

Approved for Reprint 24th July, 1962.

WESTERN AUSTRALIA.

INDUSTRIAL DEVELOPMENT (RESUMPTION OF LAND).

9° and 10° Geo. VI., No. XLIX.

No. 49 of 1945.

[As amended by Acts:

No. 63 of 1953 assented to 9th January, 1954;

No. 67 of 1953 assented to 9th January, 1954;

No. 52 of 1958 assented to 23rd December, 1958;

No. 69 of 1960 assented to 2nd December, 1960,

and reprinted pursuant to the provisions of the Amendments Incorporation Act, 1959.]

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, 1945-1960*.

Short title.
Amended by
No. 69 of 1960.
s. 1.

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

This Act to
be read
subject to
Health Act,
1911-1960.

*Industrial Development (Resumption
of Land).*

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.

Interpreta-
tion.

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, 1933-1939.¹

“Public Works Act” means the Public Works Act, 1902-1933.²

“Town Planning Act” means the Town Planning and Development Act, 1929-1945.³

“Town Planning Scheme” means a town planning scheme approved and in force under the Town Planning Act.

¹ Now Land Act, 1933-1960.

² Now Public Works Act, 1902-1961.

³ Now Town Planning and Development Act, 1928-1961.

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

Establishment of Land Resumptions for Industries Committee.

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

Amended by No. 67 of 1953, s. 2.
No. 69 of 1960, s. 2.

- (a) Surveyor General;
- (b) [*Deleted by No. 69 of 1960, s. 2.*]
- (c) Chairman of the Town Planning Board as constituted under the Town Planning Act;
- (d) a representative of the Chamber of Manufacturers;
- (e) a representative of the Local Authorities;
- (f) a medical officer from the Public Health Department;

and the remaining member of the Committee shall be—

- (g) an officer of the Government Department known as the Department of Industrial Development nominated from time to time by the Minister for Industrial Development.

(3) The said six 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.

5. The functions of the Committee shall be—

- (a) to receive, examine, and consider applications made under this Act;

Functions of the Committee.

*Industrial Development (Resumption
of Land).*

- (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.

Applications by certain persons for acquisition of land for industrial purposes.
Amended by No. 63 of 1953, s. 2.

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

(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 interests of the industrial development of the State that he shall be enabled to establish or carry on his said business; and
- (b) that after he acquires the said land he will be able to establish or carry on the said business; and
- (c) the acquisition and use by him of such land is essential to the establishment or carrying on of his said business; and
- (d) the locality in which he proposes to establish or carry on his said business is, in relation to the industrial development of the State, the most suitable locality for the establishment or 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 or carrying on his said business is limited or prohibited 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.

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

Application
to be con-
sidered by
Committee.
Amended by
No. 67 of 1953,
s. 3.

(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.

*Industrial Development (Resumption
of Land).*

(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 but where the Local Authority objects to the application on the grounds that in its opinion the land is required for the establishment or carrying on of a trade, or business which is offensive or noxious the Committee shall reject the application and forthwith give

notice in writing of the rejection to the registered proprietor of the land mentioned in the application;

- (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;

*Industrial Development (Resumption
of Land).*

- (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.

*Industrial Development (Resumption
of Land).*

9

(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

*Industrial Development (Resumption
of Land).*

of that Act: and in such case the provisions of that Act shall apply and have effect in relation to such resumption accordingly.

Authority to
Governor to
dispose
of land
resumed.

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

11. (1) The Governor may from time to time by notice in the *Government Gazette*—

(a) dedicate any Crown land to the purposes of this Act; and

(b) cancel a dedication of Crown land made under the provisions of paragraph (a) of this subsection.

Authority to
Governor to
acquire and
dedicate
land to
industrial
purposes.
Amended by
No. 52 of
1958, s. 2.

(1a) Where pursuant to paragraph (b) of subsection (1) of this section the Governor cancels a dedication of Crown land, that land is deemed to be Crown land under and for the purposes of the Land Act, 1933.

(1b) Where in the opinion of the Governor it is desirable to do so in the interests of the present or future industrial development of the State, the Governor may from time to time purchase land for the purposes of this Act by agreement with the owner of the land and upon such terms, conditions, and price, as the Governor and the owner of the land agree.

(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 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.

*Industrial Development (Resumption
of Land).*

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 under subsection (1b) of this section 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.

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

Amended by No. 63 of 1953, s. 3.

No. 52 of 1958, s. 3.

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 or establishing his business in such industry.

Application.

(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.

(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 or 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, a suitable locality for the establishment or carrying on of his said business; and
- (c) [*Deleted by No. 63 of 1953, s. 3.*]

(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.

*Industrial Development (Resumption
of Land).*

- (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.

(7) (a) Where in exercise of the power conferred on him by subsection (1b) of section eleven of this Act the Governor purchases land for the purposes of this Act, the provisions of subsection (4) of this section do not apply to an application made pursuant to subsections (2) and (3) of this section.

(b) The Minister after receiving the application shall recommend to the Governor that the Governor approve or reject the application and the Governor may so approve or reject the application.

(c) (i) Where the Governor approves the application, the provisions of paragraph (b) of subsection (5), and of subsection (6), of this section apply to the land the subject of the application.

(ii) Where the Governor rejects the application, the Minister shall cause notice of the rejection to be given to the applicant.

(8) Where in exercise of the power conferred on him by subsection (1b) of section eleven of this Act the Governor purchases land for the purposes of this Act, or where the Governor transfers or grants a lease of land so purchased, the Minister shall, on or before the expiration of thirty days after the purchase, registration of the transfer, or execution of the lease, lay or cause to be laid on the table of each House of Parliament a report containing true particulars of the purchase, transfer, or lease of the land, including a description of the vendor, the land, the consideration, or the rent reserved, but if Parliament is in recess the Minister shall lay the report or cause it to be laid on the table of each House of Parliament within thirty days of the next sitting day of Parliament.

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 or 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. Amended by No. 63 of 1953, s. 4.

Restrictions
against
dealings in
land disposed
of under
this Act.
Amended by
No. 63 of 1953,
s. 5.

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.

(4) Where the Minister is of opinion that a person has to such a degree developed or used the land for the purpose for which it was obtained by him as

to warrant the person being exempt from the provisions of this section, he may by writing under his hand grant exemption to that person from those provisions and thereupon they cease to apply to the person and the land.

14A. Where under the provisions of section fourteen of this Act the Minister gives his consent to the mortgaging of land, if the mortgagee of the land so mortgaged completes the exercise of the power of sale or foreclosure pursuant to the mortgage, the land is by force of this enactment freed from any condition, limitation, or other restriction created or imposed by the provisions of this Act.

Section 14A
added by
No. 63 of 1953,
s. 6.

14B. The Minister may, on the recommendation of the Committee, set apart and use any land which has been reserved under section nine of this Act or dedicated under section eleven of this Act for the purpose of providing or causing to be provided roads or reserves.

Section 14B
added by
No. 63 of 1953,
s. 7.

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.

Appropriation.

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.

Regulations.