordance with this Act; and
  - (d) a reservation of all timber shall be read as including all timber trees and all trees producing bark, resin or valuable substances together with the right to authorise a person to enter on the land and to cut or fell any timber or timber trees or trees producing bark, resin, or valuable substances, and to take away any timber, wood, bark, resin, or any such valuable substances and to do all things necessary or convenient for those purposes.
- (2) In a lease under this Act, a reservation in favour of the Aboriginal inhabitants of the Territory shall be read as a reservation permitting those Aboriginals:
- (a) who ordinarily reside on; or
  - (b) who, by Aboriginal tradition, are entitled to use or occupy,  
the leased land:
  - (c) to enter and be on the leased land;
  - (d) notwithstanding any other law of the Territory, to take and use the water from the natural waters and springs on the leased land; and

- (e) subject to any other law in force in the Territory:
  - (i) to take or kill for food or for ceremonial purposes animals *ferae naturae*; and
  - (ii) to take for food or for ceremonial purposes vegetable matter growing naturally,on the leased land,

but not permitting:

- (f) the Aboriginals referred to in paragraph (a) to erect or use a structure on the leased land that would serve as a permanent shelter for human occupation, other than at the place on the leased land where they ordinarily reside; or
- (g) the Aboriginals referred to in paragraph (b) to erect or use such a structure on the leased land.

- (3) Where a lease under this Act contains a reservation in favour of the Aboriginal inhabitants of the Territory a person shall not, without just cause, interfere with the full and free exercise, by the persons thereby entitled, of the rights reserved to them.

Penalty:        \$5,000.

- (4) For the purposes of subsection (3) **just cause** includes reasonable acts taken by or on behalf of a lessee or another person having an interest in a lease to ensure the proper management of the lease for the purposes for which it was granted.

### **38 Breach of conditions**

- (1) If the Minister is satisfied that a lessee has failed to comply with a condition of a lease, the Minister may give written notice of the breach to the lessee and require the lessee to furnish to the Minister, within the time specified in the notice, an explanation of why the lessee has not complied with the condition.
- (2) If the Minister, after considering an explanation furnished as required under subsection (1), is satisfied with the explanation, the Minister may waive the breach and may direct that the condition be complied with within such time as the Minister specifies in writing to the lessee.
- (3) If:
  - (a) an explanation is not furnished as required under subsection (1);

- (b) the Minister is not satisfied with the explanation furnished; or
- (c) the lessee fails to comply with the condition within the time specified under subsection (2),

the Minister may, in the Minister's discretion:

- (d) by notice in writing to the lessee, direct that the condition be complied with within such time as the Minister specifies in the notice; or
  - (e) if the Minister is satisfied that the non-compliance has been wilful and that the lessee has made no real effort to comply with the conditions, by notice in writing to the lessee, forfeit the lease.
- (4) If a lessee fails to comply with a notice under subsection (3)(d) within the time specified in the notice, the Minister shall forfeit the lease.

### **39 Forfeiture of mortgaged lease**

- (1) Where a lease is subject to a mortgage given for valuable consideration and registered under the Real Property Act, the Minister shall not cause notice of the forfeiture of the lease to be published in the *Gazette* in pursuance of section 87(1) until after the expiration of a period of 28 days after the Minister has caused notice of his or her intention to do so to be given to the mortgagee.
- (2) The Minister shall cause a copy of the notice under subsection (1) to be given to the lessee, and thereafter the lessee ceases, except with the consent in writing of the Minister, to be entitled to exercise any of the rights or powers conferred by the lease.
- (3) If, during the period of 28 days after receipt of a notice under subsection (1), or within such further time as the Minister allows, a mortgagee advises the Minister that the mortgagee wishes to exercise the mortgagee's power of sale, the Minister shall allow him or her after 6 months or such further time as, in the opinion of the Minister, is reasonable to exercise it.
- (4) Where the Minister allows a mortgagee time to exercise a power of sale, the Minister shall advise the mortgagee of the extent to which he or she is prepared to vary the requirements of the lease relating to development work, improvements and stocking and, where the Minister does so, he or she shall, if the lease is transferred following a sale, so vary those requirements.

- (5) Where a mortgagee exercises a power of sale of a lease after receipt of a notice under subsection (1) in relation to the lease:
- (a) the total of all amounts due and payable to the Territory by the lessee in relation to the lease up to and including the date of the sale is a debt due and payable to the Territory out of the proceeds of the sale, having priority before all debts secured by mortgage;
  - (b) the balance of the proceeds of the sale after payment of all debts and expenses payable out of those proceeds, being the amount that would otherwise be payable to the lessee, is a debt due and payable to the Territory and is not payable to the lessee; and
  - (c) on the transfer of the lease following the sale, the transferee holds the lease, as varied in pursuance of subsection (4), as though the action leading up to the forfeiture of the lease had not been commenced.

#### **40 Postponement of rent**

The Minister may, on the application of the lessee, if the Minister thinks fit, postpone the payment of the rent under a lease under this Act for such period, and on such terms, as are prescribed or as the Minister thinks fit.

#### **41 Release of lessees in case of hardship**

Where it is shown to the satisfaction of the Minister that the payment of the full amount of rent under a lease under this Act will entail serious hardship on the lessee, the Minister may remit the whole or a portion of such rent for such period and on such terms, as are prescribed or as the Minister thinks fit.

#### **42 Subdivision of lease, &c.**

- (1) A lessee may apply to the Minister for approval to subdivide the land included in his or her lease.
- (2) An application under subsection (1):
  - (a) shall be in writing; and
  - (b) shall be accompanied by a plan showing the manner in which it is proposed to subdivide the land.
- (3) The Minister may:
  - (a) approve the application; or

- (b) refuse the application.
- (4) The Minister shall notify the lessee of the Minister's decision in writing and, if the Minister has approved the application, the Minister shall specify in the notification:
- (a) the reservations, conditions and provisions to be included in each lease of the land if it is subdivided; and
  - (b) in respect of each of the portions into which the land is to be subdivided:
    - (i) the purchase price, if any, for the lease of the portion; and
    - (ii) the lease grant charges, if any, for a lease of the portion.
- (5) The lessee may:
- (a) if he or she has paid all rent due under the lease;
  - (b) if he or she accepts the reservations, conditions and provisions specified by the Minister; and
  - (c) if he or she has paid the purchase prices, lease grant charges, fees and deposits specified in the notification,
- surrender the lease and shall be granted a new lease for each of the subdivided portions of the land.
- (6) A surrender of a lease:
- (a) shall be made within 90 days after the date of the notification of the approval of the sub-division; and
  - (b) shall have effect from the date of commencement of the new leases.
- (7) A new lease granted under this section:
- (a) shall preserve the lessee's rights, if any, in respect of improvements on any land included in the new lease; and
  - (b) shall, in addition to the matters provided for elsewhere in this Act, contain the reservations, conditions and provisions which are specified in the notification under subsection (4).
- (8) This section applies subject to section 44.

**43 Surrender of leases and grant of consolidated lease**

- (1) Where a person is the lessee of land under a lease under this Act and is also the lessee, under another lease or other leases of the same kind as the first mentioned lease, of land which adjoins the first mentioned land, the person may apply to the Minister for the grant to the person of a new lease of all the land included in the first mentioned lease and of all the land included in the other lease or any of those other leases.
- (2) An application under subsection (1):
  - (a) shall be in writing; and
  - (b) shall be accompanied by a plan showing the land which it is desired to have included in the new lease.
- (3) The Minister may:
  - (a) approve the application; or
  - (b) refuse the application.
- (4) The Minister shall not approve an application under this section where the leases to be surrendered are for different purposes.
- (5) The Minister shall notify the person of the Minister's decision in writing and, if the Minister has approved the application, the Minister shall specify in the notification:
  - (a) the reservations, conditions and provisions that the new lease shall contain; and
  - (b) the purchase price, if any, for the new lease and the lease grant charges, if any, for the new lease.
- (6) The person may:
  - (a) if he or she has paid all rent due under each of the leases of the respective lands that are to be included in the new lease;
  - (b) if he or she accepts the reservations, conditions and provisions specified in the notification; and
  - (c) if he or she has paid the purchase price, lease grant charges, fees and deposits specified in the notification,

surrender each of the leases, and shall be granted a new lease for all the lands included in the leases so surrendered.



- (7) A surrender of a lease:
- (a) shall be made within 90 days after the date of the notification of the approval of the application; and
  - (b) shall have effect from the date of commencement of the new lease.
- (8) A new lease granted under this section:
- (a) shall be of the same kind of lease as the surrendered leases;
  - (b) shall preserve the lessee's rights, if any, in respect of improvements on any land included in the new lease;
  - (c) shall be for a period which will expire on the earliest date on which any of the surrendered leases would have expired; and
  - (d) shall, in addition to the matters provided for elsewhere in this Act, contain the reservations, conditions and provisions specified in the notification of the approval of the application.

#### **44 Subdivision applications where *Planning Act* applies**

- (1) This section applies to and in respect of land to which Part 7 of the *Planning Act* applies.
- (2) In this section, **subdivision** means subdivision within the meaning of the *Planning Act*.
- (3) A lessee may apply to the Minister for issue of estates in fee simple or new leases in respect of each lot created in a subdivision of the land.
- (4) The Minister shall, on receiving an application under subsection (3), by notice in writing, advise the lessee of:
- (a) the reservations, conditions and provisions to be included in the leases, if any, of the lots created by the subdivision; and
  - (b) in respect of each of the lots so created:
    - (i) the purchase price, if any, for the estate in fee simple or the lease of the lot; and
    - (ii) the lease grant charges, if any, for a lease of the lot.
- (5) Section 42(5), (6) and (7) apply to an application under subsection (3) in relation to the subdivision of land (other than town lands).

- (6) For the purposes of subsection (5), a reference in:
- (a) section 42(5)(c) to ***the notification***;
  - (b) section 42(6)(a) to ***the approval of the subdivision***; and
  - (c) section 42(7)(b) to ***the notification under subsection (4)***,
- shall be read as a reference to a notice under subsection (4).
- (7) Section 43(6), (7) and (8) apply to an application under subsection (3) in relation to the subdivision of land by the grant of a consolidated lease.
- (8) For the purposes of subsection (7), a reference in section 43(6), (7) and (8) to ***the notification*** and ***the notification of the approval of the application*** shall be read as a reference to a notice under subsection (4).
- (9) The Minister shall not grant an estate in fee simple or a new lease under this section in respect of a lot created by a subdivision unless the Minister is satisfied that:
- (a) any conditions to which a grant of the subdivision consent under Part 7 of the *Planning Act* was subject have been complied with; and
  - (b) a plan of the subdivision has been deposited in the office of the Surveyor-General in accordance with that Part.

#### **45 Surrender of land for reservation as a sanctuary**

- (1) A lessee under a lease granted under this Act may offer to surrender the lease, or a part of the land included in the lease, in order that the land the subject of the offer may be declared to be a sanctuary under the *Territory Parks and Wildlife Conservation Act*.
- (2) An offer to surrender made under subsection (1) shall be referred to the Minister, who may accept or reject it.
- (3) Notwithstanding any other law of the Territory, a surrender offered and accepted under this section shall:
- (a) be effective from the date of the acceptance of the surrender by the Minister; and
  - (b) not confer a right to compensation on the lessee who has surrendered the land.

- (4) Where the Minister accepts an offer to surrender made under this section, the Minister responsible for the administration of the *Territory Parks and Wildlife Conservation Act* shall declare the land in respect of which the surrender is accepted to be a sanctuary under that Act.

**46            Transfer, &c., of lease**

- (1) Except as provided by this Act, the lessee under a lease under this Act shall not, without the consent of the Minister:
- (a) transfer or mortgage the lease; or
  - (b) sub-let or otherwise part with the possession of the land or part of the land the subject of the lease.

**47            Consent to transfer, &c., of leases**

- (1) An application for consent to transfer or mortgage, or for consent to sub-let the land included in, a lease granted under this Act shall be made in writing to the Minister.
- (2) The Minister may grant or refuse consent to an application made under subsection (1).

**48            Consent not to be given in certain cases**

Notwithstanding anything contained in sections 46 and 47, the Minister shall not consent to the transfer of a lease until all instalments of the purchase price of the lease have been paid.

**49            Improvements on lands to be leased**

- (1) Where land which is available for leasing has on it improvements belonging to the Crown, the Minister may determine:
- (a) that the value of the improvements be taken into consideration in fixing the rent to be reserved under the lease; or
  - (b) that a lease of the land shall not be granted unless the proposed lessee agrees to make payment in respect of the value of the improvements.
- (2) The value of the improvements on land available for leasing for the purposes of this section shall be such amount as is determined by the Minister.

- (3) The amount so determined by the Minister as the value of the improvements shall:
  - (a) be specified as the purchase price of the improvements in the notice in relation to the land given under section 13(1); and
  - (b) be specified in the lease offered to the proposed lessee.
- (4) Where the value of the improvements is taken into consideration in fixing the rent to be reserved under the lease, the lease shall contain a recital to that effect and a covenant by the lessee to maintain the improvements in good and tenantable repair.
- (5) Where a proposed lessee agrees to make payment in respect of the value of the improvements on land to be leased to him, the Minister may permit the payment to be made by instalments, and, in that event, the lease shall, in addition to the matters provided for elsewhere in this Act:
  - (a) specify the amount of each instalment;
  - (b) specify the respective dates on which each instalment shall be payable;
  - (c) contain a covenant by the lessee to pay the value of the improvements by the instalments specified in the lease, and a provision that in the event of the surrender of the lease or of the forfeiture of the lease for the lessee's failure to pay the instalments or any amount due for interest or additional interest, the balance of the value of the improvements unpaid at the date of the surrender or forfeiture of the lease is an amount owing under the lease;
  - (d) contain a provision that the lessee shall, with each instalment, pay interest on the unpaid balance at such rate as the Minister from time to time determines and notifies in writing to the lessee;
  - (e) contain a provision that, if the amount of interest or any part of the interest so payable is not paid on or before the date on which it is payable, the lessee shall pay additional interest at such rates as the Minister from time to time determines and notifies in writing to the lessee on the amount of the interest unpaid;
  - (f) contain a covenant by the lessee that the lessee will maintain the improvements in good and tenantable repair until the payment has been made in full; and

- (g) contain a covenant that the lessee will keep the improvements insured as prescribed until payment has been made in full.
- (6) An amount payable under the lease that remains unpaid is a debt due by the lessee to the Territory charged on the land.
- (7) Where a lessee fails to pay an amount payable under the lease, other than the rent reserved by the lease, for a period exceeding 28 days after the date on which payment fell due, the Minister may, by notice in writing served on the lessee, require the lessee to pay, within 28 days after the date of the notice, the amount that the lessee has failed to pay.
- (8) Where a lessee fails to pay the amount specified in a notice under subsection (7), the Minister may, without prejudice to the Territory's right to sue for, and recover, the amount, by notice in writing to the lessee, forfeit the lease.
- (9) Where a lease is forfeited in pursuance of subsection (8) and the value, as determined by the Minister, of the improvements on the date on which the lease is forfeited, exceeds the total of:
  - (a) all amounts owing under the forfeited lease; and
  - (b) the costs, as determined by the Minister, of and incidental to, the forfeiture of the lease,the person whose lease has been forfeited is entitled to receive payment of the amount of the excess.
- (10) An objection may not be made to, and a request may not be made to the Minister to refer to the Land and Valuation Review Tribunal for review, a determination of the value of improvements made, for the purposes of this section, by the Minister.

## **50 Re-appraisal of rent, &c.**

- (1) This section applies to leases subject to re-appraisal of rent.
- (2) The rent payable under a lease to which this section applies shall, subject to this section and section 51, be re-appraised by the Minister during the tenth year of the term of the lease, and during each tenth year thereafter.
- (3) Unless the lessee has made an application under subsection (8), the Minister may, by notice in writing to the lessee, defer a re-appraisal of rent payable under a lease to which this section applies.

- (4) Where the Minister has deferred a re-appraisal, the Minister shall not carry out the re-appraisal until the notice under subsection (3) has been revoked.
- (5) When the deferment of the re-appraisal has been revoked, the Minister shall re-appraise the rent payable under the lease during the year of the term of the lease next after the date of revocation.
- (6) The rent payable under a lease to which this section applies is subject to re-appraisal under this section notwithstanding that a re-appraisal that should previously have been made has not been made.
- (7) The rent payable under a lease shall not be re-appraised unless notice in writing of the amount proposed to be the rent payable after the re-appraisal has been served on the lessee not earlier than 1 July in the year in which the rent is to be re-appraised under this section.
- (8) Where on 31 December in the year in which the rent is to be re-appraised under this section notice under subsection (7) has not been served on a lessee, the lessee may make application for the rent to be re-appraised at an amount specified in the application.
- (9) An application under subsection (8) shall be in writing addressed to and served on the Minister and shall state the reasons on which the lessee relies in support of the application.
- (10) On receiving an application under subsection (9), the Minister shall:
  - (a) consider the reasons set out in the application;
  - (b) determine the amount the Minister proposes to be the rent payable after the re-appraisal; and
  - (c) serve notice in writing on the lessee specifying that amount to be the amount the Minister proposes to be the rent payable after the re-appraisal.
- (11) Where the Minister, under this section, re-appraises the rent payable under a lease, the rent payable under the lease after the re-appraisal is the amount of rent specified in the notice under subsection (7) or subsection (10), as the case may be, served on the lessee or, if that amount of rent is varied under this Act, the amount of rent as finally determined under this Act.

- (12) The re-appraised rent in respect of a lease is payable on and from 1 July next succeeding:
- (a) the year of the term of the lease during which the rent is re-appraised in accordance with this section;
  - (b) the date on which notice is served on the lessee:
    - (i) in accordance with subsection (7), if the lessee does not make an application under subsection (8) or lodge an objection under section 83 to the re-appraised rent; or
    - (ii) in accordance with subsection (10)(c), if the lessee makes an application under subsection (8) and does not lodge an objection under section 83 to the re-appraisal of the rent; or
  - (c) the date on which the lessee lodges an objection under section 83 to the re-appraised rent,
- whichever is the latest.
- (13) The rent payable before re-appraisal shall continue to be the rent fixed by the lease or by the last preceding re-appraisal, as the case may be, until the re-appraised rent is payable.
- (14) In this section, **year** means a period of 12 months.

#### **51 Re-appraisal of rent based on unimproved value**

Where the rent payable under a lease to which section 50 applies is based on the unimproved value of the leased land, the Minister shall require the Valuer-General to re-appraise the unimproved value of the land.

#### **52 To whom lease may be granted**

A lease under this Act may be granted, transferred or assigned to a corporation or a person who has attained the age of 18 years.

#### **53 Recovery of rent**

All money payable to the Territory under this Act or under a lease granted under or continued in effect by this Act shall be recoverable by the Minister as a debt due to the Territory.

#### **54 Valuation of improvements**

- (1) Subject to this Act, where, under this Act, a person is entitled to receive payment for or in respect of improvements on land, the

Minister shall require the Valuer-General to determine the value of the improvements and the value so determined or, if the value is varied under this Act, the value as finally determined under this Act, is the value of those improvements for the purposes of ascertaining the amount payable to the person for or in respect of those improvements.

- (2) Where the Valuer-General, under subsection (1), determines the value of improvements, he or she shall give to the person entitled to be paid notice, in writing, of the value, together with a plan showing the improvements on the land.

### **55            Conversion to freehold, &c.**

A lease may contain a provision relating to the right of the lessee to surrender the lease as to all or part of the land contained in the lease in exchange for one or more estates in fee simple or one or more leases, or both.

### **56            Term of lease**

- (1) Where a lease is for a fixed term, the Minister may, in his or her discretion, extend the term or renew the lease for such further term as the Minister thinks fit.
- (2) An application for renewal of a lease or for extension of the term of a lease shall be made in writing before the commencement of the last year of the lease or before such later date as the Minister allows.

### **57            Leases for subdivisational work**

The grant of a lease for the purposes of subdivisational work does not absolve the lessee from a requirement to obtain the consent of a consent authority under the *Planning Act* to the subdivision.

### **58            Lessee's rights in improvements**

A lease may contain provisions relating to the lessee's rights in improvements.

### **59            Valuation of improvements**

Where the Minister and a lessee are unable to agree on the value to the Territory of improvements, for the purposes of compensation that should be paid to a lessee for improvements, the Minister shall require the Valuer-General to determine that value.



## Division 4 Easements

### 60 Definitions

In this Division:

**Crown lease** means a lease granted by the Minister under a law of the Territory relating to the leasing of Crown land.

**easement** means a right annexed to land, whether the subject of a Crown lease or not, to use other land, whether the subject of another Crown lease or not, in a particular manner or to prevent land, whether the subject of another Crown lease or not, from being used in a particular manner but does not include a right to take any part of the soil or the produce of other land.

**easement in gross** means a right in the nature of an easement which is not annexed to particular land.

**lease** includes a pastoral lease.

**servient tenement** means land the use of which is authorised or restricted by an easement or an easement in gross.

### 61 Power of minister to grant, &c., easements

- (1) A power conferred on the Minister by a law of the Territory to grant an estate in fee simple in Crown land or a lease of Crown land or reserved or dedicated land includes a power to grant an easement annexed to the land comprised in the estate so granted or the lease or to reserve an easement in gross over that land.
- (2) The power of the Minister to grant an easement annexed to leased land or to reserve over leased land an easement in gross may be exercised when the lease is granted or at any time during the term of the lease.
- (3) The power of the Minister to grant an easement annexed to land granted for an estate in fee simple may be exercised at any time.
- (4) The power of the Minister to reserve an easement in gross over land granted for an estate in fee simple may be exercised only at the time of granting the estate.
- (5) Where an easement referred to in this section is granted or reserved over Crown land as servient tenement or a licence is granted under section 93 over such land, the Minister shall not:
  - (a) in the case of Crown land which is not the subject of a lease – grant a lease of, or an estate in fee simple in, that land; or

- (b) in the case of Crown land which is the subject of a lease – grant another lease of, or an estate in fee simple in, that land,

unless at the time of granting the lease or estate in fee simple the Minister reserves from that lease or estate in fee simple an easement of the same nature and for the same benefit as that granted or reserved.

- (6) Nothing in this section empowers the Minister to acquire land or an interest in land.

## **62            Power of freeholder or lessee to grant easement**

An easement annexed to land comprised in a Crown lease may be granted to the lessee of that Crown lease by:

- (a) a registered proprietor of an estate in fee simple over land comprised in that estate; or
- (b) the lessee of any other Crown lease, over land comprised in that Crown lease.

## **63            Power of freeholder or lessee to grant easement in gross**

- (1) An easement in gross may be granted to a person, or a member of a class of persons, who or that is prescribed by the Minister under subsection (2), by:
  - (a) a registered proprietor of an estate in fee simple, over land comprised in that estate; or
  - (b) the lessee of a Crown lease, over land comprised in his or her lease.
- (2) The Minister may, by notice in the *Gazette*, prescribe a person or a class of persons for the purposes of subsection (1).

## **64            Manner of granting easements and easements in gross**

- (1) An easement may be:
  - (a) granted or reserved under section 61 by the instrument of lease or by a separate instrument in writing; or
  - (b) granted under section 62, by an instrument in writing.
- (2) An easement in gross may be granted by an instrument in writing.
- (3) An easement or easement in gross shall describe the servient tenement and shall describe the land to which it is annexed or, in the case of an easement in gross, the person who is entitled to it.

**65 Description of certain easements, &c.**

- (1) Without limiting the power that he or she may have under any other law in force in the Territory, but subject to subsection (1A) and section 68, the proprietor of an easement or easement in gross of a type described in a folio of the Register under the *Real Property Act* by a description in Schedule 1 shall have the use and benefit of the easement or easement in gross for the purposes specified in relation to that description and, for those purposes, has for himself or herself and his or her agents, servants and workmen, all the powers described in that Schedule in relation to that use.
- (1A) Without limiting the power that he or she may have under any other law in force in the Territory but subject to sections 68 and 108(1), the proprietor of an easement or easement in gross of a type described immediately before the commencement of the *Statute Law Revision Act 1998* in a folio of the Register under the *Real Property Act* by a description in Schedule 1 has the use and benefit of the easement or the easement in gross for the purposes specified in relation to that description and, for those purposes, has for himself or herself and his or her agents, servants and workers, all the powers described in Schedule 1 as in force immediately before that commencement.
- (2) A pipe, duct, wire, pole or other thing attached to or constructed on, under or above the surface of, land to which an easement or easement in gross referred to in subsection (1) or (1A) relates for or in relation to a relevant purpose described in Schedule 1 is to be taken not to be a fixture to the land for the purpose of giving the proprietor of the land a proprietary interest in it.

**66 Powers of others in relation to easements in gross**

A person to or for whom an easement in gross is granted or reserved under this Division may allow any other person (himself or herself or by his or her agents, servants or workmen) to enter on and do anything on the land to which the easement relates that the person to or for whom it was granted or reserved can do as the proprietor of the easement, and the proprietor of the land shall not hinder or obstruct a person entering on or doing anything on the land in pursuance of the authority of the proprietor of the easement.

**67 Rights and duties run with the land**

- (1) The rights conferred by an easement pass to the transferee of the land or of the lease of the land to which it is annexed.

- (2) The duties imposed by an easement or an easement in gross pass to the transferee of the land or of the lease of the land that is the servient tenement.

**68 Conditions as to easements**

The enjoyment of the rights conferred by an easement or easement in gross is subject to the conditions, if any, specified in the grant or reservation.

**69 Extinction of easements**

An easement is extinguished:

- (a) by the expiry or sooner determination of the lease to which it is annexed;
- (b) by the expiry or sooner determination of the lease of the servient tenement; or
- (c) by a deed of revocation made by the lessee of, or the registered proprietor of an estate in fee simple in, the land to which it is annexed and the lessee of, or the registered proprietor of an estate in fee simple in, the servient tenement.

**70 Extinction of easements in gross**

An easement in gross is extinguished only:

- (a) when it is surrendered:
  - (i) by the Territory; or
  - (ii) by the grantee (not being the Territory) or the grantee's successor in title; or
- (b) in the case of an easement in gross granted over land comprised in a Crown lease, by the expiry or sooner determination of the lease of the servient tenement.

**71 Registration of extinction of easement in gross**

Where the Registrar-General is satisfied that an instrument lodged with the Registrar-General has the effect of extinguishing an easement or easement in gross, the Registrar-General shall record the details in the Register.

**72 Saving of existing law relating to easements**

The provisions of this Division are in addition to the law relating to easements which was in force in the Territory before the commencement of this Act and are not in substitution or derogation of that law except where it is in conflict with those provisions.

**Part 4 Vesting of fee simple in roads****73 Vesting of fee simple in roads**

(1) Where:

- (a) the whole of an area of land is a road or mall or a part of a road or mall;
- (b) no person other than the Territory has an interest registered under the *Real Property Act* in the land as lessee or as the proprietor of an estate in fee simple; and
- (c) a local government council has lodged with the Minister a plan of survey of the land, together with a request that an estate in fee simple in the land be vested in it,

the Minister may, in the name of the Territory, declare that an estate in fee simple in the land is vested in that council and forward a copy of the declaration to the Registrar-General.

- (2) The Minister shall cause a copy of a declaration under subsection (1) to be published in the *Gazette* within 28 days after the declaration is made.
- (3) A declaration under subsection (1) has effect according to its tenor.

**74 Indefeasibility of title**

Nothing contained in this Act or in the *Local Government Act* affects the provisions of the *Real Property Act* relating to indefeasibility of title in their application to and in relation to land on which there is a road or mall or a part of a road or mall.

**75 Title of and use by persons who have an interest in land**

- (1) Subject to subsection (3), the power of a person who has an interest in land on which there is a road or mall or a part of a road or mall does not include power to deal with it or use it, or permit it to be used, in a manner inconsistent with the use of the road or mall according to its status as a road or mall.

- (2) Subject to subsection (3), nothing contained in the *Control of Roads Act* or the *Local Government Act* operates to limit the power of a person who has an interest in land to deal with the land under the *Real Property Act*, but neither the vesting or registration of title to land nor a dealing with land under the *Real Property Act* affects the status of a public road or mall for the purposes of a law in force in the Territory or divests the person in whom a road, or the care, control and management of land, is vested by virtue of the *Control of Roads Act* or the *Local Government Act*:
- (a) of the road as a road; or
  - (b) of a power, function, right or obligation in relation to the road or mall as a road or mall, as the case may be.
- (3) Where under section 73 land is vested in a local government council and the council has an interest as lessee of or as the proprietor of an estate in fee simple in land contiguous to that land, the council may, with the approval in writing of the Minister, where the Minister is of the opinion that by its so doing vehicular traffic across the land will not be prevented:
- (a) erect on the land such things:
    - (i) as are necessary for the support of structures erected over the land or on that contiguous land; or
    - (ii) as are necessary or convenient to facilitate and control access to and egress from that contiguous land; and
  - (b) notwithstanding the *Control of Roads Act*, use the land in such manner as it thinks fit to facilitate the use of a structure erected over the land, or on that contiguous land, for the purpose for which it was so erected.
- (4) Neither the vesting or registration of title to land nor any dealing with land affects the rights of the Territory, the Commonwealth, a public authority of the Territory or a public authority of the Commonwealth to use a road or mall for the provision and maintenance of services or for any other public purpose.

## **Part 5                    Reservations and resumptions**

### **76                    Resumption and reservation of Crown land**

- (1) Subject to this Act the Administrator may, at any time, by proclamation:
- (a) resume any Crown lands the subject of a lease except a lease under the *Mining Act* or the *Pastoral Land Act*.
    - (i) for the use and benefit of the Aboriginal inhabitants of the Territory;
    - (ii) for forestry and re-forestation;
    - (iii) for stock routes and travelling stock;
    - (iv) for the recreation or amusement of the public;
    - (v) for railways, roads or drainage;
    - (vi) for water conservation purposes;
    - (vii) for the protection or conservation of wildlife;
    - (viii) for fisheries or fishing;
    - (ix) for the conservation of native flora;
    - (x) for national or public parks or gardens;
    - (xi) for purposes relating to a local government area;
    - (xii) for the preservation or protection of places of historic interest;
    - (xiii) for cultivation purposes; or
    - (xiv) for such other purposes in relation to the Territory as the Minister thinks fit;
  - (b) reserve for the purpose for which they are resumed the whole or a part of the lands so resumed;
  - (c) reserve for a purpose mentioned in paragraph (a) unalienated Crown lands; or

- (d) revoke wholly or in part a reservation of land whether made before or after the commencement of this Act and whether made in pursuance of this Act or any other law of the Territory in force at any time prior to the commencement of this Act.
- (2) The power to resume land under subsection (1) includes a power to resume part of the land the subject of a lease.
- (3) Land shall not be resumed for cultivation purposes if it is the subject of a lease for agricultural purposes.
- (4) The purpose specified in subsection (1)(a)(i) for which land may be reserved under this section includes (but without limiting the generality of the expression of that purpose in that subparagraph):
  - (a) the use by Aborigines of the natural waters and springs on unleased land within the reserved land;
  - (b) subject to any other law of the Territory, the taking or killing for food by Aborigines of fish, birds and animals *ferae naturae* on such unleased land or in those waters or springs; and
  - (c) the taking by Aborigines for food of vegetable matter growing naturally on such unleased land or in those waters or springs.
- (5) Where land has been reserved for a purpose specified in subsection (1)(a)(i), (iv), (vii), (ix), (x) or (xii), the reservation of the land or any part of it shall not be revoked unless the Minister has, in accordance with this section, made to the Administrator a recommendation in writing that it be revoked.
- (6) The Minister shall not make a recommendation referred to in subsection (5) unless the Legislative Assembly has, in accordance with this section, approved that the Minister do so.
- (7) The Minister shall lay a copy of the proposed recommendation before the Legislative Assembly.
- (8) If:
  - (a) within 6 sitting days of the Legislative Assembly after the Minister has laid such a copy before it, no notice of motion that the Legislative Assembly disapprove the recommendation has been given; or
  - (b) a notice of motion that the Legislative Assembly disapprove the recommendation has been given within that time, and the motion has been moved and defeated by the Legislative Assembly,



the Legislative Assembly shall be deemed to have approved in accordance with this section that the Minister make the recommendation to the Administrator but in any other case it shall be deemed not to have done so.

#### **77 Resumption of part of land the subject of a lease**

- (1) Where part of the land the subject of a lease is resumed:
  - (a) the Minister shall forward to the Registrar-General a copy of the proclamation by which the land was resumed;
  - (b) the lease continues in force as to the part of the land which has not been resumed; and
  - (c) the Minister may, on the application of the lessee, alter, vary or modify the terms or conditions of the lease in its application to the part of the land which has not been resumed.
- (2) Where the Minister has altered, varied or modified the terms or conditions of a lease under subsection (1) the Minister shall lodge with the Registrar-General a copy of the instrument which effects the alteration, variation or modification.

#### **78 Control and management of reserved land**

- (1) Land which has been reserved for a purpose specified in section 76(1) may be managed, regulated or controlled in the manner provided by section 79 or by an Act that provides for the regulation, management or control of the land or, if there is no such Act, in such manner as is prescribed by the Regulations.
- (2) Where land which has been reserved under section 76 is not managed, regulated or controlled in accordance with section 79, and no Act or Regulations prescribe the manner in which it is to be managed, regulated or controlled, the land may be managed, regulated or controlled in such manner and by such persons as the Minister directs.
- (3) For the purposes of this section, **Act** includes an Act of the Commonwealth.

#### **79 Appointment, &c., and powers of trustees**

- (1) Where land has, before or after the commencement of this Act, been reserved for the recreation or amusement of the public or for any other public purpose, the Minister may, by notice in the *Gazette*, appoint to be trustees of the land so reserved not less than 3 nor more than 7 persons, as the Minister thinks fit, and may appoint one of the trustees to be Chairman of the trustees.

- (2) The Minister may, by notice in the *Gazette*, terminate the appointment of a trustee.
- (3) The office of a trustee shall become vacant if the trustee:
  - (a) becomes bankrupt or insolvent, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her salary or other remuneration for their benefit;
  - (b) becomes permanently incapable of performing the duties of office;
  - (c) is convicted of an offence punishable by imprisonment for a period exceeding 6 months; or
  - (d) resigns office by writing under his or her hand addressed to the Minister.
- (4) Where the office of a trustee becomes vacant or a trustee dies, or an appointment of a trustee is terminated, the Minister may, by notice in the *Gazette*, appoint a person to the vacant office.
- (5) The persons for the time being holding office as trustees shall be a body corporate.
- (6) All bodies corporate constituted in pursuance of this section shall, under their respective corporate names, as determined by the Minister, have perpetual succession and a common seal and shall be capable of suing and being sued.
- (7) The trustees of land reserved as referred to in subsection (1) shall, at such times as the Minister directs, forward to the Minister, a report on the administration of the trust and on such matters in connection therewith as the Minister from time to time specifies, and shall furnish to the Minister a statement of revenue received and expenditure made during such period as the Minister specifies.
- (8) Notwithstanding this Act or any law in force in the Territory, the trustees of land so reserved as referred to in subsection (1) may use or authorise other persons to use the land for sporting or other functions, and may charge or authorise other persons to charge for the admission of persons and vehicles to the land or a part of the land when the land is so used.

- (9) The trustees of any land reserved as referred to in subsection (1) or for any other public purposes certified by the Minister to be a like purpose, may make by-laws, not inconsistent with this Act for the control and management of the reserve and, in particular, providing for or in relation to:
- (a) the times at which the reserve or portions of the reserve shall be open and closed;
  - (b) the conduct of persons when on the reserve;
  - (c) the days on which, and the limits within which, sports and games, or training for sports and games, may be permitted on the reserve and otherwise regulating or prohibiting sports and games, or training for sports and games, on the reserve;
  - (d) the prevention or the regulation of the admission of vehicles or animals to the reserve, and for the destruction of such animals if trespassing on the reserve;
  - (e) the speed of vehicles and the parking of vehicles within the reserve;
  - (f) the prohibition or the regulation of the sale or display for sale of goods, wares or merchandise on the reserve;
  - (g) the prevention of damage or injury to, or destruction of, trees and other vegetation on the reserve;
  - (h) the prevention of damage or injury to, or destruction or defacement of, buildings, structures or erections or natural features on the reserve;
  - (j) the prevention of nuisances on the reserve;
  - (k) the charging of fees by the trustees, or by other persons, for admission to the reserve or a part of the reserve;
  - (m) the authorisation of persons to demand the names and information as to the place of abode of persons who are believed on reasonable grounds to have contravened or failed to comply with a by-law and requiring persons to comply with such a demand made by a person so authorised;
  - (n) the removal from the reserve of persons who are believed, on reasonable grounds, to have contravened or failed to comply with a by-law; and
  - (p) the imposition of penalties, not exceeding \$500, for the contravention of, or failure to comply with, a by-law.

- (10) A by-law made under subsection (9) shall be signed by the Chairman of the trustees and section 57 of the Interpretation Act does not apply to or in relation to it.
- (11) Where:
- (a) a by-law has been made in relation to a reserve under this section and is in force; and
  - (b) there is an inconsistency between a by-law and the *Crown Lands (Recreation Reserve) Regulations* in force at the date of commencement of this Act or regulations under this Act amending or in substitution for those Regulations, the by-law prevails.

## **80 Notice of resumption**

- (1) Land shall not be resumed under section 76 unless notice in accordance with this section has been given by or on behalf of the Minister to the lessee of the land that it is proposed to recommend the resumption of the land under that section.
- (2) Where the lease relating to land to be resumed under section 76 contains a provision that a period, specified in the instrument, of notice of intention to resume shall be given, the period of notice shall be the period so specified.
- (3) Where the lease relating to land to be resumed does not contain a provision that a period of notice of intention to resume shall be given and the land is to be resumed for any of the purposes specified in subparagraphs (i) to (xii) (inclusive) and (xiv) of section 76(1)(a), the period of notice shall be 6 months.
- (4) Where the lease relating to land to be resumed under section 76 does not contain a provision that a period of notice of intention to resume shall be given and the land is to be resumed for cultivation purposes the period of notice shall be 2 years.
- (5) Notice of intention to resume may be given to the lessee by post.

## **81 Cancellation of lease as regards resumed land**

- (1) A notification by the Minister and published in the *Gazette* that land included in a lease has been resumed is conclusive evidence of the fact and shall have effect to cancel the lease as regards the land resumed, and to reduce the rent for the remainder of the land proportionately to the extent of the resumption.
- (2) Where a portion of the land included in a lease is resumed under section 76 and the lease contains a covenant by the lessee to

comply with the requirements of the lease as to developmental work and improvements, the Minister shall, within 28 days after the notification referred to in subsection (1), review the requirements of the lease having regard to the nature and area of the lands remaining subject to the lease, determine the extent to which the requirements shall be varied and give notice, in writing, of that determination to the lessee.

- (3) Where the Minister, under subsection (2), gives notice of a determination to a lessee, the requirements of the lease as to developmental work and improvements shall be taken to be varied:
- (a) if the determination is varied under this Act – in accordance with that determination as so finally varied; and
  - (b) in any other case – in accordance with the determination,

as from the date on which the determination is so varied or as from the date of the determination, as the case may be.

## **82 Compensation for resumption**

- (1) Where land included in a lease is resumed under section 76, the lessee is entitled to compensation for the improvements on the resumed land that are the property of the lessee and:
- (a) if part only of the leased land is resumed, for the depreciation in the value of the lease by reason of the resumption; or
  - (b) if the whole of the leased land is resumed, for the loss of the lease,

assessed in accordance with this section.

- (2) If the lease specifies the manner in which and the matters in respect of which compensation shall be assessed, the compensation shall be assessed in the manner and with respect to the matters so specified.
- (3) If the lease does not specify the manner in which and the matter in respect of which compensation shall be assessed, the Minister shall require the Valuer-General to assess the compensation to which, under this section, the lessee is entitled.
- (4) In making an assessment under this section, the Valuer-General:
- (a) shall not take into account any increased value of the resumed land arising from the construction of public works or from a proposal to construct public works; and

- (b) shall set off any increase, by reason of such construction or proposal, in the value of the part of the leased land that is not resumed against the amount at which the Valuer-General would otherwise have assessed compensation.
- (5) The Valuer-General shall give the lessee notice in writing of an assessment under this section.
- (6) As soon as practicable after the resumption, the Minister shall pay to the lessee an amount equal to the compensation assessed in accordance with this section or, if that compensation is varied under this Act, an amount equal to the compensation as finally determined under this Act.

## **Part 6                      Objections and reviews**

### **83                      Objections**

- (1) Subject to section 49, where the Minister or the Valuer-General gives to a person notice:
  - (a) of the re-appraisalment of the rent of a lease;
  - (b) of a determination of the value of improvements on land comprised in a lease or licence under this Act;
  - (c) of a determination under section 81;
  - (d) of an assessment of compensation under section 82; or
  - (e) of the forfeiture of a lease under this Act,

the person may, within the prescribed period after receipt of the notice or within such extended period as the Minister or the Valuer-General, as the case may be, allows, send by post to, or lodge with, the Minister or the Valuer-General, as the case may be, at his or her office, an objection to the re-appraisalment, determination, assessment or forfeiture specifying the grounds of objection.
- (2) For the purposes of subsection (1), the prescribed period is:
  - (a) in the case of a re-appraisalment of rent – 3 months;
  - (b) in the case of an assessment of compensation – 6 months; and
  - (c) in the case of a determination or forfeiture – 28 days.

- (3) The Minister or the Valuer-General shall, within 28 days after receiving an objection, consider the objection and may disallow it or allow it in whole or in part and shall forthwith give to the objector notice of his or her decision on the objection.

#### **84 Applications for review**

- (1) An objector who is dissatisfied with:
  - (a) a decision of the Minister or the Valuer-General on an objection to a re-appraisal, determination or assessment referred to in section 83(1); or
  - (b) a decision of the Minister to disallow an objection to the forfeiture of a lease under this Act,

may, within 28 days after receipt of the notice of the decision, by writing, request the Minister or the Valuer-General, as the case may be, to refer the decision to the Land and Valuation Review Tribunal for review.

- (2) On receipt of a request under subsection (1), the Minister or the Valuer-General shall refer the decision to the Tribunal.
- (3) On a reference under subsection (2), the objector is limited to the grounds stated in the objection.

#### **85 Powers of Tribunal**

- (1) Where the Tribunal reviews a decision of the Minister or the Valuer-General on an objection to a re-appraisal, determination or assessment referred to in section 83(1), it has all the powers of the Minister or the Valuer-General, as the case may be, in making the re-appraisal, determination or assessment.
- (2) Where the Tribunal reviews a decision of the Minister to disallow an objection to the forfeiture of a lease under this Act, it may confirm or annul the notice forfeiting the lease to which the decision relates.
- (3) Sections 27 to 29 (inclusive) and section 31 of the *Valuation of Land Act* apply to and in relation to a reference to the Tribunal under this Act and the decision of the Tribunal on the reference in like manner as they apply to and in relation to a reference to the Tribunal under that Act and the decision of the Tribunal on the last-mentioned reference.
- (4) For the purposes of section 28 of the *Valuation of Land Act* in its application to a reference to the Tribunal under this Act:
  - (a) the person requesting the reference;

- (b) in the case of a reference of a decision of the Minister – the Minister; and
- (c) in the case of a reference of a decision of the Valuer-General – the Valuer-General,

are parties to the reference.

- (5) When the Tribunal gives its decision it shall, at the same time, certify the amount which, in its opinion, would be a reasonable amount to be paid by the Minister or the Valuer-General or by the other party to the reference in respect of costs incurred by the reference to the Tribunal.
- (6) An amount certified under subsection (5) is recoverable as a debt due and payable by the Minister, the Valuer-General, or by the other party to the reference, as the case may be.

## **86 Validity of re-appraisements, &c.**

The validity of a re-appraisal, determination or assessment referred to in section 83(1) is not affected by:

- (a) a failure to give notice of the re-appraisal, determination or assessment;
- (b) the lodging of an objection to the re-appraisal, determination or assessment;
- (c) a failure to give notice of a decision on an objection to the re-appraisal, determination or assessment; or
- (d) a reference to the Tribunal of a decision on an objection to the re-appraisal, determination or assessment.

## **87 Notice of forfeitures of leases**

- (1) Where:
  - (a) the Minister gives a notice under this Act forfeiting a lease and the person entitled to object does not, within 28 days after receiving the notice, object to the forfeiture of the lease;
  - (b) the Minister gives, under section 83, notice of the Minister's decision to disallow an objection to the forfeiture of a lease under this Act and the objector does not, within 28 days after receiving the notice, request the Minister to refer the decision to the Tribunal for review; or



- (c) on the review of a decision to disallow an objection to the forfeiture of a lease under this Act, the Tribunal confirms the notice forfeiting the lease,

the Minister may cause notice of the forfeiture to be published in the *Gazette*.

- (2) The forfeiture of a lease under this Act is not effective until a notice of the forfeiture is published in the *Gazette* in pursuance of subsection (1).
- (3) A notice published in the *Gazette* in pursuance of subsection (1):
- (a) has the same effect as a re-entry and recovery of possession by or on behalf of, the Territory; and
  - (b) is conclusive evidence that the lease to which the notice relates has been forfeited.
- (4) The Minister shall lodge with the Registrar-General a copy of each notice of the forfeiture of a lease published in the *Gazette* in pursuance of subsection (1).

## **Part 7                    Licences**

### **88                    Grazing licences**

- (1) The Minister may, under and subject to the Regulations, grant licences to persons to graze stock or a particular kind of stock, on Crown lands that are not held under a lease or licence granted under this or any other Act or on reserved or dedicated lands, for such period, not exceeding 12 months, as is prescribed.
- (2) Subsection (1) does not authorise the grant of a licence in relation to:
- (a) reserved lands within the boundaries of a local government area, being reserved lands that have been placed under the trusteeship of the council of that local government area;
  - (b) lands reserved under section 76 for stock routes and travelling stock;
  - (c) subject to paragraph (b), reserved lands within the boundaries of a town that have been reserved for a public purpose under section 76, unless the trustees of the reserved land recommend the grant;

- (d) lands reserved for the use and benefit of the Aboriginal inhabitants of the Territory;
- (e) lands reserved for forest reserves or for the purposes of afforestation and silviculture; or
- (f) reserved lands that have been committed to the care, control and management of the Conservation Commission, unless that Commission recommends the grant.

**89 Improvements on land in respect of which grazing licences are held**

- (1) The holder of a licence to graze stock on land specified in the licence may apply to the Minister for permission to make or erect specified improvements on the land.
- (2) The Minister may, in the Minister's absolute discretion:
  - (a) grant the application unconditionally;
  - (b) refuse the application; or
  - (c) grant the application subject to such conditions as the Minister thinks fit.
- (3) Where:
  - (a) the Minister grants the application subject to conditions; and
  - (b) the holder does not comply with those conditions,the improvements shall be deemed not to be made or erected with the permission of the Minister.
- (4) Where:
  - (a) a licence to graze stock on land, other than land reserved for the use and benefit of the Aboriginal inhabitants of the Territory, expires or is determined;
  - (b) the person to whom the licence was granted is not:
    - (i) granted a renewal of the licence;
    - (ii) granted a further licence to graze stock on the land or on other land which includes the land; or
    - (iii) granted a lease of the land or other land which includes the land; and

- (c) the person to whom the licence was granted has, with the permission of the Minister, made or erected, during the currency of the licence or a previous licence in respect of the same land, improvements on the land or has paid to the Commonwealth or the Territory the value of the improvements on the land,

the person to whom the licence was granted is entitled to be paid, as compensation for the improvements, an amount equal to the value of the improvements immediately after the expiration or determination of the licence.

## **90 Occupation licences**

- (1) The Minister may, under and subject to the Regulations, grant a licence to a person to occupy particular Crown lands for such purposes as the Minister thinks fit.
- (2) Licences granted in pursuance of subsection (1) may be for such period not exceeding 5 years as is prescribed.

## **91 Miscellaneous licences**

- (1) The Minister may grant licences to go on Crown lands, or lands subject to a lease granted, whether before or after the commencement of this Act, on behalf of the Crown, or dedicated or reserved lands, and to take from the land:
  - (a) live or dead timber or wood;
  - (b) stone, shell, sand, gravel, clay or earth, not being or supposed to be metalliferous;
  - (c) salt;
  - (d) seaweed;
  - (e) bark; and
  - (f) any other substance or article the property of the Territory.
- (2) Licences in pursuance of this section shall not be granted for a period longer than 12 months.
- (3) Subsection (1) does not authorise the grant of a licence in relation to:
  - (a) reserved lands within the boundaries of a local government area, being reserved lands that have been placed under the trusteeship of the council of that local government area;

- (b) reserved lands within the boundaries of a town which have been reserved under section 76 for a public purpose unless the trustees of the land recommend the grant;
- (c) lands reserved for the use and benefit of the Aboriginal inhabitants of the Territory;
- (d) lands reserved for forest reserves or for the purposes of afforestation and silviculture;
- (e) reserved lands that have been committed to the care, control and management of the Conservation Commission, unless the Commission recommends the grant; or
- (f) lands included in a lease where the substance to be taken from the land under the licence is not reserved to, or the property of, the Crown.

## **92 Licences in respect of reserved land**

- (1) The Minister may grant to a person for a period not exceeding 12 months a licence authorising the use and occupation of land which has been reserved for a purpose specified in section 76(1)(a)(iv), (x) or (xiv).
- (2) A licence granted under this section:
  - (a) is determinable upon 28 days notice in writing under the hand of the Minister or a person authorised by the Minister;
  - (b) does not confer on the licensee an exclusive right of possession of the land; and
  - (c) is subject to such terms and conditions (including the payment of the rent) as are endorsed on it.

## **93 Licences relating to supply of services**

- (1) The Minister may grant to a person a licence to go onto Crown land (including Crown land reserved under section 76), other than Crown land in respect of which a lease is in force, and construct on the land such work as is specified in the licence, for the purpose of supplying to, through or across the land a service of a kind referred to in Schedule 1.
- (2) A licence granted under subsection (1) is subject to such terms and conditions as the Minister thinks fit and specifies in the licence document.

**94 Fees, terms and conditions**

- (1) The fees payable in respect of a licence (other than a licence granted under section 92 or 93) are the fees prescribed under section 8, or such other fees, not exceeding those, if any, so prescribed, as the Minister thinks fit and specifies in the licence document.
- (2) A licence granted under this Act (other than a licence granted under section 92 or 93) is subject to such terms and conditions as are prescribed in the Regulations, or such other terms and conditions, not inconsistent with those, if any, so prescribed, as the Minister thinks fit and specifies in the licence document.

**Part 8 Miscellaneous****95 Constitution of counties, hundreds and town lands**

- (1) The Administrator may, by notice in the *Gazette*, constitute and define the boundaries of counties, hundreds and towns.
- (2) The Administrator may, by notice in the *Gazette*, set apart as town lands any Crown land within the boundaries of a town.

**96 Declaration of routes for travelling stock**

The Minister may, by notice in the *Gazette*, declare routes, not exceeding 1,610 metres in width, through Crown lands or reserved or dedicated land, whether or not that land is held under licence or lease granted under this or any other Act, to be routes for the passage of travelling stock.

**97 Persons authorised may conduct auction sales without licence**

A person authorised in writing by the Minister to do so may conduct sales by auction under this Act without having an auctioneer's licence or incurring, on that account, a penalty.

**98 Power of minister to summon witnesses, &c.**

- (1) The Minister may, for the purpose of determining a matter that under this Act comes before the Minister:
  - (a) summon witnesses;
  - (b) take evidence on oath; and
  - (c) require the production of documents, books and papers.

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- (2) A person who, when properly summoned under this section to give evidence or produce documents, books or papers, fails to attend before the Minister at the time appointed in the summons, or to give evidence or produce documents, books or papers, is guilty of an offence.

Penalty: \$500.

## **99 Unbranded wild cattle and buffaloes**

- (1) All unbranded wild horses and unbranded bovine cattle, being animals above the age of 12 months, that are at any time remaining or feeding on Crown lands (including reserved or dedicated lands but not including leased lands or lands occupied under licence or agreement) and which have no reputed or apparent owner are the property of the Territory.
- (2) All unbranded buffaloes that are at any time remaining or feeding on Crown lands (including reserved or dedicated lands but not including leased lands or lands occupied under licence or agreement) are the property of the Territory.
- (3) The Minister may cause those horses, cattle and buffaloes to be sold and disposed of by public auction, or by tender and may impose qualifications, terms and conditions on the auction, tender, bidder or tenderer.
- (4) The Minister shall notify in the *Gazette*, not later than 28 days before the time of or for the auction or tender, the object, time and place of the auction, or the time until which the tender may be made, and qualifications, terms and conditions, if any, applicable to the auction or tender.
- (5) The purchaser of the horses, cattle or buffaloes, on obtaining the written authority of the Minister for the purpose, may, within 2 months after the date of the authority or such further time as the Minister allows, with such assistance as is necessary, take possession of the horses, cattle or buffaloes and for that purpose enter on such Crown lands.

## **100 Power to impound cattle or buffaloes trespassing and to destroy pigs**

- (1) If any cattle or buffaloes are found trespassing on Crown land (including reserved or dedicated lands, but not including leased lands or lands occupied under licence or agreement), any person authorised in writing by the Minister to do so may impound them to be dealt with according to law.

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- (2) A person authorised in writing by the Minister may destroy, without compensation to the owner, any pigs trespassing on Crown land or reserved or dedicated land.

**101 Penalty for unlawfully depasturing**

A person who depastures cattle or buffaloes on Crown land (including reserved or dedicated lands, but not including leased lands or land occupied under licence or agreement), without having a valid licence or other authority to do so or depastures on such land a greater number of cattle or buffaloes than is authorised by the licence or authority, is guilty of an offence.

Penalty: \$5,000 plus \$50 for every head of cattle or buffaloes.

**102 Penalty for removing timber, &c., without a licence**

A person who, except in pursuance of a lease or licence or other lawful authority (proof of which lies with the person):

- (a) injures, fells, barks or destroys a tree or sapling growing on Crown land (including reserved or dedicated land) not subject to a right of, or contract for, purchase;
- (b) cuts, saws, removes, or sells timber lying or being on that land;
- (c) removes and takes away, or severs, excavates, quarries, or digs for, with intent to remove and take away, any metal or ore containing metal, or any stone, sand, gravel, or other material from that land; or
- (d) takes or removes from that land any other substance or article the property of the Territory,

is guilty of an offence.

Penalty: \$5,000.

**103 Service of notices, &c.**

- (1) Except where otherwise provided in this Act, a notice required by this Act to be given to a person may be delivered personally to that person or sent by post, addressed:

- (a) in the case of an individual, to the person's last-known place of business or residence; and
- (b) in the case of a corporation, to its registered office in the Territory or otherwise as provided by the Corporation Law.

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- (2) Without limiting the generality of subsection (1)(b), a notice under this Act or arising out of a breach of this Act or a condition of a lease under this Act may, in the case of a corporation without a registered office in the Territory, be served by affixing a copy of the notice on a conspicuous part of the land.

#### **104 Onus of proof**

In an action, suit, or proceeding under this Act:

- (a) the averment that land is Crown land, or reserved or dedicated land, or land held under lease, or occupied under licence or agreement, or that a person is authorised to take a proceeding, to do an act or perform a duty, or sue for the recovery of a penalty or other moneys under this Act is prima facie evidence of the fact;
- (b) if a question arises as to whether the defendant was authorised to do the act complained of, the proof of that fact shall lie on the defendant; and
- (c) all licences, certificates, maps, plans and copies thereof purporting to be certified as true under the hand of the Surveyor-General, shall, in all matters relating to such an action, suit, or proceeding, be sufficient evidence without production of original records, and without the personal attendance of the Surveyor-General, or proof of his or her signature.

#### **105 Power to enforce covenant or forfeit lease not affected by demand or acceptance of rent**

The demand or acceptance of rent in respect of a lease granted or agreed to be granted under this Act shall not be taken to be a waiver of the right of the Territory or the Minister to enforce the observance of a condition or regulation under which the demised premises are held, or the right to forfeit the lease for breach of a condition or regulation committed before the making of the demand or the acceptance of the rent.

#### **106 Regulations**

- (1) The Administrator may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for the purpose of carrying out or giving effect to this Act, or for regulating the conduct of any business in connection with the administration of Crown lands in the Northern Territory, and in particular for prescribing:



- (a) matters for the regulation of persons holding licences under this Act;
- (b) the returns to be furnished by lessees and licensees;
- (c) the grounds for the determination by the Minister of licences under this Act and the manner of their determination;
- (d) matters relating to the management, use and control of commonage;
- (e) penalties not exceeding \$1,000 for offences against the Regulations;
- (f) matters in relation to the control, care, protection, preservation, improvement and management by the Minister, or by trustees, as the case may be, of any lands reserved for the recreation or amusement of the public or for any other public purpose and for the preservation of good order and decency on any such lands;
- (g) standard forms to be used for the purposes of this Act, including standard forms for provisions in leases; and
- (h) standard provisions that shall be implied in leases and other instruments, short forms of provisions of leases and other instruments and definitions of words and expressions used in leases and other instruments.

## **Part 9                      Repeal and savings**

### **107              Repeal**

The Acts specified in Schedule 2 are repealed.

### **108              Savings**

- (1) Without limiting the generality of section 12 of the *Interpretation Act* but subject to the *Pastoral Land Act 1992*, all titles, appointments (other than appointments as members of the Land Board of the Northern Territory), delegations, authorisations, permissions, leases, permits, licences, rights, privileges, obligations and liabilities made, given, granted, acquired, accrued or incurred under the Acts repealed by section 107, and all matters in process under those repealed Acts immediately before the commencement of this Act, shall continue as if made, given, granted, acquired, accrued, incurred, commenced or in process under the relevant corresponding provisions of this Act or, as the case may be, the *Pastoral Land Act 1992*, and those provisions, with the necessary

changes, shall be construed accordingly.

- (2) Notwithstanding the repeals effected by section 107, all regulations, by-laws and other instruments of a legislative or administrative character in force immediately before the commencement of this Act shall continue in force, and may be revoked or amended, as if made under the relevant corresponding provisions of this Act or, as the case may be, the *Pastoral Land Act 1992*, and, with the necessary changes, those provisions, and those regulations, by-laws and other instruments, shall be construed accordingly.

## Schedule 1

section 65

### Easements and Easements in Gross.

#### Description

Sewerage easement.

#### Purpose

Supplying or conveying to, through or across the land a sewerage service.

#### Power

To break the surface of, dig, open up and use the land for the purpose of laying down, fixing, taking up, repairing, relaying or examining pipes for the purposes of the easement and of using and maintaining those pipes, and to enter the land at any time (if necessary with vehicles and equipment) for the purposes of the easement or exercising these powers.

#### Description

Water supply easement.

#### Purpose

Supplying or conveying to, through or across the land a water service.

#### Power

To break the surface of, dig, open up and use the land for the purpose of laying down, fixing, taking up, repairing, relaying or examining pipes for the purposes of the easement and of using and maintaining those pipes, and to enter the land at any time (if necessary with vehicles and equipment) for the purposes of the easement or exercising these powers.

#### Description

Drainage easement.

#### Purpose

Draining water, sewerage or other effluents from, through or across the land.

Power

To break the surface of, dig, open up and use the land for the purpose of laying down, fixing, taking up, repairing, relaying or examining drains or drainage pipes for the purposes of the easement and of using and maintaining such drains and pipes, and to enter the land at any time (if necessary with vehicles and equipment) for the purposes of the easement or exercising these powers.

Description

Electricity supply easement.

Purpose

Supplying or conveying to, through or across the land an electricity service.

Power

For the purposes of the easement:

- (a) to enter on and pass, either with or without motor or other vehicles, along or over the land;
- (b) to construct and lay under, on or above the surface of the land:
  - (i) ducts, pipes, poles, conductors, cables, wires and other works; and
  - (ii) incidental or ancillary works for the transmission of electricity (including, but not limited to, manholes and cable markers);
- (c) without limiting the generality hereof, to erect on a portion of the land so designated in the plan on the certificate of title or Crown lease, poles, equipment for transforming electricity and incidental or ancillary works (including such walls or other structures as the proprietor of the easement considers necessary);
- (d) to break the surface of, dig, open up and use the land for the purposes of the easement or exercising these powers;
- (e) to inspect, repair, alter, remove and replace works referred to in these powers; and
- (f) to transmit electricity by means of any such works.

Description

Electronic communications easement.

Purpose

Supply or convey to, through or across the land a communications service by electronic means.

Power

For the purposes of the easement:

- (a) to enter on and pass, either with or without motor or other vehicles, along or over the land;
- (b) to construct and lay:
  - (i) under the surface of the land, ducts, pipes, conductors, cables, wires and other works; and
  - (ii) on the surface of the land, incidental or ancillary works for the transmission of telecommunication services (including, without limiting the generality of the foregoing, manholes and cable markers);
- (c) to break the surface of, dig, open up and use the land for the purposes of the easement or exercising these powers; and
- (d) to inspect, repair, alter, remove and replace any works referred to in these powers.

Description

Energy supply easement.

Purpose

Supplying or conveying to, through or across the land gas, liquid fuels or water or other liquids in such a form as to be capable of conveying energy.

Power

To break the surface of, dig, open up and use the land for the purpose of laying down, fixing, taking up, repairing, relaying or examining pipes for the purposes of the easement and of using and maintaining those pipes, and to enter the land at any time (if necessary with vehicles and equipment) for the purposes of the easement or exercising these powers.

Description

General service easement.

Purpose

All of the purposes of:

- (a) a sewerage easement;
- (b) a water supply easement;
- (c) a drainage easement;
- (d) an electricity supply easement;
- (e) an electronic communications easement; and
- (f) an energy supply easement.

Power

All of the powers in this Schedule relating to the purposes of the easement.

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**Schedule 2 Acts repealed**

section 107

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<i>Crown Lands Ordinance 1931</i>	No. 2, 1931
<i>Crown Lands Ordinance 1933</i>	No. 11, 1933
<i>Crown Lands Ordinance 1934</i>	No. 8, 1934
<i>Crown Lands Ordinance (No. 2) 1934</i>	No. 13, 1934
<i>Crown Lands Ordinance 1935</i>	No. 4, 1935
<i>Crown Lands Ordinance (No. 2) 1935</i>	No. 19, 1935
<i>Crown Lands Ordinance (No. 3) 1935</i>	No. 21, 1935
<i>Crown Lands Ordinance 1938</i>	No. 2, 1938
<i>Crown Lands Ordinance 1939</i>	No. 21, 1939
<i>Crown Lands Ordinance 1943</i>	No. 4, 1943
<i>Crown Lands Ordinance 1946</i>	No. 5, 1946
<i>Crown Lands Ordinance 1948</i>	No. 2, 1949
<i>Crown Lands Ordinance 1950</i>	No. 14, 1950
<i>Crown Lands Ordinance 1952</i>	No. 17, 1952
<i>Crown Lands Ordinance (No. 2) 1952</i>	No. 28, 1952
<i>Crown Lands Ordinance (No. 3) 1952</i>	No. 39, 1952
<i>Crown Lands Ordinance 1953</i>	No. 4, 1953
<i>Crown Lands Ordinance 1954</i>	No. 4, 1954
<i>Crown Lands Ordinance (No. 2) 1954</i>	No. 4, 1955
<i>Crown Lands Ordinance 1955</i>	No. 16, 1955
<i>Crown Lands Ordinance (No. 2) 1955</i>	No. 4, 1956
<i>Crown Lands Ordinance 1956</i>	No. 32, 1956
<i>Crown Lands Ordinance 1957</i>	No. 28, 1957
<i>Crown Lands Ordinance 1959</i>	No. 7, 1959
<i>Crown Lands Ordinance (No. 2) 1959</i>	No. 24, 1959
<i>Crown Lands Ordinance 1961</i>	No. 36, 1961
<i>Crown Lands Ordinance 1962</i>	No. 30, 1962
<i>Crown Lands Ordinance (No. 2) 1962</i>	No. 22, 1963
<i>Crown Lands Ordinance (No. 3) 1962</i>	No. 23, 1963
<i>Crown Lands Ordinance (No. 4) 1962</i>	No. 26, 1963
<i>Crown Lands Ordinance 1963</i>	No. 64, 1963
<i>Crown Lands Ordinance (No. 2) 1963</i>	No. 11, 1964
<i>Crown Lands Ordinance (No. 3) 1963</i>	No. 12, 1964
<i>Crown Lands Ordinance 1964</i>	No. 38, 1964
<i>Crown Lands Ordinance (No. 2) 1964</i>	No. 61, 1964
<i>Crown Lands Ordinance (No. 3) 1964</i>	No. 62, 1964
<i>Crown Lands Ordinance 1965</i>	No. 38, 1965
<i>Crown Lands Ordinance (No. 2) 1965</i>	No. 49, 1965
<i>Crown Lands Ordinance 1966</i>	No. 27, 1966
<i>Crown Lands Ordinance (No. 2) 1966</i>	No. 29, 1966
<i>Crown Lands Ordinance 1967</i>	No. 28, 1967
<i>Crown Lands Ordinance (No. 2) 1967</i>	No. 33, 1967
<i>Crown Lands Ordinance 1968</i>	No. 50, 1968

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<i>Crown Lands Ordinance (No. 2) 1968</i>	No. 51, 1968
<i>Crown Lands (Pastoral Lessees Preference) Ordinance 1968</i>	No. 73, 1968
<i>Crown Lands Ordinance (No. 3) 1968</i>	No. 1, 1969
<i>Crown Lands Ordinance 1969</i>	No. 60, 1969
<i>Crown Lands Ordinance (No. 2) 1969</i>	No. 4, 1970
<i>Crown Lands Ordinance 1970</i>	No. 21, 1970
<i>Crown Lands Ordinance (No. 3) 1969 as amended</i>	No. 31, 1970
<i>Crown Lands Ordinance (No. 3) 1969 Amendment Ordinance 1970</i>	No. 56, 1970
<i>Crown Lands Ordinance (No. 2) 1970</i>	No. 78, 1970
<i>Crown Lands Ordinance (No. 3) 1970</i>	No. 79, 1970
<i>Crown Lands Ordinance (No. 4) 1970</i>	No. 80, 1970
<i>Crown Lands Ordinance (No. 5) 1970</i>	No. 2, 1971
<i>Crown Lands Ordinance 1971</i>	No. 36, 1971
<i>Crown Lands Ordinance (No. 2) 1971</i>	No. 55, 1971
<i>Crown Lands Ordinance (No. 3) 1971</i>	No. 56, 1971
<i>Crown Lands Ordinance (No. 4) 1971</i>	No. 57, 1971
<i>Crown Lands Ordinance 1972</i>	No. 9, 1972
<i>Crown Lands Ordinance (No. 4) 1972</i>	No. 55, 1972
<i>Crown Lands Ordinance (No. 5) 1972</i>	No. 57, 1972
<i>Crown Lands Ordinance (No. 3) 1972</i>	No. 58, 1972
<i>Crown Lands Ordinance (No. 2) 1972</i>	No. 61, 1972
<i>Crown Lands Ordinance (No. 6) 1972</i>	No. 62, 1972
<i>Crown Lands Ordinance 1973</i>	No. 27, 1973
<i>Crown Lands Ordinance (No. 2) 1973</i>	No. 32, 1973
<i>Crown Lands Ordinance (No. 3) 1973</i>	No. 52, 1973
<i>Crown Lands Ordinance (No. 4) 1973</i>	No. 54, 1973
<i>Crown Lands Ordinance (No. 3) 1974</i>	No. 78, 1974
<i>Crown Lands Ordinance (No. 2) 1974</i>	No. 79, 1974
<i>Crown Lands Ordinance (No. 4) 1974</i>	No. 84, 1974
<i>Crown Lands Ordinance (No. 5) 1974</i>	No. 89, 1974
<i>Crown Lands Ordinance 1975</i>	No. 26, 1975
<i>Crown Lands Ordinance (No. 2) 1975</i>	No. 8, 1976
<i>Crown Lands Ordinance (No. 3) 1975</i>	No. 9, 1976
<i>Crown Lands Ordinance (No. 4) 1975</i>	No. 15, 1976
<i>Crown Lands Ordinance 1976</i>	No. 1, 1977
<i>Crown Lands Ordinance 1977</i>	No. 46, 1977
<i>Crown Lands Ordinance 1978</i>	No. 23, 1978
<i>Crown Lands Ordinance (No. 2) 1978</i>	No. 69, 1978
<i>Crown Lands Ordinance (No. 3) 1978</i>	No. 107, 1978
<i>Crown Lands Act 1979</i>	No. 52, 1979
<i>Crown Lands Act (No. 2) 1979</i>	No. 94, 1979
<i>Crown Lands Act (No. 3) 1979</i>	No. 143, 1979
<i>Crown Lands Amendment Act 1980</i>	No. 17, 1980
<i>Crown Lands Amendment Act (No. 2) 1980</i>	No. 56, 1980
<i>Crown Lands Amendment Act 1982</i>	No. 94, 1982
<i>Crown Lands Amendment Act 1984</i>	No. 34, 1984



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<i>Crown Lands Amendment Act 1985</i>	No. 5, 1985
<i>Crown Lands Amendment Act (No. 2) 1985</i>	No. 73, 1985
<i>Crown Lands Amendment Act 1987</i>	No. 2, 1987
<i>Miscellaneous Acts Amendment (Aboriginal Community Living Areas) Act 1989 (Part II only)</i>	No. 78, 1989
<i>Crown Lands Amendment Act 1989</i>	No. 79, 1989
<i>Crown Lands Amendment Act 1991</i>	No. 36, 1991

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

Key to abbreviations

**amd = amended**  
**app = appendix**  
**bl = by-law**  
**ch = Chapter**  
**cl = clause**  
**div = Division**  
**exp = expires/expired**  
**f = forms**  
**Gaz = Gazette**  
**hdg = heading**  
**ins = inserted**  
**lt = long title**  
**nc = not commenced**

**od = order**  
**om = omitted**  
**pt = Part**  
**r = regulation/rule**  
**rem = remainder**  
**renum = renumbered**  
**rep = repealed**  
**s = section**  
**sch = Schedule**  
**sdiv = Subdivision**  
**SL = Subordinate Legislation**  
**sub = substituted**

**2****LIST OF LEGISLATION*****Crown Lands Act 1992 (Act No. 18, 1992)***

Assent date 30 April 1992  
 Commenced 26 June 1992 (s 2, s 2 *Pastoral Land Act 1992* (Act No. 17, 1992) and *Gaz S33*, 26 June 1992)

***Statute Law Revision Act 1992 (Act No. 46, 1992)***

Assent date 7 September 1992  
 Commenced 7 September 1992

***Statute Law Revision Act (No. 2) 1993 (Act No. 70, 1993)***

Assent date 9 November 1993  
 Commenced 9 November 1993

***Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)***

Assent date 31 December 1993  
 Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz S35*, 20 May 1994)

***Planning (Consequential Amendments) Act 1993 (Act No. 86, 1993)***

Assent date 31 December 1993  
 Commenced 18 April 1994 (s 2, s 2 *Planning Act 1993* (Act No. 85, 1993) and *Gaz S28*, 18 April 1994)

***Statute Law Revision Act 1994 (Act No. 50, 1994)***

Assent date 20 September 1994  
 Commenced 20 September 1994

***Statute Law Revision Act (No. 2) 1998 (Act No. 92, 1998)***

Assent date 11 December 1998  
 Commenced s 3: 1 April 1999 (*Gaz S15*, 1 April 1999);  
 ss 6 and 15: 10 March 1999 (*Gaz G9*, 10 March 1999, p 2);  
 ss 7 and 11: 13 January 1999 (*Gaz G1*, 13 January 1999,  
 p 6); s 25: 20 September 1999; rem: 11 December 1998

***Planning (Consequential Amendments) Act 1999 (Act No. 56, 1999)***

Assent date 14 December 1999  
Commenced 12 April 2000 (s 2, s 2 *Planning Act 1999* (Act No. 55, 1999)  
and Gaz S15, 12 April 1999)

**3 LIST OF AMENDMENTS**

s 3 amd No. 86, 1993, s 3, s 3; No. 84, 1993, s 6; No. 56, 1999, s 3  
s 44 amd No. 86, 1993, s 3  
s 63 amd No. 84, 1993, s 6; No. 92, 1998, s 6  
s 65 amd No. 92, 1998, s 6  
s 73 amd No. 84, 1993, s 6  
s 75 amd No. 46, 1992, s 13; No. 84, 1993, s 6  
s 76 amd No. 84, 1993, s 6  
s 78 amd No. 70, 1993, s 8  
s 88 amd No. 84, 1993, s 6  
s 91 amd No. 84, 1993, s 6  
s 93 amd No. 84, 1993, s 6; No. 92, 1998, s 6  
s 108 amd No. 50, 1994, s 16  
sch 1 amd No. 92, 1998, s 6