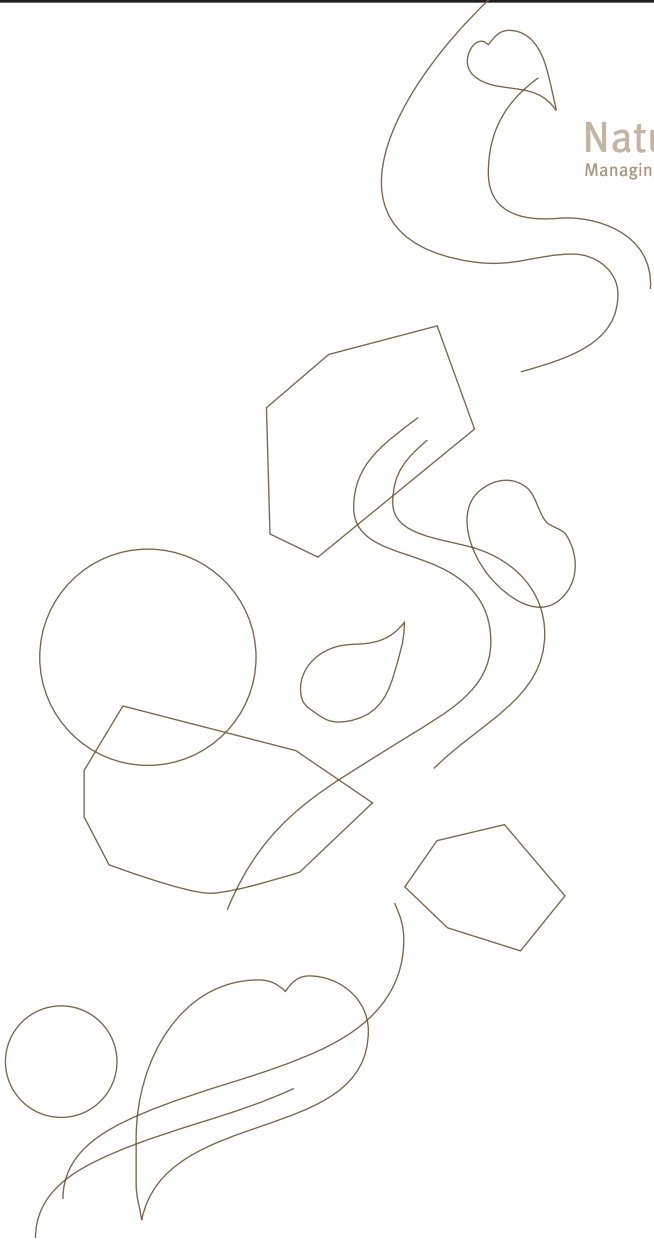




A guide to land tenure in Queensland



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Types of Leases

This publication sets out the manner by which the types of tenures used in Queensland came into existence, their respective characteristics and the various provisions of legislation which apply to each tenure. Strictly speaking, the word 'tenure' refers only to a lease or freehold which conveys possession of land to a person. For convenience, in this publication the term is also used to embrace other forms of occupation such as licences, permits to occupy and State reserves.

The *Land Act 1994* details a set of seven principles which must be followed in the administration of State land. These principles are sustainability, evaluation, development, community purpose, protection, consultation and administration.

The Minister for Natural Resources has delegated the Minister's power under the Act to officers and employees of the Department of Natural Resources (DNR), to enable efficient administration of State-controlled lands. To assist these delegates in the decision-making process, the Minister has developed and signed a set of policies which accord with the principles of the Act and detail specific issues which the decision-maker must consider.

This publication is a guide only and readers should consult the *Land Act 1994* or their legal adviser for more detailed information on the laws applying to State lands in Queensland. The occupation of land in Queensland falls under two broad tenure headings, freehold and non-freehold.

Freehold land is the most complete form available for land alienation from the State. It is purchased from the State. Ownership by the titleholder is not absolute however, as the State is empowered to withhold certain rights, such as the right to any minerals or petroleum. In addition, use of the land may be controlled by legislation (e.g. the *Local Government Act 1993*).

Non-freehold land is land under the control of the State of Queensland but which may be subject to a lease, permit or licence, reserved for a community purpose, dedicated as a road or subject to no tenure at all.

The provisions of the Commonwealth and State Native Title Acts must be satisfied before any dealings under the Land Act can be undertaken in relation to non-freehold land. In addition other relevant legislation (e.g. the Local Government Act, Nature Conservation Act and Contaminated Land Act) is taken into consideration when the State is dealing with land.

The *Land Act 1994* outlines the processes to be undertaken when dealing with State land, which includes any restrictions which may apply to an occupier of such land. The development of State land follows a sequence of allocation, regulation and management, as follows:

1. the State allocates land to a potential user for specified uses
2. State departments, local government or some other public authority regulate activities in accordance with their own specific powers (e.g. the power to grant development approvals)
3. the land-holder manages the allocated land in accordance with the conditions of the lease which covers the land.

The State deals with land in much the same way as a freehold owner would do. For example, a corporation which has freehold ownership of a number of lots may decide to sell, lease or subdivide its interests in land in what it believes are the best interests of its shareholders. Similarly, when the State makes decisions for dealing with land it does so in what it believes are the best interests of its' share-holders', the people of Queensland. Accordingly, the State may deal with unallocated State land in several ways. Depending on the circumstances, it may:

- lease land for a term of years or in perpetuity, or, in the case of a temporarily closed road, issue a licence allowing the land to be used in specified ways
- issue a permit allowing a person to occupy the land on a short-term basis
- sell the land as freehold
- reserve the land for community, forest or conservation purpose (e.g. to be used as a park, State forest or national park, or for sport and recreation)
- dedicate the land as a road
- retain the land as unallocated State land.

This publication outlines:

- the method of making land available either as leasehold or freehold
- the various types of leasehold tenure
- the provisions applying to leasehold tenures
- the allocation of land as a reserve or road.

Leasing unallocated State land

Unallocated State land may be made available for lease by auction, tender, ballot or in priority. This means that, unless specific criteria listed in the Act are met, USL must be put to auction, tender or ballot; 'priority' means without going to competition to obtain the lease.

Leases are granted for a purpose, for example business, grazing, tourism, residential development and pastoral activities. It should be noted that leases granted for pastoral purposes may be used only for grazing or agriculture.

Although a lease is issued for a primary purpose (such as those listed above), the Minister has the power to approve the conduct of additional or fewer uses on the subject land for the term of the lease, provided any amendments complement the original purpose. The Minister may make a lease subject to conditions considered appropriate.

A lessee has statutory obligations of a duty of care for the land, which includes keeping noxious plants under control.

TYPES OF LEASEHOLD TENURE

When the Land Act was rewritten in 1994, the number of types of leasehold tenure were consolidated into one of the following five types:

- the Term Lease (TL)
- the Perpetual Lease (PPL)
- the Freeholding Lease (FL)
- the Road Licence (RL)
- the Permit to Occupy (PO).

The Land Act of 1962, which replaced various Acts dealing with leasehold land throughout the State, had provided for a considerable number of tenure types. The most common of these were the agricultural farm lease; grazing homestead perpetual lease; grazing homestead freeholding lease; perpetual town, suburban or country lease; special lease; pastoral holding; auction purchase freehold; special purchase freehold; and road licence. The primary focus of the 1962 Act was the development of the State and the different tenures were utilised to indicate the term of the lease, whether it was freeholding or non-freeholding or, in some instances, the type of activity permitted on the land.

Term leases

A term lease is issued for a term of years (i.e. it is not perpetual) and for various purposes including grazing, agriculture, pastoral activities, telecommunications, tourism, business and residential development. At the end of a term lease, there is no obligation for a new lease to be issued.

The maximum term of the TL is 50 years, except for:

- State leases over reserves, which have a maximum term of 30 years
- a lease for a significant development or timber plantation, which may be granted for 100 years.

The following tenure types, issued under the provisions of the *Land Act 1962*, have been continued as TLs under the provisions of the *Land Act 1994*:

- the Pastoral Holding (PH)
- the Pastoral Development Holding (PDH)
- the Preferential Pastoral Holding (PPH)
- the Stud Holding (SH)
- the Special Lease (SL)
- the Development Lease (DL).

The Pastoral Holding (PH), Pastoral Development Holding (PDH), Preferential Pastoral Holding (PPH) and the Stud Holding (SH) have all been continued as term leases for pastoral purposes.

They have maximum terms of 50 years (upgraded from the original 30 years) and were made available by ballot, unless the renewal of an existing lease was involved. The current Land Act requires the land to be used for grazing and/or agricultural purposes. The term was changed in 1987, when legislation automatically increased the term of some 30 year leases by 20 years. If the particular lease did not meet the set criteria which permitted this, then the lessee could apply for an extension of the term and, if this were approved, the extension could range up to 20 years on top of the original 30.

These leases contain the following covenant: if the land is to be further lease at the expiry of the existing lease, the existing lessee will be offered a new term lease for pastoral purposes, with a maximum living area allowed (living area is the area on which a land-holder can make a living.) Term leases for pastoral purposes issued under the provisions of the *Land Act 1994* do not contain this covenant.

The 1962 Act's requirements that a stud holding be used for stud purposes has been removed, although the lease must still be used for grazing or agricultural purposes. The lessee of a stud holding may apply to have conditions relating to the operation of a stud removed from the lease.

Lessees cannot apply to purchase the land covered by a pastoral lease. Applications may be made to convert the lease to perpetual lease, but unless special circumstances exist, only in the last 20 per cent of the term.

SPECIAL LEASE

The Special Lease (SL) is continued as a term lease for the purpose for which it was issued. A SL usually has a term of 10, 20 or 30 years, and is granted for purposes such as manufacturing, industrial activities, residential development, business and grazing.

Generally, the State issued this type of tenure when it wished to retain supervision of the use or development of the land or when the future use intended for the land had not been clarified at the time the lease was granted.

DEVELOPMENT LEASE

The Development Lease (DL) is continued as a term lease for the particular use for which it was issued. A DL was granted for a maximum term of 30 years for a significant development connected with manufacturing, business, industrial, residential, tourist or recreational purposes. The term of the lease could be extended to maximum of 75 years.

The conditions of the DL stipulate the development to be undertaken and the purchase price of the lease, or the methodology to calculate the purchase price, which is paid to the State for the subject land, upon freehold title being granted.

Perpetual leases

A Perpetual Lease (PPL) is granted in perpetuity.

It is issued for a specific purpose, including grazing, agricultural, residential, commercial and tourism activities. A corporation may not acquire an interest in a perpetual lease issued for grazing and/or agricultural purposes.

Because PPLs do not expire, they have a level of security equivalent to that of freehold.

The following tenure types, issued under the provisions of the *Land Act 1962*, have been continued as perpetual leases under the provisions of the *Land Act 1994*:

- the Grazing Homestead Perpetual Lease (GHPL)
- the Perpetual Town Lease (PTL)
- the Perpetual Suburban Lease (PSL)
- the Perpetual Country Lease (PCL).

GRAZING HOMESTEAD PERPETUAL LEASE

The GHPL is continued as a perpetual lease for grazing and/or agricultural purposes.

A corporation may not acquire or hold an interest in this tenure. Individuals may not acquire two or more leases which are substantially in excess of two living areas. Land acquired by an individual as a beneficiary of the estate of a deceased person is not included for the purpose of establishing whether the person holds two or more living areas.

PERPETUAL TOWN, SUBURBAN AND COUNTRY LEASES (NON-COMPETITIVE)

Each of these three leases types is continued as a perpetual lease issued for purposes such as residential, business, commercial and tourism activities.

All of these leases are non-competitive, which indicates that they were granted in priority (i.e. issued either as a consequence of a successful application to convert a special lease, or for the purpose of effecting substantial improvements in connection with a business or the provision of tourist facilities).

Freeholding leases

A Freeholding Lease (FL) is the tenure granted to a lessee who elects to pay the purchase price of land over a term of years. Where a Grazing Homestead Perpetual

Lease is converted to freehold, the tenure of Grazing Homestead Freeholding Lease, rather than a freeholding lease, has been retained.

The lessee of a TL or PPL issued under the *Land Act 1994* who successfully applies for the lease to become freehold must pay the purchase price of the land in cash. However, the ability to pay the purchase price over a term of years has been retained for lessees of leases issued under the provisions of the repealed *Land Act 1962*. This means that these lessees have 30 years to pay the purchase price, with the unpaid balance attracting interest.

In addition to the above circumstances, the *Land Act 1994* requires that freeholding leases be issued to replace mining titles freeholding leases, which were granted under the repealed *Mining Titles Freeholding Act 1980*. The terms of the existing leases were not altered.

The following tenure types, issued under the provisions of the *Land Act 1962*, have been continued as freeholding leases under the *Land Act 1994*:

- the Agricultural Farm Lease (AF)
- the Grazing Homestead Freeholding Lease (GHFL)
- the Purchase Lease (PL)
- the Perpetual Lease Selection (PLS)
- the Perpetual Town Lease (PTL)(C), Perpetual Suburban Lease (PSL)(C) and Perpetual Country Lease (PCL)(C)
- the Auction Perpetual Lease (APL)
- the Auction Purchase Freehold (APF)
- the Special Lease Purchase Freehold (SLPF).

AGRICULTURAL FARM LEASE

The Agricultural Farm (AF) lease is a freeholding tenure issued mostly as a consequence of a successful application to convert perpetual lease selections and settlement farm leases to freehold. (In 1981 PLSs were placed on final rental periods and, consequently, conversion to an AF lease was not required; more details are contained in the section of PLSs, below.)

AFs were still available for the sale of land in the Burdekin Irrigation Area until 30 June 1998.

The term of the AF lease is generally 40 years, although leases issued after 31 December 1991 have a maximum term of 30 years.

Until 31 December 1991, repayments on AF leases were interest-free and a discount was available for cash payment of the purchase price. For leases issued since then, repayments have attracted interest and no discount is available for cash payment.

A deed of grant (a freehold title) issues upon payment of the purchase price in full and compliance with any conditions attaching to the lease.

GRAZING HOMESTEAD FREEHOLDING LEASE

The GHFL tenure is granted as a consequence of a successful application to convert a Grazing Homestead Perpetual Lease to freehold and in which the lessee has elected to pay the purchase price of the land over a term of years.

Leases issued following an application received before 5 February 1990 may have a term of 40 years, interest-free repayments and a discount on cash payment of up to 57.1 per cent of the purchasing price.

For leases granted on an application received on or after 5 February 1990, the maximum term available is 30 years. The discount for cash payment is a maximum of 25.36 per cent and a concessional interest charge (presently 6 per cent) applies.

A deed of grant (a freehold title) is issued once the purchase price had been paid in full and the lessee has complied with any conditions attached to the lease.

If the area of the lease is in excess of 2500 hectares, the deed of grant contains a restriction that the land may not be transferred to a corporation (including a trustee for a corporation) without the consent of the Governor in Council.

Although this tenure type predates the *Land Act 1994*, it may still be issued under this Act.

PURCHASE LEASE

The Purchase Lease (PL) was issued by ballot under the provisions of the *Brigalow and Other Lands Development Act 1962* (now repealed) for a term of 40 years. It was used for the development of the brigalow lands of central Queensland. It was part of the brigalow scheme, a joint State and Commonwealth venture with funds being made available by the Commonwealth. Administration of the scheme was undertaken by the corporation of the Land Administration Commission, now the Brigalow Corporation. The scheme made loans available to property owners for development costs and to local governments for road construction.

Repayments on PL land are interest-free, and repayments on development loans attract a fixed interest charge.

Purchase leases are subject to the same provisions as GHFLs.

A deed of grant (a freehold title) is issued once the purchase price and any loans have been paid off and the lessee has complied with any conditions attached to the lease.

PERPETUAL LEASE SELECTION

The Perpetual Lease Selection (PLS) was originally granted as a lease in perpetuity for intensive farming (e.g. small lots for wheat growing, small crops). It was used to promote the soldier settlement and closer settlement schemes.

In 1981, legislation placed this lease type on what was termed a final rental period. The period was determined using a formula based on the percentage of the unimproved value of the lease being paid as rent at that time. The annual rental for the lease was

one-fortieth or one-sixtieth of the unimproved value current as at 31 December 1980. Therefore, 40-years terms were given for lessees paying 2.5 per cent and 60-year terms for lessees paying 1.5 per cent.

At the end of the term or when all rent for the rental period has been paid, the lessee could elect to obtain freehold title or to maintain the lease the lease with payment of a 'peppercorn' rent if the government demanded this.

An amendment to the legislation in 1991 included a covenant in the lease to allow for the issue of freehold title once the lessee had paid the full rental value of the lease and had complied with any conditions attached to the lease.

PERPETUAL TOWN, SUBURBAN AND COUNTRY LEASES (CONVERTED)

Each of these three lease types is issued as a consequence of a successful application to convert a Perpetual Town Lease (PTL), Perpetual Suburban Lease (PSL) or Perpetual Country Lease (PCL) to freehold. These leases were issued mainly for business, residential, commercial and tourism activities.

The leases were originally issued for terms of 30 years for residential activities and 20 years for other uses. Since 1 January 1992, however, the maximum term of a lease has been 30 years for all purposes.

Until 31 December 1991, repayments were interest-free and attracted a discount of a maximum of 57.1 per cent for initial cash payment for the whole amount owed. A lesser percentage applied if the balance of the purchase price was paid off over the term of the lease.

Leases commencing on or after 1 January 1992 attract an interest charge on repayments, with no discount being available for cash payment.

A deed of grant (a freehold title) is issued once the lessee has paid the purchase price in full and has complied with any lease conditions.

AUCTION PERPETUAL LEASE

The Auction Perpetual Lease (APL) was originally a lease granted in perpetuity, made available by auction as a perpetual town, perpetual suburban or perpetual country lease. No further leases of this type can be made available.

From 1 January 1981, the rent payable on APLs for the next 30 years was reserved at the amount applicable for the rental period current at 31 December 1980. Thereafter the rent was a peppercorn rent if demanded by the government.

Up to the end of the rental period, the lessee could elect to pay off the rental commitment and apply for the issue of freehold title. No interest charge applied and a discount of up to 57.1 per cent was available for early payment of the rental commitment.

An amendment to legislation in 1991 included a covenant for the issue of freehold title upon payment of the full rental value and compliance with any conditions of lease.

AUCTION PURCHASE FREEHOLD (APF)

The Auction Purchase Freehold (APF), which is no longer available, was issued for a number of purposes, but mainly for residential developments. It was used to dispose of USL at public auction when the repayment of the purchase price was to be made over a term of years.

The term was usually 10 years for the repayment of the purchase price, with interest being charged on the outstanding balance. No discount was available for cash payment.

If the purchase price has been paid in full at the time of auction, but the finalisation of the sale was subject to the purchaser undertaking specified improvements, then the term was the time in which such improvements were to be undertaken.

A deed of grant was issued after the full payment of the purchase price and compliance with any conditions.

SPECIAL LEASE PURCHASE FREEHOLD

The Special Lease Purchase Freehold (SLPF) tenure is granted when a lessee successfully applies to buy the land covered by a special lease.

The term of the lease is a maximum of 30 years, with the annual instalment of the purchase price attracting an interest charge. No discount is available for early repayment of the purchase price.

A deed of grant is issued after payment of the full purchase price and compliance with any conditions.

General provisions which apply to leases

The Land Act contains a number of provisions which generally apply to most of these leases. These are listed below.

- A lessee may not sell or sub-lease a lease without the prior consent of the Minister.
- Corporations may not acquire an interest in a perpetual lease granted for grazing or agricultural purposes, in a grazing homestead perpetual lease or grazing homestead freeholding lease, or in a sub-lease of one of these tenures. An individual may hold one of these tenures as trustee for a corporation, providing the corporation meets the family arrangements provisions detailed in the Act.
- A lessee may not subdivide or amalgamate leases without the prior consent of the Minister.
- A lessee must comply with the conditions of the lease.
- If the State considers the conditions of the lease have not been complied with, the matter may be referred to the Land Court for determination.
- The Land Court decides whether the lease is liable to be forfeited because the conditions have not been complied with.
- A lessee must obtain a tree clearing permit to destroy trees on land lease under arrangements other than freeholding unless the clearing is for the routine management purposes which are prescribed in the Act.

RENTAL PROVISIONS

The common rental provisions for term and perpetual leases are as follows.

- All term and perpetual leases have a primary purpose, which determines that the lease is to be granted under one of the categories listed in table 1 on page 16 (see appendix 2 for more details).
- A percentage rate is prescribed for each category ranging from 0.8 per cent for grazing to 5 per cent for communication sites, government-held leases, tourism on the mainland and sporting and recreation (gaming – *Gaming Machine Act*).
- For each lease a valuation for rental purposes is determined under the *Valuation of Land Act 1944*.
- The annual rent for each lease is determined by multiplying the prescribed percentage rate by the valuation for rental purposes.
- Concessions are available for charitable, recreational and sporting leases and for leases used exclusively for the lessee's own residential use.
- A range of minimum rents apply.
- The annual rental is due and payable on or before 1 September each year.

FREEHOLDING PROVISIONS

The freeholding provisions for perpetual leases and term leases, other than term leases for pastoral purposes, are as follows.

- A lessee may apply to convert their lease to freehold unless the lease is over a reserve or is a term leases granted for pastoral purposes.
- The Minister considers a number of issues, including whether the land is needed as a State forest or for environmental or conservation purposes, whether the lessee has complied with the conditions of the lease and whether public interest could be adversely affected before making a decision on the application.
- The Minister determines the purchase price of approved applications.
- If the lessee is entitled to pay the purchase price off over a term of years, the number of annual instalments is determined according to the total price.
- The maximum term available for repayment is 30 years.
- The minimum instalment for residential leases is \$200 and for other uses is \$500.
- Interest applies to repayments.

A rental payment or other repayment instalment may be deferred for lessees suffering hardship.

A lease may be forfeited if rent or repayments are not made.

Any unpaid amounts owed remain a debt to the State even if the lease has been forfeited. This means the lessee (or former lessee) is still liable to make the payment.

Table 1. Lease categories

CATEGORY NO.	CATEGORY TYPE
1	Grazing and agriculture
2	Intensive (non-broadacre) primary production
3.1	Residential and rural residential
3.2	Private (non-commercial) uses
4	Commercial and industrial
5	Industrial (tourism, small business and industry)
6	Charitable and non-commercial service organisations
7	Communications sites
8.1	Public utilities
8.2	Government held tenures
9.1	Tourism (mainland)
9.2	Tourism (island)
10.1	Sporting and recreation (gaming - <i>Gaming Machine Act</i>)
10.2	Sporting and recreation (liquor – <i>Liquor Act</i> , non-gaming)
10.3	Sporting and recreation (non-gaming, non-liquor)

Occupation rights to State land

The State has other ways of granting occupation rights: it may issue a Permit to Occupy or it may temporarily close a road and issue a Road Licence to permit the occupation of the closed area. This section discusses permits to occupy and road and occupation licences.

PERMIT TO OCCUPY

A Permit to Occupy (PO) is a tenure to allow the short-term occupation of State-controlled land. The tenure is personal (i.e. applies only to the person holding it) and does not give the holder exclusive possession of the land in question. The PO has several common features:

- Must be able to exist with underlying tenure (e.g. road or reserve tenure)
- Usually granted for minor matters (e.g. for a pump site or for short-term grazing)
- May be cancelled, with reasonable notice and without compensation, by the chief executive of the Department of Natural Resources.

General provisions which apply to permits

The general provisions which apply to a PO are listed below.

- It may not be sold, mortgages or sub-leased.
- The permittee must obtain a tree clearing permit to destroy and trees on land covered by the PO.
- The annual rental is determined in the same manner as that of a lease.
- The Minister may set a rent of the permit area has not been valued.
- The annual rent is due and payable on or before 1 September each year.

LICENCES

Road Licence

A Road Licence (RL) is the tenure granted for the use of a road which has been temporarily closed.

All licences are subject to the following conditions:

- There is no covenant, agreement or condition to renew the licence, convert it to another form of tenure or to sell the land
- No more structural improvements other than fencing, pipes or channels across the road are permitted
- If adjoining land held by the licensee is sold, the licence must also be sold or surrendered.

Road licences do not have a term and the Minister may cancel the licence once reasonable notice has been given. No compensation is payable.

Occupation Licence

An Occupation Licence (OL) is a licence to occupy unallocated State land. Although the *Land Act 1994* makes no provision for the issue of an occupation licence, previously existing licences continue under this Act.

No term applies to the licence, which the Minister may cancel in whole or part on giving three months' notice. No compensation is payable for the cancellation. The Minister must approve all improvement or development work the licensee wishes to undertake.

General provisions which apply to licences

The Land Act contains various provisions which apply to licences. They include the following:

- A licensee may not sell a licence without the prior consent of the Minister
- A licence may not be sub-leased or subdivided
- A licensee must comply with the conditions of the licence
- A tree clearing permit is required to destroy trees on land covered by the licence
- The annual rental is determined in the same manner as for a lease; however, if the land has not been valued, the Minister may set the rent
- The annual rental is due and payable on or before 1 September each year.

Sale of unallocated State land

Unallocated State land becomes freehold when the land is sold and the buyer issued with a deed of grant for the area. However, even when land is freehold, any mineral and petroleum products found on the land are reserved to the State.

In some instances the freehold may contain a reservation of an area for a public purpose (e.g. road) or for forest products by the inclusion of a forest entitlement area (FEA). An FEA is a State reservation of commercial timber and the land in which it stands. No charge is made for the land covered by an FEA and the owner may use the area as desired, subject to entering into an agreement under the Forestry Act. As a general rule, quarry material has been reserved to the State since 1 January 1992.

FREEHOLD

Freehold title to land is obtained by the issue of a deed of grant by the Governor in Council as a consequence of a decision to sell unallocated State land or as a consequence of a lessee's successful application to purchase from the State the land contained in a lease. The following matters have an impact on the issue of freehold title.

- A deed of grant may not issue for land below the high water mark.
- For all deeds of grant, the State reserves minerals and petroleum products.
- The State reserves quarry materials in the following instances:
 - For leases made freehold as a consequence of a conversion-of-tenure application received on or after 5 February 1990 (or 31 October 1991 for leases granted under the *Industrial Development Act*)
 - For a lease containing an entitlement to a deed of grant granted after 31 December 1991
 - For freehold granted over unallocated State land after 31 December 1991.
- A deed of grant may also issue containing a reservation for a public purpose (e.g. road or FEA)
- Upon issue, the deed of grant is registered in the freehold land register.
- The Registrar of Titles creates an indefeasible title recording the particulars of the grant in the freehold land register.
- The Registrar of Titles may subsequently issue a Certificate of Title which contains the indefeasible title.

Deeds of grant in trust

Deed of grant in trust have the following characteristics.

- A deed of grant may issue on the condition that it be held in trust for a community purpose (known as a deed of grant in trust).
- A deed of grant in trust issued before the *Land Act 1994* commenced may be mortgaged.
- A deed of grant in trust issued under the provisions of the *Land Act 1994* may not be mortgaged.
- The Minister for Natural Resources must give consent to any leasing of the land and the lease must be endorsed with the Minister's approval, prior to its registration in the Land Registry.

Reserved land

The Minister may dedicate unallocated State land as a reserve for a community purpose. The following community purposes are listed in the Land Act:

- Aboriginal purposes
- Beach protection and coastal management
- Cemeteries, crematoriums and mortuaries
- Drainage
- Environmental purposes
- Heritage, historical and cultural purposes
- Natural resource management
- Navigational purposes
- Open space and buffer zones
- Parks and gardens
- Public boat ramps, jetties and landing places
- Public halls
- Public toilet facilities
- Roads
- Scenic purposes
- Scientific purposes
- Showgrounds
- Sport and recreation
- Strategic land management
- Torres Strait Islander purposes
- Travelling stock requirements
- Watering places

Trustees may be appointed to run the reserves and, while the State retains ownership of the land, trustees are required to manage it in a manner that achieves the purpose of the trust. Trustees are considered to be the owners of the land only for the purpose of legal proceedings. Because of this, incorporated bodies are the preferred entity for appointment as trustees.

Trustees may lease or issue a permit over the reserve, subject to the Minister's consent, provided the lease or permit is consistent with the purpose of the trust and would facilitate or enhance the purpose of the trust. The Minister may allow a trustee to issue a lease or permit inconsistent with the purpose of the trust provided the lease does not diminish the purpose of the trust and all further improvements are first approved by the Minister.

Roads

A road is an area of land which is either:

- Dedicated, notified or declared to be a road for public use; or
- Taken under an Act for the purpose of a road for public use.

The term 'road' includes streets, esplanades, pathways, bridges, culverts and stock routes. Note that while all stock routes are roads, not all roads are stock routes. The land in all roads dedicated and opened for public use is owned by the State. A road does not have to have been constructed as a pre-requisite to dedication to public use.

The management of roads is undertaken by the relevant local government, or the Department of Main Roads if it is a State-controlled road. The Local Government Act and the Transport Infrastructure Act give these bodies various powers in relation to the use of roads.

An activity may not be undertaken on a road if it substantially interferes with the purpose for which the land was dedicated, unless this has been authorised under an Act.

If the State grants tenure other than a permit to occupy over a road, the road must first be closed – temporarily for the issue of a road licence, or permanently if it is intended to grant a lease or freehold title.

Trespass

The Land Act contains provisions designed to protect against trespassers. On land that is covered by non-freehold or deed of grant in trust tenures, a person must not unlawfully:

- Occupy or live on the land
- Enclose the land
- Build, place or maintain any structure, improvement work or thing on the land
- Clear, dig up or cultivate the land
- Depasture stock on the land.

In most circumstances, the authority to undertake one of the above activities will emanate from the Land Act, although other legislation may apply in certain circumstances (e.g. the Main Roads Act, the Electricity Act, the Mineral Resources Act).

Severe penalties (current a maximum of \$30 000) apply if a person is convicted of an offence against the trespass provisions of the Act.

Appendix 1. Current Land Act tenures

LAND ACT TENURES at 31 May 1998

TENURE	NUMBER OF TENURES	APPROXIMATE AREA (ha)
LEASEHOLD		
Pastoral Holding	1 048	64 231 842
Preferential Pastoral Holding	379	9 511 054
Pastoral Development Holding	73	12 723 935
Stud Holding	20	372 627
Occupation Licence	212	862 371
Gazing Homestead Perpetual Lease	2 961	21 896 308
Perpetual town, suburban and country leases (non-competitive)	796	19 503
Special Lease	9 773	3 830 165
Development Lease	6	2 469
Permissive Occupancy	3 638	1 094 071
Road Licence	4 904	38 856
Term Lease	1 164	587 752
Perpetual Lease	5	40 240
<i>Total leasehold</i>	<i>24 979</i>	<i>115 211 193</i>
FREEHOLD		
Agricultural Farm	1 041	1 016 371
Grazing Homestead Freeholding Lease	2 363	13 104 688
Purchase Lease	21	166 501
Perpetual Lease Selection	1 227	558 001
Perpetual town, suburban and country leases (converted)	207	90
Perpetual town, suburban and country leases (non-competitive) (converted)	219	9 844
Auction Perpetual Lease	407	238
Auction Purchase Freehold	440	5 926
Special Lease Purchase Freehold	476	129 628
Freeholding Lease	3 827	9 862
<i>Total freeholding leases</i>	<i>10 228</i>	<i>15 001 149</i>
TOTAL ALL LEASE TYPES	35 207	130 212 342

Appendix 2. Categories of lease

Categories of Lease for Rental Calculation at 30 June 1998

CATEGORY NUMBER AND DESCRIPTION	RATE	MINIMUM RENTS
<p>1: Grazing and agriculture A lease is a category 1 lease if, under its conditions, it may be used primarily for, and is being used primarily for, grazing or broad-acre agriculture. In addition, a lease for grazing purposes over a state forest or reserve is a category 1 lease.</p>	0.8%	\$150, except Special lease, Permit to Occupy, Road Licence, \$75
<p>2: Intensive (non-broadacre) primary production A lease is a category 2 lease if it is not a category 1 lease or a category 3 lease and, under its conditions, may be used for, and is being used for, intensive (non-broadacre) primary production. Intensive (non-broadacre) primary production includes 'the growing of cane, coffee, tea, tobacco, fruit, vegetables, flowers and other horticultural products, viticulture, the farming of pigs, poultry, the farming of cattle in feedlots, and aquaculture, including oyster farming'.</p>	3%	\$150, except Special lease, Permit to Occupy, Road Licence, \$75
<p>3.1: Residential and rural residential A lease is a category 3.1 lease if, under its conditions, it may be used solely for, and is being used solely for, a single dwelling house. A lease that would be a category 1 lease or a category 2 lease is a category 3.1 lease if: (a) it is located close to a city, township or closely settled area; and (b) a dwelling house is, or under the lease could be, erected on it; and (c) its market value would be based on its value as land able to be used for residential purposes. A special lease for grazing purposes, issued under the <i>Land Act 1962</i> is a category 3.1 lease if: (a) a dwelling house is, or under the lease could be, erected on the land; and (b) the lease is not a category 1 lease.</p>	3%	\$150, except Special Lease, Permit to Occupy, Road Licence, \$75
<p>3.2: Private (non-commercial) uses A lease is a category 3.2 lease if: (a) under its conditions the lease may be used and is being used for private, non-commercial purposes; and (b) the lease does not fulfil the requirements for another category. Examples of private, non-commercial purposes include the storage of a motor vehicle, boat or equipment, owned or leased by the lessee and used only for the private and non-</p>	3%	\$150, except Special Lease, Permit to Occupy, Road Licence, \$75

commercial purposes of the lessee.		
4: Commercial and industrial	4.6–5%	\$100
A lease is a category 4 lease only if:		
(a) under its conditions the lease may be used for and it is being used for commercial, industrial or business purposes; and		
(b) the lease does not fulfil the requirements for another category.		
5: Industrial (Department of Tourism, Small Business and Industry)	4.6-5%	\$150, except Special lease, Permit to Occupy, Road Licence, \$75
A lease on land located at a place ordinarily known as a DTSBI industrial estate.		
6: Charitable and non-commercial service organisations	0.5%	\$75
A lease is a category 6 lease only if:		
(a) the lessee is:		
(i) a charitable organisation or non-commercial community service organisation; and		
(ii) an organisation whose constitution does not permit its profits to be distributed to its members; and		
(iii) not a sporting or recreational organisation; and		
(a) the lease is used for providing:		
(i) services that are charitable in nature; and		
(ii) services that are non-commercial in nature and are aimed at improving community welfare or safety; and		
(a) the lease does not fulfil the requirements for another category.		
Examples of services under (b) (ii) include surf lifesaving clubs without full club liquor or gaming licences, scouts and guides associations, and volunteer services organisations (e.g. marine rescue, coast guard).		
A lease is also a category 6 lease if:		
(a) the lease is held by the State or a local government for a non-commercial community organisation; and		
(b) the lease is used by the organisation for providing community services, on a non-commercial basis, aimed to improve community welfare or safety; and		
(c) the lease does not fulfil the requirements for another category.		
Examples of these kinds of leases are rural fire brigades and the State Emergency Service.		
7: Communication sites	5%	\$2500 or \$5000, except emergency or essential services, \$100
A lease is a category 7 lease if:		
(a) under its conditions the lease may be used for or is being used for the provision, relay or transmission of telephonic, television, radio or other electronic communication services for commercial, domestic,		

<p>emergency or essential service activities; or</p> <p>(b) the lease is being used in conjunction with an activity in (a).</p>		
<p>8.1: Public utilities</p> <p>A lease is a category 8.1 lease only if its use provides benefit to the community or the public free of charge or at a nominal cost.</p>	1%	\$150, except Special Lease, Permit to Occupy, Road Licence, \$75
<p>8.2: Government-held tenures</p> <p>A lease is a category 8.2 lease if:</p> <p>(a) the lessee is a government leasing entity; and</p> <p>(b) the use of the lease is essential for the conduct of the lessee's core business.</p> <p>Examples of core businesses include operating hospitals, police stations, schools, and offices and depots)</p> <p>'Government leasing entity' means:</p> <p>(a) the State or the Commonwealth; or</p> <p>(b) a Commonwealth or State authority, instrumentality or body corporate; or</p> <p>(c) a government company; or</p> <p>(d) a GOC; or</p> <p>(e) a local government.</p> <p>'Government company' means a corporation incorporated under the Corporation Law, all the stock or shares in the capital of which is or are beneficially owned by the State.</p>	5%	\$150, except Special Lease, Permit to Occupy, Road Licence, \$75
<p>9.1: Tourism (mainland)</p> <p>A lease is a category 9.1 lease only if it is a lease for, or is ancillary to, a major tourist facility or a major resort development.</p>	5%	\$150, except Special Lease, Permit to Occupy, Road Licence, \$75
<p>9.2: Tourism (island)</p> <p>A lease is a category 9.2 lease only if it is a lease for, or is ancillary to, a major tourist facility or a major resort development.</p>	4%	\$150, except Special Lease, Permit to Occupy, Road Licence, \$75
<p>10.1: Sporting and recreation (gaming – Gaming Machine Act)</p> <p>A lease is a category 10.1 lease, whether or not it fulfils the requirements for a different category, if:</p> <p>(a) the lessee is a sporting and recreational organisation; and</p> <p>(b) the lessee's constitution does not permit its profits to be distributed to its members; and</p> <p>(c) the lease is used for sporting and recreational purposes.</p>	5%	\$150, except Special Lease, Permit to Occupy, Road Licence, \$75
<p>10.2: Sporting and Recreation (liquor – Liquor Act – but not gaming)</p> <p>A lease is a category 10.2 lease, whether or not it fulfils the requirements for a different category, if:</p> <p>(a) the lessee is a sporting and recreational organisation; and</p>	3%	\$150, except Special Lease, Permit to Occupy, Road Licence, \$75

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- (b) the lessee's constitution does not permit its profits to be distributed to its members; and
 - (c) the lease is used for sporting and recreational purposes.
-

10.3: Sporting and recreation (non-gaming, non-liquor) 1% \$75

A lease is a category 10.3 lease, whether or not it fulfils the requirements for a different category, if:

- (a) the lessee is a sporting and recreational organisation; and
- (b) the lessee's constitution does not permit its profits to be distributed to its members; and
- (c) the lease is used for sporting and recreational purposes.

Appendix 3. Historical notes

BEFORE SEPARATION FROM NEW SOUTH WALES

From the time of surveyor John Oxley's first settlements at Humpybong and Brisbane in 1823 until Queensland was created as a separate colony in 1859, recognised land settlement in what is now Queensland proceeded under the regulations and ordinances in force in New South Wales. The non-indigenous pioneers in outlying parts were grazing squatters who worked under a small occupation licence fee. Moreton Bay settlement was thrown open to free settlers in 1842.

During this period, freehold tenure was first made available by Crown land grant in areas of up to four square miles, the size being determined by the amount the proposed landowner was prepared to spend in developing the estate or the number of convict labourers the landowner employed.

SEPARATION

The 1859, Queensland was severed from New South Wales by letters patent issued to Sir George Bowen. By notification published in the Government Gazette of December 1859 the following officers were appointed to form a board to invite tenders for runs of Crown lands beyond the settled districts:

- the colonial Treasurer
- the surveyor-General
- the clerk of the Executive Council.

During the first sessions of Parliament in 1860, four land Bills were passed. They were referred to as the Land Code of Queensland. One of them, the *Unoccupied Crown Land Occupation Act of 1860*, provided for the Governor, with the advice of the Executive Council, to appoint persons as Commissioners of Crown Land to carry out the provisions of the Act in whatever districts they were assigned to.

In January 1862, the Department of Lands and Works was established. It was directed and controlled by a Minister of the Crown, St George Richard Gore, who held office from 14 January 1862 to 21 March 1862. The first clerk of the clerical branch of the department's Lands Branch was Arthur Orpen Herbert, who held this position from 8 April 1862 to 15 August 1866. The structure of the administration remained the same until 1927 when the Land Administration Board was constituted.

The Department of Public Lands was created as a district department in 1866.

In 1868 royal assent was given to an Act to *Consolidate and Amend Land Laws relating to the Alienation of Crown Lands*.

In 1875, the respective offices of the Under-Secretary for Lands and for the Surveyor-General were merged into one. The merger lasted for a century. On 26 June 1975, it was ended by the separation of the Survey Office from the Department of Lands and the subsequent creation of the Department of Mapping and Surveying.

In 1989, the departments of Geographic Information, Freehold Land Titles and Valuer-General were amalgamated with the Department of Lands.

In 1996, the resource management and water resources components of the Department of Primary Industries were amalgamated with the Department of Lands to form the Department of Natural Resources.

The lands laws of the State were consolidated five times up until 1910. The next consolidation was not undertaken until the proclamation of the *Land Act 1962*. At that time 79 Acts covered the lands laws of Queensland.

MAJOR INITIATIVES OF THE *LAND ACT 1962*

- Reduction in the number of tenures or classes of tenure from 29 to 17.
- Area of grazing selections which could be converted to freehold or perpetual lease increased from 5000 to 10 000 acres.
- The term for payment of the purchase price for freeholding selections increased from 20 to 30 years and given retrospective operation.
- No deed of grant to be issued until all development and improvement conditions performed.
- Right to freehold extended to all industrial lands, except for leases for tourism purposes.
- Selective method of balloting introduced. Ballots to be conducted by a committee comprising a member of the Department of Lands and two experienced primary producers.
- Persons holding less than 50 per cent of a living area permitted to enter ballots.
- Persons holding more than 50 per cent of a living area restricted from ballots, with lease subject to condition of personal residence.
- Maximum area which may be held under grazing selection reduced from 60000 acres to 45000 acres.
- Perpetual lease prickly-pear selections and perpetual lease prickly-pear development selections converted to Perpetual Lease Selection tenure.
- Licence to Occupy and certificate of performance of conditions abolished. Lease to be issued immediately on payment of first year's rent and fees.
- Condition of personal residence not reimposed on transfer of grazing homesteads.
- Valuation of improvements, timber treatment and development works undertaken within the last 10 years to be determined at actual cost less depreciation.
- Lessees of pastoral leases given right to new lease on expiry of current lease if land further leased as a selection or preferential pastoral holding.
- Reservation in deeds of grant relating to public ways, canals, railways, sand, clay, gravel, stone and indigenous timber removed.
- Laws relating to deeds of grant in trust and reserves for public purposes codified.
- The Crown's right to resume from leasehold land codified.

- Minister's powers to vary conditions of lease and extend time for performance clearly stated.
- Successful applicant for a pastoral holding determined by ballot, not auction.
- The condition of fencing attaching to lease clearly defined.
- Unoccupied Crown land may be included in any offer of renewal of lease.
- A person who acquired a lease as part of the terms of a will able to take renewal of that lease irrespective of area and rental disqualifications.
- Rental periods for all lease types (other than the Special Lease which does not have rental periods) made of uniform duration.

Major amendments introduced by the *Land Acts Amendment Act 1964*

- All grazing selections brought within the ambit of conversion to freehold.
- Applications received as at passing of the Act to proceed under the old legislation.
- Applications received before 31 December 1965 to be converted to:
 - (1) freeholding tenure or perpetual lease if not exceeding 10000 acres
 - (2) if in excess of 10000 acres freeholding tenure only.
- Applications received after 31 December 1965:
 - (3) leases under 5000 acres freeholding tenure or perpetual lease
 - (4) in excess of 5000 acres freeholding tenure only.
- Selections must be reasonably improved, otherwise Minister may reject application for conversion. Public interest issued only referred to Land Court if the Minister is of the opinion public interest will be adversely affected by conversion of tenure.
- New tenure of Grazing Homestead Freeholding Lease created and terms and conditions determined.
- Restriction imposed on transfer of deeds of grant issued as a consequence of an application to convert a grazing selection received after 31 December 1965. No transfer to a corporation or a natural person who holds in excess of 60000 acres or land with a value in excess of \$70000 without consent of Governor in Council.
- Minister to determine unimproved value for conversion of perpetual town, suburban or country leases as at date of application.
- Minimum rent of \$2 established for special leases.

Major amendments introduced by the *Land Acts Amendment Act of 1965*

- Restriction on aliens holding a lease or licence removed.
- Terms for freeholding auction perpetual lease increased to 20 equal instalments interest-free, instead of 10 instalments with 5 per cent interest.
- All instalments on auction perpetual leases interest-free after 1 January 1966.

Major amendments introduced by the *Land Acts Amendment Act of 1967*

- Terms of all settlement farm lease, grazing selection and pastoral leases in existence as at 23 March 1967 extended for 3 years.
- Not more than two persons may apply for any selection by ballot.
- Allowed for conversion applications to continue after expiry of a selection.
- Extended statutory recognition to the power of the Minister to grant permissive occupancy over Crown land, road or reserve.

Major amendments introduced by the *Land Acts Amendment Act of 1968*

- Title of 'land ranger' changed to 'land inspector'.

- Permitted married women to apply at ballot for selections and preferential pastoral holdings provided the woman's husband applied and interest sought by him was not less than one-half.
- Commercial timber payable over 10 years instead of 5 years when selection converted to perpetual lease or freehold.
- Minimum rents of Auction Perpetual Lease, Special Leases and Road Licence types increased from \$2 to \$6 from 1969.
- Term of purchase of Auction Perpetual Lease tenures increased from 20 to 30 years for residential, and for leases used for business or industrial to be 20 years.
- Five per cent discount available for early payment of purchase price on all Auction Perpetual Lease types.
- Provision made for the term of a Special Lease to be longer than 30 years, up to a maximum of 75 years for leases with substantial improvements or where conversion of tenure not allowed.
- Provision made for conversion of Special lease to freehold upon terms. Leases granted after the amendment conversion to perpetual lease not available. Restriction on conversion of leases in excess of 2500 hectares removed.
- A lessee may acquire a preferential pastoral holding or selection as trustee for children, grandchildren and like descendants.
- Additional area aggregation may be transferred separately with the consent of the Governor in Council.
- Interest of other mortgagees protected when a first mortgagee proceeds with sale.
- Resumption provisions on all holdings repealed. New resumption provisions reflect as far as possible the *Acquisition of Land Act 1967*. Also repealed provision enabling resumption for a public purpose without paying compensation.
- Extended from 20 to 75 years the maximum term of a lease granted by trustees of reserve or deed of grant in trust.

Major amendments introduced by the *Land Act Amendment Act 1970*

- Subject to approval of Minister and lessee, sub-lessee may sub-sublet whole or part of the sub-lease.
- Lessee may surrender a lease, without giving one year's notice or payment of one year's rent in advance, subject to the approval of the Minister.
- Provided that easements affecting land granted in trust may be created by agreement to which the trustees are parties either as grantors or grantees.

Major amendments introduced by the *Land Act Amendment and Primary Producers' Assistance Act 1971*

- Term of Agricultural Farm increased from 30 to 40 years.
- Minister may reject an application for conversion of a selection when circumstances warrant.
- Minister may waive penalty and approve payment of outstanding rent by instalments.

Major amendments introduced by the *Land Act and Other Acts Amendment Act 1973*

- Provision made for setting apart land as environmental parks.

- Ancillary provisions in relation to management, leasing and revocation of environmental parks.

Major amendments introduced by the *Land Act Amendment Act 1974*

- Authority for issue of a new deed of grant when a reservation for long-term forest management is discharged.
- New certification for conversion of tenure of a selection to include whether parts are:
 - (a) suitable for State forest
 - (b) suitable for long - term forest management
 or whether public interest would be affected.
- Provision made for reservation of forest products with the converted lease to issue over the whole area.
- Valuation of commercial timber in any conversion not to include that contained in a reservation for long-term forest management.
- Detailed Forest Entitlement Areas, their management and discharge.

Major amendments introduced by the *Land Act Amendment and Pastoralists' Assistance Act 1974*

- Amendment to definition of 'cultivation' to include the sowing of improved pastures.
- Amendment to unimproved value for conversion purposes to protect improvements made at Crown expense prior to leasing.
- Provision for extension of the term of development leases up to 75 years.
- As a consequence of the 1974 flood lessees of pastoral lease or grazing selection able to apply for 10-year extension.

Major amendments introduced by the *Land Act and Another Amendment Act 1975*

- Provided for the lessee of any grazing selection to apply for conversion of that lease to grazing homestead perpetual lease. The *Forestry Act* amended to ensure forest products, timber and quarry material remained the property of the Crown.
- Interest charged on the balance of a purchase price to be prescribed by Order in Council.
- Companies enabled to apply for, bid for and acquire perpetual town, suburban or country leases, special leases and development leases.

Major amendments introduced by the *Land Act and Another Amendment Act 1981*

- Auction Perpetual Leases and Perpetual Lease Selections placed on final rental period. Lessees were able to obtain a deed of grant at the expiration of this period upon application.
- Agricultural Farms and Grazing Homestead Freeholding Leases given discount for early payment or purchase price.
- Land Commissioner's Court abolished.
- Committee of review (other than for ballots) established.
- Stud Lease granted a 75 year extension, with a covenant for renewal on expiry.
- Restrictive conditions applying to conversion of tenure on grazing selections removed.

Major amendments introduced by the *Land Act and Another Amendment Act 1982*

- Further amendments to the freeholding of Special Leases.
- Auction Perpetual Leases and Perpetual Lease Selections in irrigation areas placed on final rental periods.

Major amendments introduced by the *Land Act (Aboriginal and Islander Grants) Amendment Act 1982*

- Provided mechanism and controls under the Land Act for deeds of grant in trust to issue for the benefit of Aboriginal and Islander inhabitants. Proclaimed 15 June 1985 and to be read in conjunction with the *Community Services (Aborigines) Act 1984-1986* and the *Community Services (Torres Strait) Act 1984 – 1986*.

Major amendments introduced by the *Land Act Amendment Act 1983*

- Provision for dealing in strata for Special leases, reserves and roads (Permit to Occupy).
- Governor in Council may grant concession on Special lease rents.
- Grant of Special Lease of land costly to develop extended to special circumstances. Purchasing price may be set out in the lease.
- Rent on Stud Holdings determined at 75% of determined rent.

Major amendments introduced by the *Land Act (Aboriginal and Islander Land Grants) Amendment Act 1984*

- Act to further facilitate issue of deeds of grant in trust to Aboriginal or Islander councils. Mining rights excluded unless first approved by the Governor in Council. Existing special leases and easements to carry over as leases under the Real Property Act.
- Forestry Act amended to provide for Crown ownership of forest products for all deeds of grant in trust.

Major amendments introduced by the *Land Act Amendment Act 1984*

- Statutory conversion of all grazing homesteads, grazing farms and settlement farm leases to Grazing Homestead Perpetual Leases.
- Restriction on transfer of a deed of grant to a corporation only to apply to parcels exceeding 2500 hectares.
- Stud Leases extended to expire 31 December 2058.
- Provision for co-existence of expired pastoral leases and mining.
- Extension of pastoral leases for nine months to allow completion of renewal applications.
- Maximum areas no longer expressed in hectares but as a living area.

Major amendments introduced by the *Land Act Amendment Act 1985*

- Aggregation controls limited to Grazing Homestead Perpetual Lease.
- Aggregation controls eased to not substantially in excess of two living areas.
- Allowed co-existence of all Land Act tenures and Mining Act.
- Trustees of reserves as well as registered owners able to apply for road closure.
- Minimum rents increased to \$30.
- Minister empowered to determine rent for second and subsequent periods.
- Limits set for appeal to Land Court against Minister's determination of rent.

- Minister permitted to take action for illegal occupation on Crown land.
- Registration of partnership agreements no longer required.
- Regulation removed requirement for diagram on title.

Major amendments introduced by the *Land Act Amendment Act 1986*

- Registers under the Land Act placed under the control of the Registrar of Titles.
- Increase in the maximum terms of pastoral leases:
 - pastoral holdings and preferential pastoral holdings 50 years in lieu of 30 years
 - pastoral development holdings 60 years in lieu of 50 years where costly to develop
 - 50 years in lieu of 30 years in other cases.
- Extension granted for existing pastoral leases:
 - automatic 20-year extension west of a line 50 km inland from high water mark, or
 - where Minister considers the holding is equal to or less than three living areas
 - leases east of the 50km line and in excess of three living areas up to 20-year extension upon approval of the Governor in Council.
- Statutory requirement that pastoral leases be used for pastoral or agricultural purpose unless otherwise approved by the Minister.

Major amendments introduced by the *Land Act Amendment Act 1987*

- Common date of 1 January 1990 introduced for reassessment of rent for pastoral leases and Grazing Homestead Perpetual Leases.
- Improvements effected on a Special Lease granted for tourism or industrial purposes taken into account for compliance with development conditions if that lease converted to Perpetual Lease.
- Ratified procedures for issue of Special leases and Perpetual Leases on industrial estates.
- Removed restriction on applications for conversion to Freehold Lease of Perpetual Lease issued for tourism purposes.
- Removed restrictions on sub-leasing Perpetual Leases and Auction Purchase Freehold prior to completion of development conditions.
- Trust Act deemed never to have applied to deeds of grant in trust or reserves.
- Provided for discretionary trusts for preferential pastoral holdings and selections where beneficiaries are children, grandchildren and like descendants.
- Facilitation of procedures for opening and closing of roads or exchange of land involving freehold land.
- Provision for inclusion of contiguous land or exclusion of land from deeds of grant in trust other than Aboriginal or Islander deeds.

Major amendments introduced by the *Land Act and Another Amendment Act 1988*

- Provision for issue of new deed of grant where adjustment made to a deed of grant upon trust.
- Amendment to the sale of land at auction.

- Ensures that land surplus to the requirements of a deed of grant upon trust for the benefit of Aboriginal or Islander inhabitants may only be resumed by an Act or Parliament.

Major amendments introduced by the *Lands Legislation Amendment Act 1991*

- Introduced provision for a reservation in a deed of grant for quarry materials. The reservation could not apply when a grant issued as a consequence of an application for conversion of tenure made before 5 February 1990 or 3 October 1991 for lease under section 24 of *the Industrial Development Act 1963*.
- Created annual rental periods to commence 1 July 1993 for all leases. Special Leases for which the first rental period expired after 30 June 1993 or which had a rental period applying to the whole term retained those periods.
- Replaced determination of rentals by the Minister with the annual rental being determined by multiplying the valuation for rental purposes by a prescribed rate.
- No further Agricultural Farm or Perpetual Lease Selection tenures to issue as additional areas, subdivision or amalgamation.
- Reduced the maximum term for new Agricultural Farms from 40 to 30 years.
- Agricultural farms commencing after 1 January 1992 to be subject to interest on annual repayments.
- Discount for early repayment of the purchase price removed for Agricultural Farms which came into existence after 5 February 1990 and reduced for a Grazing Homestead Freeholding Lease which came into existence as a consequence of an application received on or after 5 February 1990.
- Introduced a covenant for Perpetual Lease Selections for the issue of a deed of grant upon payment of the purchasing price.
- Expanded public interest matters to be considered prior to conversion of tenure of a lease application received on or after 5 February 1990.
- Reduced the term of new Grazing Homestead Freeholding Lease from 40 years to 30 years (later amended to apply only to leases which issued as a consequence of an application received on or after 5 February 1990).
- Introduced interest charge on instalments of repayment of the purchase price and any commercial timber for Grazing Homestead Freeholding Leases issued as a consequence of an application received on or after 5 February 1990.
- Introduced minimum instalments for the repayment of the purchase price for all freeholding leases regardless of the date of issue.
- Expanded issues to be considered for renewal of pastoral holdings.
- Introduced interest charge on instalments for repayment of purchase price and any commercial timber on the conversion of a Special Lease or a perpetual town, suburban or country lease where the application was received on or after 5 February 1990 or 3 October 1990 for leases under the *Industrial Development Act 1963*.
- Omitted provision for the concessional sale of land to religious bodies.
- Expanded tree clearing provisions and increased penalties for illegal clearing.
- Introduced hardship provisions because of various matters, where deferral of the payment of rent could be granted.
- Non-compliance with an improvement or development condition on an Auction Purchase freehold was not a bar to the issue of a deed of grant provided the lease:
 - issued before 31 December 1991

- had not issued under the *Irrigation Areas (Land Settlement Act)* or the *Brigalow and Other Lands Development Act*
- the term for compliance has expired.

SPECIAL FREEHOLDING OF LEASES ACT 1991

- Permitted freeholding of certain special leases and perpetual town, suburban and country leases (generally in Mount Isa, Cloncurry, Collinsville, Gympie and Mount Morgan) to freehold using the Mining Titles Freeholding Act 1980.

Major amendments introduced by the *Land Legislation Amendment Act 1992*

- The Corporation of the Land Administration Commission (under the *Brigalow and other Lands Development Act 1962*) was replaced by the Brigalow Corporation.
- The Land Administration Commission was removed from the administration of the Act and replaced by the Chief Executive.
- More stringent controls were placed on tree clearing.

Major amendments introduced by the *Land Legislation Amendment Act 1993*

- Introduced annual rental periods for occupation licences and road licences in line with leases.
- Introduced hardship provisions for Auction Purchase Freehold used for agricultural purposes.
- Enabled appeal against categorisation of leases.
- Expanded the circumstances in which a road closure application could be refused.

MAJOR INITIATIVES OF THE *LAND ACT 1994*

The proclamation of the *Land Act 1994* finalised the review of land policy and administration in Queensland commenced in 1990. A committee appointed at the time made a number of recommendations, most of which were implemented by amendments to the Land Act 1962 in 1991, 1992 and 1993. While introducing a number of new initiatives, the new Act was written in a clear and concise manner.

- Finalised tenure rationalisation by reducing the number of tenures under the Land Act to five:
 - Term Lease
 - Perpetual Lease
 - Freeholding Lease
 - Permit to Occupy
 - Road License.
- Detailed a set of principles for the management of land under the Act.
- Required that dealings under the Act were consistent with *the Native Title Act 1993* (Cwlth) and the *Native Title (Qld) Act 1993*.
- Brought tenure issues for land below high-water mark under the control of the Act. This land was previously dealt with under the *Harbours Act 1955*.
- Made it clear that a grant in fee simple could not be made in strata.
- Enabled the State to purchase leasehold or freehold land.
- Reduced the number of purposes for which land could be reserved or granted in trust and altered the designation from 'public purposes' to 'community'
- Enabled the Minister, rather than the Governor in Council, to reserve land.

- Enabled a group of reserves to be managed together.
- Enabled trustee permits to be issued over reserves for short-term occupancy.
- Restricted the mortgaging of deeds of grant in trust to those issued under the provisions of the *Land Act 1962*.
- Repealed the *Cemeteries Act 1865* and brought the control of cemeteries under the provisions of the Land Act.
- Removed trustees from the provisions of *the Financial Administration and Audit Act 1977*.
- Enabled the Minister, rather than the Governor in Council, to close roads.
- Enabled the charging of a premium for the auction tender or ballot of a lease or the permanent closure of a road.
- Placed in legislation a set of criteria which must be met to enable priority leasing or sale of unallocated State land.
- Removed the restriction on corporations acquiring an interest in Agricultural Farms, perpetual Lease Selections and Preferential Pastoral Holdings.
- Extended the right of all lessees to apply for renewal of their leases (previously limited to lessees of pastoral holdings).
- Enabled lessees of pastoral holdings to apply for conversion of that tenure to perpetual lease. Previously the only method for a lessee of a pastoral holding obtaining a perpetual lease (Grazing Homestead Perpetual Lease) was under renewal provisions.
- Required that if a lease issued under the provisions of this Act was converted to freehold, payment for the land was to be on a cash basis. The ability to obtain a freeholding lease was retained for leases existing before commencement of the Act.
- Made all leases subject to a condition of duty of care for the land.
- Introduced a requirement that conditions of leases issued under this Act must be reviewed every 10 - 15 years.
- Enabled the Governor in Council to make a broadscale tree clearing policy.
- Determined the register of land which were to form part of the Land Registry.
- Enabled registration of a Standard Document for dealings under the Land Act.
- Enabled the Minister to waive the need to obtain approval to sub-leasing.
- Provided for 'public utility' easements to continue after expiry, surrender, etc. of a lease or revocation of a reserve.
- Set limitations on when officers of the department may go onto land.
- Simplified processes for taking action for unlawful occupation of non-freehold land.
- Provided for certain decisions to be subject to internal review.
- Continued existing leases as term, perpetual or freeholding leases.
- Retained the right for existing leases to be made freehold over a term of years.
- Retained the tenure of the Grazing Homestead Freeholding Lease.
- Removed the requirement that Stud Holding leases be used for stud purposes.
- Transferred miners' homesteads to the Land Act.
- Terminated the ability of a lessee of a miners homestead to utilise the provisions of the Mining Titles Freeholding Act after 1 January 1995.
- Made existing miners' homesteads Perpetual Leases under the Land Act.
- Provided for lessees of leases issued under the Harbours Act to obtain leases under the Land Act without disturbing the condition, etc. of the existing lease.
- Provided for the continuation of the Land Court under the same provisions as applied under the repealed Act up until 30 June 1997.

Major amendments introduced by the *Transport Infrastructure (Rail) Act 1995*

- Enabled the Registrar of Titles to sub-delegate powers delegated by the Chief Executive.
- Provided that a tree-clearing permit was not required for rail corridor land not subject to a commercial lease for routine management and safety purposes.
- Inserted the definition of 'mining titles freeholding lease'.

Major amendments introduced by the *Statute Law Revision Act (No. 57) 1995*

- Placed relevant provisions of the *Brigalow and other Lands Development Act 1962* under the provisions of the Land Act.
- Repealed the *Brigalow and other Lands Development Act 1962*.

Major amendments introduced by the *Land Act Amendment Act (No. 7) 1996*

- Expanded the instances in which the Minister could set the rent of a lease in special defined cases.
- Prevented the Minister from delegating the power to set a rent of a lease in special defined cases.
- Removed the provision which restricted the continuation of the Land Court up until 30 June 1997.

Major amendments introduced by *Natural Resources Legislation Amendment Act (No. 41) of 1997*

- Expanded the circumstances in which a lease for a term of up to 100 years could issue.
- Provided further opportunity (up to 31 January 1998) for lessees of land previously held as a miners homestead to apply for freehold under the Mining Titles Freeholding Act.

Major amendments introduced by the *Body Corporate and Community Management Act 1997*

- Removed the restriction on the grant, in fee simple, of layers and strata above and below the surface of land.
- Expanded the definition of a 'public utility provider'.
- Enabled transfer of public utility easements to another public utility provider.
- Provided for the registration of covenants for restricting transfer of the lease.

Major amendments introduced by the *Natural Resources and other Legislation Amendment Act 1997 (No. 78)*

- Enabled the Governor in Council to add a community purpose to an existing deed of grant in trust.
- Required that trustee leases must be registered.
- Provided for the auction, tender or ballot of a Permit to Occupy over a reserve.
- Made it clear that resumption of a lease over a reserve did not revoke the reserve.
- Enabled an applicant to appeal against a condition of a tree clearing permit or the refusal to issue a permit.
- Extended the time in which an application could be made for review of a decision from 28 to 42 days.