

# LAND ACT AMENDMENT.

11° GEO. V., No. XLIX.

No. 49 of 1920.

AN ACT to further amend the Land Act, 1898.

[Assented to 31st December, 1920.]

**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, 1920*, and shall be read as one with the Land Act, 1898, hereinafter referred to as the principal Act, and the Acts amending the same. Short title,

2. Section fifty-two (a) of the principal Act (inserted by section five of the Land Act Amendment Act, 1917) is hereby amended by omitting the words "to be fixed by the Minister, but not to exceed the capital value as determined at the commencement of the lease," and inserting in place thereof "as fixed for the time being by the Minister." Amendment of Act No. 19 of 1917, s. 5.

3. Section nine of the principal Act is hereby amended by adding thereto a proviso as follows:— Amending Section 9 of principal Act.

Provided also that when any land is resumed under this section from a conditional purchase lease or a homestead farm for the purpose of such land being disposed of as town or suburban allotments, compensation shall be payable for the land resumed as well as for the improvements (if any) thereon; and the amount of such compensation, if not agreed upon, shall be assessed under and subject to the provisions of the Public Works Act, 1902, but such provisions shall be construed as if the Minister therein referred to were the Minister for Lands.

Improvements  
on resumed  
land under  
reservation in  
lease or grant.

4. Where land held under conditional purchase lease or Crown grant issued before or after the commencement of this Act is resumed under the reservation in the lease or grant of the right to resume a one-twentieth portion thereof for any work of purpose of public use, utility, or convenience, or for the purpose of exercising the power to search for minerals reserved to the Crown, compensation shall be payable to the lessee or grantee for the value of the improvements (if any) as defined by section one hundred and forty-five of the principal Act, and the provisions of that section shall apply.

Pastoral land.

5. (1.) In this section "pastoral land" means land leased under Part X. of the principal Act, and the word "person" is used in the singular number, but includes a body corporate.

(2.) After the commencement of this Act—

(a) no person shall acquire more than 1,000,000 acres of pastoral land within the State;

(b) no person shall be registered in the Office of Titles or the Department of Lands and Surveys as transferee or sublessee of any pastoral land granted before or after the commencement of this Act if the total area of pastoral land held by such person would thereby exceed 1,000,000 acres; and

(c) it shall not be lawful for any person to become beneficially interested in pastoral land to an extent whereby the aggregate area of pastoral land in which such person is beneficially interested would exceed 1,000,000 acres.

(3.) If, after the commencement of this Act, any person acquires or becomes beneficially interested in pastoral land whereby the aggregate area in which such person is beneficially interested, whether acquired before or after the commencement of this Act, exceeds 1,000,000 acres, and such person continues to hold such interest, such person shall forfeit and pay to the Crown a sum of five pounds for every day during which such interest continues.

(4.) If any pastoral land acquired by any person after the commencement of this Act is worked in association with other pastoral land in all respects as a separate and distinct station, and the aggregate area of the holdings so worked in association exceeds 1,000,000 acres, every person having

any beneficial interest in such holdings shall forfeit and pay to the Crown a sum of five pounds for every day during which such working continues.

(5.) Any person being the owner of or having any share or interest in pastoral land may be required by the Minister at any time to make a statutory declaration that his beneficial interest in pastoral land does not exceed the maximum area that he may lawfully hold or acquire.

In the case of an incorporated company, such declaration may be made by any director or the secretary or attorney of such company.

If any person refuses or, after the expiration of one month from being so required, neglects to make such declaration, such person shall be guilty of an offence.

Penalty: One hundred pounds.

(6.) This section—

(a) shall not apply to an executor, administrator, or trustee in respect of any pastoral land held in that capacity, except to such extent (if any) as such executor, administrator, or trustee is beneficially interested; and

(b) shall not have effect in respect of any pastoral land acquired by a person as next-of-kin or legatee of a deceased person, or by right of survivorship, until the expiration of one year from the date of such acquisition, or such further time as the Minister may deem necessary to enable such person to dispose of his pastoral land in excess of the area that may be lawfully acquired.

(7.) For the purpose of calculating the area of pastoral land that a person may acquire or in which a person may become beneficially interested after the commencement of this Act—

(a) where several persons hold pastoral land, jointly or in common, each person shall be deemed to hold an acreage equal to his undivided share; and

(b) a shareholder in an incorporated company holding or beneficially interested in pastoral land shall be deemed to be beneficially interested in such land, but to the extent only of an acreage proportionate to his interest in the paid-up share capital of the company:

Provided that this paragraph shall not apply to pastoral land held by any incorporated bank or other company as mortgagee or after foreclosure unless the sole or principal object of the company, under its memorandum of association, is to carry on the business of a pastoralist.

(8.) A mortgagee shall not be deemed to be beneficially interested in the mortgaged land unless—

- (a) the mortgagee is in possession and has been in possession for upwards of two years; or
- (b) the mortgage is foreclosed:

Provided that a mortgagee, with the consent in writing of the Minister, may continue in possession or may hold the mortgaged land after foreclosure, for such period and subject to such conditions as the Minister may think fit, and during such period shall not be deemed to be beneficially interested in the land for the purpose and within the meaning of this section.

(9.) Nothing in this section shall affect the liability to forfeiture of any pastoral lease held or acquired, or in which any person is beneficially interested, contrary to the provisions of section thirty of the Land Act Amendment Act, 1917.

Re-appraisal of pastoral leases under Section 30 of Act No. 19 of 1917, on transfer, etc., of portion.

6. When under the provisions of section thirty of the Land Act Amendment Act, 1917, rent has been fixed on an appraisement of a group of pastoral leases as one holding, on a transfer, surrender, or forfeiture of any lease or portion of a lease comprised within the group, the rent of any lease or portion of a lease transferred, and of the leases retained by the lessee shall be subject to re-appraisal:

Provided that the annual rents to be reserved and paid in respect of the excised land and the land retained by the lessee on any such re-appraisal, shall be so fixed and apportioned as to produce in the aggregate an annual rent not exceeding the rent previously payable under the appraisement of the group of pastoral leases as one holding.

Amendment of Section 19 of No. 29 of 1906.

7. Section nineteen of the Land Act Amendment Act, 1906, is hereby amended by adding to subsection (i) thereof the following words:—“and notwithstanding that the Crown grant may, after the decease of the selector, have been issued and registered in the name of the deceased.”

8. Subsection (1) of section thirty of the Land Act Amendment Act, 1917, is hereby amended by adding to the first proviso the following words:—"and during the first five years of the term shall not exceed ten shillings per thousand acres, unless the Minister, on the advice of the Board of Appraisers, shall otherwise direct."

Amendment of  
Section 30 of  
No. 19 of 1917

9. (1.) Any lessee, within three months after notice has been given to him of an assessment under subsection (4) of section thirty of the Land Act Amendment Act, 1917, of the rent to be payable under a pastoral lease, or of the re-assessment under that section, of the rent payable under any pastoral lease, may, by himself or his agent, apply in writing to the Minister for a review of the assessment by the Board of Appraisers.

Review of  
assessment of  
rent on  
pastoral leases

(2.) The Minister shall thereupon direct the Board to hear such application, and notice of the time and place of hearing shall be given to the applicant, and the Board may examine the applicant and other persons on oath (which any member of the Board may administer) and call for books and papers, and may vary or maintain its assessment.

(3.) If an assessment is reviewed by the Board under the provisions of this section, the prescribed period of six months for the declaration by the lessee of the acceptance or refusal of a new lease shall be extended until one month after the applicant has received notice of the re-appraisalment.

(4.) If a lease is refused after an assessment has been reviewed as aforesaid, the costs incurred by the Department of Lands and Surveys on such application, to be fixed by the Board, shall be payable by the applicant to the Minister.

(5.) In all cases where the Board of Appraisers make a re-assessment of any pastoral lease, a report thereof shall be laid before both Houses of Parliament, together with the reasons therefor, and the evidence upon which the reasons are based.