

LAND.

11° Elizabeth II., No. XLI.

No. 41 of 1962.

AN ACT to amend the Land Act, 1933-1960.

[Assented to 29th October, 1962.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Land Act Amendment Act, 1962.* Short title and citation.
- (2) In this Act the Land Act, 1933-1960, is referred to as the principal Act. Reprinted in Vol. 12 of The Reprinted Acts.
- (3) The principal Act as amended by this Act may be cited as the Land Act, 1933-1962. Approved for reprint 27th May, 1958.
Amended by Acts Nos. 12 and 36 of 1958 and 6 of 1960.

S. 2
amended.

2. Section two of the principal Act is amended by adding immediately after the passage, "PART VII.—SPECIAL LEASES AND LICENSES." comprising line thirteen, the passage, "PART VIIA.—ALIENATION OF CLOSED ROADS, ETC."

S. 47
amended.

3. Section forty-seven of the principal Act is amended by substituting for paragraph (a) of subsection (1) the following paragraph:—

- (a) A person shall not be competent to acquire, either as lessee or transferee, an area of land exceeding in the aggregate five thousand acres; but on the recommendation of the Minister and with the approval of the Governor, it shall be competent for a person to acquire an area of land in one or more parcels exceeding five thousand acres, but not in any event exceeding ten thousand acres, in any case where the Minister is satisfied that a holding requires an area greater than five thousand acres in order to be of a standard deemed by the Minister an economic farm unit.

S. 62
amended.

4. Section sixty-two of the principal Act is amended by substituting for the passage, "the Closed Roads Alienation Act, 1932" in lines one and two of subsection (1), the passage "Part VIIA of this Act".

Part VIIA,
ss. 118A-118H
added.

5. The principal Act is amended by adding after section one hundred and eighteen the following Part:—

PART VIIA.—ALIENATION OF CLOSED
ROADS, ETC.

Provisions
for vesting
of land in
closed
roads.
Cf. Act No.
3 of 1932,
ss. 3, 4 and 5.

118A. (1) Where the land comprised in a road that is closed, whether before or after the commencement of this Part, has become or becomes Crown land, and land of any person

through which that closed road passes or which it adjoins is resumed for the purpose of a road to take the place of that closed road in exercise of a right of resumption without payment of compensation, the Governor, on the recommendation of the Minister and without any compensation, may by Order in Council declare that so much of the land comprised in the closed road that passes through or adjoins the land of that person, as is equivalent, in the opinion of the Minister, to the land so resumed, shall vest in that person for an estate or interest similar to that held by him in his land immediately contiguous to the land so vested.

(2) Where the land comprised in a road that is closed, whether before or after the commencement of this Part, has become or becomes Crown land, and land of any person through which that closed road passes or which it adjoins is resumed for the purpose of a road to take the place of that closed road, by reason whereof that person is entitled to claim and recover compensation from a municipality constituted under the Local Government Act, 1960, the Governor, on the recommendation of the Minister and with the consent of that person and of that municipality, may by Order in Council declare that as and by way of satisfaction or part satisfaction of the compensation payable so much of the land comprised in the closed road that passes through or adjoins the land of that person as is equivalent in value, in the opinion of the Minister, to the amount of the compensation payable or to a definite part of that compensation, shall vest in that person for an estate or interest similar to that held by him in his land immediately contiguous to the land so vested; and in such case, if required by the Minister so to do, the municipality shall pay to the Minister forthwith the amount of the compensation in satisfaction whereof the land has been so vested.

(3) Where the land comprised in a road that is closed, whether before or after the commencement of this Part, as being no longer required as a road is Crown land, or where any land remains in a closed road after exercise in relation to that road of the powers conferred by subsections (1) and (2) of this section and such remaining land is Crown land, the Governor, on the recommendation of the Minister, may by Order in Council declare that upon payment of the price fixed for the same by the Minister, so much of the land in the closed road as adjoins the land of a person holding land contiguous thereto shall vest in that person for an estate or interest similar to that held by him in the land so adjoining the closed road; but where the land on the opposite sides of a closed road is held by different owners, the contiguous half of the land in the closed road to the middle thereof may be vested in each respective owner.

Vesting of
land in
former
rabbit proof
fence
reserve.

118B. Where land that has been reserved for the purpose of a rabbit proof fence is no longer required for that purpose and as provided by this or any other Act ceases to be so reserved, the Governor, on the recommendation of the Minister, may by Order in Council declare that upon payment of the price fixed for that land by the Minister, so much of that land as adjoins the land of a person holding land contiguous thereto shall vest in that person for an estate or interest similar to that held by him in the land so adjoining the former reserve, and for the purposes of this section may include in the land so vested any portion of the land in a closed road that separates the former reserve from the adjoining land.

Vesting of
land in
reserves of
discontinued
railways and
deviations.

118C. (1) Where under the provisions of any Act a railway has been discontinued or the line of a railway has been deviated, and by reason of that discontinuance or that deviation land that was reserved for the purposes of that railway is no longer required for that purpose,

such land if not already revested in Her Majesty is by this section revested in Her Majesty as of her former estate freed and discharged from rights (if any) to mines of coal or other minerals, and from the estate, right, title, interest, claim or demand of all persons, to or in respect of that land, and any such land that is under the operation of the Transfer of Land Act, 1893, is hereby removed from the operation of that Act.

(2) The Governor, on the recommendation of the Minister, may by Order in Council declare that upon payment of the price fixed for the same by the Minister, so much of the land referred to in subsection (1) of this section that is no longer required for the purpose of a railway and is revested in Her Majesty, as adjoins the land of a person holding land contiguous thereto, shall vest in that person for an estate or interest similar to that held by him in the land so adjoining the revested land, and where the land on the opposite sides of the revested land is held by different owners, the contiguous half of the revested land to the middle thereof may be vested in each such owner.

118D. Where for the purpose of adjusting the boundaries of any land that under the provisions of this Part the Governor declares shall be vested in a person holding land contiguous thereto, the Minister is of opinion that it is desirable that additional Crown land be included in the land so vested, the Governor, on the recommendation of the Minister, may by the Order in Council vesting land in a person holding land contiguous thereto, or by a subsequent Order in Council, declare that such additional Crown land be included in, and for the same estate or interest as, the land so vested as though it were, immediately prior to the making of the Order in Council so vesting land, part of that land so vested.

Vesting of additional Crown land to adjust boundaries.

Land to be vested for estate similar to that of adjoining land.

Cf. Act No. 3 of 1932, s. 6.

118E. Any land comprised in a closed road, or in a former rabbit proof fence reserve, and any land referred to in section one hundred and eighteen C of this Act, and any additional Crown land mentioned in section one hundred and eighteen D of this Act, that has become or hereafter becomes vested by virtue of or under this or any other Act in the person who is entitled to an estate or interest in land through which the land so vested passes or which it adjoins, is deemed to have been or to be vested in that person for an estate or interest similar to that held by him in the land through which the land so vested passes or which it adjoins.

Vested land to be incorporated with adjoining land.

Ibid. s. 7.

118F. (1) Where land is vested in any person under and in accordance with the provisions of this Part, that land is deemed to be incorporated with and to form part of the parcel of land through which the land so vested passes or which it adjoins, as the same is denoted and identified in the records of the Department, or the Office of Land Titles, or the Deeds Office, as the case may be; but where the same person holds the land on both sides of the land so vested, and the land on one side of the land so vested is held under an instrument of title different from that under which the land on the other side thereof is held, the Minister shall decide with which parcel of land the land in the closed road shall be so incorporated.

(2) When any land is vested under this Part in any person as owner of any land through which the land so vested passes or which it adjoins, the Minister, or the Under Secretary for Lands, or an officer appointed by the Governor for the purpose, shall issue to that person a certificate in writing setting forth the particulars of the vesting and specifying the land affected.

(3) The Registrar of Titles, or, as the case may require, the Under Secretary for Lands, shall, upon receipt of an application in writing

from the person in whom the land is vested and production of the certificate issued to that person under subsection (2) of this section, and on payment of the fee prescribed where a fee is payable, make such alterations in any lease from the Crown issued under the Land Act, 1933, or in any certificate of title issued under the Transfer of Land Act, 1893, or in any other records under his control relating to the parcel of land through which the land so vested passes or which it adjoins, as may be necessary to show that the land so vested has become incorporated with and forms part of that parcel of land; but no fee is payable except in the case of land in a closed road that is vested in a person under subsection (3) of section one hundred and eighteen A of this Act.

(4) Where a parcel of land through which land vested under this Part passes or which it adjoins is freehold land under the Transfer of Land Act, 1893, the Registrar of Titles may, and upon the application of the owner of that parcel and production of the certificate issued to that owner under subsection (2) of this section and on payment of the fee prescribed by or under that Act shall, cancel the relative certificate of title and issue a new certificate of title in which shall be included the land so vested that has become incorporated with and forms part of that parcel of land comprised in such certificate of title.

(5) Where any person has possession or control of any lease from the Crown, or any certificate of title or other instrument in which the Registrar of Titles or Under Secretary for Lands desires to make any alterations as required by this section, and where any person has possession or control of any certificate of title that has been cancelled by the Registrar of Titles under subsection (4) of this section, the Registrar of Titles, or, as the case may require, the Under Secretary for Lands, may

serve upon that person a notice in writing requiring that person, within a time specified in the notice, to deliver up to him the lease, certificate of title, or other instrument mentioned and described in the notice.

(6) A person who fails or neglects to comply with a notice served upon him under subsection (5) of this section is guilty of an offence against this Act, and is liable to a penalty of twenty pounds and in addition to a daily penalty of two pounds.

Vested land to be subject to encumbrances on land with which it is incorporated.
Ibid. s. 8.

118G. Where land vested under and in accordance with the provisions of this Part has become incorporated with and forms part of other land as in this Part provided, and that other land is subject to a mortgage or other encumbrance or caveat, then upon the lease or certificate of title of that other land being altered as provided for in section one hundred and eighteen F of this Act, the land so vested then shown to be included in that lease or certificate of title becomes by virtue of this Part subject to that mortgage or other encumbrance or caveat as if that land had originally been included therein.

Provision for increase of purchase price of land under contract of sale in certain cases.
Ibid. s. 10.

118H. Notwithstanding anything contained in this Part, where any parcel of land, or the estate or interest therein, is in the course of being sold under a contract of sale by the legal owner thereof, and during the currency of the contract and with the approval of the purchaser land in a closed road is vested in that legal owner under subsection (2) or subsection (3) of section one hundred and eighteen A of this Act, or land is vested in that legal owner under section one hundred and eighteen B or section one hundred and eighteen C of this Act, and is incorporated with the parcel of land so being sold, the purchase price or consideration expressed in the contract of sale is deemed to be increased by the amount of compensation referred to in subsection (2) of section one:

hundred and eighteen A of this Act, or the amount of the purchase price referred to in subsection (3) of that section, or, as the case may be, in section one hundred and eighteen B or section one hundred and eighteen C of this Act, and to be payable by the purchaser accordingly, and the terms and conditions of the contract of sale shall extend and apply to the land so incorporated as if that land had originally formed part of the parcel of land the subject of the contract; but this section shall not affect the rights of any person in respect of any claim that has already been settled or decided.
