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THE LAND ACT, 1898.

Department of Lands and Surveys,

Perth, 29th April, 1903.

HIS Excellency the Governor in Executive Council has been pleased to approve of the following Regulations relating to Residential Leases of lands now open for selection, or which may hereafter be declared open for selection, as Residential Lots.

HERBT. FARMER,

Acting Under Secretary for Lands.

REGULATIONS FOR RESIDENTIAL LEASES.

Repeal.

1. The Regulations of the 17th day of July, 1901, and all other regulations heretofore made relating to Residential Leases, are hereby repealed.

These Regulations, made this 29th day of April, 1903, shall come into force forthwith.

Applications.

2. Any person above the age of eighteen years, resident in Western Australia, and intending to actually reside on the lot applied for, may be an applicant for land set apart for Residential Leases.

But no lease of any lot shall be applied for, granted to, or held by any Asiatic or African alien, or any person having any interest in any other Residential Lot within two miles of the Lot applied for.

3. Every application—

- (1.) Shall be in the form of Schedule A, with the declaration therein contained; and
- (2.) Shall be lodged with the Land Agent for the District; or, in case there is no Land Agent for the District, with the Warden or Resident Magistrate.

4. With every application the applicant shall pay a fee of Ten shillings, and the amount of rent payable in advance, in accordance with the provisions of "The Land Act, 1898," or any amendment thereof, and of the Regulations thereunder.

5. All applications shall be subject to the approval of the Minister, or an officer authorised in that behalf by the Minister. In cases where no person has been so authorised the Land Agent, Warden, or Resident Magistrate shall forthwith forward the application, with his recommendation

thereon, and the fee and rent, to the Minister. The applicant may be granted by the Land Agent, Warden, or Resident Magistrate, respectively, permission to occupy the land applied for temporarily, in the form of Schedule B.

6. The granting or refusal of the application shall be in the discretion of the Minister, or the officer authorised in that behalf by the Minister; but priority will, where practicable, be given to married applicants where husband and wife intend to reside on the area applied for.

7. If an application is refused, the rent paid with the application shall be returned to the applicant.

8. (1.) If an application is approved, a lease shall be granted to the applicant in the form or to the effect of Schedule C, as from the first day of the quarter next preceding the date of approval of the application, upon payment by the applicant of a fee of Ten shillings for the cost of the lease.

(2.) On approval of an application, notice shall be given to the applicant by letter sent by post to his address.

(3.) If the fee of Ten shillings is not paid within thirty days after the posting to the applicant of notice of approval, such approval shall be void and the application shall be deemed to have been refused.

9. The granting of any lease shall not be a waiver of the restrictions mentioned in Regulation 2.

Conditions of Lease.

10. No lease or interest in a lease shall be held by any Asiatic or African alien, nor by any person under the age of eighteen years, nor by any person who is interested in any other Residential Lease within a distance of two miles.

11. Every lease shall be granted and held subject to the provisions of "The Land Act, 1898," and any amendment thereof (hereinafter referred to as the Act), and the Regulations thereunder in force for the time being relating to Residential Leases (hereinafter referred to as the Regulations).

12. Every lease shall be limited to the natural surface of the land demised, and the land below the natural surface to a depth not exceeding 40 feet if situated within a gold-field or mineral district, and if not so situated, not exceeding 200 feet.

13. The term granted by any lease shall not exceed twenty-one years from the first day of January preceding the date of the application.

14. (1.) The yearly rent for the first eleven years shall be as fixed by the Minister at the date of approval of the application for the lots generally in the Residential Area within which the lot applied for is situated or for the particular lot applied for.

(2.) Until otherwise fixed by the Minister, the yearly rent for the first eleven years shall be Ten shillings.

(3.) The yearly rent for the subsequent period of ten years shall be fixed by the Minister twelve calendar months at least before the expiration of the preceding eleven years.

(4.) The rent shall be payable half-yearly in advance, in accordance with the provisions of the Act.

(5.) The yearly rent payable under any lease granted prior to these Regulations shall be Ten shillings as heretofore, and such rent shall continue payable until the termination of such lease.

15. (1.) Possession of the Residential Lot shall be taken by the applicant within two calendar months of the approval of the application, and thenceforth it shall be used as the habitual abode of the lessee, or some member of his family, for nine months at least in every year, except as provided in paragraph (2) of this Regulation.

(2.) In case of sickness or special necessity, the Minister or an officer authorised by the Minister in that behalf may, on application in the form of Schedule D, and on payment of a fee of Five shillings, grant the lessee authority in writing to absent himself for any period of such nine months.

16. The lessee shall, subject only to Regulation 15, continue in actual and personal occupation of the land, and, except as hereinafter provided, shall not use the land or permit it to be used for any business, trade, or occupation, or for any purpose whatever other than the *bonâ fide* residence of the lessee.

17. If a lessee, or the husband or wife of a lessee, has or acquires any interest in any other Residential Lot within two miles of the lot, the lease may be forfeited.

But this Regulation shall not apply where the husband or wife of a lessee is permanently living separate and apart from the lessee.

Transfers.

18. (1.) No transfer or under-lease shall be allowed without the consent in writing of the Minister, or an officer authorised by the Minister in that behalf, first obtained, on application in the form of Schedule E. No such consent shall be given within six months of the granting of the lease, except in very special cases.

(2.) On every such application the lease shall be produced, with a statutory declaration by the intended transferee or sub-lessee in the form of Schedule F, and the fee of Twenty shillings shall be paid.

(3.) No transfer or under-lease shall be allowed to any person not entitled to be an applicant for or to hold the lease, and the allowance of any such transfer or under-lease shall not avoid a forfeiture of the lease.

19. No portion of any Residential Lot shall be transferred or sub-let under any circumstances whatever.

Forfeiture.

20. (1.) A lease may be forfeited by the Minister—

(a.) If the rent is not fully paid at the times and in manner provided by the Act.

(b.) In case of breach, non-performance, or non-observance of any of the conditions thereof or of the provisions of the Act or Regulations.

(2.) No acceptance of rent, or other act subsequent to any breach, non-performance, or non-observance as aforesaid shall be deemed to be, or operate, or be pleaded as a waiver of the forfeiture, and no forfeiture shall be waived otherwise than by an express waiver under the hand of the Minister.

21. A lease may be determined at the option of the lessee, at the expiration of any year of the tenancy, by notice in writing, given by the lessee to the Minister three months before the expiration of such year.

22. Within one month of the expiration, or sooner determination of any lease, the lessee may remove any buildings or fixtures on the lot.

23. If, in the opinion of the Minister, a lease has been or has become liable to be forfeited, he shall give notice thereof to the lessee by letter sent by post addressed to the lot in question or by notice in the *Government Gazette*; and

unless, within the time limited by such notice, the Minister is satisfied to the contrary, the lease may, by notice in the *Government Gazette*, be absolutely forfeited.

Mortgages.

24. A lessee may not mortgage his lease without the consent of the Minister or an officer authorised in that behalf by the Minister. On such consent being given, a lease may be mortgaged in accordance with the provisions of "The Land Act, 1898," or any amendment thereof, and of the Regulations thereunder, but such mortgage shall only be effected for the purpose of *bonâ fide* improving the lot. This Regulation shall not apply to mortgages effected prior to the coming into force of these Regulations.

Business Permits.

25. (1.) If, in the opinion of the Minister, it is desirable so to do, he may, in his discretion, grant to any lessee permission to carry on, upon his residential lot, any specified business or businesses.

(2.) Such permission shall be granted at such additional annual rent as the Minister may in each case determine, payable half-yearly in advance, as from the next preceding quarter day.

(3.) Such permission shall not be granted in respect of any Residential Lease granted before the publication of these Regulations, but such lease may be cancelled, and a new lease granted in lieu thereof, subject to these Regulations.

26. Application for a business permit shall be made in the form of Schedule G, and a deposit of £5 shall be paid with every application.

27. The application shall be lodged and dealt with as hereinbefore provided in the case of an application for a lease.

28. Before granting permission, the Minister shall satisfy himself, by any such personal or other inquiry as he may deem fit, of the *bonâ fides* of the application, and that the permission applied for is necessary in the general interest of the neighbourhood.

29. If the Minister refuses to grant the permission applied for, the deposit, after deducting the expenses of the inquiry (if any), to be fixed by the Minister, shall be returned to the applicant.

30. If the Minister is prepared to approve of the grant of a permit, he shall give notice, by letter sent by post to the applicant, of the amount of additional rent fixed; and the applicant shall, within twenty-eight days after the posting of such letter, forward to the Minister the additional rent for the current half-year. If such rent is not received by the Minister within such time, the application shall be forthwith cancelled and the deposit forfeited. If such rent is so received the application shall be deemed granted, and the expense of any inquiry shall be deducted from the deposit, and the balance credited to the lessee on account of future rent.

31. No permission shall be granted for a longer term than five years, or extending beyond the seventh or fourteenth year of the term of the lease, but such permission may be renewed on such terms as the Minister may think fit.

32. Such permission may be granted in the form of Schedule H.

33. The additional rent shall be payable half-yearly in advance, at the times and in manner prescribed for payment of the rent reserved by the lease, and, in case of default in payment in accordance therewith, the permission may be cancelled by order of the Minister.

34. The permission may be cancelled by order of the Minister in his absolute discretion at any time if, in the opinion of the Minister, any business other than the business expressly authorised is carried on upon the residential lot.

35. The permission shall follow every approved transfer or sub-lease of the residential lot.

36. (1.) No lessee shall sell or allow or permit the sale of any liquor on his residential lot by virtue of any license under "The Wines, Beer, and Spirit Sale Act, 1880," or any amendment thereof, for consumption either on or off the premises, without the special permission, in writing, of the Governor.

(2.) No such permission shall be granted for a longer period than one year without the special consent of the Governor, but every such permission may be renewed, and shall be revocable at any time at the discretion of the Minister.

Resumption.

37. The whole or any part of a residential lot leased, or agreed to be leased, under these Regulations, may be resumed by the Governor for mining purposes, or for any public purpose whatever, at three months' notice to the lessee, published in the Government Gazette; and immediately after the expiration of such three months, all the estate and interest of the lessee therein shall cease and determine as if the lease had never been granted. But on any such resumption, the lessee shall be entitled to receive from the Minister the fair value of any improvements existing on the land resumed, to be ascertained, in the absence of agreement, by one competent person to be appointed by the lessee and one by the Minister, and any difference of opinion between the said valuers shall be determined by the Resident Magistrate of the District or Warden of the Goldfield within which the land is situate acting as umpire.

Transmission.

38. On the death or bankruptcy of a lessee his legal personal representative or the Official Receiver or trustee of his estate may be registered as the lessee, but a transfer to a person entitled to be an applicant for and to hold a lease shall be made by such representative, Official Receiver, or trustee, and be registered within three calendar months, otherwise the lease shall be forfeited.

Interpretation.

39. In these Regulations the term "lessee" includes any authorised transferee or sub-lessee.

SCHEDULE A.

Correspondence No.....

THE LAND ACT, 1898.

Application for a Residential Lease.

Appln. No. { — Division.
Plan.....
Town or Suburban }
Area }
Lot No..... Acreage.....
Place and date of }
application }

I*, of, hereby apply for a lease of the surface of the land described above under the provisions of the Regulations made the 29th day of April, 1903, and published in the Government Gazette, and I do solemnly and sincerely declare that

- 1. That I am above the age of eighteen years;
2. That I intend to actually reside on the lot applied for;
3. That I have no interest in any other Residential Lot within two miles of the lot applied for.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Ordinance made and passed in the 18th year of the reign of Her late Majesty, Queen Victoria, No. 12, intituled "An Ordinance for the abolition of unnecessary Oaths and to substitute Declarations in lieu thereof."

Declared at this day of 190 before me, Signature of Applicant.

Justice of the Peace (or) Agent for Minister.

* Full names, address, and calling to be inserted.

Received this Application at o'clock on the day of 190, with fee of 10s., also the rent of for the year ending 31st December, 190. Collector of Land Revenue. Application approved, as shown above, to a depth of feet below the natural surface, this day of 190. Term of lease to extend from to By order of the Minister for Lands, Lease signed, Date Lease issued to Date, 190.

Office References. Applicants are requested not to write in this space.

SCHEDULE B.

THE LAND ACT, 1898.

Permit to occupy Residential Lot.

Appln. No. { — Division.
Plan: Town or Suburban }
Area }
Lot No..... Acreage.....
Place and date of }
application }

This is to certify that, of applicant for the above-mentioned Residential Lot, is entitled to occupy the same under the Regulations made the 29th day of April, 1903, and published in the Government Gazette, pending the granting or refusal of a lease thereof.

Dated the day of 190

Land Agent [or Warden or Resident Magistrate].

SCHEDULE C.

THE LAND ACT, 1898.

Lease of Town or Suburban Land as a Residential Lease.

WESTERN AUSTRALIA.

No. District or Goldfield.

EDWARD VII., by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, etc., etc., etc. To all to whom these presents shall come, Greeting. KNOW YE that, whereas by "The Land Act, 1898," power is given to the Governor in Council to grant leases of any Town or Suburban Lands on such terms as he may think fit; AND WHEREAS on the day of 190, the Governor duly made Regulations for the granting of Leases of Town and Suburban Lands for residential purposes.

AND WHEREAS of in the State has made application for a lease of the land hereinafter described pursuant to the said Regulations; AND WHEREAS the Governor in Council has approved the granting of the said lease.

NOW, THEREFORE, We of our special Grace, and in consideration of the rent hereinafter reserved, and on the part of the said his executors, administrators, and assigns (hereinafter called the Lessee) to be paid, and in exercise of the powers in that behalf to Us given by the said Act, Do by these presents demise to the Lessee the natural surface, and so much of the land as is below the natural surface to a depth of feet, of ALL THAT piece or parcel of land described in the Schedule hereto, with the appurtenances, to hold the same, subject to the provisions of the said Act or any amendment thereof, and the Regulations thereunder for Residential Leases now in force or at any time during continuance of this lease to be in force for the time being, unto the Lessee, for the term of years, to be computed from the day of; YIELDING AND PAYING for the same, half-yearly in advance, on the first day of March and the first day of September, during the first eleven years of the said term, the yearly rent of unto Us, our Heirs and Successors, without deduction, the first of such payments having been made with the application for this lease; and during the subsequent period of ten years such yearly rent as shall be fixed by our Minister for Lands twelve calendar months at least before the expiration of the preceding eleven years, payable half-yearly as aforesaid: PROVIDED, NEVERTHELESS, that it shall at all times be lawful for Us, our Heirs and Successors, or for any person or persons acting in that behalf by our or their authority, on three months' notice to the Lessee, published in the Government Gazette, to resume and enter upon possession of the whole or any part of the demised premises which it may at any time by Us, our Heirs and Successors, be deemed necessary or desirable to resume for mining purposes or for any public purpose; and immediately after the expiration of such three months all the estate and interest of the Lessee in the land demised, or in the portion thereof resumed (as the case may be), shall cease and determine as if this lease had never been granted: PROVIDED also that on any such resumption, the Lessee shall be entitled to receive from our Minister for Lands the fair value of any improvements existing on the said land, to be ascertained by one competent person to be appointed by the Lessee and one by the Minister for Lands, any difference of opinion between such valuers to be determined by the Resident

