

LAND.

12° and 13° GEO. VI., No. LIII.

No. 53 of 1948.

AN ACT to amend the Land Act, 1933-1946.

[Assented to 21st January, 1949.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and 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, 1948*, and shall be read as one with the Land Act, 1933-1946 (Act No. 37 of 1933, as amended by Acts Nos. 47 of 1934, 4 of 1936, 39 of 1937, 20 of 1938, 36 of 1939, 45 of 1945 and 35 of 1946), hereinafter referred to as the principal Act. Short title.

2. The principal Act, as amended by this Act, may be cited as the Land Act, 1933-1948. Citation of the principal Act as amended by this Act.

3. Section nine of the principal Act is repealed and the following section substituted:— Repeal and re-enactment of s. 9.

9. Without prejudice to the provisions of this Act relating to the right of any person descended from the original inhabitants of Australia to apply for and acquire land as a selector under the provisions of this Act, the Governor may—

if of opinion that any such person is or is liable to be at any disadvantage with respect to an application for or the acquisition of land under the provisions of this Act because of his descent, grant or lease to any such person, upon such terms and conditions as the Governor thinks fit in the best interests of any such person, any area of Crown land not exceeding the area prescribed for a selector by the provisions of section forty-seven of this Act.

Amendment
of s. 31 (1).

4. Section thirty-one, subsection (1), of the principal Act is amended by—

- (a) substituting the word “Proclamation” for—
 - (i) the words “notice of reservation published in the *Gazette*, or by any subsequent notice so published” in lines six and seven;
 - (ii) the word “notice” in line eleven;
- (b) inserting before the word “Whenever” in line one, the letter “a” in brackets, thus—“(a)”;
- (c) adding a paragraph as follows:—
 - (b) Every classification as class A and declaration of dedication of such land—

made prior to the commencement of the Land Act Amendment Act, 1948, by notice of reservation published in the *Gazette*, or by any subsequent notice so published pursuant to the provisions of section thirty-one, subsection (1), of the Land Act, 1933-1946,

shall, without prejudice to the validity of such classification and declaration of dedication, by force of the Land Act Amendment Act, 1948, be regarded as made by Proclamation published at the time of the commencement of the Land Act Amendment Act, 1948.

Repeal and
re-enactment
of s. 33.

5. Section thirty-three of the principal Act is repealed and the following section substituted:—

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

“land” means land reserved pursuant to the provisions of this Act;

“Order” means Order in Council;

“person” means any municipality, constituted pursuant to the provisions of the Municipal Corporations Act, 1906-1947, and road board, constituted pursuant to the provisions of the Road Districts Act, 1919-1947, any other body corporate or any other persons;

“purpose” means the purpose for which the land is reserved pursuant to the provisions of this Act.

(b) Every Order made in pursuance of the provisions of this section shall—

- (i) be published in the *Gazette* so soon after being made as is practicable;
- (ii) commence to take effect upon publication in the *Gazette*;
- (iii) describe the land affected by the Order;
- (iv) specify the purpose for which the land affected by the Order is reserved, or may be leased or granted in fee simple;
- (v) name the person—
 - in whom land is directed to be vested;
 - to whom a lease of, or the fee simple in, the land is directed to be granted—
 - by the Order;
- (vi) specify the conditions and limitations subject to which the Governor—
 - confers any power to lease or sub-lease the land;
 - directs the grant of a lease of, or the fee simple in, the land—
 - by the Order.

(2) By Order the Governor may direct that—

any land shall vest in and be held by any person for the purpose—

and by the same or any subsequent Order the Governor may, subject to such conditions and limitations as the Governor shall deem necessary to ensure that the land is used for the purpose—

confer upon that person, power to lease for the purpose the whole or any part of the land.

(3) (a) By Order the Governor may direct that—
any land shall be leased for the purpose, by instrument of lease in accordance with the form in the Fourth Schedule to this Act, to any person.

(b) (i) The person to whom the land is leased pursuant to the provisions of the last preceding paragraph may, with the consent of the Governor, sublet, for the purpose, the whole or part of the land, or mortgage for the purpose, the whole of the land.

(ii) The consent of the Governor may be given subject to such conditions and limitations as the Governor shall deem necessary to ensure that the land is used for the purpose and the consent shall be endorsed on the instrument of sublease or mortgage, as the case may be.

(4) (a) By Order the Governor may direct that—
any land shall be granted in fee simple to any person subject to the condition that the person shall not lease or mortgage the whole or any part of the land without the consent of the Governor and subject to such other conditions and limitations as the Governor shall deem necessary to ensure that the land is used for the purpose.

(b) The consent of the Governor may be given subject to such conditions and limitations as the Governor shall deem necessary to ensure that the land is used for the purpose.

(5) When the mortgagee of any land mortgaged with the consent of the Governor, whether before or after the commencement of the Land Act Amendment Act, 1948, completes the exercise of the power of sale or foreclosure pursuant to the mortgage, the land shall by force of this enactment be freed from any trust, condition, limitation, or other restriction, created or imposed in relation to the purpose.

(6) The provisions of this section shall apply in respect of all land reserved pursuant to the provisions of this Act prior to or after the commencement of the Land Act Amendment Act, 1948.

6. Section eighty-nine A of the principal Act is amended by—

Amendment
of s. 89A.
Cf. No. 35 of
1946, s. 4.

- (a) inserting after the word “lands” in subsection (1), line two, the words “, including land acquired pursuant to the provisions of Part VIII. of this Act,”;
- (b) inserting before the word “of” in subsection (2), line four, the words “or of Part VIII.”.

7. The principal Act is amended by adding after section eighty-nine A, a section as follows:—

Section 89B
added.

89B. The Governor may dispose of any land which has been set apart as a Farm Reconstruction Area under the provisions of section eighty-nine A of this Act to the Commissioners of the Rural and Industries Bank of Western Australia, constituted pursuant to the provisions of the Rural and Industries Bank Act, 1944-1947, for an estate in fee simple, subject to payment of such price as would be charged were the land otherwise disposed of to a selector pursuant to the provisions of Part V. or Part VIII. of this Act.

8. Section 142, subsection (1) of the principal Act is amended by—

Amendment
of s. 142.

- (a) substituting for the words “thirty shillings” in line two, the words “two pounds”;
- (b) adding a proviso as follows:—

Provided that, at the discretion of the Minister, lands comprised in two or more adjoining leases or licenses, as the case may be, registered in the same name and contracted to be granted for an estate in fee simple, subject to the same conditions, rights and reservations, may be included in one Crown grant, in which case there shall be charged a fee calculated at two pounds for the first lease or license and one pound for each additional lease or license so included.