

1945.] *Industrial Development (Resumption of Land)* [No. 49.]

**INDUSTRIAL DEVELOPMENT
(RESUMPTION OF LAND).**

9° and 10° GEO. VI., No. XLIX.

No. 49 of 1945.

AN ACT to authorise the Governor to resume land and dispose of the same to persons engaged or about to engage in industries for the purpose of the industrial development of the State and for other purposes relative thereto.

[Assented to 30th January, 1946.]

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 *Industrial Development (Resumption of Land) Act, 1945.* Short title.

2. This Act shall be read and construed and have effect subject to the provisions of the Health Act, 1911-1944, and to the regulations and by-laws from time to time made and in force thereunder with the intent that where any provision regulation or by-law aforesaid may so operate as to prohibit or restrict or enable to be prohibited or restricted the use of any land resumed under the authority of this Act for the industrial purpose for which it is so resumed such provision, regulation or by-law shall notwithstanding this Act remain in full force and effect in relation to such land.

This Act to
be read
subject to
Health Act,
1911-1944.

Interpretation.

3. In this Act, unless the context requires otherwise—
- “Committee” means the Land Resumptions for Industries Committee established under this Act.
 - “Industry” includes every trade or business having for its object the manufacture of marketable products or things.
 - “Local authority” means a municipal council or a road board.
 - “Minister” means the Minister for Lands in his corporate capacity as constituted under the Land Act, 1933-1939.
 - “Public Works Act” means the Public Works Act, 1902-1933.
 - “Town Planning Act” means the Town Planning and Development Act, 1929-1945.
 - “Town Planning Scheme” means a town planning scheme approved and in force under the Town Planning Act.

Establishment of Land Resumptions for Industries Committee.

4. (1) There is hereby established for the purposes of this Act a committee to be called “The Land Resumptions for Industries Committee.”

(2) The Committee shall consist of four members *ex officio* namely the persons for the time being and from time to time holding respectively the offices of—

- (a) Surveyor General;
- (b) Director of Industrial Development;
- (c) Chairman of the Town Planning Board as constituted under the Town Planning Act.
- (d) A representative of the Chamber of Manufacturers.

(3) The said four members shall elect one of their number to be the Chairman of the Committee.

(4) Any three members shall form a quorum.

(5) The Committee shall meet at such times, and at such place, and shall transact its business in such manner as may be prescribed by regulations.

Functions of the Committee.

5. The functions of the Committee shall be—
- (a) to receive, examine, and consider applications made under this Act;

- (b) to report to the Minister its decisions in respect to applications made under this Act;
- (c) to answer appeals made by applicants against its decisions in respect of the applications of such applicants;
- (d) to make to the Minister such recommendations as it may think fit in relation to applications made under this Act; and
- (e) to do such other acts, matters and things as may be prescribed by regulations.

6. (1) Subject to this Act, any person engaged in or about to engage in any industry within the State who requires land for the establishment and carrying on of his business in such industry may make application in writing on the prescribed form to the Minister for the acquisition of such land.

Applications by certain persons for acquisition of land for industrial purposes.

(2) Every application shall be accompanied by a statement in writing, verified by the statutory declaration of the applicant, furnishing full particulars of the land required, and establishing the following facts, that is to say:—

- (a) It is in the interest of the industrial development of the State that he shall be enabled to establish and carry on his said business; and
- (b) that after he acquires the said land he will be able to establish and carry on the said business; and
- (c) the acquisition and use by him of such land is essential to the establishment and carrying on of his said business; and
- (d) the locality in which he proposes to establish and carry on his said business is, in relation to the industrial development of the State, the most suitable locality for the establishment and carrying on of his said business; and
- (e) (i) he is unable to purchase land in the said locality which he requires as aforesaid for the reason that the owner of such land is unwilling to sell or to sell at a reasonable price the said land; or
 - (ii) the use of the land (if acquired by such person) for the purposes of establishing and carrying on his said business is limited or pro-

hibited by the provisions of a town planning scheme or by a by-law of the local authority made with respect to any of the matters prescribed in the Second Schedule to the Town Planning Act.

(3) Every applicant shall state in his application whether he desires to acquire an estate in fee simple or a leasehold estate in the said land.

Application
to be con-
sidered by
Committee.

7. (1) On receipt of an application under section six of this Act, the Minister shall refer the same to the Committee for consideration.

(2) The Committee shall examine the application and determine whether the applicant has established the facts referred to in paragraphs (a), (b), (c), (d) and (e) of subsection (2) of section six and whether the application shall be rejected or recommended for approval.

(3) For the purposes of its examination of the application the Committee shall call upon the applicant to attend personally before the Committee, and also may require the applicant to furnish the Committee with any further information which it requires and may call upon any other person who, in the opinion of the Committee, is able to give any relevant information.

(4) If in the opinion of the Committee the application should be rejected, the Committee may reject the application, and its decision shall be final. The Committee shall report such rejection to the Minister.

(5) If in the opinion of the Committee, the application should be recommended for approval, the following provisions shall apply; that is to say:—

(a) before the Committee makes any report or recommendation to the Minister in respect of the application it shall cause at least thirty days' notice in writing of its intention to recommend that the application be approved to be given to the local authority; in whose district the land mentioned in the application is situated, to the Town Planning Board, and to the registered proprietor and all persons interested, as appears from the register at the Lands Titles Office, the Lands Office, or the Mines Office, as the case may be of such land;

- (b) within thirty days after the receipt of such notice the local authority aforesaid and the Town Planning Board respectively may submit to the Committee in writing under the hand of the Mayor of the municipal council or the chairman of the road board or the chairman of the Town Planning Board (as the case may be) a statement of the objections (if any) which the local authority or the Town Planning Board has to the application being recommended for approval together with its reasons for such objections, for the consideration of the Committee;
- (c) on receipt of a statement of objections from the local authority or the Town Planning Board as aforesaid, the Committee shall examine and give due consideration to such objections before making any report or recommendation to the Minister;
- (d) within thirty days after the receipt of a notice given under paragraph (a) hereof, the registered proprietor of the land mentioned in the application may appeal to the local court held nearest to the land aforesaid against the decision of the Committee to recommend the approval of the application;
- (e) the appeal by the registered proprietor under paragraph (d) hereof shall be made in the manner and in accordance with the procedure prescribed by regulations; the local court aforesaid shall have jurisdiction to hear and determine the appeal and may make an order authorising the Committee to recommend the approval of the application or restraining the Committee from recommending the approval of the application as the court may think fit;
- (f) the decision of the local court upon an appeal under this section shall be final and effect shall be given thereto according to its tenor;
- (g) where the registered proprietor of the land mentioned in the application does not within the time limited by paragraph (d) appeal against the decision of the Committee to recommend the approval of the application, or where such

registered proprietor has appealed and the local court has made an order authorising the Committee to approve of the application the Committee may, after due consideration of any objection submitted to it by the local authority concerned or by the Town Planning Board, report in writing to the Minister its decision with respect to the application and recommend that the application be approved;

- (h) where on an appeal by the registered proprietor of the land mentioned in the application the local court has made an order restraining the Committee from recommending the approval of the application or where the Committee, after giving due consideration to objections submitted to it by the local authority concerned or by the Town Planning Board, decides that approval of the application should not be recommended, it shall report in writing to the Minister accordingly, and the Minister shall thereupon reject the application.

When approval of application recommended Minister to refer application to Treasurer.

8. (1) When the Committee recommends that an application made under section six of this Act be approved, the Minister shall examine the application and the report of the Committee thereon and shall decide whether or not in his opinion the recommendation of the Committee should be adopted.

(2) If the Minister is of the opinion that the said recommendation of the Committee should not be adopted, he may reject the application, and notify the applicant in writing accordingly.

(3) If the Minister is of the opinion that the said recommendation should be adopted, he shall refer the application together with the report and recommendation of the Committee thereon to the Treasurer for his consideration. The Treasurer, after considering the application and report and recommendation aforesaid, shall endorse on the application and sign a memorandum stating whether or not he approves of the said recommendation, and shall return the said application endorsed as aforesaid together with the said report and recommendation to the Minister.

(4) When the Treasurer does not approve of the recommendation the Minister shall reject the application and notify the applicant in writing accordingly.

(5) When the Treasurer does approve of the recommendation, the Minister shall, before submitting the same to the Governor, notify the applicant that his application has been approved for submission to the Governor and tender to him for execution an agreement with the Minister—

- (a) to accept from His Majesty a transfer or conveyance of a freehold estate in the land mentioned in his application after the resumption thereof as and by way of a sale of such land to the applicant at such price as may be fixed by the Governor; or
- (b) to accept from His Majesty a lease of the said land after the resumption thereof for such term at such rent, and upon and subject to such conditions as the Governor may approve—

as the Minister, with the approval of the Treasurer may elect.

(6) If and when the applicant executes the agreement tendered to him by the Minister as provided in subsection (5) hereof, but not otherwise, the Minister shall submit the application with the recommendation of the Committee to the Governor for his approval.

9. (1) When an application made under section six of this Act is submitted by the Minister to the Governor in accordance with subsection (6) of section eight of this Act, the Governor may approve or reject the same.

Authority to Governor to resume land for industrial purposes.

(2) If the Governor approves of the application, he may, notwithstanding any provision of any other Act or of any town planning scheme or by-law made by a local authority with respect to any matter prescribed in the Second Schedule to the Town Planning Act, resume the land required by the applicant and mentioned in the application under the provisions of the Public Works Act as if the land were required for the purpose of a public work within the meaning of that Act: and in such case the provisions of that Act shall apply and have effect in relation to such resumption accordingly.

10. Where any land has been resumed under section nine of this Act for the benefit of a person seeking to

Authority to Governor to dispose of land resumed.

acquire the same, the Governor may, according as he shall on the recommendation of the Minister elect—

- (a) transfer or convey the freehold estate of the said land to such person at a purchase price to be fixed by the Governor as hereinafter provided; or
- (b) grant to the said person a lease of the said land for such term at such rental and upon and subject to such conditions as the Governor may approve.

Provided that—

- (i) Where the Governor elects to transfer or convey the freehold estate in the said land—

- (a) The purchase price to be fixed shall include all the costs and expenses (inclusive of compensation (if any) paid or payable in respect of the resumption) incurred in connection with the resumption and the transfer or conveyance of the land and also may include such further amount not exceeding five per centum of the amount of the said costs and expenses as the Governor may determine; and

- (b) such purchase price shall, according as the Governor shall direct be payable in full on demand or by periodical instalments;

- (ii) Where the Governor elects to grant a lease of the said land to the said person—

- (a) the term of the lease and the rate of the rental reserved thereunder shall be so fixed that the total rental payable under the lease during the currency thereof shall not be less than the amount of the purchase price of the land would be if the freehold estate therein were transferred or conveyed to the said person; and

- (b) the lease may include a provision giving to the lessee an option of acquiring the freehold estate of the land described in the lease.

Authority to Governor to acquire and dedicate land to industrial purposes.

11. (1) The Governor may from time to time by notice in the *Government Gazette* dedicate any Crown land to the purposes of this Act.

(2) Subject to approval by Parliament the Governor may from time to time on the recommendation of the Committee if adopted by the Minister and with the approval of the Treasurer purchase or acquire compulsorily under and subject to the provisions of the Public Works Act any land which in the opinion of the Minister it is desirable to acquire and make available to persons engaged in or about to engage in industries in the interests of the industrial development of the State.

Provided that before making any such recommendation the Committee shall cause at least thirty days' notice in writing of its intention to make such recommendation to be given to the local authority in whose district the land is situate and to the Town Planning Board and to the registered proprietor and all persons interested, as appears from the register at the Lands Titles Office, the Lands Office, or the Mines Office, as the case may be of the said land and thereupon the provisions of subsection (5) of section seven shall, so far as applicable, apply *mutatis mutandis* in respect of such land.

(3) Any land purchased or acquired under subsection (2) of this section shall vest in His Majesty and be dedicated in manner aforesaid to the purposes of this Act.

12. (1) When land has been dedicated to the purposes of this Act as provided for in section eleven of this Act, the Governor may, subject to this section, transfer or convey the freehold estate of any portion of such land or grant a lease of any portion of such land to any person engaged in or about to engage in any industry within the State, who desires such land for the purpose of carrying on his business in such industry.

Dedicated land may be disposed of to persons engaged or about to engage in industries.

(2) Any person referred to in subsection (1) of this section who desires to acquire land under this section may make application in writing in the prescribed form to the Minister.

Application.

(3) Every application shall be accompanied by a statement, verified by the statutory declaration of the applicant furnishing full particulars of the particular land required, and establishing the following facts, that is to say:—

(a) It is in the interest of the industrial development of the State that he shall be enabled to establish and carry on his business: and

- (b) the locality in which the dedicated land, which he requires, is situated is, in relation to the industrial development of the State, the most suitable locality for the establishment and carrying on of his said business; and
- (c) (i) he is unable to purchase land suitable for the purpose of his said business in the said locality for the reason that the owners of such land are unwilling to sell, or to sell at a reasonable price the said land; or
(ii) the use of any land, other than the dedicated land, in the locality where he requires it for the purpose of establishing and carrying on his said business is limited or prohibited by the provisions of a town planning scheme or by by-law of the local authority made with respect to any of the matters prescribed in the Second Schedule to the Town Planning Act.

(4) On receipt of an application under subsection (3) of this section the Minister shall refer the same to the Committee for consideration, and thereafter the following provisions shall apply, that is to say:—

- (a) The Committee shall examine the application and determine whether the same shall be rejected or recommended for approval.
- (b) For the purposes of its examination of the application the Committee shall call upon the applicant to attend personally before the Committee, or otherwise may require the applicant to furnish the Committee with any further information which it requires.
- (c) If in the opinion of the Committee the application should be rejected, the Committee may report to the Minister accordingly together with a statement of its reasons for its said opinion. The Minister may then determine whether in his opinion the application should be rejected or recommended for approval.
- (d) If in the opinion of the Committee the application should be recommended for approval, it shall report to the Minister accordingly.
- (e) When the Committee recommends that an application made under this section be approved, the Minister shall examine the application and

report of the Committee thereon and decide whether or not in his opinion the recommendation of the Committee should be adopted.

(f) If the Minister is of the opinion that the said recommendation should not be adopted he may reject the application and notify the applicant accordingly.

(g) If the Minister is of the opinion that the said recommendation should be adopted he may submit the application with the recommendation to the Governor for his approval.

(5) (a) When an application made under this section is submitted by the Minister to the Governor in accordance with paragraph (g) of subsection (4) hereof, the Governor may approve or reject the same.

(b) If the Governor approves of the application he shall direct whether the land applied for shall be sold as for an estate in fee simple to the applicant or whether the applicant shall be granted a lease of such land.

(6) (a) Where the Governor elects to transfer or convey the freehold estate in any dedicated land to an applicant therefor, the price to be paid and the conditions of sale shall be fixed and determined in accordance with regulations under this Act.

(b) Where the Governor elects to grant a lease of any dedicated land to an applicant therefor, the term of such lease, the rate of the rental reserved thereunder and the conditions to be included therein shall be such as the Governor may approve.

13. When any person becomes the registered proprietor for an estate in fee simple, or the purchaser under contract of sale, or the lessee of any land, whether resumed under section nine of this Act or dedicated under section eleven of this Act he may, whilst he continues to be such proprietor or purchaser or lessee, use the said land for the purpose of the establishment and carrying on of his business in the industry for which purpose he has obtained such land or lease thereof notwithstanding anything to the contrary contained in any town planning scheme or in any by-law of any local authority made in connection with any of the matters prescribed in the Second Schedule to the Town Planning Act.

Dedicated land and land resumed and disposed of to a person engaged or about to engage in industry to be free from restrictions under Town Planning Scheme, etc.

Restrictions
against
dealings in
land disposed
of under
this Act.

14. (1) It shall not be lawful for any person who has become the registered proprietor for an estate in fee simple or the purchaser under contract of sale or the lessee of any land whether resumed under section nine of this Act or dedicated under section eleven of this Act either—

(a) to sell, exchange, transfer, assign or encumber with any mortgage or other security or sublet or otherwise part with the possession of such land or his lease thereof to any other person; or

(b) to use the said land for any purpose other than for the purpose of the business for which he obtained it under this Act—

without the consent in writing of the Minister.

(2) Where any person aforesaid sells, exchanges, transfers, assigns or encumbers with any mortgage or other security or sublets or otherwise parts with the possession of the said land or his lease thereof in contravention of this section such sale, exchange, transfer, conveyance, encumbrance, subletting or other transaction aforesaid shall be null and void, and where such person is the lessee of the land his lease thereof shall be liable to forfeiture.

(3) Where any person aforesaid uses the said land for any purpose other than for the purpose of the business for which he obtained it under this Act in contravention of this section he shall be guilty of an offence.

Penalty—One hundred pounds, and in addition a daily penalty of five pounds for every day or part of a day during which the offence is continued after notice thereof has been given by the Minister in writing to such person.

Appropriation.

15. The moneys which may be used for the purposes of this Act shall be such as are from time to time appropriated by Parliament for such purpose.

Regulations.

16. The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.