

ABORIGINAL LAND RIGHTS ACT, 1983, No. 42

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 42, 1983.

An Act to repeal the Aborigines Act, 1969, and to make provisions with respect to the land rights of Aborigines, including provisions for or with respect to the constitution of Aboriginal Land Councils, the vesting of land in those Councils, the acquisition of land by or for those Councils and the allocation of funds to and by those Councils; to amend certain other Acts; and to make provisions for certain other purposes.
[Assented to, 4th May, 1983.]

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WHEREAS:

- (1) Land in the State of New South Wales was traditionally owned and occupied by Aborigines:
- (2) Land is of spiritual, social, cultural and economic importance to Aborigines:
- (3) It is fitting to acknowledge the importance which land has for Aborigines and the need of Aborigines for land:
- (4) It is accepted that as a result of past Government decisions the amount of land set aside for Aborigines has been progressively reduced without compensation:

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Aboriginal Land Rights Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—LOCAL ABORIGINAL LAND COUNCILS—ss. 5–13.

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- PART III.—REGIONAL ABORIGINAL LAND COUNCILS—*ss.* 14–21.
PART IV.—NEW SOUTH WALES ABORIGINAL LAND COUNCIL—*ss.* 22–27.
PART V.—FINANCE—*ss.* 28–34.
 DIVISION 1.—*Establishment of accounts—ss.* 28–31.
 DIVISION 2.—*Keeping of accounts—ss.* 32–34.
PART VI.—LAND RIGHTS—*ss.* 35–44.
 DIVISION 1.—*Transfer of former Trust lands to Aboriginal Land Councils—s.* 35.
 DIVISION 2.—*Claimable Crown lands—ss.* 36, 37.
 DIVISION 3.—*Acquisition of other lands—ss.* 38, 39.
 DIVISION 4.—*Disposal and use of Aboriginal land—ss.* 40–42.
 DIVISION 5.—*Rates—ss.* 43, 44.
PART VII.—MINERAL RIGHTS AND MINING—*ss.* 45, 46.
PART VIII.—HUNTING, FISHING AND GATHERING—*ss.* 47, 48.
PART IX.—MISCELLANEOUS—*ss.* 49–71.
SCHEDULE 1.—MODIFICATION OF THE PUBLIC WORKS ACT, 1912.
SCHEDULE 2.—REPEALS.
SCHEDULE 3.—AMENDMENTS.
SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Aboriginal” means a person who—

- (a) is a member of the Aboriginal race of Australia;
- (b) identifies as an Aboriginal; and
- (c) is accepted by the Aboriginal community as an Aboriginal;

“Aboriginal Land Council” means the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council;

“adult Aboriginal” means an Aboriginal who has attained the age of 18 years;

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“Court” means the Land and Environment Court;

“land” includes any estate or interest in land;

“Local Aboriginal Land Council” means a Local Aboriginal Land Council constituted under this Act;

“Local Aboriginal Land Council area” means a Local Aboriginal Land Council area constituted under this Act;

“New South Wales Aboriginal Land Council” means the New South Wales Aboriginal Land Council constituted under this Act;

“Regional Aboriginal Land Council” means a Regional Aboriginal Land Council constituted under this Act and, in relation to a Local Aboriginal Land Council, means the Regional Aboriginal Land Council constituted under this Act for the area in which the Local Aboriginal Land Council area is situated;

“Regional Aboriginal Land Council area” means a Regional Aboriginal Land Council area constituted under this Act;

“Registrar” means the Registrar appointed under this Act;

“regulations” means regulations made under this Act.

(2) A reference in this Act to—

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

PART II.

LOCAL ABORIGINAL LAND COUNCILS.

Constitution of Local Aboriginal Land Council areas.

5. (1) The Minister may, in the manner prescribed, constitute an area as a Local Aboriginal Land Council area.

(2) The Governor may make regulations for or with respect to the constitution of Local Aboriginal Land Council areas.

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(3) Without affecting the generality of subsection (2), regulations may be made under that subsection for or with respect to—

- (a) applications for the constitution of areas as Local Aboriginal Land Council areas;
- (b) the making of recommendations to the Minister with respect to proposals to constitute Local Aboriginal Land Council areas;
- (c) the lodging of objections against—
 - (i) the refusal of applications for the constitution of Local Aboriginal Land Council areas or the failure to deal with any such applications; and
 - (ii) proposals to constitute Local Aboriginal Land Council areas; and
- (d) the reference to the Court of objections of the kind referred to in paragraph (c) and the hearing and determination by the Court of any such objections.

Constitution of Local Aboriginal Land Councils.

6. (1) There is hereby constituted for each Local Aboriginal Land Council area a Local Aboriginal Land Council which shall be a body corporate.

(2) The corporate name of a Local Aboriginal Land Council shall be "Local Aboriginal Land Council" preceded by the name of the area of the Council.

(3) All adult Aborigines who are listed in the Local Aboriginal Land Council roll for a Local Aboriginal Land Council area shall be members of the Local Aboriginal Land Council for that area.

Local Aboriginal Land Council rolls.

7. (1) The Secretary of a Local Aboriginal Land Council shall, in respect of the Local Aboriginal Land Council area, prepare and maintain a Local Aboriginal Land Council roll.

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(2) The Secretary of a Local Aboriginal Land Council shall list on the roll for the Local Aboriginal Land Council area the names and addresses of those adult Aborigines who—

- (a) reside within that area and who have requested in writing that they be enrolled as members of the Local Aboriginal Land Council; or
- (b) have an association with that area and who, upon application made in writing, have been accepted by a meeting of that Council as members.

(3) The Governor may make regulations for or with respect to—

- (a) the preparation and maintenance of Local Aboriginal Land Council rolls;
- (b) the particulars to be recorded in Local Aboriginal Land Council rolls;
- (c) the removal of particulars from Local Aboriginal Land Council rolls;
- (d) the lodging of objections against—
 - (i) the failure or refusal to list a person's name and address on a Local Aboriginal Land Council roll; and
 - (ii) the removal of a person's name and address from a Local Aboriginal Land Council roll; and
- (e) the reference to the Court of objections of the kind referred to in paragraph (d) and the hearing and determination by the Court of any such objections.

(4) Until a Secretary of a Local Aboriginal Land Council for a Local Aboriginal Land Council area is elected, the functions of a Secretary under this section in respect of the area shall be exercised by a person appointed by the Registrar for the purpose.

Meetings of Local Aboriginal Land Councils.

8. (1) A Local Aboriginal Land Council shall hold its first meeting at a time (being a time as soon as practicable after its constitution) and place arranged by the Registrar.

(2) Subject to subsection (3), a Local Aboriginal Land Council shall hold its second and subsequent meetings at such times as the Council determines.

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(3) A Local Aboriginal Land Council—

- (a) shall hold ordinary meetings at least once in every 3 months; and
- (b) shall hold annual meetings at the times, or within the periods, prescribed.

(4) Subject to this Act and the regulations, the procedure for the calling of meetings and the conduct of business at meetings of a Local Aboriginal Land Council shall be as determined by the Council.

Chairman and other officers.

9. (1) The members of a Local Aboriginal Land Council shall at its first meeting and at each annual meeting elect a Chairman, a Secretary and a Treasurer.

(2) Until a Chairman is elected at the first meeting of a Local Aboriginal Land Council, the Registrar or a person appointed by the Registrar shall preside at that meeting.

(3) Subject to subsection (4), the Chairman of a Local Aboriginal Land Council shall preside at meetings of the Council.

(4) In the absence of the Chairman from a meeting of a Local Aboriginal Land Council, the members of the Council shall elect a member to preside at the meeting.

(5) A term of office of a Chairman, Secretary or Treasurer of a Local Aboriginal Land Council shall expire on his re-election for another term or on the election of his successor at the annual meeting of the Council next following his election.

(6) In the event of there being a vacancy in the office of a Chairman, Secretary or Treasurer of a Local Aboriginal Land Council, a member of the Council may, in the manner prescribed, be elected to fill the vacancy.

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Voting.

10. Subject to this Act, at a meeting of a Local Aboriginal Land Council at which a quorum is present a decision of a majority of the members of the Council present and voting is a decision of the Council.

Election of members of Regional Aboriginal Land Council.

11. (1) The members of a Local Aboriginal Land Council shall, at the Council's annual meeting or at such other times as may be prescribed, elect members to represent the Local Aboriginal Land Council as members of the Regional Aboriginal Land Council for the area in which the Local Aboriginal Land Council area is situated.

(2) A Local Aboriginal Land Council shall have not more than the prescribed number of representatives as members of a Regional Aboriginal Land Council at any one time.

Functions of a Local Aboriginal Land Council.

12. A Local Aboriginal Land Council shall have the following functions:—

- (a) the holding of lands vested in or acquired by the Council;
- (b) the purchase of private lands, including the making of applications to the Regional Aboriginal Land Council for funds for that purpose;
- (c) the implementation of the wishes of its members (as decided at a meeting of the Council) with respect to the management, use and control of lands and the establishment and operation of enterprises;
- (d) the consideration of applications to prospect or mine for minerals on its lands;
- (e) the submission to the Regional Aboriginal Land Council of proposals to lease or change the use of its lands;
- (f) the making of claims to Crown land;

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- (g) the upgrading and extending of local residential accommodation for Aborigines;
- (h) the protection of the interests of Aborigines in its area in relation to the management, use and control of its lands;
- (i) negotiating with persons desiring to use, occupy or gain access to any part of its lands;
- (j) with the consent of the parties concerned, the conciliation of disputes between individual Aborigines or groups of Aborigines in its area;
- (k) such other functions as are conferred or imposed on it by or under this or any other Act.

Rules of a Local Aboriginal Land Council.

13. (1) A Local Aboriginal Land Council shall, within such period as the Registrar directs, submit to the Registrar for approval rules in relation to the Council's functions or operations.

(2) A Local Aboriginal Land Council's rules may, with the approval of the Registrar, be amended, repealed or replaced from time to time.

(3) A Local Aboriginal Land Council may appeal to the Court against the Registrar's refusal to approve of rules or to approve of an amendment, a repeal or replacement of its rules.

(4) On the hearing of an appeal under subsection (3) the Court may direct the Registrar to approve of rules, or an amendment, a repeal or a replacement of rules, specified in the direction.

(5) A rule of a Local Aboriginal Land Council for the time being approved by the Registrar under this section shall, to the extent that it is not inconsistent with this Act or the regulations, be a rule of the Council.

(6) Until a Local Aboriginal Land Council makes its first rules in accordance with this section, its rules shall be the rules prescribed by the regulations as model rules.

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PART III.**REGIONAL ABORIGINAL LAND COUNCILS.****Constitution of Regional Aboriginal Land Council areas.**

14. (1) The Minister, after considering any recommendation of the Registrar, may, by notice published in the Gazette, constitute an area as a Regional Aboriginal Land Council area.

(2) The boundaries and the name of a Regional Aboriginal Land Council area shall be as specified in the notice constituting the area.

Constitution of Regional Aboriginal Land Councils.

15. (1) There is hereby constituted for each Regional Aboriginal Land Council area a Regional Aboriginal Land Council which shall be a body corporate.

(2) The corporate name of a Regional Aboriginal Land Council shall be "Regional Aboriginal Land Council" preceded by the name of the area of the Council.

(3) The members of each Regional Aboriginal Land Council shall be such members of the Local Aboriginal Land Councils, the areas of which are within the Regional Aboriginal Land Council area, as are for the time being elected under this Act to represent those Local Aboriginal Land Councils as members of that Regional Aboriginal Land Council.

(4) The term of office of a member of a Regional Aboriginal Land Council shall expire on his re-election for another term or on the election of his successor.

(5) A member of a Regional Aboriginal Land Council shall, subject to the regulations, be entitled to receive from the funds of the Council such fees, allowances and expenses as the Council determines in respect of him.

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Meetings of Regional Aboriginal Land Councils.

16. (1) A Regional Aboriginal Land Council shall hold its first meeting at a time (being a time as soon as practicable after its constitution) and place arranged by the Registrar.

(2) Subject to subsection (3), a Regional Aboriginal Land Council shall hold its second and subsequent meetings at such times as the Council determines.

(3) A Regional Aboriginal Land Council—

- (a) shall hold ordinary meetings at least once in every 3 months; and
- (b) shall hold annual meetings at the times, or within the periods, prescribed.

(4) Subject to this Act and the regulations, the procedure for the calling of meetings and the conduct of business at meetings of a Regional Aboriginal Land Council shall be as determined by the Council.

Chairman and other officers.

17. (1) The members of a Regional Aboriginal Land Council shall at its first meeting and at each annual meeting elect a Chairman, a Secretary and a Treasurer.

(2) Until a Chairman is elected at the first meeting of a Regional Aboriginal Land Council, the Registrar or a person appointed by the Registrar shall preside at that meeting.

(3) Subject to subsection (4), the Chairman of a Regional Aboriginal Land Council shall preside at meetings of the Council.

(4) In the absence of the Chairman from a meeting of a Regional Aboriginal Land Council, the members of the Council shall elect a member to preside at the meeting.

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(5) A term of office of a Chairman, Secretary or Treasurer of a Regional Aboriginal Land Council shall expire on his re-election for another term or on the election of his successor at the annual meeting of the Council next following his election.

(6) In the event of there being a vacancy in the office of a Chairman, Secretary or Treasurer of a Regional Aboriginal Land Council, a member of the Council may, in the manner prescribed, be elected to fill the vacancy.

Voting.

18. At a meeting of a Regional Aboriginal Land Council at which a quorum is present a decision of a majority of the members of the Council present and voting is a decision of the Council.

Election of members of the N.S.W. Aboriginal Land Council.

19. (1) The members of a Regional Aboriginal Land Council shall, at the Council's annual meeting or at such other times as may be prescribed, elect members to represent the Regional Aboriginal Land Council and Local Aboriginal Land Councils within its area as members of the New South Wales Aboriginal Land Council.

(2) A Regional Aboriginal Land Council shall have not more than the prescribed number of representatives as members of the New South Wales Aboriginal Land Council at any one time.

Functions of a Regional Aboriginal Land Council.

20. A Regional Aboriginal Land Council shall have the following functions:—

- (a) the compilation and maintenance of a register, containing the prescribed particulars, of all Local Aboriginal Land Councils within its area;
- (b) the consideration and, if endorsed, the funding of claims to land or purchases of land made by Local Aboriginal Land Councils within its area;

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- (c) the provision of financial and other assistance to Local Aboriginal Land Councils within its area for the management, use and control of lands and for the establishment and operation of enterprises;
- (d) the provision of assistance, where requested, to Local Aboriginal Land Councils within its area in the preparation of claims to Crown lands or the negotiation of purchases of private lands;
- (e) the ascertaining of the wishes and opinions of Local Aboriginal Land Councils within its area with respect to all matters pertaining to the acquisition of land and, where practicable, the giving of effect to those wishes in accordance with the best interests of those Councils;
- (f) the provision of such further assistance as is required from time to time by Local Aboriginal Land Councils within its area;
- (g) the conciliation of disputes between Local Aboriginal Land Councils within its area or between those Councils and individuals or between individual members of those Councils relating to claims to land or purchases of land;
- (h) the holding of lands vested in or acquired by the Council;
- (i) the consideration of proposals by Local Aboriginal Land Councils within its area to lease or change the use of lands;
- (j) such other functions as are conferred or imposed on it by or under this or any other Act.

Rules of a Regional Aboriginal Land Council.

21. (1) A Regional Aboriginal Land Council shall, within such period as the Registrar directs, submit to the Registrar for approval rules in relation to the Council's functions or operations.

(2) A Regional Aboriginal Land Council's rules may, with the approval of the Registrar, be amended, repealed or replaced from time to time.

(3) A Regional Aboriginal Land Council may appeal to the Court against the Registrar's refusal to approve of rules or to approve of an amendment, a repeal or a replacement of its rules.

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(4) On the hearing of an appeal under subsection (3) the Court may direct the Registrar to approve of rules, or an amendment, a repeal or a replacement of rules, specified in the direction.

(5) A rule of a Regional Aboriginal Land Council for the time being approved by the Registrar under this section shall, to the extent that it is not inconsistent with this Act or the regulations, be a rule of the Council.

(6) Until a Regional Aboriginal Land Council makes its first rules in accordance with this section, its rules shall be the rules prescribed by the regulations as model rules.

PART IV.

NEW SOUTH WALES ABORIGINAL LAND COUNCIL.

Constitution of N.S.W. Aboriginal Land Council.

22. (1) There is hereby constituted a New South Wales Aboriginal Land Council which shall be a body corporate under the corporate name of "New South Wales Aboriginal Land Council".

(2) Until the day appointed by the Minister (being a day not later than 1st January, 1984) and notified in the Gazette for the purposes of this subsection, the New South Wales Aboriginal Land Council shall be comprised of 12 Aboriginal members who shall be appointed by the Minister by instrument in writing.

(3) On and from the day appointed and notified under subsection (2), the members of the New South Wales Aboriginal Land Council shall be such members of the Regional Aboriginal Land Councils as are for the time being elected as members of the New South Wales Aboriginal Land Council under this Act.

(4) The term of office of a member of the New South Wales Aboriginal Land Council shall expire on his re-election for another term or on the election of his successor.

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(5) A member of the New South Wales Aboriginal Land Council—

- (a) being a member appointed under subsection (2), shall be entitled to receive from the funds of the Council such fees, allowances and expenses as the Minister determines in respect of him; or
- (b) being a member elected as referred to in subsection (3), shall, subject to the regulations, be entitled to receive from the funds of the Council such fees, allowances and expenses as the Council determines in respect of him.

Meetings of the N.S.W. Aboriginal Land Council.

23. (1) The New South Wales Aboriginal Land Council shall hold its first meeting at a time (being a time as soon as practicable after its constitution) and place arranged by the Registrar.

(2) Subject to subsection (3), the New South Wales Aboriginal Land Council shall hold its second and subsequent meetings at such times as the Council determines.

(3) The New South Wales Aboriginal Land Council—

- (a) shall hold ordinary meetings at least once in every 6 months; and
- (b) shall hold annual meetings at the times, or within the periods, prescribed.

(4) Subject to this Act and the regulations, the procedure for the calling of meetings and the conduct of business at meetings of the New South Wales Aboriginal Land Council shall be as determined by the Council.

Chairman and other officers.

24. (1) The members of the New South Wales Aboriginal Land Council shall—

- (a) at the Council's first meeting;

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(b) at the Council's first meeting on or after the day appointed and notified under section 22 (2); and

(c) at each annual meeting,

elect a Chairman, a Secretary and a Treasurer.

(2) Until a Chairman is elected at the first meeting of the New South Wales Aboriginal Land Council or at the meeting referred to in subsection (1) (b) the Registrar or a person appointed by the Registrar shall preside at that meeting.

(3) Subject to subsection (4), the Chairman of the New South Wales Aboriginal Land Council shall preside at meetings of the Council.

(4) In the absence of the Chairman from a meeting of the New South Wales Aboriginal Land Council, the members of the Council shall elect a member to preside at the meeting.

(5) A term of office of a Chairman, Secretary or Treasurer of the New South Wales Aboriginal Land Council shall expire on his re-election for another term or on the election of his successor at the annual meeting of the Council next following his election.

(6) In the event of there being a vacancy in the office of a Chairman, Secretary or Treasurer of the New South Wales Aboriginal Land Council, a member of the Council may, in the manner prescribed, be elected to fill the vacancy.

Voting.

25. At a meeting of the New South Wales Aboriginal Land Council at which a quorum is present a decision of a majority of the members of the Council present and voting is a decision of the Council.

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Functions of the N.S.W. Aboriginal Land Council.

26. The New South Wales Aboriginal Land Council shall have the following functions:—

- (a) the administration of the New South Wales Aboriginal Land Council Account and the Mining Royalties Account established under this Act;
- (b) the provision of assistance, from its own funds, to Regional Aboriginal Land Councils in undertaking projects involving extraordinary expenditure;
- (c) the determination and approval or disapproval of the terms and conditions of agreements proposed by Local Aboriginal Land Councils to allow mining or mineral exploration on land;
- (d) the making of claims to Crown lands, either on its own behalf or, if requested by a Local Aboriginal Land Council, on behalf of that Council;
- (e) with the agreement of a Local Aboriginal Land Council, the management of housing formerly the property of The Aboriginal Lands Trust (constituted under the Aborigines Act, 1969, as in force immediately before the repeal of that Act by this Act) within that Council's area;
- (f) the making of grants or the lending of money to, or the investing of money for or on behalf of, Aborigines;
- (g) the holding of lands vested in or acquired by the Council;
- (h) such other functions as are conferred or imposed on it by or under this or any other Act.

Rules of the N.S.W. Aboriginal Land Council.

27. (1) The New South Wales Aboriginal Land Council shall, within such period as the Registrar directs, submit to the Registrar for approval rules in relation to the Council's functions or operations.

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(2) The New South Wales Aboriginal Land Council's rules may, with the approval of the Registrar, be amended, repealed or replaced from time to time.

(3) The New South Wales Aboriginal Land Council may appeal to the Court against the Registrar's refusal to approve of rules or to approve of an amendment, a repeal or a replacement of its rules.

(4) On the hearing of an appeal under subsection (3) the Court may direct the Registrar to approve of rules, or an amendment, a repeal or a replacement of rules, specified in the direction.

(5) A rule of the New South Wales Aboriginal Land Council for the time being approved by the Registrar under this section shall, to the extent that it is not inconsistent with this Act or the regulations, be a rule of the Council.

(6) Until the New South Wales Aboriginal Land Council makes its first rules in accordance with this section, its rules shall be the rules prescribed by the regulations as its rules.

PART V.

FINANCE.

DIVISION 1.—*Establishment of accounts.*

Annual payment of 7.5 per cent of land tax into the N.S.W. Aboriginal Land Council Account.

28. (1) There shall be paid into the New South Wales Aboriginal Land Council Account in 1984 and in each succeeding year up to and including 1998 out of the Consolidated Fund an amount equal to 7.5 per cent of the amount certified from time to time by the Treasurer as having been paid as land tax under the Land Tax Management Act, 1956, in respect of the previous year.

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(2) The amounts required by subsection (1) to be paid into the New South Wales Aboriginal Land Council Account are hereby appropriated out of the Consolidated Fund.

N.S.W. Aboriginal Land Council Account.

29. The New South Wales Aboriginal Land Council shall establish in a bank an account named the "New South Wales Aboriginal Land Council Account" into which shall be deposited—

- (a) money provided to that Council by Parliament for the purposes of this Act; and
- (b) any other money received by that Council and not required by or under this or any other Act to be paid into any other account or fund,

and from which shall be paid—

- (c) money to be provided from that Account to Regional Aboriginal Land Councils and Local Aboriginal Land Councils for the purposes of this Act;
- (d) amounts required to meet expenditure incurred by the New South Wales Aboriginal Land Council in the execution or administration of this Act; and
- (e) any other payments authorised by or under this or any other Act.

Regional Aboriginal Land Council Accounts.

30. Each Regional Aboriginal Land Council shall establish in a bank an account into which shall be deposited—

- (a) money received from the New South Wales Aboriginal Land Council; and
- (b) any other money received by the Regional Aboriginal Land Council and not required by or under this or any other Act to be paid into any other account or fund,

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and from which shall be paid—

- (c) amounts required for the acquisition of land by Local Aboriginal Land Councils within the area of the Regional Aboriginal Land Council where that acquisition has been approved in accordance with this Act;
- (d) amounts required to meet expenditure incurred by the Regional Aboriginal Land Council in the execution or administration of this Act; and
- (e) any other payments authorised by or under this or any other Act.

Local Aboriginal Land Council Accounts.

31. Each Local Aboriginal Land Council shall establish in a bank an account into which shall be deposited—

- (a) money received from the New South Wales Aboriginal Land Council or the Regional Aboriginal Land Council for or in respect of the acquisition of land; and
- (b) any other money received by the Local Aboriginal Land Council and not required by or under this or any other Act to be paid into any other account or fund,

and from which shall be paid—

- (c) amounts required for the acquisition of land by the Council where that acquisition has been approved in accordance with this Act;
- (d) amounts required to meet expenditure incurred by the Council in the execution or administration of this Act; and
- (e) any other payments authorised by or under this or any other Act.

DIVISION 2.—Keeping of accounts.

Interpretation: Pt. V, Div. 2.

32. In this Division, except in so far as the context or subject-matter otherwise indicates or requires, "Council" means an Aboriginal Land Council.

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Councils to keep accounts.

33. (1) A Council shall cause to be kept proper accounts and records in relation to all of its operations.

(2) A Council shall, as soon as practicable, but within 6 months, after the end of each financial year of the Council, prepare and submit—

- (a) in the case of a Local Aboriginal Land Council—to the Regional Aboriginal Land Council;
- (b) in the case of a Regional Aboriginal Land Council—to the New South Wales Aboriginal Land Council; and
- (c) in the case of the New South Wales Aboriginal Land Council—to the Minister for presentation to Parliament,

a statement of accounts in respect of its operations during that financial year, together with—

- (d) in the case of a Local Aboriginal Land Council—an auditor's certificate, where such a certificate is required under the regulations; and
- (e) in the case of the New South Wales Aboriginal Land Council or a Regional Aboriginal Land Council—the Auditor-General's certificate given under this section,

in relation to the statement.

(3) The statement of accounts prepared by a Council shall—

- (a) be in a form (if any) approved by the Auditor-General for use by the Council;
- (b) include such information as is requested by him; and
- (c) exhibit a true and fair view of the financial position and transactions of the Council.

(4) The New South Wales Aboriginal Land Council and each Regional Aboriginal Land Council shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

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(5) The Auditor-General's certificate in respect of a Council's statement of accounts referred to in subsection (4) shall—

- (a) state that he has audited the accounts of the Council relating to the relevant financial year;
- (b) indicate whether the statement of accounts complies with subsection (3); and
- (c) set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of a statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the New South Wales Aboriginal Land Council or the Minister, as the case may be.

(7) The Minister shall lay the New South Wales Aboriginal Land Council's statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The first financial year of a Council shall be the period commencing with its constitution and ending on the next ensuing 30th June and subsequent financial years shall be each year commencing on 1st July.

Audit.

34. (1) The accounts and records of financial transactions of a Council, and the records relating to assets of or in the custody of a Council, shall—

- (a) in the case of the New South Wales Aboriginal Land Council or a Regional Aboriginal Land Council—be inspected and audited by the Auditor-General; and
- (b) in the case of a Local Aboriginal Land Council—be inspected and audited by an auditor employed by the Council.

(2) For the purposes of an inspection and audit of a Council's accounts and records by the Auditor-General, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Council and may make copies thereof or take extracts therefrom.

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(3) The Auditor-General or a person authorised by him may require a person, being a member, officer or employee of a Council, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty: \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit by him of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to a Council and the Minister on the result of an inspection and audit by him under this section, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of an inspection and audit by the Auditor-General under this section, a Council shall pay to the Consolidated Fund such amounts, at such times, as the Treasurer decides.

PART VI.

LAND RIGHTS.

DIVISION I.—*Transfer of former Trust lands to
Aboriginal Land Councils.*

Vesting of former Trust lands in Aboriginal Land Councils.

35. (1) In this section, "former Trust lands" means lands vested in The Aboriginal Lands Trust constituted under the Aborigines Act, 1969, as in force immediately before the repeal of that Act by this Act.

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(2) Any former Trust lands—

- (a) within a Local Aboriginal Land Council area for which a Local Aboriginal Land Council is constituted are hereby vested in that Local Aboriginal Land Council; and
- (b) not within a Local Aboriginal Land Council area for which a Local Aboriginal Land Council is constituted are hereby vested in the New South Wales Aboriginal Land Council.

(3) Where a Local Aboriginal Land Council is constituted for a Local Aboriginal Land Council area after the commencement of this section, the New South Wales Aboriginal Land Council shall, as soon as practicable after that constitution, by notification published in the Gazette vest any former Trust lands within that area in that Local Aboriginal Land Council.

(4) Upon the publication of a notification under subsection (3), the former Trust lands specified in the notification shall vest in the Local Aboriginal Land Council so specified.

*DIVISION 2.—Claimable Crown lands.***Claims to Crown lands.**

36. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires—

“Aboriginal Land Council” means the New South Wales Aboriginal Land Council or a Local Aboriginal Land Council;

“claimable Crown lands” means lands vested in Her Majesty that, when a claim is made for the lands under this Division—

- (a) are able to be lawfully sold or leased, or are reserved or dedicated for any purpose, under the Crown Lands Consolidation Act, 1913, or the Western Lands Act, 1901;
- (b) are not lawfully used or occupied; and
- (c) are not needed, nor likely to be needed, for an essential public purpose;

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“Crown Lands Minister” means the Minister for the time being administering any provisions of the Crown Lands Consolidation Act, 1913, or the Western Lands Act, 1901, under which lands are able to be sold or leased.

(2) The New South Wales Aboriginal Land Council may make a claim for land on its own behalf or on behalf of a Local Aboriginal Land Council.

(3) A Local Aboriginal Land Council may make a claim for land within its area or, with the approval of the Registrar, outside its area.

(4) A claim under subsection (2) or (3)—

- (a) shall be in writing and, if a form for making such a claim has been prescribed, shall be in or to the effect of that form;
- (b) shall describe or specify the lands in respect of which it is made; and
- (c) shall be lodged with the Registrar, who shall refer a copy thereof (together with a copy of any approval necessary under subsection (3)) to the Crown Lands Minister or, if there is more than one Crown Lands Minister, to each of them.

(5) A Crown Lands Minister to whom a claim for lands (being lands which are, or, but for any restriction on their sale or lease, would be, able to be sold or leased under a provision of an Act administered by him) has been referred under subsection (4) shall—

- (a) if he is satisfied that—
 - (i) the whole of the lands claimed is claimable Crown lands; or
 - (ii) part only of the lands claimed is claimable Crown lands, grant the claim by transferring to the claimant Aboriginal Land Council (or, where the claim is made by the New South Wales Aboriginal Land Council, to a Local Aboriginal Land Council (if any) nominated by the New South Wales Aboriginal Land Council) the whole or that part of the lands claimed, as the case may be; or

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(b) if he is not satisfied that—

(i) the whole of the lands claimed is claimable Crown lands;
or

(ii) part of the lands claimed is claimable Crown lands,

refuse the claim or refuse the claim to the extent that it applies to that part, as the case may require.

(6) An Aboriginal Land Council may appeal to the Court against a refusal under subsection (5) (b) of a claim made by it.

(7) The Court shall hear and determine any appeal made to it under subsection (6) in respect of any lands claimed and may, if the relevant Crown Lands Minister fails to satisfy the Court that the lands or a part thereof are not or is not claimable Crown lands, order that the lands or the part, as the case may be, be transferred to the claimant Aboriginal Land Council or, where the claim is made by the New South Wales Aboriginal Land Council, to a Local Aboriginal Land Council (if any) nominated by the New South Wales Aboriginal Land Council.

(8) A certificate issued by a Crown Lands Minister, after consultation with the Minister administering this Act, stating that any land the subject of a claim under this section and specified in the certificate is needed or likely to be needed for an essential public purpose shall be accepted as final and conclusive evidence of the matters set out in the certificate and shall not be liable to appeal or review.

(9) Any transfer of lands to an Aboriginal Land Council under this section shall be for an estate in fee simple.

(10) A transfer of lands pursuant to this section operates to revoke any dedication or reservation under the Crown Lands Consolidation Act, 1913, or the Western Lands Act, 1901, to which the lands were subject immediately before the transfer.

(11) Where, by reason of the existence of an easement over them, any lands claimed under this section could not, but for this subsection, be regarded by a Crown Lands Minister as claimable Crown lands, the Crown Lands Minister may, for the purposes of this section, treat the lands as claimable Crown lands.

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(12) A transfer of lands pursuant to this section shall be subject to any easements affecting the lands immediately before the transfer.

(13) Where the transfer of lands in accordance with this section would not, but for this subsection, be authorised by the Crown Lands Consolidation Act, 1913, or the Western Lands Act, 1901, the transfer of the lands in accordance with this section shall be deemed to have been authorised by whichever of those Acts the lands were subject to immediately before the transfer.

(14) The New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council may request a Crown Lands Minister to supply or cause to be supplied to it such information in relation to the Crown land or dealings in Crown land as is specified in the request and the Crown Lands Minister shall, so far as is reasonably practicable, comply with that request.

(15) Stamp duty under the Stamp Duties Act, 1920, shall not be payable in respect of a transfer of lands in accordance with this section.

Aboriginal lands in travelling stock reserves.

37. (1) Where a claim by an Aboriginal Land Council is lodged under section 36 in respect of land which is or is part of a travelling stock reserve as defined in section 4 of the Pastures Protection Act, 1934, the Registrar shall, in addition to complying with section 36 (4) (c), refer a copy of the claim to the Pastures Protection Board for the district in which that land is situated.

(2) This section has effect notwithstanding the provisions of the Pastures Protection Act, 1934, the Crown Lands Consolidation Act, 1913, or the Western Lands Act, 1901.

(3) Subject to subsection (4), the Minister administering the Pastures Protection Act, 1934, on the recommendation of the Pastures Protection Board for the district in which the land referred to in subsection (1) is situated, may in respect of that land enter into an agreement with the claimant Aboriginal Land Council so referred to, so as to achieve the following purposes:—

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- (a) the vesting of the freehold title to that land, subject to any existing easements, in the claimant Aboriginal Land Council;
- (b) the leasing in perpetuity of that land to Her Majesty at a nominal rent;
- (c) the preparation of a plan of management in respect of that land giving the claimant Aboriginal Land Council or Aborigines defined rights, or conferring or imposing on the claimant Aboriginal Land Council or on Aborigines defined functions, in respect of that land.

(4) The Minister referred to in subsection (3) shall not enter into an agreement under that subsection in respect of land unless he is satisfied that Aborigines have traditional rights to the land or that Aborigines have had a long association with the land.

(5) For the purposes of giving effect to an agreement referred to in subsection (3)—

- (a) the Minister so referred to may, by notification published in the Gazette, vest the freehold title to land, subject to any existing easements, in the claimant Aboriginal Land Council and that notification shall have effect according to its tenor; and
- (b) the Minister so referred to and the claimant Aboriginal Land Council may execute any necessary instruments.

(6) Subject to any plan of management prepared as referred to in subsection (3) in respect of the land, the vesting of the freehold title to any land in an Aboriginal Land Council, and the holding of the land under perpetual lease by Her Majesty, under this section shall not affect—

- (a) the application of the provisions of the Pastures Protection Act, 1934, or any regulations thereunder, to the land; or
- (b) the status of the land for the purposes of any other law, other than a law relating to the registration of titles.

(7) There shall be no appeal against, or review of, a decision of the Minister referred to in subsection (3) not to enter into an agreement under this section.

(8) Stamp duty under the Stamp Duties Act, 1920, shall not be payable in respect of an agreement or other instrument executed for the purposes of this section.

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*DIVISION 3.—Acquisition of other lands.***Purchase, lease, etc., of property.**

38. (1) An Aboriginal Land Council may purchase, take on lease or hold any property or may acquire property by gift inter vivos, devise or bequest.

(2) An Aboriginal Land Council may agree to the condition of any gift, devise or bequest to it, and the rule of law relating to perpetuities does not apply to any condition to which the Council has agreed under this section.

(3) Property acquired by an Aboriginal Land Council subject to a condition to which the Council has agreed shall not be dealt with by the Council except in accordance with the condition.

(4) Without limiting its functions under any other provision of this Act or under any other Act, an Aboriginal Land Council may exercise its power to purchase or take on lease any property (other than land), as referred to in subsection (1), only for or in connection with the use, development and improvement of land.

Appropriation or resumption of land.

39. (1) Where the Minister is of the opinion that there are exceptional circumstances which warrant the appropriation or resumption of land for the purpose of satisfying the objectives of this Act—

- (a) he may recommend to the Governor that the Governor acquire by appropriation or resumption such lands as, in the opinion of the Minister, will reasonably satisfy those objectives; and
- (b) the Governor may, in accordance with this Act, acquire such lands (including lands previously appropriated or resumed for any purpose) by appropriation or resumption.

(2) If so required by the Minister, the New South Wales Aboriginal Land Council or the Local Aboriginal Land Council, as the case may be, shall make provision to the satisfaction of the Minister for the payment of compensation for the land appropriated or resumed on behalf of the Council under this section, together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

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(3) An appropriation or a resumption authorised under subsection (1) shall be effected by the Governor under the Public Works Act, 1912, and, without affecting the generality of the foregoing, appropriation under that Act may be effected in respect of any land vested in Her Majesty or any person in trust for Her Majesty.

(4) For the purposes of the Public Works Act, 1912, an appropriation or a resumption authorised under subsection (1) shall be deemed to be for an authorised work and the Minister shall be deemed to be the Constructing Authority.

(5) Notwithstanding subsection (1), Part III of the Public Works Act, 1912, does not apply in respect of expenditure on any works constructed under or for the purposes of this Act.

(6) For the purposes of this section and not otherwise, Schedule 1 has effect.

(7) Land appropriated or resumed under this section may, by publication by the Minister of a notification in the Gazette to that effect, be vested in an Aboriginal Land Council or in some other organisation or body established for the benefit of Aborigines and any such notification shall have effect according to its tenor.

DIVISION 4.—*Disposal and use of Aboriginal land.*

Sale, lease, etc., or use of lands vested in Aboriginal Land Councils.

40. (1) An Aboriginal Land Council shall not sell, exchange, mortgage or dispose of in any other way (except in accordance with this section) land vested in it.

(2) A Local Aboriginal Land Council may lease land vested in it or change the use of any such land only if—

- (a) the lease or change of use of the land has been approved at a meeting of the Council specifically called for that purpose at which a quorum was present and not less than 80 per cent of the members of the Council present and voting voted in favour of the lease or change of use; and

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(b) on an application to do so made to the Regional Aboriginal Land Council, the Regional Aboriginal Land Council has given its approval to the lease or change of use, as the case may be, of the land.

(3) A Regional Aboriginal Land Council shall not refuse to give an approval referred to in subsection (2) (b) except on the ground that the terms or conditions of the lease are inequitable to the Local Aboriginal Land Council concerned or, as the case may be, that the change of use would be detrimental to the interests of members of other Local Aboriginal Land Councils within its area.

(4) Subject to subsection (2), a Local Aboriginal Land Council may lease any land vested in the Local Aboriginal Land Council to any member of the Local Aboriginal Land Council on such terms and conditions, including a term or condition that if the lessee sub-leases the land otherwise than to another member of the Council the lease is forfeited, as the Council thinks fit.

(5) A certificate purporting to be signed by the Secretary of a Local Aboriginal Land Council certifying in relation to any land that—

- (a) the lease of the land to a person specified in the certificate has been approved as referred to in subsection (2) (a) and (b) shall be conclusive evidence, in favour of a bona fide purchaser for value without notice, that the approvals so referred to have been duly given; or
- (b) a person was, at the time of the granting to him of any lease or sub-lease of the land referred to in subsection (4), a member of that Local Aboriginal Land Council shall be conclusive evidence, in favour of a bona fide purchaser for value without notice, that the person was at that time such a member.

(6) The New South Wales Aboriginal Land Council or a Regional Aboriginal Land Council may lease or change the use of land vested in it.

(7) Subject to subsection (8) and the terms and conditions of any relevant lease, subsections (1), (2) and (6) apply to and in respect of a lessee or sub-lessee of land vested in an Aboriginal Land Council in the same way as they apply to and in respect of the Aboriginal Land Council in which the land is vested.

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(8) For the purposes of subsection (7)—

- (a) a reference in subsection (1), (2) or (6) to land vested in an Aboriginal Land Council shall be read and construed as a reference to the land leased or sub-leased, as the case may require;
- (b) a reference in subsection (2), (5) (a) or (6) to lease shall be read and construed as a reference to sub-lease; and
- (c) the references in subsection (2) (a) to the Council shall be read and construed as references to the Local Aboriginal Land Council in which the land is vested.

(9) Subject to subsection (10), an Aboriginal Land Council may—

- (a) grant an easement over land vested in it; or
- (b) release an easement benefiting land vested in it.

(10) Subsections (2), (3) and (5) apply to and in respect of the granting of an easement by a Local Aboriginal Land Council in the same way as they apply to and in respect of the leasing of land by such a Council.

(11) Any sale, lease, disposal or mortgage of, or other dealing with, land in contravention of this section is void.

Powers of Aboriginal Land Councils with respect to property.

41. Subject to this Act, an Aboriginal Land Council may do or suffer in relation to its property any act or thing that it could lawfully do or suffer if it were a natural person having, in the case of land, the same estate or interest in the property as the Council and, in particular, but without prejudice to the generality of the foregoing, it may do or suffer any such act or thing to enable it to—

- (a) improve, or cause to be improved, any land vested in it; or
- (b) explore for and exploit, or cause to be explored for or exploited, mineral resources, or other natural resources, vested in it.

Appropriation or resumption of Aboriginal lands.

42. Notwithstanding anything in any Act, lands vested in an Aboriginal Land Council shall not be appropriated or resumed except by an Act of Parliament.

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DIVISION 5.—Rates.

Exemption of Aboriginal lands from the payment of rates.

43. (1) Where the Minister is of the opinion that special circumstances exist which warrant his so doing, he may, by notification published in the Gazette, declare that any land vested in an Aboriginal Land Council and specified in the notification shall be exempt from the payment of rates under—

- (a) the Local Government Act, 1919;
- (b) the Metropolitan Water, Sewerage, and Drainage Act, 1924;
- (c) the Hunter District Water, Sewerage and Drainage Act, 1938; and
- (d) the Broken Hill Water and Sewerage Act, 1938,

or shall be exempt from the payment of such of those rates as is specified in the notification.

(2) A declaration made under subsection (1)—

- (a) shall operate for a limited period of time if such a period is specified in the declaration; and
- (b) may, by notification published in the Gazette, be revoked by the Minister at any time.

Execution, etc., against Aboriginal lands barred in certain cases.

44. Notwithstanding the provisions of—

- (a) the Local Government Act, 1919;
- (b) the Metropolitan Water, Sewerage, and Drainage Act, 1924;
- (c) the Hunter District Water, Sewerage and Drainage Act, 1938; or
- (d) the Broken Hill Water and Sewerage Act, 1938,

or any other rule of law, land vested in an Aboriginal Land Council shall not be sold, whether by way of writ of execution or otherwise, for overdue rates payable under any of those Acts nor shall action be taken to wind up any such Council because of non-payment of any such rates.

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PART VII.

MINERAL RIGHTS AND MINING.

Mineral rights and mining on Aboriginal land.**45. (1) In this section—**

- (a) “mining operations” means prospecting, exploring or mining for mineral resources or other natural resources; and
- (b) a reference to a Local Aboriginal Land Council includes a reference to a Regional Aboriginal Land Council.

(2) Notwithstanding any other Act, but subject to this section—

- (a) any transfer of lands to an Aboriginal Land Council under section 36 includes the transfer of the mineral resources or other natural resources contained in those lands;
- (b) any vesting of the title to lands in an Aboriginal Land Council under section 37 includes, subject to that section, the vesting of the title to the mineral resources or other natural resources contained in those lands; and
- (c) where—
 - (i) an Aboriginal Land Council purchases lands under section 38; or
 - (ii) lands are acquired under section 39 and vested in an Aboriginal Land Council,

any mineral resources or other natural resources which were, immediately before the purchase or vesting, vested in the Crown shall, on that purchase or vesting, become vested in the Aboriginal Land Council.

(3) To the extent to which an Act provides for a person to explore for or exploit mineral resources, or other natural resources, vested in another person, the Act does not apply to or in respect of mineral resources, or other natural resources, vested in the New South Wales Aboriginal Land Council or a Local Aboriginal Land Council.

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(4) Subject to this section, no person shall carry on mining operations on the lands of an Aboriginal Land Council without the consent of that Council.

(5) An Aboriginal Land Council may give a consent under subsection (4) subject to such terms and conditions, including terms or conditions with respect to payment of fees or royalties, as it thinks fit to impose.

(6) A Local Aboriginal Land Council shall not give its consent under subsection (4) unless either—

- (a) the New South Wales Aboriginal Land Council; or
- (b) the Court, under subsection (8),

has approved of the consent being given and of any terms and conditions proposed to be attached to the consent.

(7) Where a Local Aboriginal Land Council has submitted to the New South Wales Aboriginal Land Council a proposal to give a consent under subsection (4), and any terms and conditions proposed to be attached to the consent, and the New South Wales Aboriginal Land Council—

- (a) has refused to approve of the proposed consent being given or of the proposed terms and conditions; or
- (b) has not, within 1 month after the submission of the proposed consent and of the proposed terms and conditions or such longer period as the Local Aboriginal Land Council and the New South Wales Aboriginal Land Council agree to, approved of the consent being given and of the proposed terms and conditions (or those terms and conditions as altered with the consent of the Local Aboriginal Land Council),

the Local Aboriginal Land Council or the New South Wales Aboriginal Land Council may refer the proposal or the proposed terms and conditions, as the case may require, to the Court to be dealt with under subsection (8).

(8) Where a proposal to give a consent or the terms and conditions proposed to be attached to a consent are referred to the Court under subsection (7), the Court shall approve or refuse to approve of the giving of the consent or of the proposed terms and conditions, with or without alterations specified by the Court.

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(9) The New South Wales Aboriginal Land Council or the Court shall not, under this section, refuse to approve of the giving of a consent or of the terms and conditions proposed to be attached to a consent except on the ground that the giving of the consent is, or those terms and conditions are, inequitable to the Local Aboriginal Land Council concerned or would be detrimental to the interests of members of other Local Aboriginal Land Councils.

(10) A consent given in contravention of this section is void.

(11) Nothing in or done under this Act operates to abridge or control the prerogative rights and powers of the Crown with respect to gold mines and silver mines or affects the Crown's ownership of coal and petroleum.

(12) This section does not apply to or in relation to any mining operations that are or may be carried on on any lands of an Aboriginal Land Council—

- (a) in respect of gold, silver, coal or petroleum; or
- (b) in respect of any other mineral, pursuant to any authority, claim, licence, permit or right under the Mining Act, 1973, or any other law, being an authority, claim, licence, permit or right in force at the time the lands were vested in that Council or a claim or authority referred to in subsection (13) (b), or a renewal or extension thereof.

(13) Nothing in this section prevents—

- (a) the renewal or extension of any authority, claim, licence, permit or right referred to in subsection (12) (b); or
- (b) the registration of a claim or the granting of an authority pursuant to any rights conferred by section 26E or 50 of the Mining Act, 1973,

under and subject to the provisions of that Act.

Fees or royalties for mining on Aboriginal land.

46. (1) Any fees or royalties that, but for this subsection, would be payable to a Regional Aboriginal Land Council or a Local Aboriginal Land Council in respect of mining on the Council's land shall be payable to the New South Wales Aboriginal Land Council.

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(2) Any fees or royalties payable to the New South Wales Aboriginal Land Council under subsection (1) or payable to the New South Wales Aboriginal Land Council in respect of mining on that Council's land shall, when received by it, be paid into a separate account in a bank to be called the "Mining Royalties Account".

(3) Pending its disbursement under subsection (4), any money to the credit of the Mining Royalties Account may be invested in any manner authorised by the regulations.

(4) Money to the credit of the Mining Royalties Account shall be disbursed, in accordance with the regulations, as follows:—

- (a) 30 per cent shall be paid to the New South Wales Aboriginal Land Council;
 - (b) 40 per cent shall be distributed among Regional Aboriginal Land Councils in such proportions as the New South Wales Aboriginal Land Council determines, the determination being based on the number of Aborigines who appear to the New South Wales Aboriginal Land Council ordinarily to reside in the area of each Regional Aboriginal Land Council;
 - (c) 30 per cent shall be distributed as follows:—
 - (i) to each Regional Aboriginal Land Council or Local Aboriginal Land Council to which fees or royalties would, but for subsection (1), be payable shall be paid an amount equivalent to 30 per cent of any such fees or royalties as are paid to the credit of the Mining Royalties Account;
 - (ii) to the New South Wales Aboriginal Land Council shall be paid an amount equivalent to 30 per cent of any fees or royalties payable to that Council in respect of mining on its land.
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PART VIII.

HUNTING, FISHING AND GATHERING.

Agreements to permit hunting, fishing or gathering.

47. Subject to the provisions of any other Act and any rule, by-law, regulation, ordinance or like instrument, a Local Aboriginal Land Council may negotiate agreements with the owner, occupier or person in control of any land to permit any specified Aborigines or group of Aborigines to have access to the land for the purpose of hunting, fishing or gathering on the land.

Access permits may be issued by the Court.

48. (1) Where a Local Aboriginal Land Council—

(a) desires to obtain rights of access for any specified Aborigines or group of Aborigines for the purpose of hunting or fishing for, or the gathering of, traditional foods for domestic purposes, being access to land traditionally used for those purposes or to land giving access to any land so used; and

(b) has been unable to negotiate an agreement to obtain those rights,

the Council may apply to the Court for a permit conferring those rights.

(2) An application under subsection (1) shall be—

(a) made as prescribed; and

(b) lodged with the Registrar.

(3) The Registrar shall refer an application lodged with him under subsection (2) to the Court together with a statement as to who appears to him to be the owner, occupier or person in control of the land to which the application relates.

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(4) The Court shall—

- (a) give notice of any application referred to it under subsection (3) to any person who, in its opinion, is likely to be directly affected by the issue of the permit applied for, or to the public generally if it considers it appropriate; and
- (b) by that notice, provide that objections against the application may be lodged within the time specified in that notice.

(5) The Court shall consider—

- (a) any application referred to it under subsection (3); and
- (b) any objections lodged against the application,

and, subject to subsection (6), shall either—

- (c) issue a permit conferring such rights of access as it specifies in the permit on Aborigines or any group of Aborigines so specified; or
- (d) refuse to issue the permit.

(6) The Court shall issue a permit under subsection (5) in pursuance of an application under subsection (1) only if it is satisfied that the rights applied for are rights of a kind referred to in subsection (1).

(7) A permit issued under subsection (5) (c)—

- (a) shall be subject to the provisions of any other Act and any rule, by-law, regulation, ordinance or like instrument; and
- (b) may be subject to such terms and conditions as the Court thinks fit and are specified in the permit.

(8) Any person who fails to allow access to any person in accordance with a permit issued under this section shall be guilty of an offence against this Act.

(9) The Court may, on the application of any person and on reasonable cause being shown, revoke a permit issued under this section.

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PART IX.

MISCELLANEOUS.

Registrar.

49. There shall be a Registrar who shall be appointed by the Minister and shall have such functions as are provided by this Act and the regulations.

Minister to be corporation sole.

50. (1) There is hereby constituted under the corporate name of "The Minister, Aboriginal Land Rights Act, 1983" a corporation sole which shall represent the Crown and shall be the Minister for the time being administering this Act.

(2) The official seal of the corporation constituted by subsection (1) shall not be affixed to any instrument or writing except in the presence of the Minister in person, and he shall attest by his signature the fact and date of the official seal being so affixed.

Aborigines Assistance Fund.

51. (1) In sections 51, 52 and 53, "corporation" means the corporation sole constituted under section 50.

(2) There shall be established in the Special Deposits Account in the Treasury an account called the "Aborigines Assistance Fund" into which shall be paid—

- (a) all money to the credit of the Aborigines Assistance Fund established under section 20 of the Aborigines Act, 1969, immediately before the commencement of this section;
- (b) all money acquired by the corporation, by gift inter vivos, devise or bequest, for the benefit of Aborigines; and
- (c) the income from all investments acquired by the corporation, by gift inter vivos, devise or bequest, for the benefit of Aborigines or made by the corporation under this section or by the corporation sole constituted under section 6 of the Aborigines Act, 1969, as in force immediately before the commencement of this section.

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(3) Where any money in the Aborigines Assistance Fund was received subject to a condition to which the recipient has agreed, the money shall be carried to a separate account in the Aborigines Assistance Fund and shall be applied in accordance with the condition.

(4) Subject to subsection (3), money in the Aborigines Assistance Fund may be applied for the benefit of Aborigines in such manner as the Minister may from time to time direct either generally or in a particular case.

(5) Pending application under subsection (4), or in accordance with any condition agreed to, such part of the Aborigines Assistance Fund as the Minister may from time to time direct may be invested with the Treasurer or in any manner authorised by law for the investment of trust funds.

(6) The Aborigines Assistance Fund is hereby exempted from registration under the Charitable Collections Act, 1934.

Acquisition of property by corporation.

52. (1) For the purposes of this Act, the corporation may acquire property by purchase, exchange, gift inter vivos, devise or bequest and may take land on lease.

(2) A gift, devise or bequest to the Minister in his ministerial capacity shall be deemed to be a gift, devise or bequest to the corporation.

(3) The corporation may agree to the condition of any gift, devise or bequest to it, and the rule of law relating to perpetuities shall not apply to any condition to which the corporation has agreed under this subsection.

(4) Any property acquired by the corporation subject to a condition to which the corporation has agreed shall not be dealt with by the corporation except in accordance with the condition.

Corporation land—erection of buildings and vesting of property in Councils.

53. The corporation may, subject to this Act, cause a building to be erected on its land and may, by notification published in the Gazette, vest any of its lands or buildings, subject to such terms and conditions as it deems

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necessary, in an Aboriginal Land Council or in some other organisation or body established for the benefit of Aborigines, and any such notification shall have effect according to its tenor.

Liability of members, etc., of Councils.

54. No matter or thing done by an Aboriginal Land Council and no matter or thing done by any member of any such Council or by any person acting under the direction of any such Council shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member of any such Council or a person so acting personally to any action, liability, claim or demand whatever.

Delegation.

55. (1) The New South Wales Aboriginal Land Council or a Regional Aboriginal Land Council may, by instrument in writing, delegate to a prescribed person or the holder of a prescribed office the exercise of such of the functions of the Council as are prescribed for the purposes of this subsection and as are specified in the instrument.

(2) The corporation sole constituted under section 50 (in this section referred to as "the corporation") may, by instrument in writing, delegate to any person or the holder of any office the exercise of such of the functions of the corporation as are specified in the instrument.

(3) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the delegate.

(4) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstance, as may be specified in the instrument of delegation.

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(5) Notwithstanding any delegation under this section, an Aboriginal Land Council or the corporation, as the case may be, may continue to exercise any function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by an Aboriginal Land Council or the corporation, as the case may be, and shall be deemed to have been done or suffered by the Aboriginal Land Council or the corporation, as the case may be.

(7) An Aboriginal Land Council or the corporation may, by instrument in writing, revoke wholly or in part any delegation made by it under this section.

(8) An instrument purporting to have been signed by a person in his capacity as a delegate of an Aboriginal Land Council or the corporation shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Aboriginal Land Council or the corporation, as the case may be, and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Aboriginal Land Council or the corporation, as the case may be.

(9) Nothing in this section authorises the delegation of the power of delegation conferred by this section.

Acquisition of land for housing Aborigines.

56. (1) The Minister may arrange with the Minister for the time being administering the Housing Act, 1912, the terms and conditions upon which, and the cases in which, the Housing Commission shall acquire land for purposes relating to the housing of Aborigines.

(2) Where the acquisition of land in accordance with arrangements made under subsection (1) would not, but for this subsection, be authorised by the Housing Act, 1912, such an acquisition shall be deemed to have been so authorised.

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Administrators.

57. (1) Subject to subsection (2), the Governor may at any time, by proclamation published in the Gazette, appoint an administrator for a Regional Aboriginal Land Council area or a Local Aboriginal Land Council area—

- (a) if there are not sufficient members of the Council for that area to form a quorum of the Council;
- (b) if the Council for that area has substantially breached the requirements of this Act or the regulations or the rules of the Council; or
- (c) if the Minister is of the opinion that the Council for that area has ceased for 6 months substantially to exercise its functions,

and may in like manner at any time remove him.

(2) An administrator shall be appointed under subsection (1) only on the recommendation of the Minister made after consultation with—

- (a) in the case of the appointment of an administrator for a Regional Aboriginal Land Council area—the New South Wales Aboriginal Land Council; or
- (b) in the case of the appointment of an administrator for a Local Aboriginal Land Council area—the Regional Aboriginal Land Council.

(3) An administrator for a Regional Aboriginal Land Council area or a Local Aboriginal Land Council area shall have, to the exclusion of the Regional Aboriginal Land Council or the Local Aboriginal Land Council, all of the functions and liabilities conferred or imposed by or under this Act on a Regional Aboriginal Land Council or Local Aboriginal Land Council, as the case may be, and shall be paid out of the funds of the New South Wales Aboriginal Land Council.

(4) Notwithstanding any other provision of this Act, where an administrator for a Regional Aboriginal Land Council area or a Local Aboriginal Land Council area is appointed under this section, the officers and employees of the Regional Aboriginal Land Council or the Local Aboriginal Land Council for that area (unless specifically retained by the administrator) and the office holders in the Council shall thereupon cease to hold office.

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Failure of N.S.W. Aboriginal Land Council to function.

58. (1) Where, in the opinion of the Minister, the New South Wales Aboriginal Land Council has wilfully failed or neglected to exercise any of its functions in a material respect, the Governor may, by order published in the Gazette, declare that the Council has ceased to function.

(2) An order under subsection (1) may be limited in its operation according to time, place or circumstance.

(3) Where the Governor has made an order under subsection (1), the Minister may make, in writing, such orders as to the transfer, disposal or dealing with the assets, debts and liabilities of the New South Wales Aboriginal Land Council as he considers appropriate and those orders shall have effect according to their tenor.

(4) Where, by the operation of subsection (3), the corporation sole constituted under section 50 receives any money, it may pay the money or any part thereof to the Aborigines Assistance Fund established under this Act.

Reference of certain disputes, etc., to Court.

59. (1) The Registrar may, at the request of the New South Wales Aboriginal Land Council or on his own initiative, refer to the Court for determination—

(a) a dispute between—

- (i) Local Aboriginal Land Councils in the same Regional Aboriginal Land Council area;
- (ii) a Local Aboriginal Land Council and an individual; or
- (iii) individual members of a Local Aboriginal Land Council, relating to land claims or purchases where the dispute has first been referred to the Regional Aboriginal Land Council for conciliation;

(b) a dispute between—

- (i) a Local Aboriginal Land Council and a Regional Aboriginal Land Council; or
- (ii) Local Aboriginal Land Councils in different Regional Aboriginal Land Council areas; or

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(c) any other matter concerning the administration of particular Regional Aboriginal Land Councils or Local Aboriginal Land Councils.

(2) The Registrar shall not, under subsection (1), refer to the Court a dispute or matter if provision is made for the determination of the dispute or matter under another section of this Act.

(3) The Court shall hear and determine any dispute or matter referred to it under subsection (1).

(4) The Court may give such directions as it considers necessary to resolve a dispute or determine any matter referred to it under subsection (1).

(5) Any person who contravenes a direction given under subsection (4) shall be guilty of an offence against this Act.

Officers and employees.

60. An Aboriginal Land Council may appoint and employ such officers and employees as are necessary to enable the Council to exercise its functions.

Annual reports.

61. (1) As soon as practicable after 30th June, but on or before 31st December, in each year—

- (a) a Local Aboriginal Land Council shall prepare and forward to the Regional Aboriginal Land Council;
- (b) a Regional Aboriginal Land Council shall prepare and forward to the New South Wales Aboriginal Land Council; and
- (c) the New South Wales Aboriginal Land Council shall prepare and forward to the Minister,

a report of its work and activities for the 12 months ending on 30th June in that year.

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(2) The reference in subsection (1) to the 12 months ending on 30th June, in relation to an Aboriginal Land Council, includes a reference to the period commencing with the constitution of the Aboriginal Land Council and ending on the next ensuing 30th June.

(3) The Minister shall lay the New South Wales Aboriginal Land Council's report or cause it to be laid before both Houses of Parliament as soon as practicable after the receipt by him of the report.

Service of documents.

62. (1) A document may be served on an Aboriginal Land Council by leaving it at, or by sending it by post to—

- (a) the office of the Council; or
- (b) if it has more than one office—any one of its offices,

or, where some other manner of service is prescribed, by serving it in the manner prescribed.

(2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on an Aboriginal Land Council in a manner not provided for by subsection (1).

Authentication of certain documents.

63. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by an Aboriginal Land Council may be sufficiently authenticated without the seal of the Council if signed by the Chairman of the Council or by any member, officer or employee of the Council authorised to do so by the Chairman.

Proof of certain matters not required.

64. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of an Aboriginal Land Council;

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- (b) any resolution of an Aboriginal Land Council;
- (c) the appointment or election of any member of the New South Wales Aboriginal Land Council or of a Regional Aboriginal Land Council;
- (d) the holding of office by a person as chairman, secretary or treasurer of an Aboriginal Land Council; or
- (e) the presence or nature of a quorum at any meeting of an Aboriginal Land Council.

Aboriginal Land Councils not statutory bodies representing the Crown.

65. An Aboriginal Land Council is not, for the purposes of any law, a statutory body representing the Crown.

Penalties.

66. A person who is guilty of an offence against this Act for which no other penalty is provided is liable upon conviction to a penalty not exceeding \$500.

Proceedings for offences.

67. Proceedings for an offence against this Act or the regulations may be taken before a court constituted by a magistrate sitting alone.

Regulations.

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

(2) Without affecting the generality of subsection (1), the Governor may make regulations for or with respect to --

- (a) determining the boundaries of, and naming, Local Aboriginal Land Council areas and Regional Aboriginal Land Council areas;

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- (b) authorising the Minister to approve of an alteration to the boundaries of, or a change of the name of, a Local Aboriginal Land Council area or a Regional Aboriginal Land Council area;
- (c) the procedure for the calling of meetings of Aboriginal Land Councils, the conduct of those meetings and the prescribing or determining of a quorum at those meetings;
- (d) the fees, allowances or expenses that may be paid to the members of the New South Wales Aboriginal Land Council and Regional Aboriginal Land Councils;
- (e) the investment of money by Aboriginal Land Councils, including regulations for or with respect to the prescribing or the determining of the proportion of the funds of those Councils to be invested; and
- (f) the audit of accounts and records of Aboriginal Land Councils (including regulations for or with respect to the employment of auditors by Local Aboriginal Land Councils).

(3) A regulation made for the purposes of subsection (2) (a) or (b) may apply to the matters referred to therein any provisions (with any necessary alterations) of this Act relating to the constitution of Local Aboriginal Land Council areas or Regional Aboriginal Land Council areas.

(4) A regulation may impose a penalty not exceeding \$500 for any contravention thereof.

(5) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

Repeals.

69. Each Act specified in Column 1 of Schedule 2 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

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Amendment of certain Acts.

70. Each Act specified in Schedule 3 is amended in the manner set forth in that Schedule.

Savings, transitional and other provisions.

71. Schedule 4 has effect.

SCHEDULE 1.**(Sec. 39.)****MODIFICATION OF THE PUBLIC WORKS ACT, 1912.**

The Public Works Act, 1912, shall, for the purposes referred to in section 39, be deemed to be amended—

- (a) (i) by omitting from section 53 the words “so seised, possessed or entitled as aforesaid”;
- (ii) by omitting from section 53 the words “as in the preceding section mentioned” and by inserting instead the words “and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of such compensation”;
- (iii) by inserting in section 53 (3) after the word “release” the words “and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation”;
- (iv) by omitting section 53 (5);
- (b) (i) by inserting in section 102 after the word “time” where secondly occurring the words “as the Constructing Authority allows or, in default of any such allowance of further time, within such time”;
- (ii) by omitting from section 102 the words “and upon the Crown Solicitor”;
- (iii) by inserting at the end of section 102 the following subsection:—

(2) Upon receipt of such notice of claim, the Constructing Authority shall obtain from its solicitor, the Crown Solicitor, or the solicitor to any body corporate acting as agent for the Constructing Authority or a solicitor retained by such a body corporate, a report on the title of the land in respect of which the claim has been served by the claimant.

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SCHEDULE 1—*continued.*MODIFICATION OF THE PUBLIC WORKS ACT, 1912—*continued.*

- (c) by omitting from section 103 the words "Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who" and by inserting instead the words "Constructing Authority it";
- (d) by omitting section 124 and by inserting instead the following section:—
124. (1) For the purpose of ascertaining the compensation to be paid, regard shall in every case be had by the Land and Environment Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the land taken from other lands of the owner or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands and that Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant and without reference to any alteration in such value arising from the construction of any works upon the land taken.
- (2) Notwithstanding subsection (1), the Land and Environment Court, in ascertaining such compensation, shall take into consideration and give effect to, by way of set-off or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom by the construction of any works upon the land taken, but in no case does this subsection operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement in value as aforesaid.
- (3) Notwithstanding subsection (1), in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel, no compensation shall be allowed or awarded unless—
- (a) the surface of the overlying soil is disturbed;
 - (b) the support of such surface is destroyed or injuriously affected by the construction of such tunnel; or
 - (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- (e) by omitting section 126 (3);
- (f) (i) by omitting from section 135 (1) the words "such conveyances" and by inserting instead the words "conveyances or assurances of lands taken";
- (ii) by omitting from section 135 (2) the words "incurred on the part as well of the vendor as of the purchaser,".
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SCHEDULE 2.

(Sec. 69.)

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1969, No. 7	Aborigines Act, 1969	The whole Act.
1973, No. 35	Aborigines (Amendment) Act, 1973	Sections 3-6.
1974, No. 37	Crown Lands and Other Acts (Reserves) Amendment Act, 1974.	Section 13 (4).
1980, No. 196	Miscellaneous Acts (Crown Land Titles) Amendment Act, 1980.	So much of Schedule I as amends Act No. 7, 1969.

SCHEDULE 3.

(Sec. 70.)

AMENDMENTS.

Broken Hill Water and Sewerage Act, 1938, No. 20—

Section 76 (1) (k)—

Omit the paragraph, insert instead:—

- (k) land vested in the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council constituted under the Aboriginal Land Rights Act, 1983, being land which is declared under Division 5 of Part VI of that Act to be exempt from the payment of rates under this Act;

Hunter District Water, Sewerage and Drainage Act, 1938, No. 11—

Section 91 (1) (n)—

Omit the paragraph, insert instead:—

- (n) land vested in the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council constituted under the Aboriginal Land Rights Act, 1983, being land which is declared under Division 5 of Part VI of that Act to be exempt from the payment of rates under this Act;

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SCHEDULE 3—*continued.*

AMENDMENTS—*continued.*

Land and Environment Court Act, 1979, No. 204—

(1) (a) Section 12 (2) (e)—

Omit “construction; or”, insert instead “construction;”.

(b) Section 12 (2) (f)—

Omit “the Crown.”, insert instead “the Crown; or”.

(c) Section 12 (2) (g)—

After section 12 (2) (f), insert:—

(g) suitable knowledge of matters concerning land rights for Aborigines and qualifications and experience suitable for the determination of disputes involving Aborigines.

(2) (a) Section 30 (2)—

Omit “In determining”, insert instead “Subject to subsections (2A) and (2B), in determining”.

(b) Section 30 (2A), (2B)—

After section 30 (2), insert:—

(2A) An assessor shall not exercise the jurisdiction of the Court or any other function under this Act in relation to any proceedings arising under the Aboriginal Land Rights Act, 1983, unless the qualification for his appointment was a qualification referred to in section 12 (2) (g).

(2B) An assessor whose qualification for appointment was a qualification referred to in section 12 (2) (g) shall not exercise the jurisdiction of the Court or any other function under this Act in relation to any proceedings other than proceedings arising under the Aboriginal Land Rights Act, 1983.

(3) Section 36 (1), (1A)—

Omit section 36 (1), insert instead—

(1) Where proceedings are pending in Class 1, 2 or 3 of the Court's jurisdiction, the Chief Judge—

(a) except as provided by paragraph (b), may, of his own motion or on the request of a party, direct that the proceedings be heard and disposed of by one or more assessors; and

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 SCHEDULE 3—*continued.*

 AMENDMENTS—*continued.*

- (b) shall, where the proceedings are proceedings—
- (i) arising under the Aboriginal Land Rights Act, 1983; and
 - (ii) of a kind specified in Schedule 2,
- direct that the proceedings be heard and disposed of by an assessor.

(1A) The Governor may, by regulation, amend Schedule 2 by—

- (a) adding thereto any matter;
- (b) altering any matter therein; or
- (c) omitting any matter therefrom,

or may, by regulation, omit the Schedule and insert instead a new Schedule.

(4) (a) Section 37 (1)—

Omit "Where", insert instead "Except as provided by subsection (2), where".

(b) Section 37 (2), (3)—

Omit section 37 (2), insert instead:—

(2) Where proceedings are pending in Class 3 of the Court's jurisdiction, being proceedings—

- (a) arising under the Aboriginal Land Rights Act, 1983; and
- (b) other than of a kind specified in Schedule 2,

the Court shall, in hearing the proceedings or any part of the proceedings, be assisted by 2 assessors.

(3) An assessor assisting the Court as referred to in subsection (1) or (2) may assist and advise the Court, but shall not adjudicate on any matter before the Court.

(5) Schedule 2—

After Schedule 1, insert:—

SCHEDULE 2.

(Secs. 36 (1) (b),
(1A), 37 (2).)

Proceedings under section 59 of the Aboriginal Land Rights Act, 1983.

Aboriginal Land Rights.

SCHEDULE 3—*continued.*

AMENDMENTS—*continued.*

Land Tax Management Act, 1956, No. 26—

Section 10 (1) (f1)—

Omit "The Aboriginal Lands Trust constituted under the Aborigines Act, 1969" insert instead "the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council constituted under the Aboriginal Land Rights Act, 1983".

Local Government Act, 1919, No. 41—

(1) Section 132 (1) (l)—

Omit the paragraph, insert instead:—

- (l) land vested in the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council constituted under the Aboriginal Land Rights Act, 1983, being land which is declared under Division 5 of Part VI of that Act to be exempt from the payment of rates under this Part; and

(2) Section 379 (4c) and heading—

Omit the subsection and heading, insert instead:—

Exemptions—Aboriginal lands.

(4c) Water supply local rates and sewerage local rates shall not be levied upon land vested in the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council constituted under the Aboriginal Land Rights Act, 1983, being land which is declared under Division 5 of Part VI of that Act to be exempt from the payment of those rates.

Metropolitan Water, Sewerage, and Drainage Act, 1924, No. 50—

Section 88 (1) (m)—

Omit the paragraph, insert instead:—

- (m) land vested in the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council constituted under the Aboriginal Land Rights Act, 1983, being land which is declared under Division 5 of Part VI of that Act to be exempt from the payment of rates under this Act;

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SCHEDULE 3—*continued.*AMENDMENTS—*continued.***Trustees Audit Act, 1912, No. 21—**

Schedule Two—

Omit "The accounts of The Aboriginal Lands Trust."

SCHEDULE 4.

(Sec. 71.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation: Sch. 4.

1. In this Schedule—

"appointed day", in relation to a provision of this Schedule, means the day of commencement of the provision;

"former Corporation" means the corporation sole named "The Minister, Aborigines Act, 1969" constituted under section 6 of the Aborigines Act, 1969, as in force immediately before the repeal of that Act by this Act;

"former Trust" means The Aboriginal Lands Trust constituted under the Aborigines Act, 1969, as in force immediately before the repeal of that Act by this Act;

"instrument" means an Act (other than this Act), a rule, a by-law, a regulation or an ordinance, or any other instrument or document, whether of the same or of a different kind or nature.

Transfer of certain property, etc., of the former Trust.

2. (1) Except as provided by Division 1 of Part VI, on and from the appointed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the former Trust shall vest in or belong to the New South Wales Aboriginal Land Council (in this clause referred to as "the Council");

Aboriginal Land Rights.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable to, or recoverable by, the former Trust shall be debts due to, money payable to and claims recoverable by the Council;
 - (c) all suits, actions and proceedings pending immediately before that day at the suit of the former Trust shall be respectively suits, actions and proceedings pending at the suit of the Council and all suits, actions and proceedings so pending at the suit of any person against the former Trust shall be respectively suits, actions and proceedings pending at the suit of that person against the Council;
 - (d) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by the former Trust and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Council;
 - (e) the Council may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this clause and for the prosecution of suits, actions and proceedings so referred to as the former Trust might have done but for the enactment of this Act;
 - (f) the Council may enforce and realise any security or charge existing immediately before that day in favour of the former Trust and may exercise any powers thereby conferred on the former Trust as if the security or charge were a security or charge in favour of the Council;
 - (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the former Trust shall be debts due by, money payable by and claims recoverable against the Council; and
 - (h) all liquidated and unliquidated claims for which the former Trust would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Council shall be liable.
- (2) No attornment to the Council by a lessee from the former Trust shall be required.

Transfer of certain property, etc., of the former Corporation.

3. (1) On and from the appointed day—
- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the former Corporation shall vest in or belong to the corporation sole constituted under section 50 (in this clause referred to as "the Minister");

Aboriginal Land Rights.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable to, or recoverable by, the former Corporation shall be debts due to, money payable to and claims recoverable by the Minister;
 - (c) all suits, actions and proceedings pending immediately before that day at the suit of the former Corporation shall be respectively suits, actions and proceedings pending at the suit of the Minister and all suits, actions and proceedings so pending at the suit of any person against the former Corporation shall be respectively suits, actions and proceedings pending at the suit of that person against the Minister;
 - (d) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by the former Corporation and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Minister;
 - (e) the Minister may, in addition to pursuing any other remedies or exercising any other powers that may be available to him, pursue the same remedies for the recovery of money and claims referred to in this clause and for the prosecution of suits, actions and proceedings so referred to as the former Corporation might have done but for the enactment of this Act;
 - (f) the Minister may enforce and realise any security or charge existing immediately before that day in favour of the former Corporation and may exercise any powers thereby conferred on the former Corporation as if the security or charge were a security or charge in favour of the Minister;
 - (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the former Corporation shall be debts due by, money payable by and claims recoverable against the Minister; and
 - (h) all liquidated and unliquidated claims for which the former Corporation would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Minister shall be liable.
- (2) No attornment to the Minister by a lessee from the former Corporation shall be required.

Effect of certain acts, etc., of the former Trust and the former Corporation.

4. (1) Subject to this Act, to the extent that any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the former Trust would, but for the enactment of this Act, have had, on or after that day, any force or effect or been in operation, that act, matter or thing shall be deemed to have been done or omitted to be done by, to or in respect of the New South Wales Aboriginal Land Council.

Aboriginal Land Rights.

SCHEDULE 4—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) Subject to this Act, to the extent that any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the former Corporation would, but for the enactment of this Act, have had, on or after that day, any force or effect or been in operation, that act, matter or thing shall be deemed to have been done or omitted to be done by, to or in respect of the corporation sole constituted under section 50.

Transfer of certain assets, debts and liabilities of the former Trust and the former Corporation.

5. (1) A reference in this clause to assets, debts and liabilities of the New South Wales Aboriginal Land Council is a reference to assets, debts and liabilities of the Council (excluding former Trust lands within the meaning of section 35) which were, immediately before the appointed day, assets, debts or liabilities of the former Trust.

(2) The Minister may, after taking into consideration any recommendations made by the New South Wales Aboriginal Land Council, determine—

- (a) whether any, and if so what, assets, debts and liabilities of the New South Wales Aboriginal Land Council should be those of a Local Aboriginal Land Council; and
- (b) whether any, and if so what, assets, debts and liabilities of the corporation sole constituted under section 50 should be those of the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council, a Local Aboriginal Land Council or some other organisation or body established for the benefit of Aborigines.

(3) A determination made under this clause shall be given effect to by the New South Wales Aboriginal Land Council, the corporation sole constituted under section 50 and the relevant Regional or Local Aboriginal Land Council or organisation or body, as the case may require.

Vesting of certain assets, etc., referred to in clause 5.

6. (1) Without affecting anything in clause 5, the Governor may, by proclamation published in the Gazette, declare that any assets, debts or liabilities referred to in that clause and specified or referred to in the proclamation belong to an Aboriginal Land Council or an organisation or body specified in the proclamation.

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SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) A proclamation may be published under subclause (1) in respect only of assets, debts and liabilities that are determined under clause 5 to be those of the Aboriginal Land Council or the organisation or body specified in the proclamation in accordance with subclause (1).

(3) The provisions of clauses 2 and 4 (1) apply to and in respect of the assets, debts or liabilities to which a proclamation under subclause (1) relates in the same way as they apply to and in respect of the things therein referred to, and so apply as if references therein to—

- (a) the appointed day were references to the date of publication in the Gazette of the proclamation or a later date specified in the proclamation;
- (b) the former Trust were references to the New South Wales Aboriginal Land Council or the corporation sole constituted under section 50, as the case may require; and
- (c) the New South Wales Aboriginal Land Council were references to the Aboriginal Land Council or the organisation or body specified in the proclamation.

(4) For the purposes of subclause (1), any assets, debts or liabilities may be specified or referred to in a proclamation by reference to documents, lists or inventories kept at a place specified in the proclamation.

Construction of certain references.

7. Subject to the regulations, a reference in an instrument enacted, made, proclaimed or published before the repeal by this Act of the Aborigines Act, 1969, being a reference to, or a reference to be read or construed as a reference to, or deemed or taken to refer to—

- (a) the former Trust shall be read and construed as a reference to the New South Wales Aboriginal Land Council; and
- (b) the corporation sole constituted under section 6 of the Aborigines Act, 1969, as in force immediately before the repeal of that Act by this Act, shall be read and construed as a reference to the corporation sole constituted under section 50.

Aboriginal Land Rights.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Claimable Crown lands.**

8. Where, but for this clause, any lands would be claimable Crown lands as defined in section 36, those lands shall not, if they were, on the appointed day, the subject of a lease, licence or permissive occupancy, be claimable Crown lands as so defined until the lease, licence or permissive occupancy ceases to be in force.

Existing contracts of employment.

9. (1) Notwithstanding any other provision of this Act or any other law, any contracts entered into between the former Trust and its officers or employees in respect of wages, payments or any other benefits or in respect of conditions of employment, or any other contracts entered into between the former Trust and any person and declared by the Minister to be contracts to which this clause applies, are on and from the appointed day or the date of the declaration, as the case may require, null and void and any money which would, but for this clause, have been payable under those contracts shall not be payable or paid by the former Trust, the New South Wales Aboriginal Land Council, the Crown or any other person or body.

(2) Any payments made under a contract referred to in subclause (1) before the appointed day and which, in the Minister's opinion, are excessive may be declared by the Minister by instrument in writing to have been unauthorised payments.

(3) A payment under a contract referred to in subclause (1) after the time that it became null and void under that subclause or an unauthorised payment referred to in subclause (2) shall be repaid to the Crown by the person to whom it was paid, on demand, and if not paid shall be recoverable, wholly or in part, in any court of competent jurisdiction as a debt due to the Crown.

(4) In subclause (3), a reference to the Crown includes a reference to a person or authority nominated by the Minister, by instrument in writing, for the purposes of that subclause.

(5) In the absence of evidence to the contrary, any instrument purported to have been signed by the Minister for the purposes of this clause shall, in any legal proceedings, be accepted without proof of the signature of the Minister.

Regulations.

10. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

Aboriginal Land Rights.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or a public authority), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or a public authority) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding the foregoing clauses of this Schedule.
