

**LAND.**

10° and 11° GEO. VI., No. XXXV.

No. 35 of 1946.

**AN ACT to amend the Land Act, 1933-1945.**

[Assented to 24th January, 1947.]

**B**E 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 *Land Act Amendment Act, 1946*, and shall be read as one with the Land Act, 1933-1945 (No. 37 of 1933 as amended by Acts No. 47 of 1934, No. 4 of 1936, No. 39 of 1937, No. 20 of 1938, No. 36 of 1939 and No. 45 of 1945), hereinafter referred to as the principal Act. Short title.

2. A new section is added after section five of the principal Act as follows:—

5A. There shall be, in addition to the officers mentioned in section five subsection (2) of this Act, The Director of Land Settlement who shall be deemed to have been appointed under this Act. New section.

New section.

3. A new section is added after section forty-five of the principal Act as follows:—

45A. (1) Notwithstanding anything contained in the preceding sections of this Part (Part IV.) of this Act, the Governor may dispense with the requirements thereof as to sale of town and suburban lands by public auction and may approve of any lot being town or suburban lands being offered for sale in fee simple or for leasing for a term not exceeding ninety-nine years upon such conditions, including conditions in regard to the effecting of improvements, at such prices in the case of sale, and at such rentals in the case of leasing (including provision for re-assessment of rental at intervals of not less than ten years) as the Governor may direct or as may be prescribed.

(2) Upon the Governor signifying approval pursuant to subsection (1) of this section, in respect of any such land the same may subject to this section be offered for sale or leasing as the case may be and the provisions of section one hundred and thirty-five of this Act shall apply: Provided that the notification in the *Gazette* therein referred to shall include particulars of the conditions and price or rental as the case may be referred to in subsection (1) of this section.

(3) The provisions of section forty-four of this Act shall not apply in respect of any land leased under the provisions of this section but upon the expiration of the term of the lease thereof the application of the lessee shall be entitled to preference in priority to that of any other applicant in the event of such land being offered for leasing in pursuance of this section.

New section.  
Governor may  
set apart  
Farm Re-con-  
struction  
Areas.

4. A new section is added after section eighty-nine of the principal Act as follows:—

89A. (1) The Governor may, by notice in the *Gazette*, define and set apart any Crown lands as Farm Reconstruction Areas.

(2) Such lands so defined and set apart may but without being declared open, be disposed of under

such of the provisions of Divisions (1) and (2) of this Part (Part V.) of this Act as shall be applicable to applicants approved by the Minister and who—

- (a) already hold adjacent land which is deemed by the Minister to be insufficient in area or quality to provide a reasonable living, or
- (b) already hold or have held land in some other locality which has been found difficult or uneconomic to work whether through its situation, area, quality, rainfall, or otherwise and who are desirous of acquiring land in a Farm Reconstruction Area, and who in the opinion of the Minister should accordingly be granted land in such an area.

5. A new section is added after section ninety-eight of the principal Act as follows:—

98A. (1) The Board of Appraisers appointed under section ninety-eight of this Act may in manner prescribed call and examine witnesses on oath, and such oath may be administered by any member of the Board.

New section.  
Board of Appraisers may call and examine witnesses on oath.

(2) The Board may, for the purpose of considering any application by a lessee for a review of the determination or reassessment of the rental determined or reassessed for any pastoral lease, or, for the purpose of considering any application by a lessee for relief from payment of rent on any pastoral lease—

- (a) require the lessee, or his agent, to submit such evidence as the Board deems necessary and including information contained in the audited or otherwise duly authenticated books of account and any other records of the operations and transactions relevant to all or any of the lessee's leases;
- (b) require the lessee, or his agent, to verify such evidence by statutory declaration;

- (c) require the lessee, or his agent, to attend at a meeting or meetings of the Board to be examined on oath and, if further required, produce for inspection by the Board such said books of account and records.

New section.  
Minister may  
extend relief  
from payment  
of rent in cer-  
tain cases.

6. A new section is added after section one hundred and one A of the principal Act as follows:—

101B. The Minister may, on the recommendation of the Board of Appraisers appointed under section ninety-eight of this Act, grant to any lessee relief from payment of rent in addition to such relief as may have been granted under the provisions of section one hundred and one A of this Act, for a further period not exceeding two years after the end of a drought notwithstanding that in such period no loss of stock may have been suffered by the lessee or that the rainfall may have been above the average for the district in which the lease is situated.

Amendment  
of s. 122.

7. Section one hundred and twenty-two, subsection (2) of the principal Act is amended as follows:—

(a) By inserting after the word “shall” in line two thereof the words “satisfy itself as to the matters mentioned in subsection (1) of this section and.”

(b) by inserting after the word “examine” in line two thereof the words “or cause to be examined to the satisfaction of the Board.”

Amendment  
of s. 129.

8. Section one hundred and twenty-nine of the principal Act is amended by inserting therein after the figures “1918” in line three thereof the following words: “or a discharged member of the forces as hereinafter defined in section one hundred and thirty-nine B of this Act.”

New section.  
Minister may  
defer rent  
payable by  
lessee who  
has served  
with H.M.  
Forces.

9. New sections are added after section one hundred and thirty-nine of the principal Act as follows:—

139A. The Minister may, in his discretion, and subject to such conditions as may be prescribed, defer the payment of rent of any conditional purchase lease, and any lease granted under Part VIII.

of this Act or any Act repealed thereby, held by any lessee who has served in any of the naval, military or air forces of His Majesty the King since the third day of September one thousand nine hundred and thirty-nine; such deferment of rent being limited to the period commencing from the first day of the half-year in which the lessee joined such forces and ending on the last day of the half-year in which such lessee was discharged from such forces, and the term of any such lease may be proportionately extended notwithstanding that such term may have already expired. The Minister shall notify the Registrar of Titles of any such extension of term granted in respect of any Crown lease registered under the Transfer of Land Act, 1893-1944, and the Registrar shall thereupon endorse such Crown lease accordingly.

139B. (1) For the purposes of this section a "Discharged Member of the Forces" shall mean a person who was a resident of the Commonwealth for the period of not less than twelve months immediately prior to the third day of September one thousand nine hundred and thirty-nine, and who became a member of any of the naval, military or air forces of His Majesty the King, at any time subsequent to that date during the war in which His Majesty was engaged and which commenced on the third day of September one thousand nine hundred and thirty nine, and who has been honourably discharged after not less than six months' full time service in any of such forces, or, having in the opinion of the Minister been materially prejudiced by reason of service in any such force, has been honourably discharged after less than six months' full time service therein.

Definition of  
"Discharged  
Member of  
the Forces."

(2) The provisions of this section shall not be construed to apply to leases granted under and subject to Part VIII. of this Act or any Act repealed thereby.

Part VIII  
excluded.

(3) In respect of any conditional purchase lease of Crown land of which a discharged member of the forces is already the lessee or shall hereafter become the lessee, whether by selection from the Crown or

Rebate.

by acquisition otherwise, there may, subject as hereafter provided and to the approval of the Minister, upon application by the lessee, be deducted from the amount of the half-yearly rental otherwise required to be paid, a rebate equivalent to half of that portion of the rental as would be required to pay the price of the land exclusive of cost of improvements and survey fee.

Time from which rebate operative.

(4) Where at the time he became a member of the forces such discharged member was the lessee of a conditional purchase lease, and the Minister's approval is given to such rebate, then such rebate shall be granted as from the first day of the half-year of the term of such lease in which the lessee joined the forces, but otherwise the rebate shall be granted as from the first half-yearly rent day nearest to the date of registration of the transfer or other dealing by which the lease is acquired by a discharged member of the forces.

Suspension of rent and interest for five years.

(5) A lessee who is a discharged member of the forces shall not, in any case, be required to pay any rent or any interest on the cost of survey or interest on the value of improvements on any conditional purchase lease during the first five years of the term thereof.

Concessions to cease on disposal of interest in lease in certain circumstances.

(6) If a discharged member of the forces to whom a concession has been granted under this section in respect of any conditional purchase lease sells or assigns or otherwise disposes of, or agrees to sell, assign or otherwise dispose of any such conditional purchase lease otherwise than to another discharged member of the forces, or in the case of a deceased member of the forces, if a sale, assignment or disposal otherwise, or agreement for sale, assignment or disposal otherwise be made other than to the next-of-kin or the beneficiary under the will being the widow, child or parent of the deceased, then in such case such concession shall terminate as from the first day of the half-year of the term of such lease in which the sale or agreement for sale, assignment or disposal otherwise of the lease was made.

Notice of disposal.

(7) Any lessee who disposes of or agrees to dispose of his conditional purchase lease by any means whatsoever shall, if any concession has been granted

in respect of such lease under this section, notify the Minister within thirty days of such disposition or agreement therefor, and failure to give such notification shall render the lease liable to forfeiture forthwith.

(8) If the lessee of any conditional purchase lease granted under this Act or any Act thereby repealed, and to which lease concessions have been applied under the provisions of section eleven of the Discharged Soldiers' Settlement Act, 1918, transfers or otherwise disposes of his interest in such lease, with the Minister's consent, to any discharged member of the forces, then and in such case such concessions as have already been applied shall continue in all respects instead of the grant of any rebate of rent as otherwise mentioned in this section but the lease shall thereupon become subject to the provisions of subsections (6) and (7) of this section.

Effect of concessions under Discharged Soldiers' Settlement Act, 1918 (No. 9 of 1919).

(9) No discharged member of the forces shall be granted or receive concessions under this section in respect of any area or areas of land exceeding in the aggregate five thousand acres of grazing land or the equivalent, as prescribed by section forty-seven of this Act, of cultivable land.

Concessions affected by area.

(10) The Minister may, in his discretion, approve of the granting of a rebate of rent under the provisions of this section to the widow, child or parent of a deceased discharged member of the forces in respect of any conditional purchase lease which may have devolved to such widow, child or parent from such deceased discharged member of the forces before the commencement of this Act, and, in like manner, may approve of such a rebate in respect of any conditional purchase lease which may have devolved to the widow, child or parent of any lessee who at the time of his death was a member of any of the naval, military or air forces of His Majesty the King. In any such case the rebate shall be granted from the first day of the half-year of the term of such lease in which such deceased discharged member of the forces or such deceased lessee joined the forces.

Concessions to certain next-of-kin.

10. The principal Act as amended by this Act may be cited as the Land Act, 1933-1946.

Citation of principal Act as amended.