

LEGISLATIVE ASSEMBLY

Read 1° 26 October 1983

(*Brought in by Mr Cathie and Mr Wilkes*)

(No. 2)

A BILL

To amend the *Land Act* 1958, and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. This Act may be cited as the *Land (Amendment) Act* 1983.

Short title.

2. In this Act, the *Land Act* 1958 is called the Principal Act.

Principal Act No. 6284.
Reprinted to No. 9705.
Subsequently amended by Nos. 9798, 9805, 9812, 9861, 9902, 9921.

3. This Act shall come into operation on the day on which it receives the Royal Assent.

Commencement.

10 4. In the table of Parts and Divisions in section 1 of the Principal Act—

Amendment of No. 6284 s. 1.

15 (a) for the expression "Division 6.—Lands which may be sold by Auction ss. 89-100.", there shall be substituted the expression "Division 6.—Sale of Land by Auction or Tender or to a Municipality ss. 89-99.";

(b) for the expression “Division 9.—Leases and Licences &c. for other than Grazing or Agricultural Purposes ss. 134–151.”, there shall be substituted the expression “Division 9.—Leases and Licences &c. for other than Grazing or Agricultural Purposes ss. 134–151AA.”; and 5

(c) for the expression—

“Subdivision 1—Leases ss. 134–137A.

Subdivision 2—Licences &c. ss. 138–151.”—

there shall be substituted the expression—

“Subdivision 1—Leases ss. 134–137A. 10

Subdivision 1A—Conditional Purchase leases ss. 137B.—137H.

Subdivision 2—Licences &c. 138–151.

Subdivision 3—Metropolitan Leaseholds s. 151AA.”.

5. After section 4 of the Principal Act there shall be inserted the following section: 15

“4A. (1) The Minister may purchase by agreement for and on behalf of Her Majesty any land—

(a) which is attached to land purchased by the Minister pursuant to section 5 (1) of the *Crown Land (Reserves) Act* 1978; or 20

(b) which is wholly or partly surrounded by Crown land and would in the Minister’s opinion, be best dealt with in conjunction with that Crown land.

(2) The Minister may purchase land under sub-section (1) subject to the condition that the vendor may continue to occupy the land for the vendor’s lifetime or any period agreed by the Minister. 25

(3) Any land purchased pursuant to this section shall be surrendered and transferred or conveyed to Her Majesty and shall thereupon be unalienated land of the Crown freed and discharged from all trusts, encumbrances, limitations and restrictions whatsoever and from every estate or interest therein.”. 30

6. After section 12 of the Principal Act, there shall be inserted the following section:

“12A. (1) If it appears to the Minister at any time that—

(a) land is required for a public purpose and should be reserved under section 4 of the *Crown Land (Reserves) Act* 1978; 35

(b) the acquisition of land would enhance the public use and enjoyment of Crown land reserved under section 4 of the *Crown Land (Reserves) Act* 1978; or

(c) the acquisition of land would rationalize the boundaries between any private land and any land reserved under section 4 of the *Crown Land (Reserves) Act* 1978— 40

Amendment of No. 6284 s. 4 inserted.

Minister may purchase lands.

Amendment of No. 6284 s. 12 inserted.

Exchange of Crown land.

the Minister may enter into an agreement with the owner of the land sought to be acquired to exchange that land for any Crown land where the Crown land is not land permanently reserved for a public purpose under the *Crown Land (Reserves) Act 1978*.

5 (2) Where the Minister enters an agreement under sub-section (1) he may also agree, where the value of the Crown land is not equal to the value of the land for which it is exchanged, to pay to or receive from the owner (as the case requires) an amount of money equal to that difference and may pay or receive such an amount in accordance with the
10 agreement.

(3) The Governor in Council shall grant, in accordance with the terms of an agreement made under sub-section (1), the Crown land referred to in the agreement to the person to whom it is agreed under the agreement that the Crown land should be granted.

15 (4) Land which is agreed upon in an agreement made under sub-section (1) as land which is to revert to the Crown shall on surrender and transfer or conveyance to Her Majesty become and be unalienated land of the Crown freed and discharged from all trusts, encumbrances, limitations and restrictions whatsoever and from every estate or interest
20 therein.”.

7. (1) In section 31 (1) (e) of the Principal Act after the words “under this Act” there shall be inserted the expression “or under section 13 of the *Crown Land (Reserves) Act 1978*”.

Amendment of
No. 6284 s. 31 (1)
(e).

25 (2) After section 31 (3) of the Principal Act, there shall be inserted the following sub-sections:

“(4) A bailiff may seize and remove any vehicle or vessel parked or left without lawful authority on any Crown land and may retain the vehicle or vessel (either in a garage or elsewhere) until the owner reimburses the Crown for the cost of the removal, retention and release
30 of the vehicle or vessel.

(5) Where a bailiff reasonably believes that a person has contravened or is contravening any provision of this Act or the *Crown Land (Reserves) Act 1978* or any regulation made under either Act, the bailiff may ask the person to state the person’s name and address.

35 (6) A person who is asked pursuant to sub-section (5) to state the person’s name and address and fails to do so or states a false name or address shall be guilty of an offence.

Penalty: 5 penalty units.”.

40 8. (1) In the proviso to section 56 (1) of the Principal Act, the expression “or in sub-section (2) hereof” shall be repealed.

Amendment of
No. 6284, s. 56.

(2) Section 56 (2) of the Principal Act shall be repealed.

Amendment of
No. 6284,
substitution of
Div. 6, Part I.

9. For Division 6 of Part I. of the Principal Act there shall be substituted the following Division:

“DIVISION 6—SALE OF LAND BY AUCTION OR TENDER OR TO A
MUNICIPALITY

Minister may sell
Crown land by
public auction or
public tender.

89. (1) The Minister may sell any Crown land in fee simple by public auction or by public tender at such reserve price and on such terms and conditions as he thinks fit. 5

(2) Nothing in sub-section (1) constitutes an authority to sell any land which has been reserved either temporarily or permanently under section 4 of the *Crown Land (Reserves) Act 1978* where the reservation of the land has not been revoked. 10

Minister to give
notice of public
auction or public
tender.

90. The Minister shall, not less than fourteen days before—

(a) the day on which a public auction of any Crown land is held; and

(b) the last day on which tenders for the sale of any Crown land by public tender may be submitted to him— 15

publish, in the *Government Gazette* and in a newspaper circulating in the district in which the land is situated, a notice specifying—

(c) the place and time of the auction or the last day on which tenders may be submitted to the Minister (as the case may be); 20

(d) the particulars of the land;

(e) the amount of the deposit to be paid at the auction or lodged with the tender (as the case may be);

(f) the period for payment of the residue of the purchase price; and 25

(g) the rate of interest (if any) to be charged on the residue of the purchase price.

Procedure where
reserve price not
reached at
auction or by
tender.

91. Where a public auction of any Crown land is held, or tenders for Crown land are received, and no bid at the auction, or no tender (as the case may be) reaches the reserve price for that land, the Minister may— 30

(a) sell the land to the person making the highest bid or submitting the highest tender at a price not less than the reserve price and on terms and conditions no more favourable to the purchaser than those published pursuant to section 90 with respect to that land; 35

(b) sell the land to any other person at a price which is not less than the reserve price, and upon terms and conditions no more favourable to the purchaser than those published pursuant to section 90 with respect to that land; or 40

(c) sell the land by public auction or by public tender at such new reserve price and such new terms and conditions as he thinks fit.

92. (1) From the time of sale of land under this Division, the purchaser of the land shall for the purposes of any Act imposing any obligation on an owner of land be deemed to be the owner of the land.

Purchaser of Crown land by auction or tender deemed to be owner.

5 (2) Nothing in sub-section (1) imposes any liability on the Crown or the Minister in regard to any land sold under this Division where the contract for the sale of the land becomes void by reason of the non-payment of any part of the purchase price or the non-performance or non-observation of any condition of the contract of sale by the purchaser.

10 93. A person authorized by the Minister may hold a public sale by auction of land in fee simple for the purposes of this Division without having an auctioneer's licence or incurring on that account any penalty.

Who may hold auction.

94. Where land is sold by private sale under this Division, a commission not exceeding the rate fixed under the *Estate Agents Act* 1980 may be paid at the discretion of the Minister.

Commission may be paid.

15 95. Where the purchase price of land sold under this Division has been paid in full and the purchaser has complied with the conditions of sale, the Governor in Council shall grant in fee simple the land to the purchaser.

Land to be granted when purchase price paid.

20 96. A person who has any interest under a contract for the sale of land under this Division shall not, before the land is granted, transfer or assign the interest unless—

Person not to assign interest under contract of sale without Minister's consent.

(a) the Minister gives written consent to the transfer or assignment; and

(b) the person pays the prescribed fee.

25 97. (1) A purchaser of land under this Division who fails to pay any money due under the contract of sale on the day it falls due shall pay in respect of the amount due, for the period of default, interest at the same rate as the rate of interest determined by the Minister under section 228.

Penalty interest for failure to pay money due under contract of sale.

30 (2) Nothing in sub-section (1) affects the Minister's power to take any other action under this Division.

98. (1) Where a purchaser of land under this Division—

Minister may declare contract of sale void on default.

(a) fails to pay any money due under the contract of sale on the day it falls due; or

35 (b) fails to observe or perform any condition of the contract of sale—

and does not rectify the matter within 30 days after receiving written notice from the Minister to do so, the Minister may declare by notice published in the *Government Gazette* that the contract is void.

40 (2) Where a declaration is made under sub-section (1) that a contract for the sale of land is void—

(a) the declaration shall have effect according to its tenor;

- (b) any money paid for the land under the contract shall be forfeited to the Crown; and
- (c) the Minister may proceed to recover and take possession of the land.

(3) Where a declaration is made under sub-section (1) that a contract for the sale of land to a purchaser is void, the Minister, if he sells the land to another purchaser, may, after allowing for any deficiency in the purchase price so obtained and after taking into account the expenses of that sale, refund to the first-mentioned purchaser the whole or any part of any money which was forfeited to the Crown as a result of the declaration.

Minister may sell land to municipality.

99. (1) The Minister may sell at a price and on terms and conditions which he thinks fit, any Crown land which is not within the metropolitan area to the municipality of the municipal district within which the land is situated where the Minister is of the opinion that the municipality requires the land for housing or decentralized industry.

(2) In sub-section (1)—

- (a) "municipality" means a municipality within the meaning of the *Local Government Act 1958*, or the City of Geelong; and
- (b) "metropolitan area" has the same meaning as it has in the *Town and Country Planning Act 1961*.

(3) Where the Minister sells land to a municipality under sub-section (1) the Governor in Council shall grant in fee simple the land to the municipality when the purchase price is paid in full."

Amendment of No. 6284. Ss 134-137 and heading precedings, 134 substituted.

10. In subdivision 1 of Division 9 of Part I. of the Principal Act for the heading and sections 134 to 137 there shall be substituted the following heading and sections:

"Subdivision 1—Leases for other than Grazing or Agricultural Purposes.

Minister may lease Crown land under this subdivision.

134. (1) Subject to this subdivision, the Minister on behalf of Her Majesty may grant leases under this subdivision of any Crown land for any purposes (except for the purposes of grazing or agriculture) at the rent and subject to the conditions, covenants, reservations, restrictions and exceptions which he thinks fit.

(2) Nothing in sub-section (1) constitutes an authority to lease any land which is reserved either temporarily or permanently under section 4 of the *Crown Land (Reserves) Act 1978* where the reservation of the land has not been revoked, unless—

- (a) the lease is for the purpose of the manufacture or collection of salt; or
- (b) the lease is a special lease granted under section 137AA (4).

135. The Minister may lease land under this subdivision by offering the right to lease by public auction or public tender or by private negotiation.

Public auction or tender or private negotiation.

136. The Minister shall, not less than fourteen days before—

Minister to give notice in writing of public auction or public tender.

5 (a) the day on which a public auction of a lease of any Crown land is held; and

(b) the last day on which tenders may be submitted to the Minister for the lease of any Crown land by public tender—

10 publish, in the *Government Gazette* and in a newspaper circulating in the district in which the land is situated, a notice specifying—

(c) the place and time of the auction or the last day on which tenders may be submitted to the Minister (as the case may be);

(d) the particulars of the land which is to be leased; and

15 (e) the purpose and term of the proposed lease.

137. Where, under this subdivision, the Minister leases Crown land by private negotiation, the proposed lessee shall, not less than fourteen days before the day on which the lease is to be granted, publish in the *Government Gazette* and in a newspaper circulating in the district in which the land is situated, a notice specifying—

Proposed lessee to give notice of lease arranged privately.

(a) the particulars of the land which is to be leased;

(b) the purpose and term of the proposed lease; and

(c) the name of the proposed lessee.

25 137AA. (1) Subject to this section, the term of a lease granted under this subdivision shall not exceed 21 years.

Term of lease.

(2) The term of a lease granted under this subdivision for commercial or industrial purposes may exceed 21 years but shall not, subject to sub-section (3), exceed 50 years.

30 (3) Where the Minister is satisfied that a building erected or to be erected under a covenant in a lease of land for commercial or industrial purposes under this subdivision is or will be of a substantial nature and of a value which justifies it, he may grant a lease of the land for a term exceeding 50 years but not exceeding 99 years.

35 (4) Notwithstanding anything in the *Crown Land (Reserves) Act* 1978 or in any other Act except this Act, where there is on any Crown land any improvement which is of a substantial nature and is the property of the Crown, the Minister on behalf of Her Majesty, may grant a special lease of the land for a term not exceeding 99 years.

40 137AB. Where the term of a lease granted under this subdivision exceeds three years, the Minister shall at the end of the first three years

Rent to be re appraised every three years of lease.

and at the end of every succeeding three year period of the lease cause the amount of rent or royalty payable under the lease to be re-appraised.

Replacement
leases.

137AC. The Minister on behalf of Her Majesty may grant to a lessee under this subdivision a replacement lease in substitution for his existing lease and on the grant of a replacement lease the lease for which it is substituted shall be cancelled.

5

Leases may not
be assigned &c.
without
Minister's
consent.

137AD. A lessee under this subdivision shall not transfer or assign his interest under the lease or sub-let or encumber the land without first obtaining the written consent of the Minister.”.

Amendment of
No. 6284 s. 137A.

11. In section 137A of the Principal Act, for sub-section (3) there shall be substituted the following sub-section:

10

“(3) An industrial lease granted under this section shall be granted for a term not exceeding three years except that where the Minister is satisfied that a building erected or to be erected under a covenant in the lease is or will be of a substantial nature and of a value which justifies it the Governor in Council may grant a lease of the land for a term not exceeding 99 years.”.

15

Amendment of
No. 6284.
Sub-div. 1A
inserted in Part I.
Div. 9.

12. After section 137A of the Principal Act there shall be inserted the following subdivision:

“Subdivision 1A—Conditional Purchase Leases.

20

“Conditional
purchase lease.”

137B. (1) In this subdivision “conditional purchase lease” means a lease under this subdivision.

(2) The Minister, on behalf of Her Majesty, may grant to an applicant a conditional purchase lease of any Crown land which is not within the metropolitan area where—

25

(a) the lease is for an area of not more than two hectares of land; and

(b) the lease is for the purposes of—

(i) a dwelling; or

(ii) a commercial or industrial purpose of which the Minister approves.

30

(3) The Minister shall not grant a conditional purchase lease to a person who holds, or who has ever held, a conditional purchase lease.

Terms and
conditions.

137C. A conditional purchase lease shall be granted—

(a) for such term not exceeding ten years and subject to the payment of such instalments and interest as the Minister thinks fit;

35

(b) on condition that buildings or improvements of the value specified in the lease are erected within the time specified in the lease; and

40

(c) on any other conditions and subject to any covenants, reservations, restrictions or exemptions which the Minister thinks fit.

5 137D. Where the Minister is satisfied that the lessee under a conditional purchase lease— Purchase on certain conditions.

(a) has erected the buildings or improvements specified in the lease pursuant to section 137C (b); and

10 (b) has occupied the land for not less than one year and complied with all conditions, covenants, reservations, restrictions and exemptions to which the lease is subject—

the lessee shall, on payment of the full purchase price of the land, which price shall be fixed by the Minister, be entitled to a grant in fee simple of the land.

15 137E. A Crown grant issued under the provisions of this subdivision shall be subject to any covenants conditions restrictions reservations or exceptions which the Governor in Council sees fit to include. Crown grant to be subject to conditions &c. as Governor in Council sees fit.

137F. A lessee under this subdivision shall not transfer or assign his interest under the lease or sub-let or encumber the land without first obtaining the written consent of the Minister. Lease not to be transferred &c. without Minister's consent.

20 137G. (1) Where the Minister is satisfied that a lessee under this subdivision has failed to comply with any covenant or condition of the lease, and that the lessee has not rectified the matter within 30 days' after receiving notice from the Minister to do so, the Minister may declare by notice published in the *Government Gazette* that the lease is forfeited. Minister may declare lease forfeited.

25 (2) The Minister shall not declare under sub-section (1) that a lease is forfeited unless—

(a) a hearing under section 34 has been held in respect of the forfeiture; and

30 (b) every mortgagee of the lessee's interest was given seven days' notice of the hearing.

137H. Where a declaration is made under section 137G (1), any interest created under the lease shall cease and the right and title of the lessee to the lease and the land and any money paid under the lease shall be forfeited." Effect of forfeit of lease.

35 13. For sections 138, 139 and 140 of the Principal Act, there shall be substituted the following sections: Amendment of No. 6284 ss. 138-140 substituted.

40 "138. (1) The Minister or a person duly authorized by him may grant to an applicant a licence to enter and use for any purpose which the person granting the licence thinks fit (except for a purpose for which a licence under sections 140A to 151 may be granted) any Crown land which is not held under a lease under this Act. Minister or authorized person may grant licences.

04 (2) Subject to sub-section (3), nothing in sub-section (1) constitutes an authority to grant a licence to enter and use any land which is reserved

either temporarily or permanently under section 4 of the *Crown Land (Reserves) Act 1978* where the reservation of the land has not been revoked.

(3) The Minister or any person duly authorized by him may grant a licence to enter land which is reserved either temporarily or permanently under section 4 of the *Crown Land (Reserves) Act 1978*, notwithstanding that the reservation has not been revoked—

- (a) where the purpose of the licence is—
 - (i) to remove materials from the bed or banks of any river creek or watercourse on the land;
 - (ii) to manufacture and remove salt;
 - (iii) to seek and remove gemstones or any other objects specified in the licence; and
- (b) where the land is not vested in trustees or in a municipality and is not under the control of a committee of management or of a person or body pursuant to section 18 (1) of the *Crown Land (Reserves) Act 1978*.

Buildings &c. erected under licence to be removed on expiry.

139. Where, under a licence granted under section 138, the erection of buildings or structures on the land is permitted, the licensee shall on the expiry of the licence remove the buildings or structures erected by him within the time specified by the person granting the licence, and shall make good any injury done to the land by the erection or removal of the buildings or structures, and any building or structure not removed within the specified time shall become the property of the Crown.

Terms and conditions.

- 140. A licence granted under section 138 shall—
 - (a) be subject to any terms and conditions which the person granting the licence thinks fit; and
 - (b) be for a term not exceeding one year and may be renewed annually by a person authorized to grant licences under this subdivision.”.

Amendment of No. 6284 subdivision 3, inserted in Part I, Division 9.

14. After section 151 of the Principal Act, there shall be inserted the following subdivision:

“Subdivision 3—Metropolitan Leaseholds

Metropolitan lessees may obtain grant of land.

151AA. (1) Notwithstanding anything to the contrary in this Act, where a lease (which is not for amusement or recreational purposes) of any Crown land in the metropolis has been granted under a provision of subdivision 1 or under any corresponding previous enactment, the Minister may enter into a contract for the sale of that land to the person who was the lessee of that land at a purchase price and upon the terms and conditions (including terms and conditions as to interest charges) determined by the Minister.

(2) A purchaser under a contract entered into under sub-section (1) may with the written consent of the Minister assign his interest under the contract to another person.

5 (3) Upon payment in full of the purchase price the Governor in Council shall grant in fee simple the land the subject of the contract to the purchaser under the contract or his assignee.

(4) A Crown grant made under this section shall contain the covenants, conditions, exceptions and reservations determined by the Governor in Council.

10 (5) Before any contract under sub-section (1) is entered into, the lessee of the land which is to be the subject of the contract shall transfer and surrender any leases held by him over the land to the Crown.

(6) In this section, "metropolitan area" has the same meaning as it has in the *Town and Country Planning Act 1961*."

15 **15.** After section 183 of the Principal Act, there shall be inserted the following section:

Amendment of No. 6284 s. 183 inserted.

20 "183A. (1) Where the council of a municipality manages a common, the council may, with the consent of the Minister, allow any person to use the whole or any part of the common for the purposes of grazing, agriculture or horticulture on such terms and conditions as the council sees fit, for the purpose of raising funds for those local recreational and community facilities which are approved by the corporation and the Minister.

Municipality may raise funds by allowing use of common.

25 (2) Where the Minister consents under sub-section (1) to any person using the whole or any part of a common, the rights of any other person to depasture cattle on the land the subject of the consent shall cease and determine."

30 **16.** (1) In section 209 (2) of the Principal Act—

Amendment of No. 6284 s. 209.

(a) for the words "Governor in Council" (where first occurring) there shall be substituted the word "Minister";

35 (b) for the words "or where any other case of a like nature arises" there shall be substituted the words "or where, in the opinion of the Minister, the proper and most efficient use of the Crown land is use in conjunction with adjoining freehold land";

(c) for the words "Governor in Council may grant in fee simple" there shall be substituted the words "Minister on behalf of Her Majesty may sell"; and

40 (d) for the words "at a price determined by an appraiser appointed by the Minister." there shall be substituted the words "at a price and on terms and conditions which the Minister thinks fit."

(2) For sub-section (3) of section 209 of the Principal Act there shall be substituted the following sub-sections:

“(3) When the purchase price of land sold under this section is paid in full the Governor in Council shall grant in fee simple the land to the purchaser.”

5

(4) A Crown grant made under sub-section (3) may be made subject to the condition that, within the time specified by the Minister, the person to whom the grant is made shall—

(a) make an application under section 569AB of the *Local Government Act* 1958 to the council of the municipality of the municipal district in which the land is situated for a plan of consolidation of the area formed by the land granted and the adjacent freehold land described in the grant; and

10

(b) where the plan of consolidation is sealed by the council, lodge the plan with the Registrar of Titles for approval under section 97A of the *Transfer of Land Act* 1958.

15

(5) Where a Crown grant is made subject to a condition provided for in sub-section (4), failure to comply with the condition within the time specified by the Minister shall render the grant null and void and the Minister may take and re-enter the land as if the grant had not been made and the money paid to purchase the land shall be forfeited to the Crown.”

20

Amendment of
No. 6284 s. 399.

17. In section 399 of the Principal Act for the interpretations of “Road”, “Unused road” and “Water frontage” there shall be substituted the following interpretations:

25

“Road.”

“Road” includes “street” and also includes—

(a) any portion of Crown land delineated or shown as a road in any original map or plan in the Department of Crown Lands and Survey in accordance with which any Crown land has or may have been sold leased or licensed or become subject to a residence area right but does not include formed or metalled roads in respect of which the council of a municipality has incurred expense in construction and on which it carries out regular maintenance;

30

35

(b) any portion of Crown land which by a general or particular description has been or purports to have been proclaimed by the Governor in Council as a road under the provisions of any Act relating to Crown lands; or

(c) any portion of Crown land which may have been or may be by a general or particular description reserved from sale as a road and the reservation of which has been duly published in the *Government Gazette* under the provisions of any such Act—

40

but does not include any road or street formed or set out on private land; and such map or plan or a copy of the *Government Gazette* containing any such proclamation of a road or any such reservation shall until the contrary is shown be evidence that the portion so delineated shown or described respectively is a road within the meaning of this section.

5

“Unused road” means a road or any part of a road the subject of a notice under sub-section (1) of section 400. “Unused road.”

10

“Water frontage” means any portion of Crown land which has a frontage to the sea or any river creek lake or swamp and which is not for the time being held under lease or licence or residence area right or reserved as a water reserve along any public road under the provisions of any Act relating to Crown lands and includes land permanently or temporarily reserved from sale other than land vested in trustees or in a municipality or placed under the control of a public authority or in respect of which a committee of management has been appointed under any Act relating to Crown lands.’ “Water frontage.”

15

18. In section 401 of the Principal Act—

Amendment of
No. 6284 s. 401.

20

(a) in sub-section (1) for the words “Governor in Council” (where secondly occurring) there shall be substituted the word “Minister”;

25

(b) in sub-section (1) for the words “licences for the occupation and use of any unused road or of any water frontage” there shall be substituted the expression “to a person—

(a) a licence to enter an unused road or part of an unused road and to use the road for a purpose specified in the licence; or

30

(b) a licence to enter a water frontage and to use it to depasture cattle or sheep.”; and

(c) after sub-section (2) there shall be inserted the following sub-section:

‘(3) In this section “cattle” means cows, oxen, heifers, steers, calves, horses, mares, geldings, colts and fillies.’

35

19. After section 401 of the Principal Act, there shall be inserted the following section:

Amendment of
No. 6284 s. 401
inserted.

40

“401A. (1) Any person may, subject to and in accordance with any regulations made for the purposes of this section, enter and remain for recreational purposes on a water frontage in respect of which a licence has been granted under section 401, whether the licence was granted before or after the commencement of the *Land (Amendment) Act 1983*, but no person shall camp thereon.

Anyone may
enter water
frontage for
recreation.

(2) A licence for the occupation and use of a water frontage granted before the commencement of the *Land (Amendment) Act 1983* shall,

from the commencement of that Act, be subject to the condition that the licensee shall erect and maintain a suitable means of pedestrian access through any fence on or around the water frontage except any fence between the frontage and adjoining private land and where there is any breach of this condition the licence may be cancelled forthwith.” 5

Amendment of
No. 6284 ss. 402,
403.

20. In the Principal Act—

- (a) in section 402 for the word “occupy” (wherever occurring) there shall be substituted the word “enter”;
- (b) in section 403 for the word “occupy” (where first occurring) there shall be substituted the word “enter”; and 10
- (c) in section 403, the words “and no person whosoever shall occupy a water frontage or use a water frontage otherwise than for traffic unless he has a licence in respect thereof under this Part” shall be repealed.

Amendment of
No. 6284 s. 404.

21. Section 404 of the Principal Act shall be amended as follows: 15

- (a) In sub-section (1) for the word “occupy” there shall be substituted the word “enter”;
- (b) In sub-section (1) the words “the occupation of” shall be repealed;
- (c) In sub-section (1) for the expression “the first day of January in the year in which he received a notice whether he obtains a licence or not, and such fee shall be due and payable to the Crown and may be recovered accordingly” there shall be substituted the words “the date specified therein and such fee shall be due and payable whether he obtains a licence or not and may be recovered accordingly”; 20 25
- (d) In sub-section (2) for the word “occupy” there shall be substituted the word “enter”;
- (e) After sub-section (3) there shall be inserted the following sub-section: 30
 - “(4) Where a person refuses or fails to pay a licence fee within three months after receiving notice pursuant to sub-section (1) a bailiff of Crown lands or any person authorized in that behalf by the Secretary for Lands may demolish and remove any fencing erected across an unused road or water frontage and the costs and expenses of and incidental to any removal may be recovered from the person who refused or failed to pay the fee.” 35

Amendment of
No. 6284 s. 405.

22. For section 405 of the Principal Act there shall be substituted the following section: 40

“405. (1) A licence to enter and use an unused road or a water frontage shall be for a term not exceeding twelve months and may be renewed from time to time.

(2) A licence to enter and use an unused road or water frontage—

(a) shall contain—

- 5 (i) a condition that the Minister or any person authorized by him under section 401 may, at any time after giving to the licensee three months' notice in writing, cancel the licence either as to the whole or part of the unused road or water frontage;
- 10 (ii) a condition that a yearly licence fee be paid in advance;
- (iii) a condition that the licensee shall not, except with the written permission of the Secretary for Lands granted under sub-section (8) and upon payment of such additional licence fee as may be determined by the Secretary for Lands, cultivate or break the soil of the licensed land;
- 15 (iv) a condition that the licence may be cancelled forthwith upon a breach of any condition thereof; and
- (v) a condition requiring the control of anything declared to be vermin or a noxious weed under the *Vermin and Noxious Weeds Act 1958*; and

20 (b) may contain—

- (i) a condition requiring the erection and maintenance of suitable unlocked swing gates, cattle pits, ramps or other suitable means of passage;
- 25 (ii) a condition that the licensee shall, if required during the period of the licence by the Secretary for Lands, carry out any re-vegetation of the licensed land or any reclamation of eroded areas of the licensed land and exclude stock from any area being so re-vegetated or reclaimed; or
- 30 (iii) any other conditions which the person granting the licence thinks fit.

(3) A licence to enter and use a water frontage shall contain a condition that the licensee shall erect and maintain a stile, unlocked wicket gate or some other suitable means of pedestrian access in any
35 fence on or around the frontage except any fence between the frontage and adjoining private land.

(4) The Secretary for Lands or a person duly authorized by him shall fix the amount of the yearly licence fee under sub-section (2) (a) (ii) at an amount not less than the minimum yearly licence fee determined by
40 the Minister.

(5) Where owing to drought or other adversity the income of any licensee from the land which is the subject of his licence has during any period been seriously diminished, the Minister may remit all or any part of the yearly licence fee paid or waive all or any part of the yearly licence
45 fee payable by the licensee in respect of that period.

(6) Where a licensee has enclosed with a substantial fence the land which is the subject of his licence he may impound any cattle sheep or other animals found trespassing thereon.

(7) Where there is no fence enclosing the land which is the subject of the licence the licensee may in any court of competent jurisdiction sue the owner of any cattle sheep or other animals for damages arising from trespass by such cattle sheep or other animals. 5

(8) A licensee may apply to the Secretary for Lands for permission to cultivate or break the soil of the licensed land specifying the type of cultivation or the purpose for which the soil is to be broken and the Secretary for Lands may, if he thinks fit, grant such permission whether the proposed cultivation or breaking of the soil is in connexion with the grazing of cattle or sheep or not and shall fix the additional fee to be paid in respect of such licence. 10

(9) The Secretary for Lands shall not grant permission to cultivate or break the soil of a licensed unused road unless the licensee produces to him a consent in writing to such cultivation or such breaking of the soil by the council of the municipality in the municipal district of which the licensed unused road is situated." 15

Amendment of
No. 6284 s. 407.

23. Section 407 of the Principal Act shall be amended as follows: 20

(a) For sub-section (1) there shall be substituted the following sub-sections:

"(1) If the council of the municipality considers that it is desirable in the public interest that a licence in respect of any unused road in the municipal district of that municipality should be cancelled it shall so inform the Minister or any person authorized under section 401 to grant licences and the Minister or that person, may, after three months' notice has been given to the licensee, cancel the licence. 25

(1A) If the Minister considers that it is desirable in the public interest that a licence in respect of any water frontage should be cancelled he may after three months' notice has been given to the licensee cancel the licence. 30

(1B) Where a licence has been cancelled under sub-section (1) the land to which that licence related shall cease to be an unused road for the purposes of this Part."; and 35

(b) In sub-sections (2) and (3) the words "the occupation of" shall be repealed.

Amendment of
No. 6284 s. 408
inserted.

24. Section 408 of the Principal Act shall be repealed.

25. In section 411 of the Principal Act for the words "for the occupation and use of" there shall be substituted the words "to enter and use".

Amendment of
No. 6284 s. 411.

5 26. Any lease or licence existing or continuing immediately before the commencement of this Act under a provision of the Principal Act amended or repealed by this Act shall subject to section 401A of the Principal Act, continue to have the same status operation and effect as they respectively would have had if such provisions had not been repealed or amended.

Savings.

