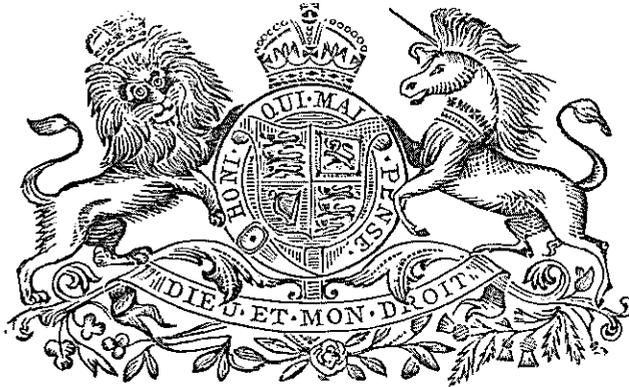


WESTERN AUSTRALIA.



ANNO SEPTIMO

GEORGII QUINTI REGIS,

XXXIX.

No. 19 of 1917.

AN ACT to further amend the Land Act,
1898.

[Assented to 28th March, 1917.]

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*, 1917, and shall be read as one with the Land Act, 1898, hereinafter referred to as the principal Act, and its amendments. Short title.

2. Section nine of the Land Act, 1898, is hereby amended by adding a proviso as follows:— Amendment of section 9 of principal Act.

“Provided that if other suitable land is not available to grant in exchange for the land resumed, or if it appears to the Minister that in the circumstances of any particular case the grant of other land in exchange, or the return of a proportionate part of the purchase money, would be inadequate compensation for the resumption, the Governor may make to the lessee, or any person claiming under him, such pecuniary compensation as the Minister in his discretion may recommend.”

“Provided further, that particulars of the resumption and the amount of pecuniary compensation paid be laid on the Table of both Houses of Parliament within fourteen days of the resumption, if Parliament be sitting, or if Parliament be not sitting, within fourteen days of the opening of the next succeeding session of Parliament.”

Amendment of
section 27 of
principal Act.

3. Section twenty-seven of the principal Act is hereby amended by omitting the words "offered for sale" and inserting in place thereof "sold by auction or private contract," and by omitting the words "at public auction."

Amendment of
section 38.

4. Section thirty-eight of the Principal Act is amended by striking out the word "six" in line 2, and inserting "five" in lieu thereof, by striking out the words "Central Division" and the description of the boundaries immediately following, and by striking out the word "Central" in the description of boundaries of the Eastern Division.

Lessee of town or
suburban land may
acquire fee simple.

5. A section is inserted in Part IV. of the principal Act as follows:—

"52A. Any lessee of town or suburban land may, subject to the regulations, on payment of the price of the land to be fixed by the Minister, but not to exceed the capital value as determined at the commencement of the lease, and on performance of the prescribed improvement conditions, if any, surrender his lease and obtain in lieu thereof a grant in fee simple of his holding."

Amendment of
section 60.

6. Section sixty of the principal Act is hereby amended by omitting the words "one pound per acre" in paragraph (1), and inserting "ten shillings per acre" in place thereof.

Amendment of
section 64 of
principal Act.

7. Notwithstanding anything contained in section sixty-four of the principal Act to the contrary, any application thereunder may, in the case of a lease acquired on the recommendation of a Land Board, be granted or re used in the discretion of the Minister.

Amendment of
section 68.

8. Paragraph (2) of section sixty-eight of the principal Act is repealed, and a paragraph is inserted in place thereof as follows:—

"(2) The maximum area to be held by one person shall be five thousand acres, and the minimum area, except in special cases to be approved by the Minister, shall be one hundred acres."

Amendment of
section 75.

9. Section seventy-five of the principal Act is hereby amended by omitting the words "before the issue of the Crown Grant" and inserting in place thereof "during continuation of the occupation certificate."

Amendment of
section 81.

10. Section eighty-one of the principal Act is hereby amended by inserting, after the word "certificate" the words "or at any earlier time after the expiration of five years from such date."

- 11.** The proviso to section eighty-two of the principal Act is hereby repealed. Repeal of proviso to section 82.
- 12.** Section ninety-four of the principal Act is hereby repealed. Repeal of section 94.
- 13.** Section one hundred of the principal Act is hereby repealed. Repeal of section 100.
- 14.** Section one hundred and one of the principal Act, as amended by the Land Act Amendment Act, 1906, is hereby repealed, and a section is inserted in the principal Act in place thereof as follows:—
- 101.** Any pastoral lease, or group of adjoining pastoral leases owned and worked as one station, shall be liable to forfeiture if such lease, or group of leases, is not stocked and kept stocked as follows, namely:—
- Within two years from the commencement of the lease, at the rate of ten head of sheep or two head of large stock for each thousand acres of the area leased.
- Within five years from the commencement of the lease, and until the expiration of the first seven years of the term, at the rate of twenty head of sheep or four head of large stock for every thousand acres of the area leased.
- During the remainder of the term of the lease at the rate of thirty head of sheep or six head of large stock for each thousand acres of the area leased.
- 15.** Section one hundred and ten of the principal Act is hereby amended by inserting a sub-section to stand as 5a, as follows:— Amendment of section 110.
- (5A.) A grass tree license authorising the licensee to fell, cut, and remove any grass tree known as “Blackboy” or “Kingia Grass” growing upon any Crown land in the locality named in such license.
- 16.** Section one hundred and thirty-six of the principal Act is hereby amended, as follows:— Amendment of section 136 of principal Act.
- (a) After the words “All leases applied for during the year shall” the words “except in special cases approved by the Minister” are inserted.
- (b) After the words “first day of September in any year” the words “or if he fails to pay any premium, instalment of payment for improvements, survey fee or other money payable by him on the due day” are inserted.
- (c) The words “sixpence” and “one shilling” are omitted and “fourpence” and “sixpence” are inserted in place thereof respectively.

Amendment of section 161 of principal Act.

17. Paragraphs are inserted in section one hundred and sixty-one of the principal Act, as follows:—

(8A.) Regulating the procedure of District Land Boards and at other inquiries under this Act.

(11A.) Prescribing fees for registration of instruments, the amendment of instruments, the entry of transmissions, searches of the register, and other matters.

Amendment of 34th schedule.

18. The thirty-fourth schedule of the principal Act is amended by adding the following words:—

Fees for Timber Licenses—

Grass tree license, per month, per man 5s.

Amendment of section 72 of Land Act Amendment Act, 1906.

19. Section seventy-two of the Land Act Amendment Act, 1906, is hereby amended by inserting in place of the words and figures "Parts V and VIII" the words and figures "Parts V, VI, VIII, and IX."

Amendment of Section 73 of Land Act Amendment Act, 1906.

20. Section seventy-three of the Land Act Amendment Act, 1906, is hereby amended by inserting in place of the words and figures "Part V. or Part VIII." the words and figures "Parts V., VI., VIII., or IX."

Amendment of section 2 of Act No. 60 of 1915. Reduction of price of conditional purchase land.

21. Section two of the Land Act Amendment Act, 1915, is hereby repealed, and the following provisions shall have effect in lieu thereof:—

Notwithstanding anything contained in the principal Act to the contrary the following provisions shall apply:—

(1) In the case of land open for selection or held on conditional purchase lease under Parts V. or VI. of the principal Act—

(a) If it is proved to the satisfaction of the Governor that, having regard to the quality and productiveness of the land, its distance from a railway and market or port, or other circumstances, the price of such land as prescribed by or under the principal Act, or reserved by the conditional purchase lease, is excessive, the Governor may, in his discretion, reduce the price of such land to not less than three shillings and ninepence per acre, exclusive of the value of improvements (if any) and survey fees; and

(b) If it is proved to the satisfaction of the Governor that the land is infested with indigenous poison plants, or the harmful species of wodge as a dominant growth, the Governor may reduce the price of such land to not less than one shilling per acre, exclusive of the value of improvements (if any) and survey fees:

Provided that on any such reduction being made the lessee shall not receive a refund of rent already paid prior to the first day of January, one thousand nine hundred and sixteen, nor shall the liability of a lessee for payment to that date of the rent reserved by the lease be affected, but the excess shall be placed to the lessee's credit, without, however, affecting his liability to continue the payment of annual rent at the reduced rate per acre, until the purchase price, adjusted as aforesaid, and reduced by the amount so placed to his credit, is fully paid.

(2) The maximum price of ordinary conditional purchase land, exclusive of the value of improvements (if any) and survey fees, shall not, except in special cases approved by the Governor, exceed fifteen shillings per acre.

(3) The grant in fee simple of land leased at a reduced price on the ground of such land being infested with indigenous poison plants shall not be approved until such poison plants are eradicated to the satisfaction of the Minister.

22. The second proviso to section three of the Land Act Amendment Act, 1915, is hereby repealed.

Amendment of section 3 of Act No. 60 of 1915.

23. Section four of the Land Act Amendment Act, 1915, is hereby repealed, and a section is inserted in place thereof, as follows:—

Amendment of section 4 of Act No. 60 of 1915.

4. In respect of any land held under conditional purchase lease to which this Act applies, and situate more than twelve and a-half miles from a station or siding of a railway, the Minister may, in his discretion, defer the payment of rent for any period not exceeding five years, and may extend the term of the lease subject to the like provisions as are contained in the last preceding section.

Exemption from payment of rent.

In special cases to be approved by the Minister this section may be applied to land situated within twelve miles and a-half of a station or siding of a railway.

24. Section five of the Land Act Amendment Act, 1915, is hereby amended by adding a paragraph, as follows:—

Amendment of section 5 of Act No. 60 of 1915.

(7) A lease shall be deemed to have been lawfully surrendered and determined for the purpose of amalgamation under this section if the words "surrendered and new lease issued under section five of Land Act Amendment Act, 1915," with the date are endorsed on the lease or if the lease is registered under the Transfer of Land Act Amendment Act, 1909, as a Crown lease, on the lessee's duplicate thereof, and signed by the Minister for Lands or an officer of the Department of Lands and Surveys acting with the authority of the Minister.

Postponement of rent of C.P. Lease during first five years of term.

25. Every conditional purchase lease approved after the commencement of this Act shall be granted at an annual rent for the first five years of the term equal to interest at the prescribed rate per centum per annum on the cost of survey of the demised land and the value of the improvements, if any, thereon, and the term of the lease may be extended to not exceeding thirty years :

Provided that the minimum rent during the said five years shall be ten shillings per annum, and the annual rent for the remainder of the term shall be proportionately increased.

Provided also that nothing herein shall affect the operation of section eight of the Land Act Amendment Act, 1915.

Power to defer payment of rent of lessees on naval or military service.

26. The Minister may, in his discretion, defer the payment of rent of conditional purchase leases held by lessees on active service with His Majesty's naval or military forces for a period not exceeding five years under and subject to such conditions as may be prescribed, and the term of any such lease may be proportionately extended.

Minors may hold and deal with land.

See 1909 No. 54, s. 9.

27. Every person who for the time being is the holder of any conditional purchase lease or other holding or permit or license under the principal Act and its amendments shall for the purposes of transferring, subletting, mortgaging, or otherwise dealing with the land have the same capacity as if he were and shall be deemed to be of full age :

Provided that the terms and conditions of such transfer, sublease, mortgage, or other dealing may be reviewed and altered by a Judge of the Supreme Court on an application in Chambers.

Land for settlement by returned soldiers.

28. The Governor may declare any Crown land to be open to selection by persons who are or have been on active service with His Majesty's naval or military forces, or their dependants, and may, if he think fit, appoint a special Land Board to deal with applications for such land under and subject to the regulations.

Land set apart for the purposes of this section may be improved before selection and may be disposed of under and subject to the provisions of the principal Act and its amendments, with such modification thereof as the Governor may think fit to prescribe by regulations.

So far as such lands are improved, the value of the improvements, with interest at the prescribed rate, may be included in the price of the land, or the selector may, subject to the regulations, be required to charge his holding to the Agricultural Bank with the payment of the value of such improvements, with interest,

under a scheme for advances by the said Bank upon holdings under the provisions of this section.

Subject to the regulations the Minister may, in his discretion, accept a surrender of any conditional purchase lease granted before the commencement of this Act from any lessee who may have been on active service with His Majesty's naval or military forces, or in case of his death from his legal representative, and the land comprised in the lease may be regranted under the provisions of this section, and such adjustments may be made in respect of the purchase money paid under the surrendered lease and the improvements already made as the Minister may think fit.

All regulations under this section shall be published in the *Government Gazette*, and be laid before both Houses of Parliament within fourteen days after the publication thereof, if Parliament is then sitting, and, if not, within fourteen days after the next session of Parliament begins; and if either House of Parliament passes a resolution objecting thereto such regulations shall (so far as so objected to) thenceforth cease to have the force of law, subject to such and the like savings as apply in the case of the repeal of a statute; and notice of such resolution shall forthwith be published in the *Government Gazette*.

29. (1.) The provisions of sections ninety and one hundred and thirty-three of the Transfer of Land Act, 1893, relating to executions against land are incorporated with and shall apply to land held under the principal Act and its amendments, but the words "Under Secretary for Lands" shall be read in place of the word "Registrar" therein.

Application of certain provisions of Transfer of Land Act relating to executions.

(2) On any transfer pursuant to a sale under a writ of *feri facias* or warrant of execution, the conditional purchase lease or other instrument of title of the judgment debtor shall be called in by the Under Secretary for Lands; but, if not produced, its production may be dispensed with, and a duplicate thereof may be issued to the purchaser on payment of the prescribed fee.

30. (1) Notwithstanding anything contained in the principal Act to the contrary, Crown land open for selection for pastoral purposes may be leased under Part X. of the principal Act for a term expiring on the thirty-first day of December, one thousand nine hundred and forty-eight, at an annual rental to be determined by the Minister acting on the advice of a Board of Appraisers consisting of the Surveyor General, who shall be chairman, and not more than three other members, to be appointed by the Governor, based on the pastoral capabilities

Pastoral leases.

of the land, its distance from a port or railway, or other circumstances affecting its value for pastoral purposes :

Provided that such rent shall not be less than the rent prescribed by the principal Act for pastoral leases in the several Divisions of the State.

Provided also that such annual rent shall at the expiration of the first fifteen years of the term be subject to re-assessment for the residue of the term of the lease, and on such re-assessment, may be increased, but not by more than one-half of the amount of the annual rent reserved by the lease.

Provided also that the rental on land applied for after the passing of this Act, and before such land is appraised, shall be at the rate already provided in the several divisions of the State.

(2) The maximum area held by one person in the same Division shall be One million acres, but the Governor may, in specified districts or localities, fix the maximum area to be held as aforesaid at less than one million acres. The maximum area to be held in the same division by two or more persons jointly or by any association of persons incorporated or unincorporated, shall not exceed one million acres. If any leaseholder is beneficially interested in an area exceeding the prescribed maximum, or in several areas exceeding in the aggregate the prescribed maximum, or if his leasehold is worked in association with other holdings exceeding in the aggregate the maximum area that may be lawfully held as aforesaid, his lease or leases shall be liable to forfeiture, and the lease or leases in which he is interested shall be liable to forfeiture.

Any leaseholder may be required by the Minister at any time to make a declaration that he is not beneficially interested in an area exceeding the prescribed maximum, or that he is not beneficially interested in several areas exceeding in the aggregate the prescribed maximum, or that his leasehold is not worked in association with other holdings exceeding in the aggregate the maximum area that may be lawfully held under this Act, and if a leaseholder refuses to make such declaration, the lease or leases in which he is interested shall be liable to forfeiture. In the case of an incorporated company such declaration shall be made by the public officer of the company.

(3) Every such lease shall be granted on condition that improvements are effected by the lessee as follows:—

Within five years from the commencement of the lease to the value of Five pounds and within ten years from the commencement of the lease to the value of Ten pounds (inclusive of the value of improvements effected during the first five years of the term) for each thousand acres of the area leased; and such improvements shall be maintained in good repair, and so far as necessary renewed, during the term of the lease.

(4.) Any lessee holding a pastoral lease granted under the provisions of Part X. of the principal Act may, at any time within one year from the commencement of this Act, apply for leave to surrender such lease, and for a new lease under this section: Provided that if the lease is subject to any registered mortgage or encumbrance the consent of the mortgagee or encumbrancer shall be necessary.

If the application is approved, rent shall be payable by the lessee at the rate reserved by the original lease to the date of such approval, and after such approval until the acceptance or refusal of a new lease by the lessee, as hereinafter provided, double the rent so reserved shall be payable by the lessee.

The Minister shall serve notice in writing on the lessee of the amount of the annual rent to be reserved by the new lease, and the lessee shall, within six months after such service, by notice in writing to the Minister, declare his acceptance or refusal of such rent.

If the lessee declares his acceptance, a new lease shall be issued to him accordingly, and the original lease shall by force of this Act be surrendered, but any mortgage of or other encumbrance on the surrendered lease shall attach to the new lease and the approved application for such lease, and shall be endorsed on such lease accordingly, and any rent paid by him in excess of that reserved by the new lease shall be repaid to him on demand: Provided that to such extent as improvements were effected on the land prior to the surrender of the lease, the lessee shall be exempt from the provisions of subsection (3).

If the lessee declares his refusal he shall retain the original lease, and the application for a new lease shall be annulled, and any rent paid by him in excess of that reserved by such original lease shall be repaid to him on demand.

(5) In the application of this section to pastoral leases in the South-West Division of the State the provisions relating to rent and improvements shall not have effect.

31. On production to the Registrar of Titles of a transfer (endorsed with the approval of the Minister for Lands) by the lessee of his interest in any portion of the land comprised in a pastoral lease registered under the Transfer of Land Act, 1893, the Registrar shall register such transfer, and endorse on the original lease a memorandum cancelling the same so far as it affects the portion of land the subject of the transfer.

Transfer of portion
of Pastoral Lease.

The duplicate of the lease shall be delivered up by the transferor, and after being also endorsed as aforesaid shall be transmitted by the Registrar to the Minister for Lands, who, after adjusting the proportion of rent payable by the transferee and the original lessee, shall issue a new lease to the transferee of the land transferred to him and return the duplicate of the original lease to the transferor.