

## SPECIAL LEASE (ESPERANCE PINE PLANTATION).

22° GEO. V., No. II.

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No. 2 of 1931.

**AN ACT to amend the Special Lease (Esperance Pine Plantation) Act, 1926.**

[Assented to 24th June, 1931.]

**W**HEREAS by Act Number 28 of 1926 entitled the Preamble. Special Lease (Esperance Pine Plantation) Act, 1926, it was enacted that it should be lawful for the Governor to grant to a company incorporated in this State a conditional purchase lease of land in the Esperance district, as described in Part I. of the schedule to that Act, for growing *pinus pinaster*, *pinus insignis*, and other soft woods, at the rent and subject to the conditions set out in Part II. of the said schedule; and that notwithstanding the provisions of the Land Act, 1898, such lease might be granted of an area not exceeding forty-five thousand acres, and for a term of thirty years, with the right to the lessee to acquire the land for an estate in fee simple: And whereas on the 17th day of May, 1927, a special lease of forty-five thousand acres of land in the said district was, in pursuance of the said Act, granted to Esperance Pine Forests, Limited, a company incorporated in this State: And whereas the said company has been unable successfully to grow *pinus pinaster*, *pinus insignis*, and other soft woods on the said lands, and is desirous of using the said lands for general farming purposes and of obtaining an amendment of the said Act and having the terms of the said special lease varied: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent

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of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Special Lease (Esperance Pine Plantation) Act Amendment Act, 1931*, and shall be read as one with the *Special Lease (Esperance Pine Plantation) Act, 1926*, hereinafter referred to as the principal Act.

Interpretation.

2. In this Act the following terms shall have the following meanings respectively:—

“Authorised improvement” means clearing, ploughing, planting, and establishment of pastures and pines, and the establishment of permanent water supply;

“Company” means Esperance Pine Forests, Limited, a company incorporated in Western Australia and the holder of a special lease under the principal Act;

“Minister” means the Minister for Lands;

“Special lease” means the special lease dated the 17th day of May, 1927, granted to the company pursuant to the principal Act.

See s. 2, principal Act.  
The terms of the special lease may be varied by Governor.

3. Notwithstanding anything contained in the principal Act, the Governor shall have power to vary and amend the special lease to enable the company to develop the land the subject thereof for general farming purposes, as hereinafter mentioned.

The company may select 25,000 acres and obtain Crown grant.

4. In lieu of the condition requiring the company to plant and establish *pinus pinaster*, *pinus insignis*, and other soft woods, the following conditions may be inserted in the special lease:—

- (a) That the company shall, within twelve calendar months of the commencement of this Act, select in one parcel an area of twenty-five thousand acres from the lands the subject of the special lease for the purpose of improving such selected area and obtaining a Crown grant thereof, subject to the conditions hereinafter mentioned. The area selected shall comply with the regulations of the Lands Department as regards boundaries and roads.

(b) That within ten years from the date of the special lease the company shall expend not less than four thousand pounds in authorised improvements, at the rate of not less than eight hundred pounds every two years.

(c) That on the Minister being satisfied—

- (i) that the company has expended the sum of four thousand pounds at least on authorised improvements on the selected area, as provided in paragraph (b);
- (ii) that the company has erected a substantial ring-fence around the selected area capable of resisting the trespass of great and small stock;
- (iii) that the company has observed all the conditions of the special lease as modified or varied pursuant to this Act;

then on the company paying to the Minister the outstanding balance of the purchase price of three shillings per acre after allowing credit for a proportionate part of the rent already paid in respect of the selected area, the Governor may issue to the company a Crown grant of the selected area in fee simple under the Land Act, 1898, and its amendments.

5. (a) Subject to the company at all times punctually observing and complying with its obligations under the principal Act and the special lease as modified pursuant to this Act, the company may—

The company may subdivide and dispose of the balance of the lands.

- (i) subdivide the remainder of the said lands the subject of the special lease into farms not to exceed in each case an area of five thousand acres or to be less than one thousand acres, except with the consent in writing of the Minister;
- (ii) sub-lease, sell, or transfer such farms to persons eligible to hold the same under the Land Act, 1898, and its amendments, subject to the condition that the sub-lessee or purchaser shall, as from the date of the sub-lease, agreement for sale or transfer, take possession of the said lands and reside continuously thereon for a period of five years.

Power to subdivide into farms,

and to sub-lease, sell, or transfer subdivisions to eligible persons.

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Governor may  
issue lease to  
purchaser.  
Conditions.

(b) On registration of a transfer of any such subdivided area, the Governor will, at the request of the company, issue to the transferee a lease of the land transferred for the balance of the unexpired term of the special lease. Such lease shall provide that the lessee will execute improvements as would be required or accepted from a lessee under section sixty-eight of the Land Act, 1898, over the term of the lease to the value of three shillings for each acre of land the subject of the lease; and that the lessee will reside continuously on the said lands for a period of five years commencing from the date of the lease. Subject to the express modifications made by this paragraph, the provisions of section sixty-eight and of all other provisions of the Land Act, 1898, and its amendments shall, so far as applicable, apply to any such lease.

Apportionment of  
rent.

(c) On the granting of any lease under paragraph (b) of this section, the balance of the rent payable by the company in respect of the area leased shall be paid by the lessee by equal half-yearly instalments spread over the term of the lease, and the rent on the remainder of the lands held by the company under lease shall be abated accordingly.

Company liable for  
improvements as  
well as lessee.

(d) Notwithstanding the granting of any lease to a purchaser under the provisions of paragraph (a) (ii) of this section, the company shall be jointly and severally liable with the purchaser for the due compliance with all improvement conditions thereunder.

Crown grant.

(e) Subject to the purchase price and all survey fees having been paid, and on the Minister being satisfied that the conditions of paragraph (b) of this section have been duly observed by a lessee thereunder, the Governor will, at the request of the company, issue to the lessee a Crown grant of such lands in fee simple under the provisions of the Land Act, 1898, and its amendments.

Subdivisions  
subject to  
Minister's ap-  
proval, etc.

(f) Every subdivision shall be surveyed by a licensed surveyor approved by the Minister, and all survey fees shall be paid in respect thereof before any dealing will be permitted by the company under paragraph (a) of this section.

All dealings subject  
to Minister's  
approval.

(g) All dealings by the company under paragraph (a) of this section shall be subject to the approval of the Minister, which shall not be withheld, provided the provisions of this Act regarding the payment of rent, the making of improvements, the eligibility of the proposed purchaser, transferee, or sub-lessee, and the conditions regarding residence, are complied with.

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(h) No transfer shall be registered unless the land sought to be transferred has been improved commencing from the date of the special lease at the rate and in accordance with the conditions laid down in section sixty-eight of the Land Act, 1898.

Improvements must be up to date before transfer may be registered.

6. Clauses four, five, and eight in Part II. of the schedule to the principal Act shall no longer apply to the said special lease. Clause nine thereof is amended by inserting the word "Minister" in lieu of the word "Governor."

Schedule to principal Act amended.

7. If the company fail to select the said lands within the time allowed by paragraph (a) of section four, or to observe any of the conditions of the special lease as modified pursuant to this Act, except paragraph (d) of clause five hereof, then clause six of Part II. of the schedule to the principal Act relating to forfeiture shall apply.

Power of forfeiture of special lease.

8. Save as modified pursuant to this Act, the conditions of the special lease shall remain unimpaired.

Conditions of original lease to stand, save as modified.