

4. Interpretation

- (1) In the construction of this Act except where the subject or context or the other provisions hereof require a different construction —

“Annuitant” means the proprietor of an annuity or charge.

“Annuity” means a sum of money payable periodically and charged on land under the operation of this Act by an instrument hereunder.

“Approved form”, subject to section 81K, means a form approved by the Registrar of Titles.

“Authorised land officer” has the meaning given by the *Land Administration Act 1997*.

“Carbon covenant”, **“carbon covenant form”**, **“carbon right”** and **“carbon right form”** have the same respective meanings as they have in the *Carbon Rights Act 2003*.

“Certificate of Crown land title” means certificate of Crown land title within the meaning of the *Land Administration Act 1997*.

“Charge” means —

- (a) the instrument creating and charging an annuity; or
- (b) subject to section 15(10) of the *Land Administration Act 1997*, a charge referred to in section 15(9)(b) of that Act.

“Crown land” has the same meaning as it has in the *Land Administration Act 1997*.

“Crown land lease” means lease of Crown land registered under section 81Q.

“Crown Lease” means every lease or other holding of Crown lands under the *Land Act 1898*², or any regulation thereby repealed, granted for or extending over a period of 5 years or more.

“Dealing”, in relation to Crown land, has the same meaning as it has in the *Land Administration Act 1997*.

“Department” means the department of the Public Service principally assisting the Minister in the administration of this Act.

“Digital title” means a certificate of title in a medium in which the data comprising the certificate is stored and retrieved by digital means.

“Encumbrances” includes all prior estates interests rights claims and demands which can or may be had made or set up in to upon or in respect of the land, and a dealing that is registered under this Act.

“Endorsed” includes anything written, noted or marked, by means approved by the Registrar of Titles, upon or in any document.

“Examiner of Titles” means any person being a barrister-at-law or an attorney or solicitor who shall hereafter be appointed as such examiner under this Act.

“Grant” means the grant by Her Majesty of land in fee and also includes Crown leases.

“Grantor” means the proprietor of land charged with the payment of an annuity.

“Graphic” includes —

- (a) a sketch plan in the possession of the Registrar;

- (b) a plan or diagram lodged or deposited under this Act;
 - (c) a plan of survey of Crown land,
- in such medium for the storage and retrieval of information or combination of such media as the Registrar approves.

“Instrument” includes —

- (a) a document for the conveyance, assignment, transfer, lease, sublease, mortgage or charge of freehold land;
- (b) a document creating an easement, *profit à prendre* or restrictive covenant;
- (c) a carbon right form, carbon covenant form or tree plantation agreement;
- (d) a document for —
 - (i) the transfer, mortgage or charge of a carbon right, carbon covenant, plantation interest or *profit à prendre* or for any other dealing in relation to a carbon right, carbon covenant, plantation interest or *profit à prendre*;
 - (ii) the extension of a carbon right, carbon covenant or plantation interest;
 - (iii) the variation of a carbon covenant or tree plantation agreement; or
 - (iv) the surrender of a carbon right, carbon covenant or plantation interest;
- (e) a document lodged with a plan or diagram under Part IVA for the purpose of creating an easement or restrictive covenant under that Part; and
- (f) any other document for a dealing in relation to Crown land.

“Interest”, in relation to Crown land, has the same meaning as it has in the *Land Administration Act 1997*.

“Judge” means a judge of the Supreme Court of Western Australia.

“Land” includes messuages, tenements and hereditaments corporeal or incorporeal in freehold and Crown land; and in every certificate of title certificate of Crown land title and qualified certificate of Crown land title transfer and lease created and registered or issued or made under this Act such word also includes all easements and appurtenances appertaining to the land therein described or reputed to be part thereof or appurtenant thereto.

“Management body” has the same meaning as it has in the *Land Administration Act 1997*.

“Metropolitan region” means the region described in the Third Schedule to the *Metropolitan Region Town Planning Scheme Act 1959*.

“Minister” means the responsible Minister in charge of the Department.

“Minister for Lands” means the Minister to whom the administration of the *Land Administration Act 1997* is committed.

“Ministerial order” means an order made by the Minister for Lands under the *Land Administration Act 1997*.

“Paper title” means a certificate of title in a paper medium.

“Person” includes a corporation whether aggregate or sole.

“Plantation interest” has the same meaning as it has in the *Tree Plantation Agreements Act 2003*.

“Profit à prendre”, in relation to —

- (a) Crown land, has the same meaning as it has in the *Land Administration Act 1997*; or
- (b) other land, includes profit à prendre referred to in section 34B of the *Conservation and Land Management Act 1984* or Part 7 of the *Forest Products Act 2000*.

“Proprietor” means —

- (a) in relation to freehold land, the owner, whether in possession, remainder, reversion or otherwise, of land or of a lease, mortgage or charge over land;
- (aa) in relation to a carbon right, carbon covenant or plantation interest, a person; or
- (b) in relation to Crown land —
 - (i) the holder of an interest in Crown land; or
 - (ii) a management body empowered under the *Land Administration Act 1997* to grant or enter into interests in Crown land or to deal with or create any other right or title of a proprietary nature in Crown land,

whose name appears in the Register as the proprietor of that freehold land, carbon right, carbon covenant or plantation interest, or the holder of that interest or power, and includes the donee of a power to appoint or dispose of that ownership, interest or power.

“Public authority” means —

- (a) a Minister of the Crown in right of the State;
- (b) any State Government department, State trading concern, State instrumentality or State agency; or
- (c) any public statutory body, whether or not corporate, established under a written law but not including a local government.

“Qualified certificate of Crown land title” means qualified certificate of Crown land title within the meaning of the *Land Administration Act 1997*.

“Qualified valuer” means —

- (a) in relation to a certificate of the value of land that is produced to the Registrar pursuant to a requirement made by him before the expiration of 12 months from the coming into operation of the *Land Valuers Licensing Act 1978* —
 - (i) a person appointed as a sworn valuator under the provisions of this Act as enacted before the coming into operation of that Act; or
 - (ii) a person who is licensed under that Act;
- (b) in relation to a certificate of the value of land that is produced to the Registrar pursuant to a requirement made by him after the expiration of 12 months from the coming into operation of the *Land Valuers Licensing Act 1978* — a person who is licensed under that Act.

“Register” means the Register referred to in section 48.

“Relevant graphic”, in relation to a certificate of title, means a graphic endorsed on, annexed to, referred to in or otherwise linked or connected to, the certificate of title.

“Reserve” has the same meaning as it has in the *Land Administration Act 1997*.

“Settlement” means any document under or by virtue of which any land shall be so limited as to create partial or limited estates or interests.

“Sheriff” includes the Sheriff of Western Australia so far as concerns land within his bailiwick and any deputy sheriff or person appointed to execute any writ of fieri facias.

“Strata/survey-strata plan” has the meaning that it has in the *Strata Titles Act 1985*.

“Symbol” means a symbol approved by the Registrar under section 48C.

“Transmission” means the acquirement of the ownership of freehold land under the will of the proprietor or by descent or by executors or administrators as such or under any settlement.

“Tree plantation agreement” means an agreement as defined in the *Tree Plantation Agreements Act 2003*.

(1a) This Act applies, with such modifications —

- (a) as are necessary or desirable; or
- (b) as are prescribed,

or both, to Crown land.

(1b) Without limiting the generality of subsection (1a), a reference in this Act to —

- (a) a certificate of title, document of title or muniment of title includes, unless the contrary intention appears, a reference to a certificate of Crown land title or qualified certificate of Crown land title;
- (b) a Crown grant includes, unless the contrary intention appears, a reference to a certificate of title created and registered on the registration of a transfer in fee simple of the relevant parcel of Crown land;
- (c) land, to freehold land or to land under the operation of this Act includes, unless the contrary intention appears, a reference to Crown land;
- (d) the Minister includes, unless the contrary intention appears, a reference to the Minister for Lands;
- (e) a person having an estate or interest in land includes, unless the contrary intention appears, a reference to —
 - (i) a person having an interest in Crown land; and
 - (ii) a management body empowered under the *Land Administration Act 1997* to grant or enter into interests in Crown land;

or

- (f) the exercise of rights by a proprietor of land to grant leases, licences or mortgages of or over the land includes, unless the contrary

intention appears, a reference to the exercise by a management body of corresponding powers conferred on it under section 46(3) or 59(5) of the *Land Administration Act 1997*.

- (1c) A word or expression which is defined in the *Land Administration Act 1997* has, unless the contrary intention appears or the word or expression is otherwise defined in this Act, the same meaning in this Act as it has in that Act.
- (2) All land and every estate and interest in land under the operation of *The Transfer of Land Act 1874* and all instruments and dealings affecting any such land estate or interest shall from the commencement of this Act be deemed to be under the operation of this Act.
- (3) In this Act, a reference to a “short form” in relation to an easement of a type described in column 2 of Schedule 9A is a reference to the corresponding short form description of that type of easement set out in column 1 of that Schedule.

[Section 4 amended by 2 Edw. VII, No. 10 s. 2; No. 54 of 1909 s. 2; No. 17 of 1950 s. 6; No. 56 of 1978 s. 4; No. 126 of 1987 s. 33; No. 81 of 1996 ss. 5 and 145(1); No. 31 of 1997 s. 89; No. 34 of 2000 s. 72; No. 59 of 2000 s. 51; No. 6 of 2003 s. 4; No. 56 of 2003 s. 11.]