

**WAR SERVICE LAND SETTLEMENT
SCHEME.**

3° Elizabeth II., No. XXIX.

No. 29 of 1954.

AN ACT to enable the State to carry out and give effect to war service land settlement; and to accept appropriations mentioned in the State Grants (War Service Land Settlement) Act, 1952, of the Commonwealth Parliament for the purpose of financial assistance in connection with war service land settlement in such amounts and subject to such conditions as the Minister mentioned in that Act determines under that Act; and for other and incidental purposes.

*Cf. Com-
monwealth
Act No. 21
of 1952.*

[*Assented to 5th November, 1954.*]

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 *War Service Land Settlement Scheme Act, 1954.* Short title.

No. 29.] *War Service Land Settlement Scheme.* [1954.]

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Repeal.
Cf. No. 50
of 1951.

3. (1) The War Service Land Settlement Agreement Act, 1951, is repealed.

Cf. No. 30 of
1918, ss. 3, 15
and 16, and
No. 50 of 1951,
s. 3 (2).

(2) The provisions of sections fifteen, sixteen and seventeen of the Interpretation Act, 1918-1948, apply in respect of the repeals effected by subsection (1) of this section, but this express inclusion of the application of those provisions is not intended to imply the exclusion of the application to this Act of any of the other provisions of that Act.

Interpre-
tation.

4. In this Act unless the context requires otherwise—

Cf. Common-
wealth Act
No. 21 of 1952.

“Commonwealth Act” means the State Grants (War Service Land Settlement) Act, 1952, of the Commonwealth Parliament;

“Land Act” means the Land Act, 1933;

“repealed Acts” means the War Service Land Settlement Agreement Act, 1951, and Acts repealed by that Act;

“scheme” means the war service land settlement scheme which prior to the coming into operation of this Act has been carried out and given effect, under the repealed Acts and which after the coming into operation of this Act is to continue to be carried out under this Act;

“tenure” means such estates or interests in land whether of perpetual leasehold or otherwise as the Governor is authorised and thinks fit to grant in order to carry out the scheme;

“Transfer of Land Act” means the Transfer of Land Act, 1893.

Financial
provisions.
Cf. No. 50 of
1951, s. 5.

5. (1) The Minister on behalf of the State is authorised—

(a) to carry out and give effect to the scheme;

(b) to accept from appropriations mentioned in the Commonwealth Act financial assistance in connection with war service land settle-

ment in such amounts and subject to such conditions as the Minister mentioned in that Act determines under that Act; and

- (c) to comply with conditions if any so determined by the Commonwealth Act.

(2) This Act without further appropriation is sufficient authority—

- (a) for the Minister to expend money accepted under paragraph (b) of subsection (1) of this section and, where conditions referred to in that paragraph are imposed, to expend that money in accordance with those conditions; and

- (b) for the expenditure from the Consolidated Revenue Fund of the State of such other money as is necessary for carrying out and giving effect to, the scheme and complying with such conditions, referred to in that paragraph, as are imposed.

(3) Where the Minister so accepts on behalf of the State financial assistance from those appropriations upon conditions determined under the Commonwealth Act by the Minister mentioned in that Act, the Minister so accepting on behalf of the State shall cause the conditions to be laid before each House of Parliament within six sitting days of the House next following his receipt of the conditions.

6. (1) Notwithstanding the provisions of the Land Act the Governor is authorised to grant tenures on such terms and conditions as are not inconsistent with the conditions as determined by the Minister under the Commonwealth Act, for the purpose of carrying out the scheme.

Granting of tenures.
Cf. No. 43 of 1945 as amended by Nos. 61 of 1947 and 41 of 1950; and cf. No. 50 of 1951, s. 6 (1) (a).

(2) To the extent to which the provisions of the Land Act and the regulations made under that Act are capable of being applied with or without adaptation in respect of tenures and grants of tenures those provisions with or without adaptation apply in respect of those matters.

Cf. No. 50 of 1951, s. 6 (1) (b).

Cf. No. 50 of
1951, s. 6
(1) (c).

(3) Notwithstanding the provisions of subsection (2) of this section the Governor may make such regulations as he thinks necessary or convenient for carrying out and giving effect to the scheme and where there is inconsistency between regulations so made and regulations made under the Land Act the provisions of the former prevail.

Provided that subject to section five nothing contained in this Act or in any regulations made pursuant to authority granted by this Act shall in any way alter, prejudice or affect or permit the alteration of the terms or conditions of any perpetual lease heretofore granted or the terms or conditions upon which the Minister has heretofore approved of the granting of any perpetual lease or has otherwise agreed to grant leasehold rights to any applicant within the meaning of the repealed Acts or render any such applicant liable to pay rental or purchase money for land and/or non-structural improvements in excess of that rental or purchase money which he would have been liable to pay if this Act or any such regulation had not been passed or made.

Purchase of
fee simple
by lessee
of perpetual
leasehold.
Cf. No. 50 of
1951, s. 6 (2).

7. Unless the conditions imposed under the Commonwealth Act require otherwise, the lessee of a tenure of perpetual leasehold of land demised by instrument of lease under the scheme, notwithstanding the provisions of the instrument of lease, or the provisions of this or another Act,

(a) may,

after the expiration of a period of ten years from the commencement of the term of the perpetual lease and on payment of such purchase price for the fee simple as is fixed under the scheme by the Minister,

but subject to

the conditions, if any, imposed under the Commonwealth Act,

the provisions, if applicable to the land, of subsection (5) of section eight of this Act relating to Mineral rights;

mortgages and other encumbrances, if any, affecting the land;

the provisions of the regulations where applicable; and compliance with the provisions of the lease instrument,

purchase the fee simple in the land; and on completion of the purchase is entitled to surrender the lease instrument and obtain in place of it a Crown grant of the fee simple in the land; and

- (b) may, but subject to the conditions, if any, imposed under the Commonwealth Act, at any time and from time to time during the period of ten years from the commencement of the term of the lease,

Optional payments of amount of purchase price.
Cf. No. 50 of 1951, s. 6 (3).

pay such amount or amounts,

not exceeding in the aggregate ninety per centum of the purchase price for the fee simple, as he thinks fit on account of that purchase price;

and on his making payment of an amount on account of the purchase price, interest on the amount so paid by him ceases to accrue.

8. (1) In this section, unless the context requires otherwise—

“Company” means the Midland Railway Company of Western Australia Limited;

“mineral rights” means, in relation to land, any grant, transfer or reservation—

Protection of certain mineral rights.

Cf. No. 41 of 1950, s. 3; and No. 50 of 1951, s. 7.

Interpretation.

to the Company;

or to a person who derives his title to the mineral rights from the Company and is registered pursuant to the provisions of the Transfer of Land Act as the proprietor of the mineral rights—

of all mines of copper, tin, lead, coal, ironstone, phosphatic rock and other metals, ores or minerals whatsoever, except gold, silver and precious metals, and all substances containing minerals or phosphates, except substances containing gold, silver, or precious metals, and all gems and

precious stones and, subject to the Petroleum Act, 1936, mineral oil in, upon and under the land, with full liberty at all times to search, dig, mine, bore for and carry them away, and for that purpose to enter upon the land or any part of it without paying compensation therefor;

“registration authority” means the Registrar of Titles, the Registrar of Deeds, the Under Secretary for Lands, the Under Secretary for Mines, and any other person authorised by Act to record and give effect to the registration of documents relating to transactions affecting estates and interests in land.

Revesting of mineral rights in the Crown.

(2) Where private land was, at any time prior to, or is, at any time after, the coming into operation of this Act—

acquired by the State by agreement for the purposes of the Scheme;

under the operation of the Transfer of Land Act; and

the subject of mineral rights;

on registration of the transfer to Her Majesty from the registered proprietor of every estate and interest therein, other than the mineral rights, the mineral rights, by virtue of, and subject to, the provisions of this subsection, revest in Her Majesty as of Her former estate, for the purposes of—

(a) removing the land from the operation of the Transfer of Land Act;

(b) bringing the land under the operation of the Land Act; and

(c) enabling the Governor to—

(i) grant tenures of the land pursuant to the provisions of this Act; and

(ii) make and issue instruments evidencing the revesting, referred to in subsection (3) of this section, of the mineral rights in the land.

(3) Where mineral rights are revested in Her Majesty by operation of the provisions of subsection (2) of this section,

Revesting of mineral rights in the Company.

(a) the mineral rights, are by virtue of the provisions of this subsection, immediately thereupon revested in such person, and for such estate or interest as, but for the operation of that subsection, they would have continued to be vested;

(b) the Governor shall make and issue an instrument of grant in the form of the Schedule to this Act evidencing that revesting free of cost to that person.

Schedule.

(4) Nothing contained in, or done in pursuance of, the provisions of this section—

Preservation of adverse rights and immunity.

(a) affects any proprietary interest in the mineral rights;

(b) entitles any person to compensation or damages from the Crown.

(5) The Governor shall not grant or demise, pursuant to the provisions of this Act, any tenure of land referred to in this section, unless the instrument evidencing the grant or demise is expressed to be and is subject to the mineral rights.

Tenures to be subject to mineral rights.

(6) The appropriate registration authorities are authorised to record in the appropriate manner the effect of the operation of the provisions of this section in relation to land.

Authority to record operation of this section.

9. (1) Things done, including rights, titles and interests revested, conferred, granted, demised, and acquired, in pursuance or purported pursuance of the provisions of the repealed Acts are, subject to subsection (2) of this section, ratified as lawful and validated.

Validation. Cf. No. 50 of 1951, s. 8.

(2) Notwithstanding the repeal, or any of the provisions, of the repealed Acts, the interpretation of the expression, "mineral rights" in section eight of this Act, and the form of Crown Grant in the Schedule to this Act, are deemed to have been in operation on and from the fifteenth day of January, one thousand nine hundred and forty-six, being the day on which the repealed War Service Land Settlement Agreement Act, 1945, came into operation.

Cf. No. 24 of 1945 and No. 50 of 1951, s. 2.

Regulations.
Of. No. 50 of
1951, s. 5 (3).

10. The Governor may make regulations prescribing forms, fees, matters and things necessary or convenient to be prescribed for carrying out the scheme and for giving effect to this Act and may by a regulation so made prescribe penalties recoverable on summary conviction and not exceeding fifty pounds for breach of a regulation so made.

S. 8 (3) (b).

THE SCHEDULE.

Western Australia.

FORM OF CROWN GRANT.

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Australia and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of The Faith, To all to whom these presents shall come, GREETING: Know Ye that We, of our especial Grace, certain knowledge, and mere motion and by virtue of the provisions of the War Service Land Settlement Scheme Act, 1954, have given and granted, and We do by these presents for Us, our heirs and successors, Give and Grant unto.....

all mines of copper, tin, lead, coal, ironstone, phosphatic rock and other metals, ores or minerals whatsoever, except gold, silver, and precious metals, and all substances containing minerals or phosphates, except substances containing gold, silver, and precious metals, and all gems and precious stones and, subject to the Petroleum Act, 1936, mineral oil in, upon and under all that tract or parcel of land situate and being in the District of.....

in Our said State containing more or less and marked and distinguished in the maps and books of the Department of Lands and Surveys of Our said State as and as the same is delineated and

coloured in, in the plan drawn hereon with full liberty at all times to search, dig, mine, bore for and carry away the same, and for that purpose to enter upon the said land or any part thereof without paying compensation therefor: TO HAVE AND TO HOLD all and singular the premises hereby granted together with all appurtenances whatsoever thereunto belonging or in anywise appertaining for an estate in fee simple: YIELDING and paying for the same to Us, Our heirs and successors, one peppercorn of yearly rent on the twenty-fifth day of March in each year, or so soon thereafter as the same shall be lawfully demanded.

IN WITNESS whereof, We have caused.....

.....Governor in and over the State of Western Australia in the Commonwealth of Australia, to affix to these presents the Public Seal of the said State.

SEALED this day of....., one thousand nine hundred and.....

.....
Governor.

.....
Minister for Lands.