

LAND (No. 2).

No. 97 of 1980.

AN ACT to amend the Land Act 1933-1977.

[Assented to 9 December 1980.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Land Amendment Act (No. 2) 1980*.

Short title
and citation.

(2) In this Act the Land Act 1933-1977 is referred to as the principal Act.

Reprinted as
approved 17
May 1973
and
amended by
Act No. 73
of 1977.

(3) The principal Act as amended by this Act may be cited as the Land Act 1933-1980.

2. This Act shall come into operation on a day to be fixed by proclamation.

Commence-
ment.

Section 3
amended.

3. Section 3 of the principal Act is amended in subsection (1) by inserting after "Crown land" in the definition of "Pastoral Lease" the following—

“ granted under Part VI of this Act ”.

Section 89E
inserted.

4. After the heading to Part VI and immediately before section 90 of the principal Act the following section is inserted—

“89E. In this Part of this Act—

“the Board” means the Pastoral Board constituted under section ninety-eight of this Act. ”.

Interpreta-
tion.

Section 98
amended.

5. Section 98 of the principal Act is amended—

(a) in subsection (1), by deleting "Pastoral Appraisalment Board" and substituting the following—

“ Pastoral Board ”;

(b) by repealing subsection (2) and substituting the following subsections—

“ (2) On the coming into operation of the Land Amendment Act (No. 2) 1980 there shall be constituted a Board by the name of the Pastoral Board having the functions and powers prescribed and conferred by this Act and consisting of five members of whom—

(a) one shall be the person for the time being holding the office of Surveyor General under this Act, who shall be the Chairman of the Board;

(b) one shall be the person for the time being holding the office of Director of Agriculture in the Department of Agriculture in the State; and

(c) subject to the provisions of subsection (2a) of this section, three shall be persons appointed by the Governor of whom two shall either hold, or have held, an interest in a pastoral lease, or are, or have been, shareholders in an incorporated company holding, or beneficially interested in a pastoral lease.

(2a) A person appointed to be a member of the Board pursuant to paragraph (c) of subsection (2) of this section shall hold office for a period of three years on such terms and conditions as the Governor determines and shall be eligible for reappointment.

(2b) Upon the constitution of the Pastoral Board under this section, the Pastoral Appraisement Board constituted under the provisions of subsection (2) of this section as those provisions existed prior to the coming into operation of the Land Amendment Act (No. 2) 1980 is abolished, but a person appointed by the Governor to be a member of the Pastoral Appraisement Board and holding office immediately before its abolition shall be a member of the Pastoral Board as if he had been appointed such a member under paragraph (c) of subsection (2) of this section.

(2c) At a meeting of the Board three members constitute a quorum, and if the Chairman is absent, the members present shall appoint one of their number to preside at the meeting

(2d) Notwithstanding anything contained in this section, an appointed member of the Board may be removed from office at any time by the Governor;

and in the event of the death, resignation or removal from office of an appointed member the Governor may appoint a successor who shall hold office for the unexpired period of the term of office of that member. ”;

- (c) by repealing subsection (3) and substituting the following subsections—

“ (3) The advice tendered to the Minister by the Board, in accordance with subsection (1) of this section, shall be based on the pastoral capabilities of the land, its distance from a port or railway, or other circumstances affecting its value for pastoral purposes.

(3a) In respect of any pastoral lease granted in any Division, not being a lease that is due to expire on 31 December 1982, the rent payable shall on 1 July in the year 1984, and again on 1 July in each of the years 1991, 1998, 2005 and 2012, be subject to re-assessment as on and from each of those dates respectively by the Minister on the advice of the Board.

(3b) In respect of any pastoral lease granted in any Division, not being a lease that is due to expire on 31 December 1982, the lessee may, at any time not less than two years nor more than three years after the date on which a re-assessment of the rent in respect of that lease pursuant to subsection (3a) of this section became effective, apply to the Minister to have that rent reviewed by the Board, and thereupon the Minister shall direct the Board to hear the application.

(3c) The Board shall fix a time and place for the hearing of an application under subsection (3b) of this section and cause notice in writing thereof to be given

to the applicant lessee, and the Board may upon such hearing maintain or vary the assessment the subject of the review and fix the rent in respect of the lease accordingly, and thereupon shall cause written notice of its decision to be given to the applicant lessee. ”;

- (d) in subsection (6), by deleting “Land Act Amendment Act, 1950, shall be four dollars” and substituting the following—

“ Land Amendment Act (No. 2) 1980 shall be twenty dollars ”;

- (e) in subsection (8), by deleting “the Vermin Act, 1919,” and substituting the following—

“ the Agriculture and Related Resources Protection Act 1976 ”; and

- (f) by inserting after subsection (8) the following subsection—

“ (8a) Where, at the direction of the Minister under section one hundred and three of this Act, a lessee is required to reduce the number of stock depastured on the land comprised in a pastoral lease, the lessee shall be entitled to pay a reduced rent in accordance with the reduced number of stock proportionate to the carrying capacity of the land as assessed for rental purposes. ”.

6. Section 98A of the principal Act is amended in subsection (1) by deleting “The Pastoral Appraisal Board (hereafter in this section referred to as “the Board”) appointed under section ninety-eight of this Act” and substituting the following—

Section 98A
amended.

“ The Board ”.

7. Section 98B of the principal Act is repealed.

Section 98B
repealed.

Section 99
amended.

8. Section 99 of the principal Act is amended in subsection (1) by deleting "the Pastoral Appraisal Board (hereafter in this section referred to as "the Board")" and substituting the following—

" the Board ".

Section 100
amended.

9. Section 100 of the principal Act is amended in subsection (2) by deleting "the Pastoral Appraisal Board" and substituting the following—

" the Board ".

Section 101A
amended.

10. Section 101A of the principal Act is amended in subsection (1)—

(a) by inserting after "wool" in paragraph (c) the following—

" or beef "; and

(b) by deleting "the Pastoral Appraisal Board appointed under section ninety-eight of this Act" and substituting the following—

" the Board ".

Section 101B
amended.

11. Section 101B of the principal Act is amended—

(a) by deleting "the Pastoral Appraisal Board appointed under section ninety-eight of this Act" and substituting the following—

" the Board "; and

(b) by inserting after "drought," the following—

" cyclone, fire, or flood, ".

12. Section 102 of the principal Act is amended— Section 102 amended.

(a) in subsection (3)—

(i) by deleting “Every lessee” in paragraph (a) and substituting the following—

“ Subject to paragraph (aa) of this subsection, every lessee ”;

(ii) by deleting “the Under Secretary for Lands” in paragraph (a) and substituting the following—

“ the Board ”;

(iii) by deleting “the Pastoral Appraisal Board” in paragraph (a) and substituting the following—

“ the Board ”;

(iv) by inserting after paragraph (a) the following paragraph—

“ (aa) The Board may exempt the lessee from the furnishing of a plan under paragraph (a) of this subsection if the Board considers the land the subject of his lease is adequately developed. ”;

(v) by deleting, in paragraph (b), “Under Secretary for Lands shall submit it to the Pastoral Appraisal Board for consideration, and such”; and

(vi) by deleting “the Pastoral Appraisal Board” in paragraph (c) and substituting the following—

“ the Board ”;

and

(b) in subsection (4), by deleting “the Under Secretary for Lands” in paragraph (b) and substituting the following—

“ the Board ”.

Section 103
amended.

13. Section 103 of the principal Act is amended—

(a) in subsection (3)—

(i) by deleting “the Pastoral Appraisal Board” in paragraph (a) and substituting the following—

“ the Board ”; and

(ii) by deleting “the Pastoral Appraisal Board” wherever it occurs in paragraph (b) and substituting the following—

“ the Board ”;

and

(b) in subsection (4)—

(i) by deleting “the Under Secretary for Lands” in paragraph (a) and substituting the following—

“ the Board ”; and

(ii) by deleting “the Pastoral Appraisal Board” in paragraph (b) and substituting the following—

“ the Board ”.

Section 105
repealed and
substituted.

14. Section 105 of the principal Act is repealed and the following section is substituted—

Pastoral
lessees have
no right to
soil or
timber.

“ 105. (1) Subject to subsection (2) of this section, a pastoral lease shall give no right to the soil, or to the timber, except as may be required for domestic purposes, for the construction of airstrips, roads, buildings, fences, stockyards, or other improvements on the lands so occupied.

(2) The Minister may on the recommendation of the Board, and upon such terms and conditions as he considers appropriate, approve of the sowing and cultivation by a lessee of non-indigenous pasture species for the purpose

of enhancing the stock carrying capability of the lease or for such other purposes as are approved by the Minister.

(3) Any cultivation of non-indigenous pasture species carried out in accordance with subsection (2) of this section shall not be deemed to be an improvement in respect of which the lessee shall be entitled to compensation under the provisions of this Act. ”.

15. Section 107 of the principal Act is repealed and the following section is substituted—

Section 107
repealed and
substituted.

“ 107. (1) A pastoral lessee desiring to remove or destroy scrub or other vegetation on the land the subject of his lease for the purpose of promoting growth of indigenous pasture species or for otherwise improving or facilitating the working of his lease shall first obtain permission to do so from the Minister, and in his application shall describe the boundaries and area of the land upon which he proposes to remove or destroy scrub or other vegetation and the Minister may refuse or grant permission for the same on the recommendation of the Board or after such inquiry and upon such conditions as to him may seem necessary.

Permission
for clearing
and penalty
for un-
authorized
clearing.

(2) Any lessee who, without such permission, removes or destroys scrub or other vegetation on the land the subject of his lease, or causes or knowingly permits or suffers the same to be done, shall render his lease liable to forfeiture.

(3) Any removal or destruction of scrub or other vegetation done in accordance with the permission of the Minister shall not be deemed to be an improvement in respect of which the lessee shall be entitled to compensation under the provisions of this Act. ”.

Section 113
amended.

16. Section 113 of the principal Act is amended—

- (a) by deleting “one million acres” wherever it occurs and substituting the following—
“ five hundred thousand hectares ”;
- (b) in subsection (3)—
 - (i) by deleting “such million acres” and substituting the following—
“ such five hundred thousand hectares ”; and
 - (ii) by deleting “ten dollars” and substituting the following—
“ one hundred dollars ”;
- (c) in subsection (5), by deleting “ten dollars” and substituting the following—
“ one hundred dollars ”;
- (d) in subsection (6), by deleting “Two hundred dollars” and substituting the following—
“ One thousand dollars ”;
- (e) in subsection (8), by deleting “an acreage” wherever it occurs and substituting the following—
“ a number of hectares ”; and
- (f) in subsection (11), by deleting “ten dollars” in paragraph (b) and substituting the following—
“ one hundred dollars ”.

Section 114
amended.

17. Section 114 of the principal Act is amended in subsection (4), by deleting “the Pastoral Appraisal Board” and substituting the following—

“ the Board ”.