

NORTHERN TERRITORY OF AUSTRALIA
CROWN LANDS AMENDMENT ACT 2000

No. 44 of 2000

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 44 of 2000

AN ACT

to amend the *Crown Lands Act* consequential on the enactment of
the *Law of Property Act 2000* and the *Land Title Act 2000*

[Assented to 12 September 2000]

[Second reading 14 June 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Crown Lands Amendment Act 2000*.

2. Commencement

This Act comes into operation on the day on which, but immediately after, the *Law of Property Act 2000* commences.

3. Principal Act

The *Crown Lands Act* is in this Act referred to as the Principal Act.

4. Definitions

Section 3 of the Principal Act is amended –

- (a) by inserting after the definition of "agricultural development" the following:

" 'appropriate form', for an instrument, has the same meaning as in the
Land Title Act";

- (b) by inserting after the definition of "Conservation Commission" the following:

" 'covenant' has the same meaning as in Division 4 of Part 9 of the *Law of Property Act*;

'covenant in gross' has the same meaning as in Division 4 of Part 9 of the *Law of Property Act*;;

- (c) by inserting after the definition of "Darwin town area" the following:

" 'easement' has the same meaning as in Division 2 of Part 9 of the *Law of Property Act*;

'easement in gross' has the same meaning as in Division 2 of Part 9 of the *Law of Property Act*;;

- (d) by inserting after the definition of "Land and Valuation Review Tribunal" the following:

" 'land register' has the same meaning as in the *Land Title Act*;; and

- (e) by omitting the definition of "Register".

5. Repeal and substitute

Section 10 of the Principal Act is repealed and the following substituted:

"10. Agreement to grant estate in fee simple or lease of Crown land

"(1) If a person has a right to be granted –

- (a) an estate in fee simple in Crown land; or
- (b) a lease of Crown land,

the Minister may, by instrument in the appropriate form, lodge with the Registrar-General details of the means by which the right arose, the nature of the interest to be granted and the particulars of the land.

"(2) On the lodgement of the details referred to in subsection (1), the Registrar-General must create an entry in the land register in relation to the land and record the particulars in accordance with the *Land Title Act*.

"(3) Despite that a lease of Crown land has not been signed by the lessee or the lessor, the recording of the particulars in the land register takes effect as a lease."

6. Transfer etc. of lease

Section 46 of the Principal Act is amended –

- (a) by omitting from paragraph (a) "or" (last occurring);
- (b) by omitting from paragraph (b) "lease." and substituting "lease;"; and
- (c) by adding at the end the following:
 - "(c) create an easement or easement in gross or a covenant or covenant in gross; or
 - (d) agree to the creation of an easement or easement in gross or a covenant or covenant in gross that authorises or restricts the use of land the subject of the lease."

7. Consent to transfer etc. of leases

Section 47 of the Principal Act is amended by omitting subsection (1) and substituting the following:

- "(1) An application for consent –
 - (a) to transfer or mortgage a lease granted under this Act; or
 - (b) to create an interest of a type referred to in section 46 in the land included in a lease granted under this Act,

is to be made in writing to the Minister."

8. Repeal and substitute

Division 4 of Part 3 of the Principal Act is repealed and the following substituted:

"Division 4 – Easements, easements in gross, covenants and covenants in gross

"60. Definitions

"In this Division –

'Crown land' includes reserved land and dedicated land;

'Crown lease' means a lease granted by the Minister under a law of the Territory relating to the leasing of Crown land and includes a pastoral lease.

"61. Power to create easements, easements in gross, covenants and covenants in gross

"(1) The Minister may grant a lease or an estate in fee simple in Crown land subject to –

- (a) a reservation of an easement or easement in gross; or
- (b) a covenant or covenant in gross.

"(2) If the lease so provides, either expressly or by term implied by or under an Act (including an Act that has subsequently been repealed), the Minister may –

- (a) grant an easement or easement in gross over the leased land; or
- (b) create a covenant or covenant in gross affecting the leased land,

at any time during the term of the lease.

"(3) The Minister may at any time confer on the holder of a lease of Crown land, or a person to whom an estate in fee simple in Crown land has been granted, the benefit of –

- (a) an easement or easement in gross over Crown land that is not the subject of the lease or grant; or
- (b) a covenant or covenant in gross affecting Crown land that is not the subject of the lease or grant.

"(4) If the Minister –

- (a) creates an easement or easement in gross, or a covenant or covenant in gross, over Crown land, and the interest created confers a benefit referred to in subsection (2); or
- (b) grants a licence under section 93,

the Minister must not grant a lease, or another lease, or an estate in fee simple of the land affected by the interest or the licence unless the grant is subject to –

- (c) a reservation from the lease or estate in fee simple of an easement or easement in gross; or
- (d) a covenant or covenant in gross,

of the same nature and for the same benefit as existed before the grant.

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

9. Repeal and substitute

Section 93 of the Principal Act is repealed and the following substituted:

"93. Licences relating to supply of services

"(1) The Minister may grant a person a licence to –

- (a) 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
- (b) carry out the work specified in the licence on the land,

for the purpose of supplying or conveying through, under, on, across or above the land a sewerage, water supply, drainage, electricity or other energy supply or communications service by electronic means.

"(2) A licence granted under subsection (1) is subject to –

- (a) the condition that the holder of the licence must, on completion of the construction of the works by which the service is supplied or conveyed through, under, on, across or above the Crown land, provide a record or the details of the construction of the works and the location of the service through, under, on, across or above the land; and
- (b) any other terms and conditions specified by the Minister in the licence.

"(3) The expenses incurred in preparing and providing a record under subsection (2)(a) are not payable by or recoverable from the Territory."

10. Repeal

Schedule 1 to the Principal Act is repealed.

11. Further amendments

The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 11

| Provision | Amendment | |
|--|--|--|
| | omit | substitute |
| Section 5(6) | " <i>Real Property Act</i> " | " <i>Land Title Act</i> " |
| Section 9(1) | "the prescribed form under the <i>Real Property Act</i> " | "the appropriate form under the <i>Land Title Act</i> " |
| Section 9(3) | " <i>Real Property Act</i> " | " <i>Land Title Act</i> " |
| Section 11(1) | "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 the appropriate form, direct the Registrar-General to cancel the entry in the land register" |
| Section 11(2) | "a folio of the Register" | "an entry in the land register" |
| Section 12(1) | " <i>Real Property Act</i> " | " <i>Land Title Act</i> " |
| Section 19(1) | "and restrictive covenants" | ", covenants and covenants in gross" |
| Section 19(2) and (3) | "or restrictive covenant" | ", covenant or covenant in gross" |
| Section 21(2) | "The Folio in the Register" | "The entry in the land register" |
| Section 36(2) | "Register" | "land register" |
| Sections 39(1), 73(1)(b), 74 and 75(2) | " <i>Real Property Act</i> " | " <i>Land Title Act</i> " |