

ACTS AMENDMENT (RESERVES).

No. 77 of 1982.

**AN ACT to amend the Land Act 1933-1980 and the
Parks and Reserves Act 1895-1978.**

[Assented to 8 November 1982.]

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:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Acts Amendment (Reserves) Act 1982.* Short title.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on the day on which it is assented to by the Governor. Commence-
ment.

(2) Section 16 of this Act shall come into operation on the 28th day after the day on which it is assented to by the Governor.

PART II—LAND ACT 1933-1980.

Citation.
Reprinted as
approved
17 May 1973
and
amended by
Acts Nos. 73
of 1977,
107 of 1978
and 65
and 97 of
1980.

3. (1) In this Part the Land Act 1933-1980 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Land Act 1933-1982.

Section 3
amended.

4. Section 3 of the principal Act is amended in subsection (1) by deleting “, in addition to any purpose specified in this Act,” in the definition of “Public purpose”.

Section 11
amended.

5. Section 11 of the principal Act is amended by deleting “, for any of the purposes specified in section twenty-nine of this Act,”.

Section 29
amended.

6. Section 29 of the principal Act is amended—

(a) in subsection (1), by deleting “that may be required for the following objects and purposes:—” and paragraphs (a) to (q), inclusive, and substituting the following—

“ and the purpose for which any such lands are so reserved or disposed of shall be specified in the reservation or disposition. ” ;

(b) in subsection (2), by deleting “of the lands reserved under paragraph (b) of the last preceding subsection” and substituting—

“ lands reserved under subsection (1) of this section for the use and requirements of the Government or of any Crown instrumentality or of any municipality under the Local Government Act 1960, whether they were so

reserved before or after the coming into operation of Part II of the Acts Amendment (Reserves) Act 1982 ” ;

and

(c) by repealing subsection (3).

7. Section 31 of the principal Act is amended— Section 31
amended.

(a) in paragraph (a) of subsection (1), by deleting “the purpose of parks, squares, or otherwise for the embellishment of towns, or for the recreation or amusement of the inhabitants, or for cemeteries, or for any other” and substituting the following—

“ any ” ;

(b) in subsection (2)—

(i) by inserting after “the Governor may” the following—

“ , by proclamation ” ;

(ii) by deleting “on notice of such classification being published in the *Gazette*” and substituting the following—

“ if so classified ” ; and

(iii) by deleting “cancels such reservation by notice in the *Gazette*” and substituting the following—

“ , by proclamation, cancels such reservation ” ;

and

(c) by inserting after the proviso to subsection (2) the following subsection—

“ (2a) Where before the coming into operation of Part II of the Acts Amendment (Reserves) Act 1982 the Governor purported to classify as of Class B lands reserved to Her Majesty or cancel the reservation from alienation of any

lands so classified, such classification or cancellation shall not be questioned by reason only of the form of instrument used. ” .

Section 33
amended.

8. Section 33 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the definition of “person” in paragraph (a); and

(ii) by inserting in subparagraph (vi) of paragraph (b), after “directs the”, the following—

“ vesting of the land or the ” ;

and

(b) in subsection (2) by inserting after “person for the purpose”, the following—

“ subject to such conditions and limitations as the Governor shall deem necessary to ensure that the land is used for the purpose ” .

Section 34
substituted.

9. Section 34 of the principal Act is repealed and the following section is substituted—

By-laws.

“ 34. Where pursuant to an Order in Council made under section 34 of this Act as in force before the coming into operation of section 9 of the Acts Amendment (Reserves) Act 1982 (in this section referred to as “the repealing section”) a person has the control of a reserve as a board of management with power to make, repeal, or alter by-laws in relation to the reserve—

(a) any such by-laws then in force shall, subject to section 36 of the Interpretation Act 1918, continue in force until repealed under this section or until the control of the reserve is divested under section 34B of this Act, whichever first occurs; and

- (b) the person having the control of the reserve may make, repeal, or alter by-laws in relation to the reserve as if, and with effect as if, the repealing section had not been enacted. ” .

10. After section 34 of the principal Act the following sections are inserted—

Sections 34A
and 34B
inserted.

“ 34A. The Minister may require—

Management
plans.

- (a) any person in whom land has, whether before or after the coming into operation of Part II of the Acts Amendment (Reserves) Act 1982, been, is, or is proposed to be, vested under section 33 (2) of this Act; or
- (b) any person having the control of land pursuant to section 34 of this Act as in force before the coming into operation of Part II of the Acts Amendment (Reserves) Act 1982,

to submit a plan to the satisfaction of the Minister for the development, management and use of the land and, where the Minister approves any such plan and notifies the person in whom the land is for the time being vested or for the time being having control of the land, the land shall be developed, managed, and used in accordance with the plan or, where the Minister has approved a variation of the plan, in accordance with the plan as so varied.

34B. (1) The Governor may, by Order in Council published in the *Gazette*, revoke an Order in Council made under section 33 (2) of this Act, whether before or after the coming into operation of Part II of the Acts Amendment (Reserves) Act 1982, and upon such publication every person in whom land is vested pursuant to the Order in Council

Revocation
of certain
Orders.

revoked is thereby divested of the land and any lease lawfully granted over the whole or any part of the land shall continue subject to and in accordance with the terms of the lease as if Her Majesty were the lessor.

(2) The Governor may, by Order in Council published in the *Gazette*, revoke an Order in Council referred to in section 34 of this Act and upon such publication every person having the control of the reserve to which the Order in Council revoked relates is thereby divested of the control of the reserve and any right to the use of the reserve lawfully conferred by the person thereto having the control of the reserve on any other person shall, subject to its terms, be enforceable as if it had been conferred directly by Her Majesty. ” .

Section 35
repealed.

11. Section 35 of the principal Act is repealed.

Section 36
amended.

12. Section 36 of the principal Act is amended by deleting “of the purposes specified in section twenty-nine” and substituting the following—

“ purpose specified in the reservation ” .

Section 37A
amended.

13. Section 37A of the principal Act is amended in subsection (1) by deleting “Governor” and substituting the following—

“ Minister ” .

Validation.

14. Where, before the coming into operation of this section, the Governor has purported to amend the boundaries of any reserve classified as of Class A so as to include in the reserve any additional lands and notice of the purported amendment has been published in the *Gazette*, the purported amendment is hereby validated and declared to have been lawful and effective.

PART III—PARKS AND RESERVES ACT 1895-1978.

15. (1) In this Part the Parks and Reserves Act 1895-1978 is referred to as the principal Act.

Citation.
Reprinted as
approved 31
January 1979.

(2) The principal Act as amended by this Act may be cited as the Parks and Reserves Act 1895-1982.

16. Section 5 of the principal Act is amended by inserting after subsection (1) the following subsection—

Section 5
amended.

“ (1a) A Board shall not grant a licence under subsection (1) (e) or (f) of this section unless—

(a) the approval of the Minister has been first obtained; or

(b) the purpose for which the land the subject of the proposed licence is committed to the Board is specifically that for which the licence is proposed to be granted. ” .

17. Section 9 of the principal Act is amended by inserting after “; and” the following—

Section 9
amended.

“ , in respect of the parks and reserves for the time being committed to the Board that made the by-laws, ” .
