

Western Australia.

ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. XXII.

AN ACT to provide for the Drainage of
Land.

[Assented to, 5th December, 1900.]

BE it enacted by the Queen's Most Excellent Majesty, by and
with the advice and consent of the Legislative Council and
Legislative Assembly of Western Australia, in this present Parlia-
ment assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Land Drainage Act, 1900.

Short title.

2. IN this Act, unless the context otherwise requires,—

Interpretation.

“Board” means a Drainage Board for a district constituted
under this Act;

“District” or “Drainage District” means a District con-
stituted under this Act;

“Drain” includes every passage or channel on, above, or under
ground, through which water flows, except a navigable
river, and except a main or branch water-race made for
the supply of any reservoir, dam, or pit for the conserva-
tion of water;

- “Main drain” means such drain as the Minister shall from time to time so designate.
- “Drainage works” means drainage works of any sort, including the making of drains for receiving water in its natural flow on or from any hills or sloping lands, and diverting the same to prevent its overflow on to any other lands on a lower level, as well as drains for carrying off water from any lands;
- “Minister” means the responsible Minister of the Crown charged with the administration of this Act;
- “Owner” (except as concerns rating and voting) means any person seized, possessed of, or entitled to land, or to any estate or interest therein other than as occupier, whether such person has or has not the power to convey or sell the same;
- “Ratable property” shall mean all buildings, lands, tenements, and hereditaments in the district, except the following, namely: All such property situate within the limits of a municipality, or in any town where there exists a town council; waste lands of the Crown in the possession of the Crown or leased by the Crown for pastoral purposes; land the property of the Crown and used for any public purpose; churches, chapels, cemeteries; places for the public worship of Almighty God; public schools, or schools deriving aid from Government; public buildings and lands appropriated and held upon trust for any religious, charitable, or public purpose, or reserved or set apart for the benefit of the aborigines;
- “Ratable value” means ratable value under the Roads Act, 1888, as if the amendment in section four of the Act of 1894 amending the same had not been passed;
- “Road District” means a district constituted under the Roads Acts;
- “Roads Acts” means the Acts 52 Vict., No. 16, and 58 Vict., No. 17;
- “Watercourse” includes all rivers, streams, and passages through which water flows.

Act not to affect powers of Crown or of certain officers. See Land Drainage Act, N.Z., 57 Vict., 46, s. 3.

3. NOTHING in this Act shall prejudice or affect any power or authority vested in Her Majesty, or in the Governor, or in the Director of Public Works or Commissioner of Railways, and no action shall be brought against the Crown for anything done on the recommendation of a Board constituted under this Act.

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Drainage Districts and Drainage Boards.

4. THE Governor, from time to time, by Order in Council, may, on petition in that behalf from a majority of the ratepayers in any part of the Colony, declare any lands to be a drainage district for the purposes of this Act, and may, in such order, define the boundaries and give a name to such district, and may add to or curtail from such district any area on a similar petition from the majority of the ratepayers in such area; but may refuse to curtail any district during the currency of any loan effected on the security of the rates thereof.

Governor may
constitute districts.
Ibid., s. 5.

Any such district may comprise any entire road district or part of a road district only, or any road district with a part or parts of another or others; the Governor, by Order in Council, may, if he thinks fit, abolish any district, but may refuse to do so during the currency of any loan effected on the security of the rates thereof.

5. THE ratepayers may, in their petition, give the names of six persons nominated by a meeting of ratepayers as being fit persons to form a Drainage Board for the proposed district, and may ask the Governor to appoint them members of such Board.

Ratepayers may
nominate members
of Drainage Board.

6. UPON the constitution of any district under this Act, the Governor may, by Proclamation in the *Government Gazette*, appoint six persons to be the first members of the Board for such district, any three of whom shall form a quorum for the transaction of business, and such members may appoint one of their number to be chairman thereof; and the members so appointed shall hold office until the first annual election after the constitution of the district, when they shall retire; and such Board shall have and exercise all the powers, duties, and functions of a Drainage Board elected as hereinafter provided.

Governor may ap-
point first members
of Drainage Board.

See S. A. Act, 104 of
1878, s. 8.

7. (1.) A DRAINAGE Board shall be elected for every district, consisting of six members, any three of whom shall be a quorum for the transaction of business. Elections shall be held on the third Thursday in December in every year at such place within the district as the Returning Officer shall appoint.

Election of Board.

See Roads Act, 1888,
s. 32.

(2.) At the first election for a new district the Returning Officer shall be nominated by the Governor.

(3.) At every election other than the first the chairman of the Board, and in his absence, or if there shall be no such chairman, any member of the Board elected by the members present for that purpose, shall be the Returning Officer.

(4.) In case in any district the electors fail to duly elect a Board, or any members to fill up the vacancies in a Board, the Governor, by notice in the *Government Gazette*, may appoint a Board or members to fill any vacancies.

Entry of Board on
office and retirement
of members.

Ibid., s. 43.

8. (1.) THE Board shall enter upon their office on the day following their election.

(2.) On the third Thursday in every December two members shall go out of office by rotation, and an election shall be held to supply their places, and the persons elected shall assume office on their predecessors going out of office.

(3.) The members of each Board shall go out of office in the following order, that is to say:—The two members who had the least number of votes at the first election under this Act shall be the first two to go out of office; the two members who had the next smallest number of votes at the first election under this Act shall be the next two to go out of office; and afterwards the members to go out of office shall always be the two who have been longest in office without re-election, and in cases where two or more members are elected on the same day, as between themselves, those having the smallest number of votes at such election shall be deemed the longest in office for the purpose of retiring by rotation.

(4.) In case at any election of members two or more are elected by an equality of votes, or the election is had without a ballot, it shall be determined by lot in what rotation, as between themselves, such members having an equality of votes shall retire by twos as aforesaid, as the case may be; and in such case the members shall retire according to the rotation so determined.

Electors, electoral
list, and qualification.

9. EVERY person being a ratepayer in respect of property situate within a drainage district of the age of twenty-one years, and a natural born or naturalised subject of her Majesty, and not subject to any legal incapacity, shall be entitled to have his name placed upon the electoral list and to vote at the election of members of the Drainage Board for such district, and shall be qualified to be a member of such Board.

Electors, electoral
list, and qualification
of members to be as
under Roads Acts.

10. THE enactments of the Roads Acts concerning the electors and the electoral list, and concerning the qualifications of members of Road Boards, shall apply, *mutatis mutandis*, to Drainage Boards.

Certain sections of
Roads Act, 1888, to
apply to elections
under this Act.

11. SECTIONS thirty-three to forty-two inclusive, and sections forty-four to fifty-one inclusive, of the Roads Act, 1888, shall apply, *mutatis mutandis*, to elections under this Act.

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12. WHEN the election of any member or members has been held, and is or has afterwards become void, the electors shall not thereby be disabled from electing such member or members for the future; but the election shall be had as in the case of a bye-vacancy, and every act necessary or convenient to be done in order to and for completing such election shall and may be done, and shall be as valid for all purposes as if the election had been upon the day or within the time appointed for that purpose.

Avoidance of an election to be treated as a bye-vacancy.

See *ibid.*, part s. 42.

13. EVERY Drainage Board shall be a body corporate under the name of "The Drainage Board of the District of _____," with perpetual succession and a common seal, having a capacity to hold lands and to do and suffer all things which a body corporate may do and suffer.

Board incorporated.
Land Drainage Act,
N.Z., 57 Vict., 46,
s. 14.

14. THE Board shall appoint a clerk and a treasurer, and may from time to time appoint and employ all such other officers, to assist in the execution of this Act, as they shall think proper and necessary, and from time to time may remove any of such officers and appoint others in the place of such as shall be so removed, or as may die, resign, or discontinue their offices, and, with the approval of the Minister, may pay such salaries and allowances to the said officers respectively as the Board shall think reasonable; and may, before appointment, require security for the due execution of the respective offices.

Appointment of officers, etc.

Ibid., s. 41.

Security.

15. NO member shall be capable of being or continuing a paid clerk or treasurer or any other such officer of the Board, as in the last preceding section mentioned.

Member of Board cannot be paid officer.

Ibid., s. 45.

Construction of Drains.

16. THE Colonial Treasurer may, with the approval of the Governor, from time to time expend for the purposes of this Act in the construction of main drains within any drainage district, or in such other drainage works as the Governor, on the recommendation of a Board, approves, sums not exceeding, on the whole, Thirty thousand pounds out of any surplus at his disposal, or out of moneys voted by Parliament for the purposes of this Act, or out of moneys borrowed (and which the Colonial Treasurer is hereby authorised to borrow) from the funds of the Post Office Savings Bank, at a rate of interest not exceeding four per centum per annum, and secured by any Government securities in accordance with section twenty (b) of the Post Office Savings Bank Consolidation Act, 1893, or out of moneys raised, and which the Colonial Treasurer is hereby authorised to raise, upon debentures secured upon the Consolidated Revenue of Western Australia, bearing interest not exceeding the rate aforesaid, and redeemable not later than twenty-five years after the date thereof.

Colonial Treasurer may expend £30,000.
See 60 Vict., No. 26.,
s. 3.

Board may apply for drainage works and charge rates with cost of construction. Schedule.

17. A BOARD may, from time to time, apply to the Minister for the construction of main drains or any other drainage works within the district of the Board, and if the Governor approves of the application, the Board shall execute to the Colonial Treasurer an instrument creating a sole charge upon the drainage rates under this Act, in the form set out in the Schedule hereto, securing interest at four per cent. per annum on the cost of the work, and a payment at the rate of two per cent. per annum to a sinking fund for repayment of such cost: And the Colonial Treasurer shall thereupon raise or apply, in accordance with this Act, a sum of money to meet the cost of the work.

No other charge on the drainage rates shall be created or arise until the discharge of the security hereby required to be given.

The payments received on account of the sinking fund shall be applied in repayment of the sums expended by the Colonial Treasurer for the purposes of this Act, and shall, in the first place, be invested in a fund for the redemption of any debentures or other Government securities that have been issued for the purposes aforesaid, and, in the next place, as regards any sums not required for such redemption, shall be applied from time to time in repayment of any moneys expended for such purposes, and not raised by debentures or other Government securities.

Construction of main drains.

18. THE Director of Public Works, at the request of the Minister, shall construct any main drains or other drainage works approved by the Governor under this Act, and for that purpose may, from time to time, by his engineers, surveyors, agents, officers, and workmen, exercise the following powers or any of them, and may execute, do, or cause to be executed or done, any of the following matters and things:—

May enter lands, etc., for survey, etc.
See *ibid.*, s. 20.

(1.) For the purposes of any inspection, survey, or inquiry, enter upon any lands or premises in the district within or upon which it is proposed that any works shall be executed under this Act, or any lands and premises adjoining thereto, and, if necessary, may dig or bore therein, and also examine any weir, sluice, or floodgate erected in or upon any river or stream which it may seem to him to be necessary to examine, and may open or raise any such floodgate or sluice for the purposes of any such inquiry, and make any soundings, or bore the bed or channel of any part of any such river, or any mill-course connected therewith, making reasonable compensation for any actual damage done thereby;

And may resume land for drainage work.

(2.) May, without compensation, resume any rural land which has been granted by the Crown, whether under the Land Regulations or under the Land Act, 1898, but

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so that the total resumption does not exceed the extent allowed by the proviso reserving to the Crown the right to resume land for certain public purposes ;

- (3.) May, under the powers conferred by the Lands Resumption Act, 1894, resume any lands, or any estate or interest therein, within or without the district which in his opinion may be required ;
- (4.) May, from time to time, within or without the district, cut, dig, take, and carry away, or cause to be dug, cut, taken, and carried away any quantity of earth or materials in or from the land of any person, and, for so doing, shall pay reasonable compensation to the owners and occupiers of such land, except when acting in the exercise of a power reserved to the Crown by the grant ;
- (5.) May break up the soil of any roads, ways, or footpaths within the district, and excavate and sink trenches for the purpose of laying down and constructing drains therein, and may cause such drains to communicate with the sea, or any arm thereof, or with any stream or water-course, either within or without the limits of the district, and also from time to time may open, cleanse, and repair such drains, or alter the position thereof ; and may do all such acts, matters, and things as he shall judge expedient, necessary, or proper for making, amending, repairing, completing, or improving any water-course or drain, or other works to be made, done, and provided for the purposes of this Act ;

May enter and take earth, etc.

See *ibid.*, s. 21.

May break up roads, etc.

See *ibid.*, s. 19.

Provided that, before interfering with any such road, way, or footpath, the Director of Public Works shall give one month's notice, in writing, to the local authority having control thereof, and shall make reasonable compensation for any actual damage done thereby ;

- (6.) May, in the making, widening, deepening, cleansing, or repairing of any drain or ditch, remove the soil thereof and place it on the bank on either side of such drain or ditch.

May place soil on banks.

Ibid.

Powers and Duties of the Board.

19. ALL drains and drainage works which shall be constructed under this Act shall, when completed, be vested in the Board.

Drains to be vested in Board.

20. IT shall be the duty of the Board to cleanse, repair, and otherwise maintain in a state of efficiency all drains and drainage works vested in the Board, and for that purpose the Board may exercise all or any of the powers hereinbefore conferred on the Director of Public Works for the construction of the same.

Board to maintain drains.

Land Drainage.

Branch drains.

21. (1.) ON the application of any owner or occupier of any land within the district, the Board may authorise such person to make branch drains communicating with any main drain on such terms as to maintenance, cleansing, and otherwise as to the Board may seem fit.

(2.) Where, on land adjoining a drain constructed by the Board under this Act, the water collects in such quantity as to render it necessary, in the opinion of the Board, that a branch drain should be made to carry the water into the drain constructed by the Board, the Board may serve notice on the owner or occupier, requiring him to make such branch drain, and if the owner or occupier makes default for a month after such notice, the Board may make the branch drain and recover the cost thereof from the owner or occupier. Such notice shall specify the nature and direction of the branch drain required, and where and in what manner it is to be connected with the drain constructed by the Board.

Board may levy rate.
Ibid., s. 30.

22. THE Board, after not less than ten days' public notice, in a newspaper having a general circulation within the district, has been given of their intention, shall levy a rate on all lands in the drainage district (except as hereinafter mentioned) in each year, according to their ratable value, for the purposes of this Act, and may appoint a time and place for the payment of such rate, and all rates not so paid may, without further notice, be recovered by the Board in any Court of competent jurisdiction.

The rolls of ratepayers of a drainage district shall be conclusive evidence that persons whose names appear therein respectively are liable to the rate to be levied as aforesaid.

Rates to be applied
to interest and sink-
ing fund.
See 60 Vict. 19, s. 15.

23. THE rates received by the Board by virtue of this Act shall be applied in the first place to paying to the Colonial Treasurer interest at the rate of four pounds per centum per annum on the amount borrowed by him on debentures, and in the next place to the sinking fund for the repayment of the amounts paid or applied to meet the cost of construction at the rate of two per centum per annum on the said amount and, after such payments, to the management, maintenance, and improvement of the drainage works within the district.

Differential rates on
land.
Ibid., s. 31.

24. ANY such rate may be levied in manner as directed by the advertisement thereof, which may from time to time be altered or revoked by the Board, either—

- (1.) On a uniform scale ; or
- (2.) On a graduated scale according to the classification of lands in the district.

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All lands in any district which, by their situation, configuration, or other physical causes, are excluded from deriving any benefit from the drainage works, may be exempted by the Minister on the recommendation of the Board from all rates to be levied in respect of such works.

25. EVERY annual rate shall be for an amount sufficient to make the payments toward interest and sinking fund as aforesaid, and in case such rate is insufficient for that purpose, or no rate is levied and collected, the Minister may make, levy, and collect drainage rates as if he were the Board, and may exercise all the powers of the Board for that purpose.

Rates to be sufficient to pay interest, etc., and Minister to make rate on default of Board.

26. WHENEVER, in any year, the drainage rate is insufficient to pay the interest and the contribution to the sinking fund as aforesaid, the deficiency may be advanced out of the Consolidated Revenue, and shall become a charge upon the rates, repayable, with interest, in like manner as the charge hereinbefore provided for.

Consolidated Revenue may come in aid of payments, and be a charge on rates.

27. AFTER making the payments aforesaid, and after the expenses of maintenance, management, and improvement have been met, the Board may, if they think fit, with the approval of the Minister, employ any surplus in their hands in reduction of rates.

Board may employ surplus to reduce rates.

28. WHERE any drainage works constructed under this Act improve unoccupied Crown lands in the district so as to promote settlement there, the Governor may make a contribution to the funds of the Board to such extent as he may see fit.

Where Crown lands improved Government may contribute to Board.

29. THE Board shall cause books to be provided and kept, and true and regular accounts to be entered therein, of all sums of money received and paid under the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which books shall, at all reasonable times, be open to the inspection of any ratepayers without fee or reward, and any ratepayer may take copies or extracts therefrom gratis; and any member or officer of the Board who does not, on the reasonable demand of any ratepayer, permit him to inspect the said books, or to take such copies or extracts, shall, on conviction for every such offence, pay a fine not exceeding Five pounds.

Book of account to be kept.

Ibid., s. 50.

30. ALL moneys received by the Board shall be paid into some one of the public banks of the Colony to the account of the Board of the district, and no part of such money shall be drawn out of the bank except by a cheque signed by the treasurer and countersigned by a member of the Board.

Moneys received to be paid into bank.

(See N.Z. Act 58 Vict., 54, s. 2.)

Land Drainage.

The accounts of the Board for the past year shall be audited in the month of March in each year by the Auditor General.

The Board of every district shall, before the end of the second week in February in each year, cause the accounts of the Board for the past year, up to and including the last day of December, to be balanced, and also a full and true statement and account to be prepared of the amount of all rates made and levied, and of all moneys received and expended during the past year, and such statement and account, signed by the chairman and the treasurer of the Board at least, shall be submitted by the chairman to the Auditor General.

The treasurer of every district shall forthwith, after such audit, make out and cause to be printed and published in some newspaper circulating in the district a full abstract of the accounts for the year as audited.

Miscellaneous.

Chairman or clerk
may represent Board
in proceedings before
Courts, etc.

Ibid., s. 55.

Re-imbursement of
officer.

Ibid., s. 56.

31. IN all proceedings under this Act in any Court in which the Board shall be concerned, the chairman or the clerk of the Board may, in person or by counsel or solicitor, represent the Board and act in their behalf in all respects as though he, and not the said Board, had been the party concerned; and the chairman or clerk shall be reimbursed all damages, costs, charges, and expenses to which he shall be put, or with which he may become chargeable, by reason of anything done or suffered in the course of such representation.

Penalty for interfer-
ing with drains, etc.

Ibid., s. 25.

32. EVERY person, not being authorised for that purpose by the Board, who shall, without the consent of the Board, make any drain into any water-course or drain vested in the Board by this Act, or who shall, without any such consent, stop or obstruct any such last-mentioned water-course or drain, shall be liable for every such offence to a penalty not exceeding Fifty pounds, and the Board may cause such branch drain to be remade as they think fit, and all expenses incurred thereby shall be repaid to the Board by the person making such branch drain, and may be recovered before a Court of summary jurisdiction.

Malicious destruc-
tion of property.

Ibid., s. 76.

33. IF any person shall at any time wilfully and maliciously cut, break down, destroy, or damage any bank, drain, sewer, dam, mill, engine, building, sluice, or any of the works which shall be erected or made for the purposes of this Act, or any part thereof, such person shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding twelve months, or to a fine not exceeding Five hundred pounds.

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34. EVERY person who at any time obstructs the Director of Public Works or the Board, or any person appointed by him or them, in the performance of anything which they are respectively empowered or required to do by this Act, shall be liable to a fine not exceeding Fifty pounds.

Penalty for obstruction.

Ibid., s. 77.

35. ANY Judge of the Supreme Court or any Magistrate, notwithstanding that such Judge or Magistrate is or is liable to be rated within the district under any of the provisions of this Act, or is a resident or is owner or occupier of land within the district, may hold any Court, or do any act, matter, or thing, or adjudicate in the recovery of rates, and in appeals against rates, and in revising lists of voters, and may hear and determine informations and complaints, and hear and adjudicate upon all other matters and things which he might hold, do, or adjudicate upon if he had not been liable to be so rated or had not been such resident, owner, or occupier.

Judges and Justices to hear and determine, though liable to be rated.

Ibid., s. 75.

36. EVERY proceeding commenced or prosecuted against any person for anything done or to be done in pursuance of this Act, or in execution of the powers and authority hereby given, shall be commenced within twelve months next after the act committed, and not afterwards.

Limitation of actions.

Ibid., s. 59.

Place of trial.

37. PERSONS charged with any offence hereby made punishable only by a fine may be prosecuted, and all fines and penalties imposed by this Act shall be recoverable before a Court of summary jurisdiction.

Penalties recoverable summarily.

Ibid., s. 78.

38. IN the execution and performance by any Board of the powers conferred and the duties imposed upon it by this Act, a member of the Board shall not be personally liable in respect of the execution of the said powers, or the performance or non-performance of the said duties, unless it is proved that such member has been guilty of wilful misconduct or negligence; but, if the Board has been guilty of culpable negligence in the doing or omission of any Act, the Board shall be liable for such negligence.

Exemption of members of Board from personal liability.

See 52 Vict. 6, s. 75.

39. EVERY Board may make by-laws for the better carrying out of their duties and for the regulation and drainage under this Act.

By-laws.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.

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Land Drainage.

THE SCHEDULE.

Section 17.

The Land Drainage Act, 1900.

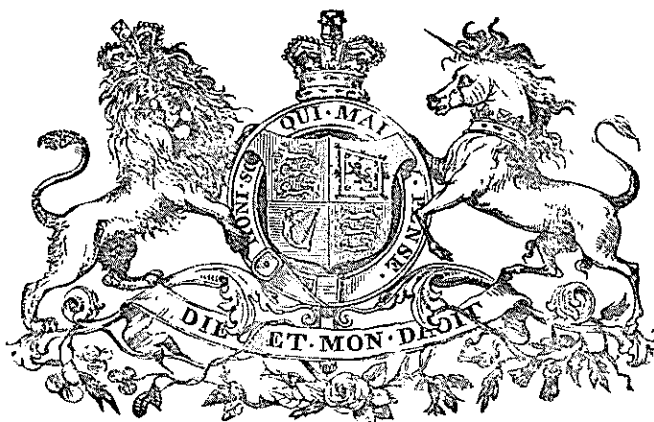
To ALL to whom these presents shall come, Greeting: Whereas the Drainage Board of the District of _____ has applied, in accordance with the Land Drainage Act, 1900, to the Minister to construct a drain or drains from _____ through _____ to _____ [or otherwise describe it], and the Governor has approved the work, and the estimated cost of construction is £ _____, but the actual cost of construction may be more or less than that sum; Now, therefore, for securing the repayment of the cost of construction with interest thereon, the said Drainage Board hereby charges the annual drainage rates of the said district (subject to the payment of the expenses of the Board and of collection) with the payment to the Colonial Treasurer of interest at six per centum per annum on the sum of £ _____ until the work is completed and the actual cost of construction is ascertained, and thenceforth on the actual cost of construction, hereinafter called the principal sum, be the same more or less than the said sum of £ _____, the said six per centum being four per centum interest on the principal sum and two per centum to go to a sinking fund for repayment thereof, and such payment being annually continued until the discharge of the said principal sum with interest at four per centum per annum thereon.

Dated this _____ day of _____, 19 ____.

Sealed with the seal of the
Drainage Board of the Dis-
trict of _____ in the
presence of us

[SEAL.]

E. F., Chairman.
G. H., Clerk.



Western Australia.

ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. XXIII.

AN ACT to amend the Goldfields Act, 1895,
and the Acts passed in 1896 and 1898,
amending the same.

[Assented to, 5th December, 1900.]

BE it enacted by the Queen's Most Excellent Majesty, by and
with the advice and consent of the Legislative Council and
Legislative Assembly of Western Australia, in this present Parlia-
ment assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Goldfields Act Amendment Act, 1900, and shall be incorporated with the Goldfields Act, 1895, hereinafter called the principal Act. Short title.

2. ANY miner resident on a goldfield, being not less than eighteen years of age, may, subject to the regulations, apply for a lease, to be called a "Miner's Homestead Lease," of any Crown Application for
miner's homestead
lease.

See Queensland Mining Act, 1898, s. 71.

land within the limits of the goldfield, and the land comprised in such lease is hereinafter called a miner's homestead.

Application to be made to the Warden.
bid., s. 71.

3. THE application shall be lodged at the office of the Warden of the goldfield within which the land applied for is situate.

Area of land that may be leased.
See *Ibid.*, s. 72.

4. NO person may apply for a miner's homestead or homesteads within the limits of the same goldfield of a greater area than the following, whether held in one holding or several holdings, that is to say:—Within two miles of the nearest boundary of any townsite or suburban area, Twenty acres; and beyond two miles from such boundary, Five hundred acres; and the aggregate area applied for by any one person within the same goldfield shall in no case exceed Five hundred acres.

The Warden may recommend the reservation of a townsite and the boundaries thereof, before recommending the issue of any miner's homestead lease.

For the purposes of this section any portions of land distant more than twenty miles from each other shall be deemed to form part of different goldfields.

Priority of title.
See 59 Vict., No. 40, s. 44.

5. IN the event of more than one application being made for the same land, or any portion thereof, priority of title shall be determined in accordance with the provisions of section forty-four of the principal Act.

Objections.
Queensland Mining Act, 1898, s. 76.

6. ANY holder of a miner's right may, within the prescribed time after the lodging of an application, lodge at the Warden's office a notice of objection to the application, specifying the grounds of objection.

Manner of disposing of applications.
See Queensland Mining Act, 1898, s. 78.

7. ALL applications and objections thereto shall be disposed of by the Warden in open Court after personal inspection of the land by him, or the receipt of a report by a mining surveyor or Inspector of Mines.

The Warden shall state in open Court his reasons for recommending or rejecting any application to which objection has been made.

Power for Warden to alter or reject application.
Ibid., s. 79.

8. IF the land applied for includes any claim or land in the authorised occupation of any person, or if the granting of the application would, in the opinion of the Warden, in any way interfere with mining or with the requirements of the public, the Warden

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shall make such alterations in the area and boundaries of the land as seem advisable to him, or he may absolutely reject the application.

If the land contains valuable improvements the Warden may impose a condition that the applicant shall pay the value of the improvements to be fixed by arbitration.

9. UPON receipt of the surveyor's plans and the report of the Warden, the Minister may, with the approval of the Governor, grant to the applicant a miner's homestead lease, which, subject to the prescribed conditions, shall be in force so long as the lessee pays the rent as prescribed by this Act.

Issue of lease.

Ibid., s. 81.

10. WHEN an application for a lease is rejected the applicant shall be entitled to have the amount deposited by him as rent returned to him, together with the survey fee if no survey has been made.

Return of rent and survey fee.

Ibid., s. 82.

11. WHEN a lease has been approved, notice thereof shall be published in the *Government Gazette*, whereupon the applicant shall be at liberty forthwith to enter upon and occupy the land applied for.

Occupation on approval of application.

See *Ibid.*, 83.

But if, at the expiration of six months from the notification of approval in the *Government Gazette*, the applicant has not used or occupied the said land, either by himself residing on it, or by enclosing one-tenth part of it with a substantial fence, or by substantial improvements on the land, or by carrying on some manufacture upon or in connection with the land, he shall be deemed to have abandoned the land, and shall cease to be entitled to a lease thereof, and shall not be entitled to a return of any moneys paid by him as rent, and the land may be immediately applied for by another applicant.

12. THE lessee shall, within three years from the date of the survey of the land, fence the whole of the land with a substantial fence, not being a brush fence, proved to the satisfaction of the Minister to be sufficient to resist the trespass of great stock, and within five years from the said date shall expend upon the land, in prescribed improvements, an amount equal to Ten shillings per acre.

Lessee to fence and improve.

13. WHERE any land comprised in a miner's homestead lease shall previously have been held by the lessee under the regulations as

As to improvements on land previously held as a market garden area.

as a market garden area, any improvements thereon shall be deemed a performance of the obligations of the lessee under section eleven, so far as such improvements may extend.

Payment for im-
provements.
See Land Act, 1898,
s. 145.

14. NO improvements shall be deemed made pursuant to this Act, nor shall any payment or valuation be made in respect thereof, unless the Minister shall be satisfied that the same were made *bona fide* for the purpose of improving the land, and unless the same shall consist of wells of fresh water, reservoirs, tanks, or dams of permanent character and available for the use of stock; or of dwelling houses or buildings for industrial purposes; or of sheds and buildings erected for farm or shearing and station purposes; or of cultivation, sub-division fences, clearing, grubbing, draining, ring-barking (at not more than Two shillings and sixpence per acre), or any improvement for maintaining or improving the agricultural or pastoral capabilities of the land.

Rent payable.
See Queensland
Mining Act, 1898,
s. 84.

15. THE rent reserved by a miner's homestead lease shall be as follows, that is to say:—

If the area thereof does not exceed twenty acres, an annual rent at the rate of Two shillings for every acre or part of an acre, and if the area thereof exceeds twenty acres, an annual rent at the rate of Sixpence for every acre or part of an acre, shall be payable during the first twenty years of the lease, and thereafter the rent payable in respect of such lease shall be an annual rent of One shilling and no more on the first day of January in every year, if demanded: Provided that the minimum annual rent for the first twenty years to be reserved by any lease shall not be less than Ten shillings.

Transfer of miner's
homestead lease.
Ibid., s. 87.

16. A MINER'S homestead lease may, subject to the approval of the Minister, be transferred by signing an instrument of transfer in the prescribed form and paying the prescribed fee:

Provided that no person shall be entitled to transfer any homestead lease to any person not entitled to apply for the same under section four of this Act, unless such lease shall have been in existence for a period of ten years prior to the date of such transfer, and that the transferee must be a person otherwise qualified under this Act.

Transfer by sheriff
when holding taken
in execution and
sold.
Ibid., s. 88.

17. WHEN a miner's homestead is taken in execution under the judgment of a Court of competent jurisdiction, and sold, the sheriff or other proper officer shall execute a transfer of the lease to the purchaser at such sale; and upon registration of the transfer,

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and payment of the prescribed fee, the lease shall be transferred to such purchaser accordingly:

Provided that the transferee shall be the holder of a miner's right, subject to the proviso in section sixteen.

18. (1.) ANY miner may mark off, apply for, and take up for mining purposes, in accordance with the provisions of the principal Act or the Mineral Lands Act, 1892, and the regulations thereunder respectively, any land comprised in a miner's homestead in the same manner as if the land were unoccupied Crown land.

Rights of miners to work leased land.

Ibid., s. 94.

(2.) A gold mining or mineral lease may be granted under the principal Act or the Mineral Lands Act, 1892, of land comprised in a miner's homestead. But in any such case the lease shall be of the mines under such land only, and not of the surface of the land.

(3.) When land comprised in a miner's homestead is taken up for mining purposes, or is included in a gold mining or mineral lease, the person entitled to mine thereon or therein shall be entitled to erect, maintain, and remove buildings and machinery, sink shafts, and carry on all necessary mining operations upon the surface of the land comprised in the claim, gold mining or mineral lease, and shall also be entitled to access to the mines through the residue of the land comprised in the miner's homestead.

19. IN any of the cases mentioned in the last preceding section, the lessee may call upon the Warden to assess the value of the damage likely to be done to any improvements upon his homestead, and the Warden may thereupon, if he think fit, require the miner or applicant for a gold mining or mineral lease working, or about to work upon the land, to deposit in his hands the amount of the damage which the working is likely to do to the lessee, and until such payment is made the miner or applicant for a gold mining or mineral lease shall not be entitled to work upon the land.

Compensation for land.

Ibid., s. 95.

Upon the receipt of the amount so required to be deposited, the Warden shall hold the same as security to be paid either wholly or in part to the lessee if he sustains any damage, or to be returned to the miner or applicant for gold mining or mineral lease on his leaving the land if he does no damage. In assessing such damage only actual injury to improvements shall be taken into account, and no compensation shall be allowed for the value of the land or the lessee's interest therein.

When a lessee has received any money by way of compensation for injury to improvements, he shall not afterwards be entitled to claim compensation in respect of the same improvements, but shall be entitled to claim for additions made to them after the time when he received such compensation.

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Appointment of arbitrators.

Ibid., s. 96.

20. IF, in any case in which the Warden has been called on to assess the damage sustained by a lessee through the operations of any miner or applicant for a gold mining or mineral lease working on the land comprised on his lease, either party is dissatisfied with his decision, such party may require that the question be referred to arbitration.

An application for arbitration shall be made within forty-eight hours after the decision of the case by the Warden, otherwise it shall not be entertained and shall be in writing, addressed to the Warden, and a copy thereof shall be delivered by the applicant to the other party concerned, and shall, on such delivery, be equivalent to a submission in writing by both parties of the matters in dispute to two arbitrators, who are to appoint an umpire.

Protection of mining improvements.

Ibid., s. 97.

21. WHEN a miner or gold mining or mineral lessee has put up any building or other erection, or put down a shaft upon land comprised in a miner's homestead lease, and afterwards leaves the land, the homestead lessee shall not remove or destroy such building, erection, or shaft without the sanction of the Warden. Any lessee offending against the provisions of this section shall be liable to a penalty not exceeding One hundred pounds.

Resumption.

See *Ibid.*, s. 98.

Amount of compensation.

22. THE Governor may, after six months' notice to the lessee, resume the whole or any part of a miner's homestead.

Subject to the power of resumption reserved by the lease, upon any such resumption, the lessee shall be entitled to compensation, and the amount of such compensation shall be determined in the manner prescribed by the Land Resumption Act, 1894, for determining compensation for land taken under that Act.

Miner's homestead lease not to be deemed private land within 62 Vict., No. 29.

23. NO land held as a miner's homestead lease under this Act shall be deemed to be private property within the meaning of the Mining on Private Property Act, 1898.

Limitation of Act to certain goldfields.

24. THE foregoing provisions shall apply only to such goldfields, or to such portions thereof, as the Governor may by order in Council from time to time direct.

Amendment of 59 Vict., No. 40, s. 7.

25. SECTION seven of the principal Act is amended by adding at the end thereof the words "or abolish such goldfield."

Amendment of s. 13.

26. SECTION thirteen of the principal Act is amended by inserting after the word "created," in the fourth line, the word "therein."

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27. SECTION fifteen of the principal Act is amended by striking out the first and second lines thereof to and including the words "to be issued," and by inserting in lieu thereof "The Minister, and every Warden, and all persons appointed for such purpose by the Minister, whether individually or in virtue of their offices, may issue documents."

Amendment of s. 15.

28. SECTION sixteen of the principal Act is amended by inserting in the eighth paragraph, after the word "occupy," the words "in localities approved by the Warden."

Amendment of s. 16.

29. SECTION eighteen of the principal Act is amended by striking out the words "the lease," in line five, and by inserting "any" in lieu thereof, and striking out the words "lease" and "transferred," in lines eight and nine thereof respectively.

Amendment of s. 18.

30. SECTION nineteen of the principal Act is amended by striking out the words, at the beginning of the section: "It shall be lawful for the Governor to appoint such persons as he may think fit to," and inserting in lieu thereof, "The Minister, and every Warden, and all persons appointed for such purpose by the Minister, whether individually or in virtue of their offices, may," and the said section shall be deemed to have been originally enacted as now amended, and by inserting in sub-section two. after the word "occupy," the words "in localities approved by the Warden;" and by adding at the end of the same sub-section the following words:—"But no business area shall be granted within a distance of three miles from any gazetted townsite without the approval of the Minister."

Amendment of s. 19.

31. SECTION twenty-three is amended by striking out all the words after "regulations," in the tenth line, and by inserting in lieu thereof, "provided that where such lands are within a municipality, a copy of such application shall be served on the Mayor of the municipality by leaving same at the office of the Town Clerk, and shall also be posted at the Warden's office."

Amendment of s. 23.

The Minister, on receipt of any application under this section, shall cause notice of such application to be published in the prescribed manner, and no authority to mine shall be granted if any valid objection is lodged within thirty days after the receipt of such application. With each such application the sum of Ten pounds shall be deposited to meet the cost of publishing notice thereof, and of inspecting and reporting on the land applied for.

32. SECTION thirty of the principal Act is amended by striking out the word "he," in line six thereof, and by inserting the

Amendment of s. 30.

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words "the holder may register the land as improved. On such registration being effected the holder, in the event of the land being thrown open for sale," and by adding at the end of the section the words, "Such notice shall be deemed duly served if inserted in the *Government Gazette*, and sent by post to the holder at his address (if any) appearing in the register."

See Victorian Mines
Act, 1890, section 67.

33. SECTION thirty-five of the principal Act is amended by adding after the word "thereto," in line ten, the words:—"Provided also that a lease may be granted notwithstanding that the person applying for the same may not in all respects have complied with the Regulations, and no such non-compliance shall affect any lease already granted."

Amendment of s. 38.

34. SECTION thirty-eight is amended by striking out the words "and a copy of the decision of the Court of Appeal certified by him," in the eighteenth and nineteenth lines thereof.

Amendment of s. 41.

35. SECTION forty-one is amended by striking out the words, in the fifth and sixth lines, "may with the like consent be renewed," and inserting in lieu thereof "shall, at any time before the expiration thereof, at the option of the lessee, be renewable for a further period of twenty-one years."

Amendment of s. 42.

36. SECTION forty-two is amended by striking out all the words after "*Gazette*" in the tenth line.

Amendment of s. 45.

37. SECTION forty-five is amended by striking out, in the second, twelfth, thirteenth, and fourteenth lines, the words "or application for lease" wherever they occur, and by striking out, in line thirteen, the words "as the case may be," and all the words after "case," in the twenty-fifth line.

Amendment of s. 46.

38. SECTION forty-six is amended by striking out, in the second line, the words "or application for lease."

Amendment of s. 53.

39. SECTION fifty-three is amended by inserting, after the word "proceeding," in the first line, the words "under the jurisdiction conferred by section fifty-two."

Amendment of s. 62.

40. SECTION sixty-two is amended by inserting, after the word "proceeding," in the first line, the words "under the jurisdiction conferred by section fifty-two."

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41. SECTION eighty-one is amended by inserting, after the word “proceedings,” in the first line, the words “under the jurisdiction conferred by section fifty-two.” Amendment of s. 81.

42. SECTION ninety is amended by striking out, in the eighth line, the words “shall and.” Amendment of s. 90.

43. SECTION six of the Goldfields Act Amendment Act, 1896, is amended by inserting after the word “before,” in the fourth line, the words “any Warden or.” Amendment of 60 Vict., No. 36, s. 6.

44. SECTION nine of the Goldfields Act Amendment Act, 1898, is amended by striking out, in the first line, the words “the hearing of,” and substituting the word “recommending,” and by striking out, in the fifth line, the words “the hearing,” and substituting the words “his recommendation.” Amendment of 62 Vict., No. 16, s. 9.

45. SECTION ten of the last-mentioned Act is amended by striking out the words “one-third,” in the second line of the second paragraph, and by inserting in lieu thereof “one-eighth.” Amendment of s. 10.

46. SUB-SECTION two of section twelve of the last-mentioned Act is repealed. Repeal of section 12, sub-section (2).

47. SECTION thirteen of the last-mentioned Act is amended by striking out the words “not exceeding four,” and substituting “if the total area does not exceed ninety-six acres.” Amendment of s. 13.

48. SECTION fourteen of the last-mentioned Act is amended by adding the words “and the whole or any portion of such fine may, in the discretion of the Governor, be awarded to the applicant for forfeiture.” Amendment of s. 14.

49. SECTION nineteen of the last-mentioned Act is amended by inserting after the word “Minister,” in the fourth line, the words “or the Under Secretary for Mines.” Amendment of s. 19.

50. SECTION twenty of the last-mentioned Act is hereby repealed, and the following substituted:— Repeal of s. 20, and substitution of new section.

- (1.) No person shall buy gold from any other person unless either the buyer or the seller is the holder of a “Gold Dealer’s License” (hereinafter called a “license”), and any person who shall buy gold, except as aforesaid, shall

be guilty of an offence, and on conviction thereof shall be liable to a fine not exceeding One hundred pounds, or to imprisonment for not more than three months. Provided that nothing herein contained shall apply to the purchase of gold-bearing ores or tailings from any registered leaseholder or claim-holder under a contract in writing, signed by or on behalf of the vendor, setting forth that the ores or tailings were produced from and taken out of the ground comprised in the lease or claim of which the vendor is the registered holder, and which said lease or claim is sufficiently described in the said contract.

Warden or Resident Magistrate may grant a gold-dealer's license.

- (2.) A license may be issued to any person desirous of dealing in gold. If such person desires to deal in gold on any goldfield, he shall apply for a license to the Warden, and if without a goldfield, to the Resident or Police Magistrate of the district within which his place of business is situated. All such applications shall be made in open Court, after the prescribed notice has been given. Any person may object to the issue of such license. No license shall be issued to any applicant unless the Warden or Magistrate is satisfied that he is a person of good character and reputation, and it shall be in the absolute discretion of such Warden or Magistrate to grant or withhold such license, as he may think fit. A fee of One pound shall be payable for a license, which shall remain in force until the thirty-first day of December next after the date of its issue, and may be annually renewed, on payment of a like fee, but may be cancelled by a Warden or Magistrate on the licensee being convicted of any offence against this section, or of any felony or misdemeanour which, in the opinion of such Warden or Magistrate, renders him unfit to hold a license.

Renewal of license.

- (3.) The Warden of any goldfield, or the Resident or Police Magistrate of any district in which licenses are in force, shall appoint a day during the month of December in each year for the holding of a Court for the granting of renewals of licenses. At least seven days' notice shall be given of the sitting of such Court by advertisement in a newspaper (if any) circulating in the district, and any licensee desiring to renew his license shall give notice, in the prescribed form, to the Warden or Magistrate of his intention to apply. Such Court may be adjourned to any day during the same month. On every application for a renewal of license the Warden