

Land (Crown Grants and Reserves) Act 1993

No. 5 of 1993

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Victoria

No. 5 of 1993

Land (Crown Grants and Reserves) Act 1993

[Assented to 27 April 1993]

The Parliament of Victoria enacts as follows:

1. *Purpose*

The purpose of this Act is to clarify the circumstances in which reserved Crown land, or reserved land which is the subject of a Crown grant, may be sold, leased or licensed.

2. *Commencement*

This Act is deemed to have come into operation on 9 April 1992.

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No. 9212.
Reprinted to
No. 9902.
Subsequently
amended by
Nos 10087,
10144, 10187,
121/1986,
41/1987,
45/1987,
12/1989,
18/1989,
57/1989,
81/1989,
13/1990 and
92/1990.

3. Amendment of Crown Land (Reserves) Act

In section 8 of the **Crown Land (Reserves) Act 1978**—

(a) after “8.” insert “(1)”;

(b) at the end of the section insert—

“(2) An Act other than this Act (whether passed before or after the commencement of this sub-section) must be taken to authorise the sale, leasing or licensing of land reserved temporarily or permanently under section 4 only if it expressly, and not merely by implication, authorises the sale, leasing or licensing of—

(a) that particular land; or

(b) any class or description of Crown land or reserved land that includes that land; or

(c) Crown land or reserved land generally.

(3) For the purposes of sub-section (2) (b) and (c) an Act which authorises the sale, leasing or licensing of land, without expressly referring to Crown land or reserved land, must not be taken to authorise the sale, leasing or licensing of Crown land or reserved land.

(4) This section has effect despite any Act or rule of law to the contrary, including any rule of the common law.”.

No. 6284.
Reprinted to
No. 59/1986.
Subsequently
amended by
Nos 110/1986,
121/1986,
122/1986,
41/1987,
45/1987,
55/1987,
75/1987,
44/1988,
18/1989,
44/1989,
57/1989,
80/1989,
81/1989,
90/1989,
13/1990,
92/1990 and
48/1991.

4. Amendment of Land Act

After section 362A of the **Land Act 1958** insert—

‘362B. Construction of certain Crown grants

(1) In this section—

“designated provision of a Crown grant” means a provision of a Crown grant—

(a) which has the effect of—

(i) prohibiting (whether totally or partially or

subject to conditions) the alienation (whether in fee simple or for a lesser estate or interest) of land in the grant; or

- (ii) enabling the Crown or a responsible Minister of the Crown, to re-enter or resume land in the grant if there is an attempt to alienate it; and
- (b) which has the effect of excepting from a provision mentioned in paragraph (a) (i) or (ii) any of the following alienations of land—
 - (i) an alienation authorised by some Act in force at the date of the grant or afterwards;
 - (ii) an alienation authorised by some law in force at the date of the grant or afterwards;
 - (iii) an alienation authorised by some law in force after the date of the grant;
 - (iv) an alienation authorised by some Act in force after the date of the grant;

“provision of a Crown grant”
includes, but is not limited to, term, condition, reservation, restriction, exception, proviso, declaration or power.

- (2) This section applies to a Crown grant (whether issued before or after the

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commencement of this section) of land which is at the date of the grant, or afterwards becomes, temporarily or permanently reserved under an Act, being land in respect of which that reservation has not been revoked.

- (3) For the purposes of a designated provision of a Crown grant to which this section applies, an alienation of the land in the grant must be taken to be authorised by some Act or law only if the alienation is authorised expressly, and not merely by implication, by an Act relating to—
- (a) the particular land in the grant; or
 - (b) any class or description of Crown land or reserved land that includes the land in the grant; or
 - (c) Crown land or reserved land generally.
- (4) For the purposes of sub-section (3) (b) and (c) an Act or law which authorises the alienation of land, without expressly referring to Crown land or reserved land, must not be taken to authorise the alienation of land in the grant.
- (5) This section has effect despite any Act or rule of law to the contrary, including any rule of the common law.’

5. *Supreme Court—Limitation of jurisdiction*

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to ensure that—

- (a) the amendments made by this Act to the **Crown Land (Reserves) Act 1978** and the **Land Act 1958** prevail over any inconsistent rule of the common law; and

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- (b) without limiting paragraph (a), those amendments have effect despite the decision of the Supreme Court in *The Mayor, Councillors and Citizens of the City of Richmond v. Her Majesty's Attorney-General for the State of Victoria* (Proceeding No. 6345 of 1990).
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NOTES

1. *Minister's second reading speech—*
Legislative Assembly: 18 March 1993
Legislative Council: 7 April 1993
2. The long title for the Bill for this Act was "A Bill to amend the **Crown Land (Reserves) Act 1978** and the **Land Act 1958** and for other purposes."
3. **Constitution Act 1975:**
Section 85 (5) statement:
Legislative Assembly: 18 March 1993
Legislative Council: 7 April 1993
Absolute majorities:
Legislative Assembly: 7 April 1993
Legislative Council: 21 April 1993
4. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984**.)