

STATE HOTELS (DISPOSAL).

8° Elizabeth II., No. XLII.

No. 42 of 1959.

AN ACT to authorise the Governor to sell or lease certain State Hotels and Property appurtenant thereto, to make provision for the licensing of those hotels when sold or leased and for matters incidental thereto.

[Assented to 10th November, 1959.]

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. This Act may be cited as the *State Hotels (Disposal) Act, 1959*, and shall come into operation on a day to be fixed by proclamation.

2. On the coming into operation of this Act the reserves specified in column 2 of the Schedule to this Act and which had been made under Part III. of the Land Act, 1933, shall be cancelled, and the lands comprising those reserves shall be freed of any trust, condition, limitation or other restriction created or imposed on those lands in relation to the objects and purposes for which the reserves were so made.

Cancellation
of reserves
Col. 2,
Schedule.

3. (1) Notwithstanding the provisions of any Act, power is conferred on the Governor to sell or lease to any person he thinks fit for such consideration and upon such terms and conditions as the Governor determines, and is hereby authorised to determine, all or any of the State hotels mentioned in column 1 of the Schedule to this Act, each of which hotels shall be deemed to be and to have been lawfully carried on as a State hotel for the purposes of the Licensing Act, 1911, and as part of a trading concern under and subject to the State Trading Concerns Act, 1916, and with each hotel to sell or lease the land on which the hotel is situated and which forms part of the hotel or is used in connection with the hotel.

Power to sell
or lease State
Hotels men-
tioned in
Schedule.

Col. 1,
Schedule.

Provided the Governor shall sell or lease any of the hotels only to a community company until the expiration of nine months from the coming into operation of this Act and if within that period a community company makes an offer to purchase or lease an hotel at a satisfactory price, or on satisfactory terms, the Governor shall accept that offer.

Provided further that if at any time within the period of nine months the road board of the district within which the hotel is situated advises the Minister by notice in writing that in the opinion of the board it is not desired by the local community concerned to operate the hotel for the benefit of the district, the Governor may at any time after the

receipt by the Minister of the notice sell or lease such hotel under and in accordance with the provisions of this Act to any person he thinks fit.

A community company means a company formed by residents within the district and registered under the Companies Act, 1943-1954, whose aims and objects amongst other things shall be to purchase or lease, operate and maintain an hotel within the district for the benefit of that district and whose profits are used amongst other things to provide or maintain, or both, any public amenities within that district.

(2) Without limiting the generality of the power conferred by subsection (1) of this section, that power shall be construed as including power

- (a) to sell or lease all or any of the hotels as a going concern or otherwise;
- (b) with each hotel when sold to convey to the purchaser an estate in fee simple, subject to such encumbrances, terms and conditions as the Governor deems necessary to secure the whole or any part of the purchase price, in the whole or any part of the land or lands that comprised the reserve specified opposite to and corresponding with that hotel in column 2 of the Schedule;
- (c) with each hotel when leased to impose on the lessee such terms and conditions as the Governor deems necessary to protect the rights of the Crown in relation to the land and other property and the rental included in the lease;
- (d) with each hotel to sell or lease all or any property of the Crown, including any Crown lands as defined in section three of the Land Act, 1933, whether or not that property is vested in the Minister charged with the administration of the trading concern in accordance with section six of the State Trading Concerns Act, 1916, but which

property at the time of the sale or lease forms part of or is used in connection with that hotel; and

- (e) to do or authorise to be done such acts and things, and to give and execute or authorise to be given or executed such documents as the Governor deems necessary to give effect to each sale or lease or to any of the terms and conditions of each sale or lease.

4. (1) At any time not exceeding six months before a hotel is sold or leased as a going concern pursuant to this Act, the Licensing Court shall, if required in writing by the Minister and notwithstanding any provision of the Licensing Act, 1911, grant and issue to a person, nominated by the Minister as the intended licensee of the premises of the hotel, a publican's general license in respect of those premises.

Granting of license to intended licensee.

Cf. Licensing Act, s. 47(1).

(2) The Minister shall not nominate the person unless he is, after due enquiry, satisfied that the person is of good character and in all respects a suitable person to hold the license.

Cf. Licensing Act, s. 49(3).

(3) No premium is payable by reason of the provisions of section forty-seven of the Licensing Act, 1911, for any license granted, or for the granting of any license, under this section.

(4) Upon the granting of a license under this section the person to whom the license is granted becomes a licensee under the Licensing Act, 1911, and the premises in respect of which the license is granted become licensed premises under that Act and, subject to the provisions of subsection (5) of this section, the provisions of the Licensing Act, 1911, apply in all respects as though that person were a licensee and those premises were licensed premises within the meaning of that Act.

(5) Where a licensee for the time being of licensed premises referred to in subsection (4) of this section within twelve months after the license was originally granted to the nominee of the Minister in accordance with subsection (1) of this section, applies to the Licensing Court under section fifty-four of the Licensing Act, 1911, for the renewal of his license, the Court shall not refuse the renewal of the license on the ground only that the premises do not conform with requirements as to construction, fittings or accommodation prescribed by that Act and in particular by section fifty-one of that Act, if the applicant enters into an undertaking supported, if the Court requires, by one or more sureties, to comply with those requirements within twelve months or such longer period, as the Court in its discretion may allow, after the renewal takes effect.

Cf. Licensing Act, s. 54.

Cf. Licensing Act, s. 51(3), (4).

Hotel when sold or leased ceases to be part of trading concern.

5. (1) Subject to subsection (2) of this section, upon the leasing or the sale of a hotel under this Act, that hotel ceases to be part of a trading concern under or subject to the State Trading Concerns Act, 1916.

(2) (a) Where, pursuant to any term or condition of the sale or the leasing of a hotel under this Act, the Crown re-enters into possession of the hotel, that hotel shall become again part of the trading concern mentioned in subsection (1) of this section and shall be carried on as though it never ceased to be part of that trading concern; and the Licensing Act, 1911, shall apply to that hotel and to the manager thereof as though it were a State hotel.

(b) If the Governor certifies in writing that he is unable to sell or lease under the provisions of this Act any of the hotels for a satisfactory price or on satisfactory terms, the provisions of section two of this Act shall thereupon be deemed not to have operated with respect to the land or lands that comprised the reserve specified opposite to and corresponding with that hotel in column 2 of the Schedule.

6. (1) (a) Section twenty-six of the State Trading Concerns Act, 1916, shall not apply to the proceeds of the sale of any hotel under this Act, but the balance, if any, of the proceeds of a sale after such provision, if any, as the Treasurer deems proper, is made out of those proceeds for reduction of capital of the trading concern and for such other payments and contributions in connection with the concern as the Treasurer deems to be a proper charge on those proceeds, shall be paid into the Tourist Fund established under the Tourist Act, 1959, and shall be used for such purposes as are authorised by or under that Act.

Application
of sale
proceeds and
rentals.

(b) Where provision is so made for the reduction of the capital of the trading concern the capital of that concern shall be reduced accordingly.

(2) The moneys received by way of rental arising out of the leasing of any hotel under this Act shall, after such provision, if any, as the Treasurer deems proper, is made out of those moneys for such payments, contributions and other purposes connected with the concern as the Treasurer deems to be a proper charge on those moneys, be paid into the Tourist Fund established under the Tourist Act, 1959, and shall be used for such purposes as are authorised by or under that Act.

7. Except to the extent expressly provided by this Act no provision of this Act shall be construed as affecting the Licensing Act, 1911, or the State Trading Concerns Act, 1916, or the management, maintenance or carrying on of any hotel mentioned in the Schedule to this Act as part of any trading concern.

Licensing
Act and
State
Trading
Concerns Act
not affected
by this Act
except where
expressly
provided.

8. The Governor may make such regulations as he considers necessary, convenient or desirable for better carrying out the objects and purposes of this Act.

Regulations.

Ss. 2 and 3.

SCHEDULE.

Column 1.	Column 2.
<i>Name of State Hotel.</i>	<i>Description of Reserve.</i>
Bolgart 	Bolgart—Reserve No. 15805 (State Hotel Site)—Lots 41 and 42 (2 roods 39.9 perches). (Plan: Bolgart Townsite.)
Bruce Rock 	Bruce Rock—Reserve No. 14808 (State Hotel Site)—Lot 7 (2 roods).
Corrigin 	Corrigin—Reserve No. 15064 (Hotel Site)—Lots 17 and 18 (2 roods). (Plan: Townsite.)
Dwellingup 	Dwellingup—Reserve No. 14340 (State Hotel)—Lot 6 (1 rood). (Plan: Dwellingup Townsite.)
Gwalia 	Leonora (Gwalia)—Reserve No. 8669 (State Hotel)—Lots 473, 474 and 602 (1 acre 0 roods 23 perches).
Kwolyin 	Kwolyin—Reserve No. 14799 (Hotel Site)—Lots 7 and 8 (2 roods).