

# New South Wales.



ANNO QUINQUAGESIMO QUINTO

## VICTORIÆ REGINÆ.

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### No. I.

An Act to validate certain forfeitures, and certain reversals of forfeitures, of lands sold or leased by the Crown, and to declare the effect of such reversals; to enable the Minister for Lands to reverse forfeitures; and to amend the law in respect of forfeitures and the reversal thereof: to permit further inquiries to be held in connection with forfeitures and to facilitate the effectual waiver thereof; to prevent collusion at ballots upon conflicting applications; and for the purposes aforesaid to amend the "Crown Lands Act of 1884" and the Acts amending the same. [14th October, 1891.]

CROWN LANDS  
ACT AMENDMENT.

BE it 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:—

1. This Act may be cited as the "Crown Lands Act Amend- Short title.  
ment Act of 1891," and shall be read with the "Crown Lands Act of  
1884" and any Acts amending the same.

2. In this Act, unless the context otherwise requires, the Interpretation.  
expression—

"Forfeiture" includes the lapse or voidance of any contract with the Crown under any repealed Act or the Principal Act for the purchase or leasing of Crown lands.

*Crown Lands Act Amendment.*

“Minister” means the Minister for the time being charged with the administration of the public lands in accordance with the repealed Acts, or the Minister for Lands or other Minister charged with the administration of the Principal Act or any part thereof.

“Principal Act” means the “Crown Lands Act of 1884” together with any Acts passed or to be passed for the amendment thereof.

“Repealed Act” means any Act repealed by the Principal Act.

Validity and effect  
of reversals of  
forfeiture.

3. Subject to the provisions hereinafter contained, the Governor or the Minister, as the case may be, shall be deemed to have had, and the Minister shall have, power to reverse, whether provisionally or otherwise, any forfeiture which has heretofore been, or may hereafter be, notified, declared, or otherwise asserted or enforced, under any repealed Act or under the Principal Act:—

- (I) A provisional reversal heretofore made of a forfeiture shall, unless the Governor or the Minister has subsequently done or performed, or shall hereafter do or perform, some act, matter, or thing in assertion and enforcement of such forfeiture, be deemed to have been an absolute reversal thereof, relating back to the date when such forfeiture was notified, declared, or otherwise asserted or enforced, and shall have the same effect as if the forfeiture so reversed had never been notified, declared, or otherwise asserted or enforced.
- (II) A provisional reversal hereafter to be made of a forfeiture shall be deemed to have suspended, or shall suspend, as the case may be, the operation of the forfeiture, as from the date, when such forfeiture has been or shall be notified, declared, or otherwise asserted or enforced; in any case, where such provisional reversal shall afterwards be revoked, such revocation shall have the same effect as if the provisional reversal so revoked had never been made.
- (III) Any absolute reversal of a forfeiture shall be deemed to have related back or shall relate back, as the case may be, to the date when such forfeiture has been or shall be notified, declared, or otherwise asserted or enforced, and shall be deemed to have had or shall have the same effect as if the forfeiture so reversed had never been notified, declared, or otherwise asserted or enforced.
- (IV) Any reversal heretofore made of any forfeiture whatsoever shall not be deemed to have been or to be ineffectual by reason only that the same was not published in the *Gazette*, or that the same was not made by the Governor with the advice of the Executive Council.
- (V) In any case where a forfeiture has been or may hereafter be duly notified or declared for any cause other than the non-payment of money the Minister shall, before absolutely reversing such forfeiture, refer to the Local Land Board for inquiry and report as to any fact or circumstance in virtue of which he proposes to make such absolute reversal as aforesaid. And such Board, or the Land Court, upon an appeal or reference shall inquire into such fact or circumstance and make a report and recommendation thereon to the Minister: Provided that should the Minister decide in any case contrary to the recommendation of the Land Board or Land Court, as the case may be, he shall, on the day of so deciding, record in writing in the Lands Department his reasons for so doing; and the Minister shall, as soon as practicable, lay upon the table of the Legislative Council and the Legislative Assembly a copy of his decision, together with such reasons as aforesaid. (VI)

*Crown Lands Act Amendment.*

(vi) Any reversal of a forfeiture hereafter to be made shall, as soon as practicable, be notified in the *Gazette*, but the date of such reversal shall be the date of the Minister's approval thereof.

4. No provisional or absolute reversal heretofore made of any forfeiture which had previously been duly notified or declared shall be deemed to have had the effect ascribed thereto by the last preceding section as against any application to purchase or lease conditionally or otherwise the lands, or any part of the lands, which were the subject of such forfeiture, if such application was duly made, and was not refused, withdrawn, disallowed, or otherwise finally disposed of before the twentieth day of October, in the year one thousand eight hundred and ninety. And no provisional or absolute reversal hereafter to be made of any forfeiture shall defeat any valid application for a conditional purchase, or conditional or homestead lease, which shall have been lodged before the receipt by, or on behalf of, the Minister of a request in writing for such reversal, unless the applicant shall consent in writing to such reversal.

Validation not to prejudice applications for conditional purchase or conditional lease made before October 20th, 1890.

5. Any forfeiture, voidance, or annulling heretofore asserted or enforced of an improvement or auction purchase, shall not be deemed to have been or to be ineffectual by reason only that the same was not published in the *Gazette*, or that the same was not made by the Governor with the advice of the Executive Council. Any forfeiture of an improvement purchase or any forfeiture, voidance, or annulling of an auction purchase, hereafter to be declared, shall be notified by the Minister in the *Gazette*, and shall take effect as a forfeiture in accordance with the one hundred and thirty-sixth section of the Principal Act.

Publication in *Gazette* of forfeitures not required in certain cases.

6. In any case in which a purchase, lease, or license has or shall become liable to forfeiture by reason of the non-fulfilment of any condition annexed by law to such purchase, lease, or license, but in which the Minister shall be satisfied that such non-fulfilment has been caused by accident, error, mistake, inadvertence, or other innocent cause, and that such forfeiture ought therefore to be waived, it shall be lawful for the Minister to declare that such forfeiture is waived, either absolutely or upon such conditions as he may see fit to declare, and the forfeiture shall thereupon be waived accordingly; and when the forfeiture of any conditional purchase or conditional lease shall have been waived and the conditions, if any, of such waiver shall have been performed, the holder of any such conditional purchase shall, if otherwise entitled thereto, be entitled to receive a certificate of conformity in respect of the same, notwithstanding that such certificate may have previously been applied for and refused, and the holder of any such conditional lease shall be entitled to make additional conditional purchases of the lands comprised within such lease as if no forfeiture thereof had been incurred.

Waiver of forfeitures.

7. An application for a conditional purchase or conditional lease, which upon a ballot being had, has been or shall be determined to have priority over all other applications included in such ballot, shall not be withdrawn without the approval of the Local Land Board in accordance with the fifteenth section of the "Crown Lands Act of 1889"; and the fact that two or more applications for conditional purchases or conditional leases included in any ballot for priority have been or shall be made by different applicants on behalf of one person shall be *prima facie* evidence that none of such applications has been made *bona fide* and for the applicant's sole use and benefit.

Provision against collusion at ballots upon conflicting applications.