

LAND (No. 3).

No. 94 of 1982.

AN ACT to amend the Land Act 1933-1980.

[Assented to 1 December 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:—

1. (1) This Act may be cited as the *Land Amendment Act (No. 3) 1982*.

Short title
and citation.

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

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

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

Commence-
ment.

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

(2) Sections 5 and 7 of this Act shall come into operation on 1 January 1983.

Section 11
substituted.

3. Section 11 of the principal Act is repealed and the following section is substituted—

Resump-
tions.

“ 11. (1) The Governor may resume any portion of land held as a homestead farm, or timber lease or special lease, or leased by the Crown with a right to purchase, if in the public interest he shall deem it necessary.

(2) Where land is to be resumed pursuant to subsection (1) of this section or section 109 of this Act the resumption shall be effected under and subject to the Public Works Act 1902 as if the land were required for a public work but sections 29 to 33B, inclusive, of that Act shall not apply in relation to such resumption.

(3) Where land is resumed pursuant to section 109 of this Act, every dwelling house on the land resumed shall, notwithstanding section 140 of this Act, be included as a lawful improvement.

(4) Where any portion of land held as a pastoral lease is resumed pursuant to section 109 of this Act for any public road, compensation equal to the fair value of all lawful improvements on the land resumed, or which being outside the land resumed and comprised in the pastoral lease have become lessened in value by reason of the resumption, shall be payable to the lessee but no other compensation shall be payable by reason of the resumption.

(5) Nothing in this section affects a right reserved by the Governor to resume land under the terms and conditions of the grant or other instrument that disposed of the land or confers on any person a right to compensation in respect of any resumption under a right so reserved, but this subsection does not exclude a right of any person to compensation that would be payable under those terms and conditions or under section 140 or 141 of this Act. ” .

4. Section 98 of the principal Act is amended— Section 98
amended.

(a) by inserting after subsection (2b) the following subsections—

“ (2ba) The Governor may appoint as deputy for—

(a) the member of the Board referred to in subsection (2) (b) of this section, a person nominated by that member to be so appointed; and

(b) each of the 2 persons appointed under subsection (2) (c) of this section who at the time of their appointment were required by that provision to either hold, or have held, an interest in a pastoral lease, or be, or have been, shareholders in an incorporated company holding, or beneficially interested in a pastoral lease, a person who fulfils the like requirements.

(2bb) Subject to subsection (2bd) of this section, a person appointed under subsection (2ba) of this section as the deputy for a member may, during the term of office of the member

for whom he is appointed as deputy, take the place of that member at any meeting of the Board at which that member is not present, and in that event has the powers and entitlements of the member whose place he takes.

(2bc) A reference in subsection (2c) of this section to a member includes a reference to a deputy taking the place of that member under subsection (2bb) of this section.

(2bd) The Governor may terminate the appointment of a person appointed under subsection (2ba) of this section and, in the event of the death or resignation of a person so appointed, or the termination by the Governor of the appointment of a person so appointed, the Governor may, under that subsection, appoint another person in his place. ” ; and

(b) by repealing subsection (7).

Section 98
further
amended.

5. Section 98 of the principal Act is amended in subsection (9) by deleting “not less than six thousand sheep or not less than one thousand two hundred cattle, or such other respective numbers of sheep or cattle as are at the time application is made for the lease, prescribed by the regulations for the purposes of this subsection” in paragraph (a) and substituting the following—

“ such number of sheep or cattle as to enable it to be worked as an economically viable pastoral unit ” .

Section 102
amended.

6. Section 102 of the principal Act is amended—

(a) in subsection (1), by deleting “; and such improvements shall be maintained in good repair, and so far as necessary renewed, during the term of the lease”;

(b) in subsection (4)—

(i) by deleting paragraph (a) and substituting the following paragraph—

“ (a) Every lessee of land in respect of which a plan of proposed improvements has been approved by the Minister pursuant to subsection (3) of this section shall effect those improvements during the 5 year period to which the plan relates. ” ;
and

(ii) by inserting after “those improvements” in paragraph (b) the following—

“ or stating that no improvements were effected on that land during that year ” ; and

(c) by inserting after subsection (4) the following subsection—

“ (5) It is a condition of every pastoral lease that all improvements effected by the lessee pursuant to this section shall be maintained in good repair, to the satisfaction of the Board, and so far as necessary renewed, during the term of the lease. ” .

7. Section 103 of the principal Act is amended— Section 103 amended.

(a) by repealing subsections (1) and (2);

(b) in subsection (3)—

(i) by deleting “, other than a pastoral lease to which subsection (1) of this section applies,” in paragraph (a);

(ii) by deleting “such” before “pastoral” in paragraph (a); and

(iii) by deleting “to which paragraph (a) of this subsection applies,” in paragraph (b); and

(c) in subsections (4) and (5) by deleting in each case “to which subsection (3) of this section applies”.

Sections 105
and 107
amended.

8. Sections 105 and 107 of the principal Act are amended in subsection (3) of each of those sections by deleting “deemed to be an improvement in respect of which the lessee shall be entitled to compensation under the provisions of this Act” and substituting in each case the following—

“ taken into account in determining whether or not compensation is payable, or the amount of compensation payable, upon any resumption or pursuant to section 110 of this Act ” .

Section 106
amended.

9. Section 106 of the principal Act is amended in subsection (1) by deleting paragraph (e).

Section 109A
repealed.

10. Section 109A of the principal Act is repealed.

Section 109B
repealed.

11. Section 109B of the principal Act is repealed.

Section 110
amended.

12. Section 110 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “, or upon any pastoral lessee being deprived of the use of any land held under a pastoral lease by resumption”; and

(ii) by deleting “, or which being outside such land and comprised in such pastoral lease have become lessened in value by reason of such deprivation”; and

- (b) by repealing subsections (2) and (3) and substituting the following subsections—

“ (2) If a pastoral lease be renewed to a succeeding lessee, the Minister shall be entitled to receive from the succeeding lessee the amount paid under subsection (1) of this section as if the payment to the Minister of that amount were a condition of the lease.

(3) The amount to be paid by the Minister under subsection (1) of this section shall be determined in the manner provided by the Public Works Act 1902 for the determination of an amount of compensation payable under that Act by reason of a resumption and for that purpose the provisions of that Act shall apply as if the day on which the lease expired were the day on which the notice taking the land had been published, and with such other modifications as are necessary, but the matters to which regard shall be had in determining the amount shall be derived from subsection (1) of this section. ” .

13. Section 111 of the principal Act is repealed. Section 111 repealed.
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