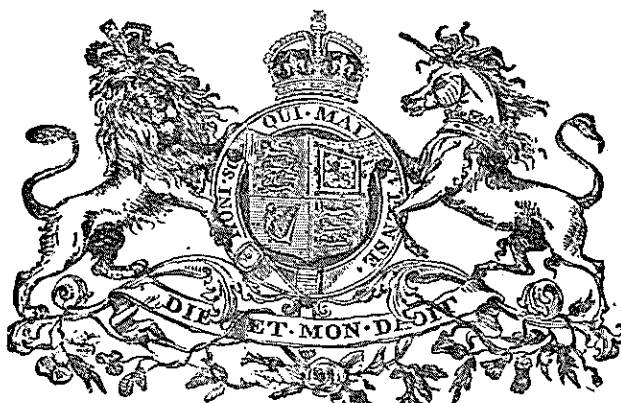


# WESTERN AUSTRALIA.



ANNO SEXTO

EDWARDI SEPTIMI REGIS,

XXIX.

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**No. 29 of 1906.**

AN ACT to further amend the Land Act, 1898.

[Assented to 14th December, 1906.]

BE 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*, 1906, and shall be read as one with the Land Act, 1898, hereinafter referred to as the principal Act, but nothing herein contained shall affect any right, interest, or liability already created, existing, or incurred, or anything lawfully done or suffered under any enactment, land regulation, or other regulation hereby repealed.

Short title.

(2.) This Act shall come into operation on a day to be fixed by proclamation by the Governor published in the *Government Gazette*.

2. Section three of the principal Act is amended—

Amendment of 62  
Vict., No. 37, s. 3.

(a.) by inserting before the definition of "Agricultural Area"—

Interpretation.

"'Adjoining,' when used with respect to holdings under this Act, extends to holdings which are only separated by a road or roads, or by a railway, or

by a watercourse or other natural feature of such a character as to be insufficient to prevent the passage of stock," and

(b.) by striking out the definition of "Fence," and inserting in place thereof—

"Fence" means any substantial fence, not being a brush fence, proved to the satisfaction of the Minister to be sufficient to resist the trespass of—

(a.) great stock, or,

(b.) great and small stock, including sheep, but not including pigs or goats,

as the Minister may determine.

Repeal of sec. 5.

**3.** Section five of the principal Act is repealed, and the following is inserted in place thereof:—

Governor may acquire land, etc., by purchase or exchange.

5. (1.) The Governor may, in the name of His Majesty, acquire from any person, with his consent, any land, or any interest therein, which he may deem it advisable to acquire for any purpose.

(2.) Such land, or interest therein, may be acquired either by purchase or by the exchange of any Crown land or interest therein of equal value.

(3.) Any lands so acquired shall become Crown lands within the meaning of this Act.

(4.) In the case of a purchase, the value of the property to be acquired shall be determined by the Land Purchase Board; and in the case of an exchange, the Board shall determine the value of the property to be acquired in exchange, and shall advise whether the Crown land proposed to be granted in exchange is of equal value thereto:

Provided that where the estimated value of the land purchased or exchanged does not exceed one hundred pounds it shall not be necessary to refer the matter to the Board.

Power to resume land from pastoral leases for agricultural settlement.

**4.** The Governor may, from time to time, resume, enter upon, and dispose of the whole or any part of the land comprised in any pastoral lease, for agricultural or horticultural settlement, or for mining or any other purpose as in the public interest he may think fit:

But the provisions of sections one hundred and nine and one hundred and forty-six of the principal Act shall apply, so far as the same are applicable, to resumptions under this section.

5. Section thirteen of the principal Act is repealed, and the following is inserted in place thereof:—

Repeal of sec. 13.

13. All leases, licenses, transfers, and instruments, except Crown grants, disposing of Crown Lands shall be signed, or signed and sealed, as the case may require, by the Minister, or by an officer authorised in that behalf by the Governor:

Signature of other instruments.

Provided that every application, permit to occupy, lease, license, transfer, or other instrument heretofore made or executed, or which shall hereafter be made or executed, and signed, or signed and sealed, as the case may require, by any officer authorised in that behalf by the Governor, shall be deemed to have been duly made and executed.

6. Sections seventeen and eighteen of the principal Act are repealed, and the following inserted in lieu thereof:—

Repeal of secs. 17 and 18.

17. All applications for land under this Act shall be made in the prescribed forms, and shall take priority according to the order of their being lodged or received through the post with the prescribed deposit, at the Lands and Surveys Office, Perth, or at such other places and offices as the Governor shall notify in the *Government Gazette*:

Priority of applications.

Provided that if two or more applications for the same land are lodged or received through the post as aforesaid, on the same day, such applications shall be deemed to be lodged or received at the same time.

7. The Governor may from time to time establish and define, alter, re-constitute, or abolish local Land Districts for the sale, letting, and disposal of Crown lands.

Power to establish local Land Districts.

8. (1.) The Governor may from time to time appoint a District Land Board for any Land District.

District Land Board.

(2.) Every such Board shall consist of not less than three nor more than five persons.

(3.) One at least of the members of the Board shall be an officer of the Department of Lands and Surveys.

(4.) The same persons may be appointed members of two or more Boards.

(5.) The Governor may at any time remove any member of a District Land Board, and in such case, or on the death or resignation of a member, appoint a new member in his place.

(6.) Subject thereto, every member shall continue in office for three years from the date of his appointment, and shall be eligible for re-appointment.

9. Out of moneys appropriated for the purpose by Parliament, there may be paid to any member of a District Land Board, who is not an officer employed in the Public Service, the sum of one guinea for each attendance at a meeting of the Board.

Remuneration of Board.

Conduct of the  
business of the  
Board.

**10.** In the conduct of the business of each District Land Board the following provisions shall apply:—

- (1.) The Board shall sit at such place and at such times as the Minister shall determine, and may adjourn from time to time.
- (2.) Three members of the Board shall form a quorum.
- (3.) The member being an officer of the Department of Lands and Surveys, or the senior officer, if more than one, shall preside; but if no member of the Board being an officer of the Department is present, a member selected by those present shall preside.
- (4.) All questions coming before the Board shall be decided by a majority of the votes of the members present, but the presiding member shall have an original as well as a casting vote.
- (5.) The Board shall keep a record of its proceedings, in which shall be entered a full and complete account of all business transacted.

Procedure.

**11.** Every District Land Board may regulate its own procedure and may take evidence on oath, and any member may administer an oath to any person examined before the Board.

Members of Board  
not to be personally  
liable.

**12.** No member of a District Land Board shall be personally liable in any action or other proceeding for anything done by him in the execution of his office, except where he is guilty of wilful neglect or default.

Powers of Board.

**13.** The District Land Board shall, if required so to do by the Minister, decide as to whether the conditions under which any land in the district is held have been complied with, and shall forthwith report the same to the Minister.

Method of selection  
in case of applica-  
tions lodged at the  
same time.

**14.** When two or more applications in respect of the same land are lodged or received on the same day, the application to be granted shall be determined in the following manner:—

- (1.) If the application is in respect of land under Part XI. of the principal Act, by the Inspector General of Forests and his Advisory Board.
- (2.) If the application is in respect of land within a land district established under section seven, by the District Land Board.
- (3.) In all other cases, by three persons appointed by the Minister for the purpose.

Any person or Board authorised by this section to decide upon the person whose application shall be granted may require the personal attendance of and, when deemed necessary, examine on oath all applicants, objectors, and other witnesses.

15. Section twenty-one of the principal Act is amended by adding a subsection as follows:—

Amendment of sec. 21.

- (2.) The Minister shall, at all times, have power in the public interest, and in his discretion, subject only to an appeal to the Governor under section thirty-seven, to refuse any application whatsoever made under any Part of this Act.

Discretion to refuse applications.

16. Section twenty-three of the principal Act is amended by adding after the word "duplicate" the words "or office copy" and by striking out the words "five shillings." and inserting "the prescribed fee" in place thereof.

Amendment of sec. 23.

17. Section twenty-eight of the principal Act is amended by striking out the words "or license," and inserting in place thereof "license or occupation certificate," and by adding at the end thereof the words "license or occupation certificate."

Amendment of sec. 28.

18. Section thirty-one of the principal Act is amended by adding a proviso, as follows:—

Amendment of sec. 31.

Provided that such representative, or the person having charge of his estate, or their assigns, shall make written application to the Minister for authority to enter into occupation of the land, within twelve months from the date of the holder's death, or from the date of his becoming a lunatic, failing which the land shall be forfeited, and may be thrown open for re-selection.

19. (1.) The Minister, if satisfied—

- (a.) that a will has been left by any deceased person being the selector of a Conditional Purchase, Free Homestead Farm, Working-men's Block, or Residential Lease, and that no probate of such will and no letters of administration with the will annexed of the estate of such person has or have been taken out within six months after the death of such person; or
- (b.) that no will has been left by such deceased person, and that no letters of administration of the estate of such deceased person have been taken out within such time as aforesaid; and
- (c.) that the value of the estate of such person does not exceed one hundred pounds; and
- (d.) that the holding has not become liable to forfeiture.

Power to Minister to transfer holdings of a deceased person where no administration.

may cause transmission of such selection to be entered up in the records of the Department of Lands and Surveys in favour of the person or persons who would have been entitled, upon the grant of such

probate or letters of administration with the will annexed, or such letters of administration, as the case may be, to be entered up as the selector of such Conditional Purchase, Free Homestead Farm, Working-men's Block, or Residential Lease.

(2.) Thereupon the person in whose favour such transmissions shall be entered up shall have all rights, powers, and liabilities in respect of such selection as he would have had if probate of the will or letters of administration with the will annexed or letters of administration of the estate of such deceased person had been granted to him.

Amendment of  
sec. 32.

**20.** Section thirty-two of the principal Act is amended by adding a subsection, as follows:—

Power to waive  
forfeitures.

(2.) The Governor may, for any cause he may deem sufficient,—

(a.) waive any forfeiture and re-instate any lessee or licensee as of his former estate, and on any terms and conditions as he may think fit; or

(b.) direct the amount received by the Crown from an incoming lessee or licensee for improvements on the forfeited holding to be paid to the former lessee or licensee, after deducting any rent or other moneys due from him to the Crown; or

(c.) remit any fines incurred by a lessee or licensee for non-payment of rent or breach or non-observance or non-performance of any covenant or condition.

Amendment of  
sec. 33.

**21.** Section thirty-three of the principal Act is amended by striking out the words “except for free homestead farms and.”

Amendment of  
sec. 35.

**22.** Section thirty-five of the principal Act is amended by striking out the word “eighteen” and inserting “sixteen” in place thereof, and the corresponding amendment is made in sections seventy-four and eighty-eight.

Restriction as to  
area.

**23.** (1.) Except as provided by section sixty-two of the principal Act, no person shall be competent to acquire under Part V., VI., VII., or VIII. of the principal Act, or any two or more of such Parts, either as lessee or transferee, an area of land, in one or more parcels, exceeding two thousand acres, of cultivable land, or the equivalent area of grazing land or cultivable and grazing land mixed.

(2.) Except as aforesaid no person who is the wife or husband of a person disqualified under the preceding subsection shall be competent to acquire under Part V., VI., VII., or VIII. of the

principal Act, or any two or more of such Parts, either as lessee or transferee, an area of land, in one or more parcels, exceeding one thousand acres of cultivable land or the equivalent area of grazing land or cultivable and grazing land mixed.

(3.) The Governor may reduce the maximum area prescribed in subsections one and two of this section in prescribed land districts or localities.

(4.) For the purposes of this section, five acres of grazing land shall be deemed to be the equivalent of two acres of cultivable land, and all unclassified land disposed of prior to the commencement of this Act shall be deemed to be cultivable land until otherwise classified by the Minister after inspection and report by an officer of the Department; and if the classification is required by the holder, he shall pay the prescribed fee.

**24.** In cases where land is granted in the joint names of two persons, each person shall, for the purposes of the last preceding section, be deemed to be the holder of an area equal to half the area of the holding; where three persons hold in their joint names, each shall be deemed to be the holder of one-third of the area, and so on with any larger number; and where land so held is subject to the condition of residence, the Minister may determine that the residence condition shall be deemed to be complied with by the residence of any one or more of the such holders. Joint holdings.

**25.** Whenever any person acquires any interest in land held under Part V., VI., VII., or VIII. of the principal Act, or any two or more of such parts, as the devisee or next-of-kin of a deceased proprietor, it shall not be obligatory upon such person, during the two years next following the death of the deceased proprietor, to comply with the residential conditions to which such land may be subject, and such land so acquired may be held by the devisee or next-of-kin, during such period, notwithstanding that the land so acquired may, together with land previously held by him, exceed the maximum area a person may lawfully hold under this Act. Devisees, etc.

**26.** Section thirty-eight of the principal Act is repealed, and the following is inserted in place thereof:— Amendment of  
sec. 38.

**38.** For the purposes of this Act Western Australia is divided into six divisions, as follows:—

#### SOUTH-WEST DIVISION.

Bounded by lines starting from the seashore at a point situate West from the cairn on Bompas Hill, and extending East to the Murchison River; thence South-Easterly along the said river to a point situate North from the trigonometrical station on Tallering Peak; thence South to the said trigonometrical station; thence South-Easterly through the cairn on Mugga Mugga Hill to the summit of Mount Gibson; thence Easterly to trigonometrical station K83; thence East to the No. 1 line of the rabbit-proof fence; thence Southerly

along the said fence to the seashore, and thence Westerly and Northerly along the seashore, including the islands adjacent, to the starting point.

#### KIMBERLEY DIVISION.

All that portion of the State lying to the North of the parallel of 19° 30' South latitude.

#### NORTH-WEST DIVISION.

Bounded by lines starting from the seashore at a point situate West from the cairn on Bompas Hill, and extending East to the Murchison River; thence South-Easterly along the said river to a point situate North from the trigonometrical station on Talling Peak; thence South to the said trigonometrical station; thence South-Easterly through the cairn on Mugga Mugga Hill to the summit of Mount Gibson; thence Easterly to trigonometrical station K83; thence East to the No. 1 line of the rabbit-proof fence; thence Northerly along the said fence to the 760-mile post; thence North to the parallel of 19° 30' South Latitude; thence West to the seashore, and thence Westerly and Southerly along the seashore, including the islands adjacent, to the starting point.

#### CENTRAL DIVISION.

Bounded by lines starting from the No. 1 line of the rabbit-proof fence at latitude 26° South, and extending Southerly along the said fence to a point situate West from the summit of the granite rock near the 50-Mile Soak on the Dundas-Lake Lefroy Road; thence East to the 125th meridian of East longitude; thence North to the parallel of 26° South latitude aforesaid, and thence West to the starting point.

#### EUCLA DIVISION.

Bounded by lines starting from the seashore near Wilson Bluff, at the East boundary of the State, and extending North to the parallel of 30° South latitude; thence West to the 125th meridian of East longitude; thence South to a point situate East from the summit of the granite rock near the 50-Mile Soak on the Dundas-Lake Lefroy Road; thence West to the No. 1 line of the rabbit-proof fence; thence South-Easterly along the said fence to the seashore, and thence Easterly along the seashore, including the islands adjacent, to the starting point.

#### EASTERN DIVISION.

All that portion of the State not included in the Kimberley, North-West, Central, South-West, and Eucla Divisions already described.

Amendment of  
sec. 39.

**27.** Subsection eight of section thirty-nine of the principal Act is amended by inserting after the words "cricket grounds" the words "golf links, bowling greens, tennis courts, croquet grounds."

Amendment of  
sec. 55.

**28.** (1.) Subsection four of section fifty-five of the principal Act is amended by adding the following words:

"Provided also that the residence of the wife or a parent of the lessee, or a child of the lessee of the age of over sixteen years, may be accepted in lieu of the personal residence of the lessee."

(2.) Subsection five of section fifty-five of the principal Act is repealed, and the following subsection inserted in place thereof:



(5.) The lessee shall expend in prescribed improvements an amount equal to one-fifth of the purchase money in every two years of the first ten years of his lease, and shall fence in at least one-half of the land within the first five years of the lease and the whole of the land during the said period of ten years: Provided that where a sheep-proof and cattle-proof exterior fence is erected, half the value of such fence shall be deemed to be part of the improvements required between the fourth and tenth years of the lease: Provided also that where the lessee erects a rabbit or dog-proof exterior fence, capable of resisting great and small stock, the Minister may allow two-thirds of the value of such exterior fence to be part of the improvements as aforesaid.

Provided also that if the purchase money exceeds one pound an acre, the purchase money shall, for the purposes of this subsection, be deemed to be one pound an acre, if the Minister in his discretion so directs.

(3.) A proviso to section fifty-five is added, as follows:—

“Provided always, that notwithstanding anything in this section contained, the Governor may prescribe that personal residence by the lessee of any land leased under this section shall be obligatory.”

**29.** Section fifty-six of the principal Act is amended by adding a proviso, as follows:— Amendment of  
sec. 56.

Provided also that in the case of land so disposed of after the thirty-first day of December, one thousand nine hundred and six, the expenditure to be required on improvements shall be a sum equal to the purchase money with fifty per centum thereof added thereto.

**30.** Subsection five of section fifty-seven of the principal Act is amended by striking out the words “five shillings,” and inserting “ten shillings” in place thereof. Amendment of  
sec. 57.

**31.** Section fifty-nine of the principal Act is amended—

- (a.) by striking out the proviso; and
- (b.) by striking out the words “South-West Division, and also any Crown lands within the Eastern and Eucla Divisions,” and inserting in place thereof the word “State”:

Amendment of  
sec. 59.

Provided that, before any land in any other division than the South-West Division held under pastoral lease shall be thrown open for selection under section fifty-nine of the principal Act, the notice to the pastoral lessee prescribed by section one hundred and nine of the principal Act shall be given.

**32.** Section sixty of the principal Act is amended by striking out the words: “within the South-West Division, and also any Crown lands within ten miles of a city or town, or site for a city or town, within any other division.” Amendment of  
sec. 60.

Provided that before any land held under pastoral lease and situated in any division other than the South-West Division, and beyond ten miles of a city or town, shall be thrown open for selection under section sixty of the principal Act, notice to the pastoral lessee shall be given as prescribed by section one hundred and nine of the principal Act.

Amendment of  
sec. 61.

**33.** Section sixty-one of the principal Act is amended by striking out the figures 3,000, in the last line thereof, and inserting the words "two thousand."

Amendment of  
sec. 62.

**34.** Section sixty-two of the principal Act is amended by striking out the word "Western," in line two, and by striking out the words "the minimum area in each block shall be five hundred acres, and the maximum five thousand acres," and inserting in place thereof "the maximum area shall be two thousand acres, and the minimum area five hundred acres."

Repeal of sec. 63.

**35.** Section sixty-three of the principal Act is amended by striking out the words "Kimberley, North-West, Western, Eastern, and Eucla Divisions," and inserting in place thereof "Kimberley or North-West Divisions comprised in any pastoral lease granted before the commencement of this Act," and by striking out all the words after the word "Act," in line eight, to the end of the section.

Minister may  
authorise lessee to  
absent himself.

**36.** The Minister may from time to time grant to any holder of conditional purchase land held under section fifty-five of the principal Act, or under any previous Act or regulation, and subject to residence, permission to absent himself from his holding for such time as the Minister may think fit, but the Crown grant shall not be issued until the holder has performed the residence conditions to the satisfaction of the Minister for a period in the aggregate of not less than five years.

Amendment of sec.  
67.

**37.** Section sixty-seven of the principal Act is amended by striking out the words "localities proved to his satisfaction to be suitable for close settlement," and inserting in place thereof "specified districts or localities."

Repeal of sec. 68.

**38.** Section sixty-eight of the principal Act is repealed, and the following is inserted in place thereof:—

Governor may  
declare certain lands  
open for selection as  
grazing leases.

68. The Governor may from time to time, by notice in the *Government Gazette*, declare any lands, in the opinion of the Minister, unsuitable for agriculture, but suitable for grazing purposes, situated within the South-West Division, the Central Division, or the Eucla Division, and not being within an agricultural area, as open for selection as grazing leases, and may, in like manner, withdraw any such land from being so open.

Any land applied for out of lands declared open as aforesaid under this section shall be inspected and reported on by

a duly qualified surveyor, or inspector, and if, after such inspection and report, the Minister is satisfied that the land is suitable only for grazing purposes, he may, with the approval of the Governor, so classify it, and a lease may be issued accordingly, subject to the following conditions:—

- (1.) The price of such land shall be fixed by the Governor, but shall not be less than three shillings and ninepence per acre, payable half-yearly at the rate of one-twentieth of the total purchase money per annum, or sooner, as hereinafter prescribed. Price.
- (2.) The maximum area held by one person shall be five thousand acres, and the minimum area shall be five hundred acres; but if the land applied for adjoins the holding of the applicant, the minimum shall be three hundred acres; or if the land applied for is so shut in by other holdings as not to contain the minimum area aforesaid, or for any other special reason, the Governor may approve of the issue of a lease of a lesser area. Maximum and minimum areas allowed.
- (3.) The application shall be in the form or to the effect of the Thirteenth Schedule, and each application shall be accompanied by a deposit of the first instalment of purchase money, as prescribed by section one hundred and thirty-six, which shall be returned if the application is not approved. Upon approval of the application by the Minister, a lease, in the form of the Fourteenth Schedule, or to the like effect, shall be issued for twenty years, to date from the first day of the quarter next preceding the date of approval of the application. Application to be accompanied by deposit of rent.  
13th and 14th Schedules.
- (4.) The lessee shall, within six months from the date of commencement of his lease, take possession of the land, and shall reside upon it during at least six months of the first year, and during nine months in each year for the next four years: Provided that possession may be taken, and the residence condition may be performed by an agent or servant of the lessee. Residence.
- (5.) If the lessee is the beneficial owner of rural land for an estate of freehold or of land under special occupation or conditional purchase, or is the holder of a lease of any such lands from the owner, or is the holder of a homestead farm within twenty miles of the land applied for, residence as aforesaid on such freehold, special Residence on other land within 20 miles of lease.

occupation, conditional purchase land, or home-stead farm shall be sufficient residence under this section.

Fencing and improvements.

- (6.) The lessee shall expend in prescribed improvements an amount equal to one-fifth of the purchase money in every two years of the first ten years of his lease, and shall fence in the whole of the land during the said period of ten years: Provided that where a sheep-proof and cattle-proof exterior fence is erected, half the value of such fence shall be deemed to be part of the improvements required between the fourth and tenth years of the lease: Provided also that where the lessee erects a rabbit or dog-proof exterior fence, capable of resisting great and small stock, the Minister may allow two-thirds of the value of such exterior fence to be part of the improvements as aforesaid.

Conditions precedent to issue of Crown grant.

- (7.) At the expiration of the lease, or at any time after five years from the date of the commencement of the lease, provided that all the conditions of residence, fencing, and improvement have been complied with, and the said fencing and improvements maintained, and also that the full purchase money has been paid, a Crown grant for the land shall issue, on application, accompanied by the prescribed fee.

Additional applications.

- (8.) Any person having obtained a grazing lease of less area than the maximum area prescribed in the preceding subsection numbered two may apply for other leases, situated not more than twenty miles from the first, of such an area as together with his former lease shall not exceed the maximum areas mentioned in the second subsection of this section; residence on the additional lease shall not be obligatory, but all the other conditions shall apply to both leases: Provided that if two or more leases held by one person adjoin, they may be deemed to be one lease in respect to the required fencing and improvements.

- (9.) In all other respects the conditions shall be the same as for leases under section fifty-five.

Repeal of secs. 70, 71, and 72.

**39.** (1.) Sections seventy, seventy-one, and seventy-two of the principal Act are repealed.

Poison leases.

(2.) It shall be lawful for the Minister, with the approval of the Governor, to grant his certificate for the issue of the grant of the fee simple under a poison lease granted under the principal Act or any Land Regulations if the Minister is satisfied that the conditions

of the lease have been substantially fulfilled, notwithstanding that it may not be proved that the poison plants were entirely eradicated for any prescribed period prior to the expiration of the lease.

**40.** Section seventy-three of the principal Act is amended by striking out the word "Eastern" and inserting the word "Central" in place thereof, and by striking out the words "situate within forty miles of a railway." Amendment of sec. 73.

**41.** Section seventy-five of the principal Act is amended by inserting, after the words "execution," in the last line thereof, the words "or be subject to the provisions of section twenty-seven of this Act." Amendment of sec. 75.

**42.** Section seventy-six of the principal Act is amended— Amendment of sec. 76.

(a.) by inserting after the words "six months from the date of" the words "the commencement of the term of," and

(b.) by adding to the section the following:—

Provided that the Minister may, if he thinks fit, accept as a performance of the residence condition of this section residence by the lessee on any land held by him in fee simple or under conditional purchase within twenty miles of his homestead farm:

Provided also that the residence of the wife or a parent of the selector, or a child of the selector of the age of over sixteen years, may be accepted in lieu of the personal residence of the selector.

**43.** Section seventy-seven of the principal Act is amended by inserting after the word "period" the words "and subject to such conditions of improvement as he may think fit." Amendment of sec. 77.

**44.** (1.) Section seventy-eight of the principal Act and section seven of the Land Act Amendment Act, 1900, are repealed. Repeal of sec. 78 and of 64 Vict., No. 15, s. 7.

(2.) The following is inserted in the principal Act in place of section seventy-eight:—

78. (1.) The selector shall.—

(a.) within two years from the date of his occupation certificate, expend a sum equal to not less than four shillings per acre of the total area of his homestead farm; and

(b.) within five years from the same date, expend a sum equal, with the expenditure under paragraph (a), to not less than ten shillings per acre on the total area of his homestead farm; and

(c.) within seven years from the same date, expend a sum equal, with the expenditure under paragraphs (a) and (b), to

Improvements to be carried out before issue of Crown grant.

not less than fourteen shillings per acre on the total area of his homestead farm,

in the erection of a habitable house and other prescribed improvements, but not more than thirty pounds of such expenditure shall be applied in the erection of such house.

(2.) The selector shall fence in at least one-half of the land during the first five years of the term and the whole thereof during the first seven years:

Provided that where a sheep-proof and cattle-proof exterior fence is erected, half the value of such fence shall be deemed to be part of the improvements required after the fourth year of the term:

Provided also that where the lessee erects a rabbit or dog-proof exterior fence, capable of resisting great and small stock, the Minister may allow two-thirds of the value of such exterior fence to be part of the improvements as aforesaid:

Provided further that if the selector holds any land under Conditional Purchase under Part V. of this Act adjoining his Homestead Farm, the several holdings may be deemed to be one holding in respect of the required fencing and other improvements, but the value of such improvements on the whole area shall not be less than required in respect of both holdings.

(3.) In special cases, when the Minister is satisfied that from the nature or situation of the land or the composition of the soil, its cultivation or further improvement would be out of proportion to the probable returns, or otherwise impracticable, and not likely to result in profitable returns, the Governor may accept such lesser value of improvements as he may deem reasonable in any particular case.

Amendment of  
sec. 85.

**45.** Section eighty-five of the principal Act is amended by adding a proviso as follows:—

Provided that, if from any cause the Homestead Farm in connection with which such village allotment is held becomes forfeited, the village allotment shall also be forfeited.

Amendment of  
sec. 87.

**46.** Section eighty-seven of the principal Act is amended by inserting after the word “or,” in line two, the words “town or,” and after the word “any,” in line fourteen, the words “town or.”

Amendment of  
sec. 88.

**47.** Section eighty-eight of the principal Act is amended by adding a proviso as follows:—

Provided that no person who has held and forfeited, transferred, or otherwise disposed of a working man's block, shall be eligible to obtain any other working man's block in the same district, except in the discretion of the Minister.

48. Section ninety of the principal Act is amended by inserting after the word "lease," in line four, the following words: "and with like permission may mortgage the same under the provisions of this Act."

Amendment of  
sec. 90.

49. Section ninety-three of the principal Act is amended by striking out the words from "Provided," in line three, to "acres," in line eight, inclusive.

Amendment of  
sec. 93.

50. Section ninety-four of the principal Act is amended by striking out the words "Western Division" and inserting the words "Central Division."

Amendment of  
sec. 94.

51. Section ninety-five of the principal Act is amended by striking out the words "five shillings" and inserting in lieu thereof the words "three shillings."

Amendment of  
sec. 95.

52. Section ninety-seven of the principal Act is amended by striking out the words from "as follows," in line two, to "lease," in line five, and inserting "of five shillings per annum for each thousand acres or part of a thousand acres."

Amendment of  
sec. 97.

53. Section one hundred of the principal Act is amended by striking out the words "or in that portion of the South-West Division situated to the Eastward of a line from the mouth of the Fitzgerald River in the direction of Mount Stirling," and by striking out the words "within the division," in line five, and the words "in the division," in lines twelve and fourteen, and by inserting after the word "possession," in line five, the words "on the land the subject of his lease, or of any other lease being one of a group of leases not being separated by a greater distance than twenty-five miles, owned and worked by the lessee as one station."

Amendment of  
sec. 100.

54. Section one hundred and one of the principal Act is repealed, and the following shall be inserted in lieu thereof:—

Amendment of  
sec. 101.

101. If any pastoral lease or group of pastoral leases owned and worked as one station, not being separated by a greater distance than twenty-five miles is not stocked and kept stocked at the rate of at least ten head of sheep or one head of large stock for every thousand acres comprised therein, such lease or leases shall be liable to forfeiture: Provided that this section shall not apply to any lease during the first two years from the commencement of the term granted or agreed to be granted.

55. Section one hundred and two of the principal Act is amended—

Amendment of  
sec. 102.

(a.) by striking out the first paragraph; and

(b.) by striking out the words "The lessee shall not," in the second paragraph, and inserting in place thereof the words "No pastoral lessee of land within a goldfield or mineral field shall."

Repeal of 63 Vict.  
No. 50, s. 2.

**56.** Section two of the Land Act Amendment Act, 1899, is repealed.

Amendment of  
sec. 104.

**57.** Every pastoral lease granted after the commencement of this Act, under section one hundred and four of the principal Act, on the surrender of a lease held under the land regulations in force at the commencement of the principal Act, shall be held at the rent and subject to the conditions prescribed by the principal Act as amended by this Act.

Amendment of  
sec. 138, s.s. (5).

**58.** Subsection five of section one hundred and thirty-eight of the principal Act is amended by inserting after the word "license," in the last line, the words "if issued."

Amendment of  
sec. 140.

**59.** Section one hundred and forty of the principal Act is amended by inserting after the word "newspaper" a subsection to stand as three, as follows:—

(3.) After failure to sell by public auction, sell by private sale.

Amendment of  
sec. 142.

**60.** Section one hundred and forty-two of the principal Act is amended by inserting after the word "transfer" in line four, the words "or sub-let," and after the word "transferred," in lines seven and eight, the words "or sub-let," and after the word "transfer," in line nine, the words "or sub-lease," and after the word "transferee" the words "or sub-lessor and sub-lessee," and after the word "license," in lines two and ten, the words "or occupation certificate, if issued."

Declaration on  
transfer.

**61.** A new section is inserted in the principal Act to follow section one hundred and forty-two, as follows:—

142A. (1.) The Minister may, before approving any transfer or sub-lease, require the proposed transferee or sub-lessee to make a statutory declaration of his eligibility to hold the land intended to be transferred or sub-let.

No transfer within  
two years unless  
improvements  
effective.

(2.) Except in special case to be approved by the Minister, no holding under Part V., VI., VII., VIII., or IX. shall be transferred or sub-let until after the expiration of two years from the commencement of the lease or occupation certificate, unless the holder has expended on the land, in prescribed improvements, the full amount required to be expended during such period.



**62.** Section one hundred and forty-three of the principal Act is amended by inserting after the word “transfer” the words “or sub-lease,” and by striking out the words “transferred on a separate form,” and inserting in place thereof “transferred or sub-let by a separate instrument,” and by inserting after the word “transfer,” in line five, “or sub-lease.”

Amendment of  
sec. 143.

**63.** A new section is inserted in the principal Act to follow section one hundred and forty-four, as follows:—

Subdivision of  
holdings.

144A. (1.) With the approval of the Minister, any holding under Part V. or Part VI. of this Act, or any conditional purchase under the Land Regulations of 1887, or the Homesteads Act, 1893, or any pastoral lease, may, under special circumstances, be subdivided on such terms as to adjustment of rent, or otherwise, as the Minister may determine, and upon payment of the prescribed fees and cost of survey: Provided that the area of any subdivision shall not be less than the prescribed minimum.

(2.) Upon the subdivision of land comprised in any lease, the original lease shall be surrendered and new leases for the residue of the original term shall be issued in the name of the original lessee or any person claiming under him, or of such other persons qualified to be lessees as he may request.

**64.** Section one hundred and forty-five of the principal Act is amended by adding a paragraph as follows:—

Amendment of  
sec. 145.

(2.) The fact that the Minister is satisfied that the improvements were made *bonâ fide* for the purpose of improving the land or increasing the carrying capacity thereof may be proved in any court or before any arbitrator by a certificate in writing signed by the Minister, whose signature shall be judicially noticed.

**65.** Section one hundred and forty-eight of the principal Act is repealed, and the following shall be inserted in place thereof:—

Repeal of sec. 148.

148. The holder of a pastoral lease shall be entitled to claim from any person who under this Act selects the whole or any portion of his land, the fair value of all lawful improvements then existing on the land of which the lessee has been deprived or which, being outside such land but comprised within the lease, have been rendered valueless or reduced in value by reason of such deprivation. The value of such improvements shall be determined as follows:—

Method of deter-  
mining the value of  
improvements.

(1.) The Minister shall give notice to the pastoral lessee when any land within his lease is resumed or selected as above-mentioned, and shall require the lessee, within sixty days of the date of such notice, to furnish him with a full and complete

statement of the improvements (if any) for which the lessee claims compensation, and the amount claimed in respect of each such improvement; and the Minister shall, by the same notice, require the lessee within the same period to nominate himself or some person as his agent to appear and support his claim before a referee: Provided that where land is resumed or selected prior to survey, the said period of sixty days shall commence to run from the date the pastoral lessee is informed that the land has been surveyed instead of from the date of the notice.

- (2.) On receiving such statement and nomination from the lessee, the Minister shall forward a copy of the same to the selector, and shall require him, within sixty days from the despatch of such notice, either to forward to the Minister the amount claimed by the pastoral lessee or, if he intends to dispute the claim, to nominate himself or some other person as his agent to support his opposition thereto before a referee.
- (3.) In the event of the selector disputing the claim, the Minister shall forthwith nominate the Resident Magistrate of the district in which the land is situated, or such other officer or disinterested person as the Minister may think fit, to act as referee for the purpose of assessing the amount of compensation, and the person so nominated shall fix a time and place where the respective parties or their agents are to appear before the referee.
- (4.) The referee shall, after hearing the parties or their agents, decide upon the amount to be paid; and, the decision arrived at by him shall be final. The referee may adjourn the hearing if he thinks fit, and in such case shall notify the parties or their agents accordingly. The amount fixed shall, within sixty days, be paid to the referee, who shall pay it to the lessee and forward the receipt of the lessee for the money to the Minister or an officer in charge of the district land office.
- (5.) If either of the parties or his agent fails to attend, the case shall be heard and decided by the referee after hearing the party or his agent attending, and in the event of neither party attending, the claim for improvements shall be considered as withdrawn.

- (6.) The referee shall have power to award such costs as in his opinion shall be deemed sufficient; not, however, exceeding in any case fifty pounds: Provided that unless the award is at least seventy-five per centum of the amount claimed, no costs shall be awarded to the pastoral lessee or any person claiming under him.
- (7.) Nothing herein contained shall prevent any pastoral lessee from removing, with the Minister's permission, any improvements which, in the opinion of the Minister or officer in charge of the district land office, are capable of removal without permanently deteriorating the value of the land on which they are, if such removal is carried out prior to the appointment of the referee.

In all cases where the compensation for improvements is payable by the Minister, unless otherwise agreed between the Minister and the pastoral lessee, the Resident Magistrate of the district in which the land is situated shall be the referee, but in other respects the above provisions shall apply, and in construing this section the Minister or a succeeding lessee shall be deemed the selector.

**66.** Section one hundred and fifty-two of the principal Act is amended— Amendment of sec. 152.

- (a.) by striking out the words "three pounds" and inserting "two pounds, and on payment by the lessee of the cost of survey" in place thereof; and
- (b.) by inserting after the word *Gazette*, in the proviso, the words "the first publication being"; and
- (c.) by adding a subsection as follows:—

Every application under this section shall be accompanied by a deposit of a moiety of the first year's rent.

**67.** (1.) Notwithstanding anything contained in the Land Act Amendment Act, 1900, the Governor may allow the holder of any residential lease who has complied with the prescribed conditions, and has resided on the land demised for not less than two years, and is eligible to hold a working man's block, to convert such lease into a working man's block under and subject to the provisions of Part IX. of the principal Act, and the period of residence on the residential lease shall be deemed to be residence on the working man's block: Residential lease may be converted into working man's block.

Provided that at any time after two years from the commencement of the lease, if all the conditions of residence, fencing, and improvements have been complied with, and if the same have been maintained, and the full purchase money and prescribed

fee have been paid, the Governor may issue a Crown grant in respect of the land comprised in such lease:

Provided further that this section shall apply only to such towns or other localities as the Governor may from time to time approve and notify in the *Government Gazette*.

(2.) All the words after the word “area,” in line nine of section fourteen of the Land Act Amendment Act, 1900, are hereby repealed.

Amendment of No.  
68 of 1902, s. 10.  
2(1)

**68.** Section ten of the Land Act Amendment Act, 1902, is amended—

(a.) by adding at the end of subsection one:—

“unless with the permission in writing of the Minister, when such timber or firewood is for the sole use of persons residing within such reserve or for whose use and benefit the reserve was made;”  
and

(b.) by inserting after the word “reserves,” in subsection two, “except as aforesaid.”

Amendment of  
sec. 161.

**69.** Section one hundred and sixty-one of the principal Act is amended by adding a subsection as follows:—

(11.) Prescribing fees—

(a.) for inspection and classification of land when applied for;

(b.) for lease instruments;

(c.) for duplicates or copies; and

(d.) for the entry or withdrawal or partial withdrawal of caveats;

Governor may  
declare lands open  
for selection as  
Special Settlement  
lands.

**70.** The Governor may, by notice in the *Government Gazette*, define and set apart any Crown lands as Special Settlement lands, and may declare the same open for selection as such, and he may in like manner withdraw any land from being so open for selection.

Prior to being declared open for selection, Special Settlement lands shall be surveyed into lots of such size and shape, and streets, roads, lanes, and ways shall be laid out thereon of such width and in such directions as the Minister may determine:

Survey may be  
dispensed with in  
certain cases.

Provided that the Governor may suspend the operation of so much of this section as requires the land to be surveyed before it is declared open for selection, and in such case the Minister shall cause a plan to be kept, on which shall be projected boundary lines showing the division of such lands into blocks of convenient sizes:

Provided also that the Minister may, at any time before granting a lease of or otherwise alienating any block, alter, extend, or adjust such boundary lines in any way that he may think fit.

**71.** Any land within a Special Settlement Area may be cleared, drained, or otherwise improved by the Minister before or after it is thrown open for selection, and the cost of such improvements, with interest thereon at the rate of five pounds per centum per annum added, shall be repaid by the selector in half-yearly instalments extending over a period of ten years.

Minister may improve lands within Special Settlement area.

**72.** Any land within a Special Settlement area may be disposed of—

Conditions of selection of land within Special Settlement area.

(a.) under the provisions of section fifty-five of the principal Act, subject to the conditions contained in the last preceding section; or

(b.) subject to the following conditions:—

Conditions as to selection of lots within a Special Settlement.

(i.) The selector shall enter into a contract in the prescribed form to forthwith grub and clear a portion specified in the contract of the lot he wishes to apply for, to ringbark the trees and cut down all scrub on the remainder of the lot, and to fence the same in for an agreed sum to be paid by the Minister as the work proceeds.

(ii.) On the completion of such work in accordance with the contract, and to the satisfaction of the Minister, the selector shall, within one month after the expiration of the period mentioned in his contract for the completion of the work, be entitled to apply for and have granted to him a lease of the land under section fifty-five of the principal Act at the price fixed as the selling price in the contract.

**73.** The Governor may, if he thinks fit, declare any lands open to selection under Part V. or Part VIII. of the principal Act by any special class of selectors to the exclusion of all other persons.

Power to throw open land for special selection.

**74.** No conveyance, assignment, transfer, lease, mortgage, charge, or other instrument, until registered in the Department of Lands and Surveys, shall be effectual to pass any estate or interest in any land under the operation of the principal Act, or to render such land liable to any mortgage or charge; but upon such registration, the estate or interest comprised in the instrument shall pass, or, as the case may be, the land shall become liable in manner and subject to the conditions set forth and specified in the instrument or by the principal Act implied in instruments of a like nature.

Instruments not effectual until registered.

Caveat may be lodged.

75. (1.) Any beneficiary or other person claiming any estate or interest in land under the operation of the principal Act, or in any lease, mortgage, or charge under any unregistered instrument, document, or writing, or under any equitable mortgage or charge by deposit without writing, or by devolution in law or otherwise, may lodge a caveat with the Under Secretary for Lands in the form in the Schedule to this Act, or as near thereto as circumstances will permit, forbidding the registration of any person as transferee or proprietor of and of any instrument affecting such estate or interest, either absolutely or until after notice of the intended registration or dealing is given to the caveator, or unless such instrument is expressed to be subject to the claim of the caveator, as may be required in such caveat.

(2.) Every such caveat shall state the name and address of the person by whom or on whose behalf the same is lodged and (except in case of a caveat lodged by the Under Secretary for Lands as hereinafter provided) shall be signed by the caveator or by his agent.

(3.) The person lodging such caveat shall, if required by the Under Secretary for Lands, support the same by a statutory declaration stating the nature of the estate or interest claimed and the title thereto, and may withdraw any such caveat.

(4.) If such declaration, when required by the Under Secretary for Lands, is not lodged with him within seven days from the date of such registration or within such further time as he may direct, the caveat shall be absolutely null and void.

Address for service of notices.

(5.) No such caveat shall be received unless some address or place within the limits of the city of Perth shall be appointed therein as the place at which notices and proceedings relating to such caveat may be served; but a caveator may give an additional address elsewhere within the State at the foot of such caveat, in which case any notice relating to such caveat shall be sent through the post office by registered letter to such address on the same day as that on which the notice is served in Perth.

(6.) Every notice relating to such caveat, and any proceedings in respect thereof, if served at the address or place appointed as aforesaid, shall be deemed to be duly served.

Notice of caveat to be given.

76. (1.) Upon the receipt of such caveat the Under Secretary for Lands shall notify the same to the proprietor against whose title to deal with the estate or interest such caveat has been lodged.

Caveator may be summoned to show cause.

(2.) Such proprietor or any person claiming under any transfer or other instrument signed by the proprietor may, if he thinks fit, summon the caveator to attend before the Supreme Court or a judge in chambers to show cause why such caveat should not be removed; and the Court or judge may, upon proof that such caveator has been summoned, make such order in the premises either *ex parte* or otherwise as to the Court or judge may seem fit.

(3.) Except in the case of a caveat lodged by or on behalf of a beneficiary claiming under any will or settlement, or by the Under Secretary for Lands, every caveat lodged against a proprietor shall be deemed to have lapsed upon the expiration of fourteen days after notice served on the caveator that such proprietor has applied for the registration of a transfer or other dealing.

Caveat to lapse after fourteen days notice to caveator.

(4.) A caveat shall not be renewed by or on behalf of the same person in respect of the same estate or interest; but if, before the expiration of the said period of fourteen days or such further period as shall be specified in any order made under this section, the caveator or his agent appears before a judge and gives such undertaking or security or lodges such sum in court as such judge may consider sufficient to indemnify every person against any damage that may be sustained by reason of any disposition of the property being delayed, then, and in such case, such judge may direct the Under Secretary for Lands to delay registering any dealing with the land, lease, mortgage, or charge for a further period to be specified in such order or may make such other order as may be just.

Power to extend the operation of a caveat.

77. Except in the cases provided by section eighty, so long as any caveat remains in force prohibiting any registration or dealing, the Under Secretary for Lands shall not register any change in the proprietorship of or any transfer or other instrument purporting to transfer or otherwise deal with or affect the estate or interest in respect to which such caveat may be lodged. The consent of a caveator shall in no case operate as a withdrawal of his caveat.

No entry to be made in registry book while caveat in force.

78. Any person lodging any caveat without reasonable cause shall be liable to make to any person who may have sustained damage thereby such compensation as a judge on a summons in chambers shall deem just and order.

Compensation for lodging caveat without cause.

79. A memorandum of every caveat lodged under section seventy-five of this Act shall be entered on the register, and a copy of the caveat, or of so much thereof as the Under Secretary for Lands shall deem material to the person notified shall be sent with the notification required by section seventy-six of this Act.

Notification of caveats.

80. Where a caveat has been lodged by or on behalf of a beneficiary claiming under a will or settlement, and a change in the proprietorship of or a transfer or other dealing with or affecting the land, estate, or interest, in respect of which the caveat was lodged is presented for registration, the same may, notwithstanding section seventy-seven of this Act, be registered without the caveat being withdrawn, and without determining the operation of the caveat, provided the Under Secretary for Lands is of opinion that such change of proprietorship or such transfer or other dealing is authorised by the will or settlement and the caveator either consents to the registration or does not lodge a written protest against such registration within fourteen days after being served with notice as such caveator.

Caveat on behalf of a beneficiary under a will or settlement not to bar registration.

Power to Under  
Secretary for Lands  
to enter caveats.

**81.** The Under Secretary for Lands may lodge a caveat on behalf of His Majesty or on behalf of any person who shall be under the disability of infancy, coverture, lunacy, unsoundness of mind, or absence from Western Australia to prohibit the transfer or dealing with any land belonging or supposed to belong to any such person, and also to prohibit the dealing with any land in any case in which it shall appear that an error has been made by misdescription of such land or otherwise in any instrument or for the prevention of any fraud or improper dealing.

In Land Districts  
caveats, etc., to be  
lodged in local office.

**82.** On the establishment of any Land District under the provisions of section seven of this Act, with a local register, sections seventy-five to eighty-one inclusive shall, with regard to any land situated within such district, be read as if the words "officer-in-charge of the District Land Office" were inserted in place of the words "Under Secretary for Lands."

Register of caveats  
to be kept.

**83.** It shall be the duty of every officer in charge of a District Land Office to send a duplicate copy of every caveat lodged with him forthwith to the head office of the Lands and Surveys Department in Perth, where a register shall be kept of all caveats lodged either there or in any land district open to the inspection of the public at all times during office hours on payment of a prescribed fee.

Sections 74 to 83 not  
to apply to land  
subject to the  
Transfer of Land  
Act, 1893.

**84.** Sections seventy-four to eighty-three, inclusive, of this Act shall cease to apply to land brought under the operation of the Transfer of Land Act, 1893, but the corresponding sections of that Act shall apply to such land.



## SCHEDULE.

Section 75.

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*Caveat forbidding Registration of any change in Proprietorship or  
any dealing with Estate or Interest.*

To the Under Secretary for Lands, Department of Lands and Survey, Perth,

Take notice that I [*insert name and addition*] claim [*specify the estate or interest claimed*] in [*describe land*] standing in the register book in the name of

And I forbid the registration of any person as transferee or proprietor of and of any instrument affecting the said estate or interest absolutely [*or until after notice of any intended registration or registered dealing be given to me at the address hereinafter mentioned or unless such instrument be expressed to be subject to my claim as the case may require*] I appoint \_\_\_\_\_ as the place at which notices and proceedings relating to this caveat may be served.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ One thousand nine hundred and \_\_\_\_\_

Signed in the presence of \_\_\_\_\_