

ALBANY RESERVE ALLOTMENTS.

6° GEO. VI., No. VIII.

No. 8 of 1942.**AN ACT relating to Reserve 2676 (Albany).***[Assented to 31st October, 1942.]***Preamble.**

WHEREAS in the year one thousand nine hundred and nineteen reserve 2676 (Albany) was under the provisions of the Land Act, 1898, vested in the Municipality of Albany in trust for recreation and camping, with power to the said municipality to lease the whole or any portion of the said reserve for any term not exceeding twenty-one years from the date of the lease, and the said municipality, in exercise of the said power, has from time to time since the said year leased to various persons portions of the said reserve for the purpose of enabling such persons to erect and use dwelling houses thereon and many of such leases are still subsisting: And whereas the lessees have at their own expense erected permanent homes upon the portions of the reserve leased to them as aforesaid and now desire to acquire an estate in fee simple therein: And whereas it is deemed desirable and expedient that the land now comprised in the said reserve shall be made available for sale as freehold land to the said lessees and other persons: BE it therefore 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 at the *Albany Reserve Allotments Act, 1942.* Short title.

2. This Act shall apply to the land comprised in reserve 2676 (Albany) and shall have effect notwithstanding anything to the contrary contained in the Land Act, 1933-1939. Application and operation.

3. In this Act, unless the context otherwise requires— Interpretation.
 - “Lease or tenancy” means a lease or tenancy of a portion of reserve 2676 (Albany) granted by the Municipality of Albany prior to and subsisting at the date of the commencement of this Act.
 - “Lessee or tenant” includes an assignee and the personal representative of a lessee or tenant.
 - “Minister” means the Minister for Lands.

4. All that reserve 2676 (Albany), as heretofore created, under the provisions of the Land Act, 1898, is hereby cancelled and the land comprised therein heretofore vested in the Municipality of Albany under the provisions of the said Act is hereby divested from the said municipality without any right to compensation in consequence of such divestment, and, subject to the provisions of this Act, is hereby revested in His Majesty the King as of his former estate. Cancellation of reserve and revestment of land.

5. In so far as any portions of the land hereby revested in His Majesty the King (hereinafter referred to as “the revested land”) are occupied or held by lessees or tenants under leases or tenancies at the date of the commencement of this Act, nothing in this Act shall affect or interfere with the due continuance of the lease or tenancy in accordance with the terms and conditions contained in the instrument of such lease or tenancy, save and except that as from the date of the commencement of this Act, the Minister shall be the lessor instead of the Municipality of Albany. Saving of interests of lessees or tenants.

6. (1) Every lessee or tenant who holds any portion of the revested land under a lease or tenancy may, sub- Lessees may acquire fee simple of revested land held under lease.

ject to the provisions mentioned in subsection (2) of this section, acquire by purchase an estate in fee simple of that portion of the re-vested land held by him under such lease or tenancy.

(2) For the purposes of subsection (1) of this section the following provisions shall apply—

- (a) The lessee or tenant shall, before the expiration of six months next following the date of the commencement of this Act or before the expiration of his lease or tenancy, whichever is the shorter period, notify the Minister in writing, signed by him, of his desire to purchase the fee simple estate of that portion of the re-vested land held by him under his lease or tenancy, and shall produce to the Minister his said lease or tenancy, together with evidence in writing from the Municipality of Albany that such lease or tenancy is still subsisting.
- (b) The amount of the purchase price to be paid by the lessee or tenant shall be fixed by the Governor, on the recommendation of the Minister, on the basis of the unimproved value of the land; and the amount of the purchase price so fixed shall be communicated by the Minister to the lessee or tenant.
- (c) If the lessee or tenant is willing to pay the purchase price fixed as aforesaid, he shall within one month from the date when the Minister communicates to him the amount of such purchase price, notify the Minister in writing, signed by him, of his intention to purchase the fee simple estate of the land at such purchase price.
- (d) The purchase price may be paid either in one lump sum or by instalments, at the option of the lessee or tenant.
- (e) Where the lessee or tenant elects to pay the purchase price in one lump sum, the full amount thereof shall accompany his notice sent to the Minister in accordance with paragraph (c) hereof.

- (f) Where the lessee or tenant elects to pay the purchase price by instalments, he shall in his notice sent to the Minister in accordance with paragraph (c) hereof give notice of such election, and with such notice shall pay to the Minister by way of deposit on account a sum equal to ten pounds per centum of the amount of the purchase price.
- (g) Where the lessee or tenant elects to pay the purchase price by instalments, the balance of such purchase price remaining unpaid after payment of the deposit provided for in paragraph (f) hereof shall be paid by the lessee or tenant to the Minister by eight equal quarterly instalments, and the first of such quarterly instalments shall be payable not later than three months from the date upon which the deposit paid in accordance with paragraph (f) hereof is received by the Minister.
- (h) Upon the Minister receiving payment of the purchase price in full, and subject to any survey of the land which may be necessary, the lessee or tenant shall be entitled to receive from the Governor a grant of the fee simple of the portion of the revested land purchased by him under this Act.
- (i) Every grant issued to a lessee or tenant under the authority of this section shall be issued under and subject to the provisions of the Land Act, 1933-1939, relating to the issue of Crown Grants of town or suburban lots upon payment of the fees prescribed and payable on the issue of such Crown Grants under that Act.
- (j) Where any lessee or tenant fails to give to the Minister any notice provided for in this subsection within the time prescribed in this subsection for the giving of such notice, or where any lessee or tenant having given the notice aforesaid fails to make any payment of the purchase price in one lump sum or to pay a deposit on account (as the case may be) within the time prescribed for the making of such payment, such lessee or tenant shall in either event aforesaid cease to have the right

under this section to purchase the fee simple estate of that portion of the revested land held by him under his lease or tenancy.

- (k) Where any lessee or tenant has elected to pay the purchase price by instalments, and fails to pay any instalment, on or before the date upon which such instalment is due and payable, the Minister may, without making any prior demand for payment, by notice in writing to the lessee or tenant cancel the sale of the land, and upon service of such notice upon the lessee or tenant the sale of the land to the lessee or tenant shall be cancelled, and the lessee or tenant shall forfeit to the Minister any payments on account of purchase money previously made by him.

Revested land
may be dealt
with as un-
alienated
Crown land.

7. (1) Subject to sections five and six of this Act, the revested land shall be deemed to be Crown land within the meaning of the Land Act, 1933-1939; and, subject as hereinafter provided, the Governor may deal with and dispose of the same as unalienated Crown land under the provisions of the said Act: provided that no portion of the revested land shall be disposed of by the Governor as aforesaid to any person (except to the lessee or tenant thereof, under the authority of section six of this Act) whilst it continues to be held by a lessee or tenant under a subsisting lease or tenancy.

Regulations.

8. The Governor may make regulations for fully and effectually carrying out and giving effect to this Act.