

WESTERN AUSTRALIA

**LAND, PARKS AND RESERVES
AMENDMENT ACT 1995**

No. 5 of 1995

AN ACT to amend the *Land Act 1933* and the *Parks and Reserves Act 1895*.

[Assented to 24 May 1995.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Land, Parks and Reserves Amendment Act 1995*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

PART 2 — AMENDMENTS TO THE LAND ACT 1933

Principal Act

3. In this Part the *Land Act 1933** is referred to as the principal Act.

[* *Reprinted as at 2 May 1985.*

*For subsequent amendments see 1993 Index to
Legislation of Western Australia, Table 1, pp. 113-14
and Act No. 6 of 1994.]*

Section 3 amended

4. Section 3 (3) of the principal Act is amended by deleting
“, other than an order made under section 164A (6),”.

Section 9 amended

5. Section 9 of the principal Act is amended —

(a) by deleting “may —

if of opinion that any such person is or is liable
to be at any disadvantage with respect to an
application for or the acquisition of land under
the provisions of this Act because of his
descent —

grant or lease” and substituting the following —

“

may for the purposes of advancing the
interests of any such person lease, whether
for a fixed term or in perpetuity, or grant

”;

and

- (b) by deleting “not exceeding the area prescribed for a selector by the provisions of section 47”.

Section 164 amended

6. Section 164 (1) of the principal Act is amended by deleting “section 164A — ” and substituting the following —

“ sections 164A and 164AA — ”.

Section 164A repealed and sections 164A and 164AA substituted

7. Section 164A of the principal Act is repealed and the following sections are substituted —

“

Removal of unauthorized structures from public lands

164A. (1) In this section and section 164AA —

“**order**” means an order referred to in subsection (2);

“**unauthorized structure**” means a structure the erection of which was not, at the time of its erection, authorized under any Act.

(2) The Minister may by order published —

(a) in the *Gazette*; and

(b) in a newspaper circulating in the locality of the unauthorized structure,

direct the owner of, or any person occupying, any unauthorized structure that is on any public lands to

remove permanently the unauthorized structure, the contents of the unauthorized structure and any materials, objects and fixtures in the area of the unauthorized structure from those public lands before the day specified in the order, being a day not less than 90 days after the day of publication of the order in the *Gazette*.

(3) An order may be directed —

- (a) to the owners or occupiers of all unauthorized structures that are on any public lands specified in the order; or
- (b) to the owner or occupier of one or more unauthorized structures specified in the order that are on any public lands.

(4) The Minister shall, within 14 days after the publication of the order in the *Gazette*, cause a copy of the order to be served on the owner or occupier of each unauthorized structure to which the order relates.

(5) For the purposes of subsection (4), and without limiting section 170 of this Act or section 76 of the *Interpretation Act 1984*, an order is duly served on the owner or occupier of an unauthorized structure if a copy of the order —

- (a) is served on any person in occupation or apparently in occupation of the unauthorized structure; or
- (b) is affixed to the unauthorized structure in a conspicuous place.

(6) If —

- (a) an order has been published in accordance with subsection (2) and a copy of the order

has been served in accordance with subsection (4); and

- (b) an unauthorized structure to which the order relates, or any part of the unauthorized structure, or any contents of the unauthorized structure, or any materials, objects or fixtures remaining in the area of the unauthorized structure have not been removed from the public lands by the day specified in the order or, if an extension has been granted under section 164AA (3), by the day fixed under that subsection,

the unauthorized structure, contents, materials, objects and fixtures become the property of the Crown and may be removed, destroyed or disposed of in any manner that the Minister thinks fit.

(7) No compensation is payable to any person in respect of the removal, destruction or disposal of any unauthorized structure, contents, materials, objects or fixtures under subsection (6).

Application by owner or occupier of unauthorized structure for extension of time

164AA. (1) The owner or occupier of an unauthorized structure to which an order relates may apply to the Minister in accordance with subsection (2) to extend the period within which the unauthorized structure, the contents of the unauthorized structure and the materials, objects and fixtures in the area of the unauthorized structure are to be removed.

(2) An application under subsection (1) —

- (a) shall be made in writing, setting out the grounds on which the extension is sought; and
- (b) shall be served on the Minister not later than 21 days before the day specified in the order.

(3) The Minister may extend the period referred to in subsection (1) by not more than 45 days after the day specified in the order and shall grant the extension only if the Minister is satisfied that the applicant —

- (a) is unable to remove the unauthorized structure, contents, materials, objects and fixtures from the public lands by the day specified in the order; and
- (b) intends, and is able, to remove the unauthorized structure, contents, materials, objects and fixtures from the public lands within the extended period if the extension is granted.

”.

Section 164B amended

8. Section 164B (1) of the principal Act is amended by deleting “or 164A” and substituting the following —

“ , 164A or 164AA ”.

**PART 3 — AMENDMENTS TO THE PARKS AND
RESERVES ACT 1895****Principal Act**

9. In this Part, the *Parks and Reserves Act 1895** is referred to as the principal Act.

[* *Reprinted as approved 31 January 1979.*

*For subsequent amendments see 1993 Index to
Legislation of Western Australia, Table 1, p. 152.]*

Section 2 amended

10. Section 2 of the principal Act is amended by deleting the definition of "Parks and Reserves" and substituting the following definition —

"**"parks and reserves"** means land that is reserved under Part III of the *Land Act 1933* and in relation to which a Board is appointed under section 3 (1);

".

Section 3 amended

11. Section 3 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting "For the purpose of controlling and managing parks and reserves, the Governor shall appoint persons to form Boards of Parks and Reserves," and substituting the following —

"
The Governor may appoint persons to form Boards to control and manage land that is reserved under Part III of the *Land Act 1933*,

".

and

- (ii) by deleting “such of the parks and reserves” and substituting the following —

“ any such land ”;

- (b) in subsection (2), by deleting “One-third of ” and substituting the following —

“ Not less than half ”; and

- (c) by inserting after subsection (5) the following subsection —

“

(6) Subject to section 5 (3), (4), (4a) and (5), if a Board that is constituted a body corporate under subsection (4) has land vested in it under section 33 of the *Land Act 1933* with power to lease, the Board has, and shall be taken always to have had, power to lease the land under and subject to the *Land Act 1933*.

”.

Section 5 amended

12. Section 5 (5B) of the principal Act is amended by inserting after “granted” the following —

“ under the power conferred by subsection (5) ”.