



Western Australia.

ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. XV.

AN ACT to further amend the Land Act, 1898.

[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 Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Land Act Amendment Act, 1900, and shall be construed as one with the Land Act, 1898, hereinafter referred to as the principal Act.

Short title.

2. SECTION seventeen of the principal Act is amended by striking out all the words after "*Government Gazette*," and by inserting in lieu thereof: "Provided that if two or more applicants shall lodge applications for the same land on the same day, or if two or more applications for the same land are received through the Post Office on the same day, the applications shall be deemed to be lodged or received at the same time. In such case the right of priority shall be determined by lot, in the manner prescribed in the next following section; but the Minister may, in lieu thereof, in his discretion appoint such persons as he may think fit to hold an inquiry and select the person to whom the land shall be granted."

Amendment of 62
Vict., No. 37, sec. 17.

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Land Act—Amendment.

Amendment of 62
Vict., No. 37, sec. 66.

3. SECTION sixty-six of the principal Act is amended by striking out "homestead lease or," in line four thereof, and by striking out, after the word "prescribed," in line six, the words "and a sum of at least four shillings an acre has been expended on it in statutory improvements," and by striking out the word "Minister," in line seventeen, and inserting "Governor" in lieu thereof.

Amendment of sec.
66 of 62 Vict., No.
37.

4. THE following words in section sixty-six of the principal Act are hereby repealed:—"The Minister may estimate the value of the improvements remaining to be made, and upon the licensee or conditional purchaser entering into a covenant to continue to pay rent under the terms of his lease or license until the rent so covenanted to be paid amounts to the half of such estimated value."

Extension of sec. 66
to grazing leases.

5. THE provisions of section sixty-six of the principal Act shall extend to grazing leases granted under Part VI. thereof, and to homestead leases granted under the Homesteads Act, 1893.

Amendment of 62
Vict., No. 37, sec. 69.

6. SECTION sixty-nine of the principal Act is amended by inserting, in line two thereof, immediately after the word "Crown," the words "and such lessee is eligible to select or hold land as a grazing lease."

Governor may dis-
pense with certain
improvements to
homestead farms.

7. WHERE in the case of any homestead farm granted under section seventy-eight of the principal Act, or under the Homesteads Act, 1893, a habitable house, costing not less than thirty pounds, has been erected, or, in lieu thereof, thirty pounds has been expended in clearing, or clearing and cropping, or, in lieu thereof, two acres of orchard and vineyard have been properly prepared and planted, and kept in good order, and the Minister is satisfied that a sum equal to Thirty shillings an acre of one-fourth of the acreage of the holding has been expended in clearing and cropping within five years from the date of the occupation certificate, and a further sum of Thirty shillings an acre of one-fourth of the said acreage has been likewise expended within seven years from the same date, and that, from the nature or situation of the land, or the composition of the soil, or because of the heavy nature of the clearing, its further cultivation would be out of proportion to the probable returns, or otherwise impracticable, the Governor may discharge the lessee from obligation to make further improvements.

Amendment of sec.
102 of 62 Vict., No.
37.

8. SECTION one hundred and two of the principal Act is hereby amended by striking out the words "or more than twenty thousand acres, at a rental of ten shillings per thousand acres," in the fourth and fifth lines thereof, and by substituting the words "at the same rental prescribed for pastoral leases within the division in which the land is situated."

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9. SECTION one hundred and thirty of the principal Act is amended by inserting, in line one, after the word “split,” the word “remove.”

Amendment of 62
Vict., No. 37, sec.
130.

10. SECTION one hundred and thirty-four of the principal Act is amended by striking out the words “and registered,” in the first line of sub-section two.

Amendment of 62
Vict., No. 37, sec. 134.

11. SECTION one hundred and forty-six of the principal Act is struck out, and the following is inserted in lieu thereof:—

Amendment of 62
Vict., No. 57, sec.
146.

146. ON the expiration by effluxion of time of any pastoral lease not open to renewal on the same or any other conditions to the same lessee, or upon any pastoral lessee being deprived by the Minister, acting under this Act, of the use of any land held under a pastoral lease and comprised within an agricultural area or reserve, the pastoral lessee shall, subject to the provisions of this Act, receive from the Minister the fair value of all lawful improvements then on the land of which the lessee has been deprived, or which being outside such land and comprised in such pastoral lease have become lessened in value by reason of such deprivation. If a pastoral lease be renewed to a succeeding lessee, the previous lessee shall be entitled to receive from the succeeding lessee the fair value of all such improvements existing on the land. The amount of compensation to be paid to a lessee by the Minister or a succeeding lessee for improvements shall, in all cases, be determined, as far as may be, in the manner prescribed in section one hundred and forty-eight of this Act, as if the Minister or the succeeding lessee were a selector.

Minister to pay for
improvements in
certain cases.

12. SECTION one hundred and forty-eight of the principal Act is struck out, and the following is inserted in lieu thereof:—

Amendment of 62
Vict., No. 37, 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 such pastoral lease the fair value of any lawful improvements then existing upon the land applied for, or which being outside such land but comprised in such pastoral lease have become valueless or lessened in value by reason of the pastoral lessee being deprived of the land selected:—

- (1.) The value of such improvements shall be ascertained by one competent person appointed by the selector and one by the lessee; any difference of opinion between such valuers to be determined by the Resident Magistrate of the district acting as umpire.

Arbitrators to be
appointed.

Pastoralleesee to be notified of application.

Selector to be notified of lessee's claim.

Selector may refuse to pay.

Date of arbitration to be fixed by Minister.

Meeting of arbitrators.

Amount of award to be paid within sixty days.

Party in default to be bound by arbitrator attending.

Costs.

- (2.) Within sixty days from the date on which the lessee is informed by the Minister that any land has been applied for in his pastoral lease, the lessee shall furnish the Minister with a full and complete statement of the improvements (if any) for which he claims compensation, and shall, at the same time, name a competent person as his arbitrator. The Minister shall thereupon inform the selector of the claim of the lessee, and shall require the selector to forward to him the amount claimed within sixty days of the date of the notification: Provided that if the land is not surveyed at the time it is selected, the said sixty days shall commence to run from the date on which the lessee is informed that the land has been surveyed.
- (3.) If the selector thinks that the improvements are rated at more than their value, he may, within the sixty days allowed, inform the Minister that he refuses to pay the amount claimed, and shall then name an arbitrator to meet the arbitrator of the lessee at the Court House of the District on a day to be fixed by the Minister, and the Minister shall notify the selector and lessee accordingly.
- (4.) The arbitrators shall meet and decide upon the amount to be paid; any difference of opinion to be determined by the Resident Magistrate for the district acting as umpire, and the decision arrived at shall be final. The Resident Magistrate may adjourn such arbitration if he think fit, and in such case shall notify the parties accordingly. The amount fixed shall, within sixty days, be paid to the Resident Magistrate, who shall pay it to the lessee, forwarding the receipt of the lessee for the money to the Minister.
- (5.) If either of the arbitrators fails to attend, the case shall be heard and decided by the other arbitrator attending, and in the event of neither party attending, the claim for improvements shall be considered as withdrawn.
- (6.) The arbitrators shall have power to award such costs as in their opinion shall be deemed sufficient; not, however, exceeding in any case Fifty pounds.

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- (7.) Provided always, that nothing herein contained shall prevent any pastoral lessee from removing, with the Minister's permission, any such improvements which, in the opinion of the Minister, are capable of removal without permanently deteriorating the value of the land on which they are, if such removal is carried out within three months from the approval of the application to purchase.

Removal of improvements.

13. SECTION one hundred and fifty-two of the principal Act is amended by inserting, in line six, immediately after the word "town," the words: "for taking, diverting, conserving, and using water for mining, industrial, and other purposes, or for."

Amendment of 62 Vict., No. 37, sec. 152.

14. THE Governor may, by notice in the *Government Gazette*, define and set apart for residential leases any unalienated town, suburban, or rural lands, and may in like manner declare any such land as open for selection, and may withdraw any such land from being so open, and may, by regulations, prescribe the terms and conditions on which such leases may be granted. Before any land is so declared open for selection, it shall be surveyed under the direction of the Minister, and divided into lots, each not exceeding half-an-acre in area. No lands of which residential leases are granted under this section, or of which residential leases have been or may hereafter be granted under regulations in that behalf, shall be sold or granted in fee simple.

Residential leases.

15. A NOTICE inserted in the *Government Gazette*, signed or purporting to be signed by the Minister or the Under Secretary for Lands, to the effect that any lease, license, or other holding is forfeited for default in payment of rent, or for breach or non-observance or non-performance of the conditions thereof, shall be deemed equivalent to a re-entry and recovery of possession by or on behalf of the Crown within the meaning of the proviso for re-entry expressed in or implied by the lease, license, or other instrument.

Gazette notice to be equivalent to re-entry.

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

ALEX. C. ONSLOW, Administrator.