

LANDS.

14^o and 15^o Geo. VI., No. LVIII.

No. 58 of 1950.

AN ACT to amend the Land Act, 1933-1948.

[Assented to 18th December, 1950.]

BE it enacted by the King'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 *Land Act Amendment Act, 1950*, and shall be read as one with the Land Act, 1933-1948 (Act No. 37 of 1933 as reprinted, with all amendments up to and including Act No. 68 of 1948, pursuant to the Amendments Incorporation Act, 1938, and incorporated in Volume 3 of the Reprinted Acts of the Parliament of Western Australia), hereinafter referred to as the principal Act.

Short title,
Cf. No. 37 of
1933, s. 1
amended by
Nos. 53 and 68
of 1948, s. 2.

2. The principal Act as amended by this Act may be cited as the Land Act, 1933-1950.

Citation of
principal Act
as amended.

3. Section five A of the principal Act is repealed.

s. 5A
repealed.

S. 7 amended.
Cf. Lands
Acquisition
Act, 1906-
1936 of the
Common-
wealth, s. 6.

4. Section seven of the principal Act is amended by adding after subsection (3) a subsection as follows:—

(4) The Governor is authorised to agree with the Governor General of the Commonwealth for the sale or lease of any Crown lands to the Commonwealth and to execute any instrument or assurance for granting conveying or leasing the land to the Commonwealth.

S. 8 amended.

5. Section eight of the principal Act is amended by adding to subsection (2) thereof the words “or deemed by the Governor to be of approximately equal value subject, where applicable, to the payment in cash of the difference between values.”

S. 23
amended.

6. Section twenty-three of the principal Act is amended by inserting after the word “Crown” in line six of paragraph (b) of subsection (2) the words, “Provided however that in special circumstances the Governor may waive the whole or part of such rent or other moneys.”

S. 24
amended.

7. Section twenty-four of the principal Act is amended by substituting for the word “purposes” in line seven of subsection (1), the word “purpose”.

S. 29
amended.

8. Section twenty-nine of the principal Act is amended by—

(a) adding to paragraph (b) the words “or of any Crown instrumentality or of any municipal corporation or road board”;

(b) adding a subsection as follows:—

(2) Notwithstanding any other provision in this or any other Act, the Governor may, for such price and subject to such terms and conditions as he may determine, dispose of an estate in fee simple, free of all trusts, in any of the lands reserved under paragraph (b) of the last preceding subsection.

9. Section thirty-one of the principal Act is amended by— S. 31 amended.

- (a) inserting after the subsection number “(1)” in line one the letter “a” in brackets, thus— “(a)”;
- (b) transposing paragraph (b) of subsection (2) to follow immediately after paragraph (a) of subsection (1);
- (c) deleting after the subsection number “(2)” the letter and brackets “(a)”.

10. The principal Act is amended by inserting after section thirty-seven a new section as follows:— New section 37A inserted.

37A. (1) Any trustee holding land, whether for an estate in fee simple or leasehold, granted or demised by the Crown in trust for any public purpose, may, with the approval of the Governor, surrender such land to His Majesty in whole or in part. Power to trustees to surrender or exchange certain lands.

(2) The Governor may grant or demise to such trustee, by way of exchange for land surrendered under the last preceding subsection, other land to be held in trust for the same public purpose as the land so surrendered.

(3) Ordinance 16 *Victoriæ* No. 17 is repealed. Repeal of Ordinance 16 *Vict.* 17.

11. Section forty-one of the principal Act is amended by— S. 41 amended.

- (a) deleting from line five of the proviso to subsection (3) the words “the next following”;
- (b) inserting after the word “section” in line five of the proviso to subsection (3) the words “forty-two of this Act”.

New section
41A inserted.

12. A section is inserted in the principal Act after section forty-one as follows:—

Lots unsold
at auction
may be sold
at upset
price within
six months.

41A. (1) Any town or suburban lot put up for sale by public auction but passed in as unsold shall, on application lodged or received through the post within six months from the date of the auction, be available for purchase at the upset price.

(2) The application shall be accompanied by a deposit of ten per centum of the purchase money, and shall be deemed to be an application for land under this Act for the purposes of section one hundred and thirty-five of this Act.

(3) Where the application is approved, the sale of the lot shall, except in relation to the payment of the deposit, proceed in like manner and in all other respects as though the lot had been sold by auction.

S. 42
amended.

13. Section forty-two of the principal Act is amended by adding a subsection as follows:—

(2) Regulations may—

- (a) prescribe and name different classes of suburban lands;
- (b) prescribe fencing requirements for each class or for suburban land in different localities;
- (c) confer upon the Minister a power to approve or reject any fencing or to release the purchaser from the whole or part of his obligations with respect to fencing;
- (d) require the purchaser to expend in prescribed improvements on each lot a sum equal to double the amount of the purchase money.

14. Section forty-four of the principal Act is repealed and the following section substituted:—

s. 44
amended.
Repeal and
new section.

44. Any lessee of town or suburban land acquired at public auction under this Act, whether before or after the commencement of the Land Act Amendment Act, 1950, may, subject to the regulations, apply to purchase the fee simple of the land. The Governor shall thereupon fix the price for the sale of the fee simple, and, upon payment thereof and of the Crown grant fee, and on performance of the prescribed improvements, if any, the lessee may surrender his lease and obtain in lieu thereof a grant in fee simple of his holding.

Lessee of
town or
suburban
land may
acquire fee
simple.

15. Section forty-seven of the principal Act is amended by—

S. 47
amended.

- (a) substituting in line two of paragraph (a) of subsection (2) the words “two shillings” for the words “one shilling”;
- (b) deleting from line three and four of the same paragraph the words “or, except in special cases, more than fifteen shillings per acre”;
- (c) substituting in line three of paragraph (f) (ii) of subsection (4) the word “one-fifth” for the word “one-tenth”;
- (d) substituting the words “two pounds” for the words “one pound” where they occur, first in lines twenty-seven and twenty-eight and secondly in line thirty-one of paragraph (f) (ii);
- (e) adding to paragraph (f) of subsection (4) a subparagraph as follows:—
 - (iii) comply with any particular requirements as to improvements and the value or quantity thereof as the Governor may specify in the notice declaring any particular lands as open for selection: Provided that the

expenditure on such specified improvements shall be deemed to be expenditure required pursuant to the provisions of the last preceding subparagraph.

S. 50
amended.

16. Section fifty of the principal Act is amended by deleting from the last line of subsection (2) the words "and improvements".

S. 57
amended.

17. Section fifty-seven of the principal Act is amended by—

- (a) substituting in line one the word "forty-nine" for the word "fifty-nine";
- (b) adding the words "Provided that no such rebate shall be allowed in respect of a lease approved for a term commencing on or after the first day of January, 1951".

S. 63A
amended.

18. Section sixty-three A of the principal Act is amended by—

- (a) substituting in line sixteen the words "two shillings" for the words "one shilling";
- (b) adding to subparagraph (ii) of paragraph (b) after the word "deferred" in line four, the words "and that the annual rental shall be proportionately increased to the intent that the payment of the full price for the land shall be made within the extended term of the lease".

S. 64
amended.

19. Section sixty-four of the principal Act is repealed and the following section substituted:—

Lands open
for selection.

64. (1) In any notice in the *Gazette* under section forty-six of this Act, the Governor may direct that the selector of the whole of the land specified in the notice may, subject to this Act,

apply for a portion thereof as a homestead farm, and may in like manner withdraw the direction: Provided that the area of the homestead farm shall not exceed one hundred and sixty acres or one-tenth of the total area selected, whichever area is the less.

(2) From and after the commencement of the Land Act Amendment Act, 1950, a homestead farm shall not be granted to any person except a selector who applies therefor under the provisions of the last preceding subsection.

20. Section sixty-five of the principal Act is repealed and the following section substituted:—

S. 65
amended.

65. (1) Every person not being already the holder of a homestead farm or of more than one hundred acres of land for an estate in fee simple or under conditional purchase lease, and being the head of a family or a male who has attained the age of sixteen years may, upon selection of land in respect of which the Governor has given the direction referred to in section sixty-four of this Act, apply to the Minister for a grant of a homestead farm for portion of the land so selected.

Application
for Home-
stead Farm.

(2) Where the Minister approves of the application for a homestead farm, the selector shall take the balance of the land selected by him under conditional purchase lease.

21. A new section is inserted in the principal Act after section eighty-nine B as follows:—

New section
89C inserted.

89C. (1) Where land acquired by the State for the purposes of the War Service Land Settlement Agreement Act, 1945 is, in the opinion of the Governor, no longer required for the purposes of that Act and the Commonwealth agrees to the disposal of the land under this section, the Governor may unless the land remains in a certificate of title registered under the opera-

Disposal of
War Service
Land no
longer
required
for the
purpose.

tion of the Transfer of Land Act, 1893-1946, in the name of His Majesty, authorise the issue of a Crown Grant in the name of the Minister for Lands for an estate in fee simple of the land.

(2) The Minister may sell the land whether such land be the subject of a certificate of title or of a Crown grant referred to in the last preceding subsection, by public auction, public tender or private treaty, subject to the approval of the Governor to be endorsed on the instrument of transfer of the land, and shall apply the proceeds of sale in or towards recouping the State and the Commonwealth the expenditure incurred in relation to the land.

(3) The provisions of this section shall not apply to Crown lands of the State set apart for the purposes of the said Act, but any such Crown lands as are, in the opinion of the Governor, no longer required for such purposes may be disposed of under the provisions of Part V of this Act.

S. 98
amended.

22. Section ninety-eight of the principal Act is amended by—

- (a) deleting from subsection (3) all words after the words “otherwise directs” in line eight, and substituting therefor the words following:—

Provided also that—

- (a) in respect of any lease granted in the Kimberley Division after the commencement of the Land Act Amendment Act, 1950, the rent payable shall, on the first day of January, 1964, and again on the first day of January, 1979, be subject to re-assessment as on and from each of those dates respectively by the Minister on the advice of the Board, and such rent may be increased or reduced.

(b) In respect of any lease granted in any other Division after the commencement of the Land Act Amendment Act, 1950, the rent payable shall, on the first day of January, 1957, and again on the first day of January, 1972, be subject to re-assessment as on and from each of those dates respectively by the Minister on the advice of the Board, and such rent may be increased or reduced;

(b) deleting from subsection (4) the words, "Subject to the third proviso to subsection (3) of this section" in lines one and two;

(c) adding a new subsection as follows:—

(6) Notwithstanding any provision to the contrary hereinbefore in this Act contained, the minimum rental which shall be payable on any pastoral lease granted after the commencement of the Land Act Amendment Act, 1950, shall be two pounds per annum.

23. A section is inserted after section ninety-eight A of the principal Act as follows:—

New section
98B inserted.

98B. (1) In this section, the expression "the common date" means—

Common
date for
reassess-
ment of
pastoral
leases.

(a) in relation to pastoral leases granted in the Kimberley Division of the State—the first day of January, 1964;

(b) in relation to pastoral leases granted in North-West, South-West, Eastern or Eucla Division—the first day of January, 1957.

(2) In respect of any pastoral lease granted prior to the commencement of the Land Act Amendment Act, 1950, notwithstanding that any re-assessment has been or shall have been made before the common date, the lease shall

be subject to re-assessment of rent as on and from the common date by the Minister on the advice of the Board, and the rent may be increased or reduced:

Provided that where, on a re-assessment as on and from the common date, the rent payable on a pastoral lease is increased, the lessee shall not be required to pay rental at the higher rate until the expiration of fifteen years from the date of the previous assessment of the lease.

(3) Every pastoral lease shall be subject to a further re-assessment at the expiration of fifteen years from the common date, and the lessee shall pay rental for the lease at the rate re-assessed from the date of the further re-assessment.

S. 101
amended.

24. Section one hundred and one of the principal Act is amended by deleting from subsection (1) the whole of paragraph (a).

S. 109B
amended.

25. Section one hundred and nine B of the principal Act is amended by—

- (a) deleting from subsection (5) the word “and” where it occurs after the figure and brackets “(6)” in line six;
- (b) inserting in subsection (5) the word and figure in brackets “and (8)” after the figure in brackets “(7)” in line six.

S. 130
amended.

26. Section one hundred and thirty of the principal Act is amended by—

- (a) substituting the word “the” for the word “to” after the word “apply” in line six of paragraph (a) of subsection (1);
- (b) substituting the word “condition” for the word “conditions” in line three of the proviso to paragraph (b) of subsection (1).

27. Section one hundred and thirty-five of the principal Act is amended by adding to subsection (1) a further proviso as follows:—

S. 135
amended.

Provided further that applications for the same land lodged or received through the post on or before the date notified in the Gazette for the receipt of applications shall be deemed to have been received at the same time.

28. Section one hundred and forty of the principal Act is amended by substituting the word "to" for the word "of" in line two.

S. 140
amended.

29. Section one hundred and sixty of the principal Act is amended by deleting from subsection (1) the words "and notwithstanding that the Crown grant may, after the decease of the selector, have been issued and registered in the name of the deceased" in the last four lines.

S. 160
amended.

30. A section is inserted after section one hundred and sixty-one of the principal Act as follows:—

New section
161A
inserted.

161A. In respect of any land disposed of under the provisions of this Act or of any Act repealed by this Act, subject in either case to the right of the holder to acquire the fee simple of the land, the Crown grant may, subject to proof, to the satisfaction of the Minister, of the performance of conditions other than residence, issue in the name of the holder notwithstanding his prior decease.

Crown grant
may issue
in name of
deceased
holder.