

WESTERN LANDS (AMENDMENT) ACT.

Act No. 23, 1945.

George VI.
No. 23, 1945.

An Act to impose certain restrictions on dealings with certain leases; to alter the constitution of local land boards; for these and other purposes to amend the Western Lands Act of 1901, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 5th April, 1945.]

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Western Lands (Amendment) Act, 1945."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No.
70, 1901.

2. The Western Lands Act of 1901, as amended by subsequent Acts, is amended—

Sec. 18D.
(Provisions
governing
leases.)

(a) by omitting from paragraph (ii) of section 18D the words "as may reasonably be required by him as such lessee" and by inserting in lieu thereof the words "or on any contiguous land held in the same interest as may reasonably be required by him."

Sec. 18G.
(Transfers.)
cf. Act No.
38, 1943,
s. 11 (3);
Act No. 16,
1943 (N.Z.)
s. 50 (3).

(b) by inserting next after subsection one of section 18G the following new subsection:—

(1A) (a) Without prejudice to the generality of the discretion conferred on the Minister by subsection one of this section the Minister shall, in considering any such application for consent in respect of a lease granted after the commencement of the Western Lands (Amendment) Act, 1945,

1945, pursuant to section twenty-three of this Act, have regard to the desirability of preventing undue increases in the price of land and its use for speculative or uneconomic purposes, taking into account the circumstances of the particular case and all other relevant considerations including in particular the following matters:—

- (i) the amount of the purchase money, rent or other consideration to be paid and the extent to which it exceeds the fair market value of the land or the rent or other consideration appropriate to that fair market value;
- (ii) the terms of the transaction, and the terms of any other transaction in any way related thereto.

(b) Where upon consideration of the application and having regard to the matters referred to in this subsection the Minister is of opinion that consent should not be given he may refuse such consent.

(c) The Minister shall refuse such consent where the amount of the purchase money, rent or other consideration appears to him to exceed by ten per centum or more the fair market value of the land or the rent or other consideration appropriate to the fair market value.

(d) Where the Minister refuses any consent in accordance with paragraph (c) of this subsection any party to the transaction may appeal therefrom to the local land board.

Any such appeal shall be in the nature of a rehearing and shall be made in the manner and within the time and in or to the effect of the form and shall be accompanied by the deposit prescribed. The local land board shall have jurisdiction to hear and determine any such appeal. The local land board shall determine the fair market value of the land, or the rent or other consideration appropriate to the fair market value, as the case may require. Any such

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such determination of a local land board may be the subject of an appeal or reference to the Land and Valuation Court in accordance with subsection six of section nine of this Act.

(e) The Minister shall refuse consent to the transaction if the price being paid in respect thereof exceeds the fair market value of the land or the rent or other consideration appropriate to the fair market value as determined by the local land board or the Land and Valuation Court, as the case may be.

(f) For the purposes of any comparison of purchase money, rent or other consideration with the fair market value of the land, which is required or authorised by this subsection, such adjustments shall be made of the amount of purchase money, rent, consideration or value as may be necessary to equate such amount to the amount which would be appropriate had the transfer or other dealing been on a freehold basis and had the fair market value been calculated on a freehold basis, and such comparison shall be made by reference to the amounts as so adjusted.

Sec. 18H.
(Mortgages
and devo-
lutions.)

- (c) (i) by omitting from subsection two of section 18H the words "upon application to the Minister, obtain a certificate from the Minister that he is entitled to hold the lease or such person may, subject to this Act, sell and transfer the lease" and by inserting in lieu thereof the words "subject to this Act transfer the lease, or make application to the Minister for a certificate that he is entitled to remain the holder of the lease upon the expiration of such period. The Minister shall have discretion to grant or refuse any such application.

If such person does not within such period obtain the certificate of the Minister as aforesaid or does not transfer the lease the same shall be liable to be forfeited."

(ii)

- (ii) by omitting from the same subsection the words "If such person does not within any such period become the registered holder of the lease, or does not transfer the lease as aforesaid, the same shall be liable to be forfeited." No. 23, 1945.

3. (1) The Western Lands Act of 1901, as amended by subsequent Acts, is further amended— Further amendment of Act No. 70, 1901.

- (a) by omitting from section three the definition of "Chairman"; Sec. 3. (Interpretation.)

- (b) (i) by omitting subsection three of section four and by inserting in lieu thereof the following subsection:— Sec. 4. (Commissioner and Assistant Commissioners.)

(3) The Governor may appoint two persons to be Assistant Western Lands Commissioners (in this Act hereinafter referred to as "Assistant Commissioners").

A person so appointed shall—

- (a) act as a member of such of the local land boards as the Commissioner may from time to time direct; and
- (b) exercise and perform such of the powers, authorities, duties and functions of the Commissioner as the Commissioner may direct generally, or in any special case.
- (ii) by omitting from subsection four of the same section the words "the chairmen" wherever occurring and by inserting in lieu thereof the words "the Assistant Commissioners";
- (iii) by omitting from the same subsection the words "Such salaries shall be subject to any deduction provided by the Public Service Salaries Acts, 1931-1933, or any Act amending the same or replacing the same";
- (iv) by omitting from subsection five of the same section the words "a chairman" and by inserting in lieu thereof the words "an Assistant Commissioner";

(v)

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Sec. 5.
(Disabilities
of Commis-
sioner
and Assist-
ant Commis-
sioners.)

Sec. 6.
(Public Service
Act, 1902,
not to apply
to appointment
of or to Com-
missioner or
Assistant
Commis-
sioners.)

- (v) by omitting from subsection six of the same section the words "a chairman" wherever occurring and by inserting in lieu thereof the words "an Assistant Commissioner";
- (vi) by omitting from the same subsection the words "the chairman" wherever occurring and by inserting in lieu thereof the words "the Assistant Commissioner";
- (c) (i) by omitting from section five the words "a chairman" and by inserting in lieu thereof the words "an Assistant Commissioner";
- (ii) by omitting from the same section the word "chairman" where secondly and thirdly occurring and by inserting in lieu thereof the words "Assistant Commissioner";
- (d) (i) by omitting from subsection one of section six the words "a chairman" wherever occurring and by inserting in lieu thereof the words "an Assistant Commissioner";
- (ii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection:—

(3) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1944, or any Act amending such Acts, to—

- (a) any officer of the Public Service appointed as Commissioner or Assistant Commissioner; or
- (b) any person who was such an officer at the time he was so appointed and who may be reappointed as Commissioner or Assistant Commissioner, as the case may be; or
- (c) any person who, having been appointed as Assistant Commissioner, may be appointed or reappointed as Commissioner; or
- (d) any person appointed as Assistant Commissioner who, immediately before the commencement of the
Western

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1945, was a chairman of local land boards and who was an officer of the Public Service at the time of his appointment as chairman of local land boards; or

- (e) any person appointed or reappointed as Commissioner who was a chairman of local land boards at the time he was appointed Commissioner and who at the time of his appointment as such chairman was an officer of the Public Service.
- (iii) by omitting from subsection four of the same section the words "Any officer of the Public Service so appointed or any such person so reappointed or appointed" and by inserting in lieu thereof the words "Any person to whom subsection three of this section applies";
- (e) (i) by omitting from subsection one of section Sec. 7. seven the words "a chairman" and by (Vacation of office.) inserting in lieu thereof the words "an Assistant Commissioner";
- (ii) by omitting from subsection two of the same section the words "the chairmen" and by inserting in lieu thereof the words "the Assistant Commissioners";
- (f) (i) by omitting from section eight the words "a Sec. 8. chairman" wherever occurring and by (Appointment of deputy.) inserting in lieu thereof the words "an Assistant Commissioner";
- (ii) by omitting from the same section the word "chairman" wherever occurring and by inserting in lieu thereof the words "Assistant Commissioner";
- (g) (i) by omitting subsection three of section Sec. 9. nine and by inserting in lieu thereof the (Power to establish administrative districts.) following subsection:—
- (3) (a) The members of a local land board shall be three in number and shall comprise the Commissioner, an Assistant Commissioner

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Commissioner and a person to be appointed by the Governor.

(b) Two members shall constitute a quorum; and, except as provided in paragraph (c) of this subsection, shall be competent to transact any business of the local land board and shall have and may exercise all the powers and authorities by this Act conferred upon the local land board.

(c) Any application for lease coming before a local land board in pursuance of the provisions of section twenty-five or section twenty-six of this Act, or referred to a local land board in pursuance of the provisions of section 10A of this Act, shall be dealt with by all three members of the local land board.

(d) The Commissioner shall preside at all sittings at which he is present and shall have an original vote on any question and shall have a casting vote on any question on which the votes are equal.

In the absence of the Commissioner an Assistant Commissioner shall preside and, when so doing, shall have an original vote on any question and shall have a casting vote on any question on which the votes are equal.

- (ii) by omitting from paragraph (b) of subsection five of the same section the words "A chairman" wherever occurring and by inserting in lieu thereof the words "The Commissioner or an Assistant Commissioner";
- (iii) by omitting from paragraph (c) of the same subsection the word "chairman" and by inserting in lieu thereof the words "Assistant Commissioner";
- (iv) by omitting from subsection six of the same section the word "chairman" wherever occurring and by inserting in lieu thereof the words "the Commissioner or an Assistant Commissioner";

(h)

(h) by omitting from section twelve the words “a chairman” wherever occurring and by inserting in lieu thereof the words “an Assistant Commissioner”;

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Sec. 12.
(Right to enter on Crown lands.)

(i) (i) by inserting in section 35L after the word “Commissioner” where firstly occurring the words “or an Assistant Commissioner”;

Sec. 35L.
(Amendment of applications, etc.)

(ii) by omitting from the same section the words “or chairman, as the case may be,” and by inserting in lieu thereof the words “or Assistant Commissioner”;

(2) (a) The persons who immediately before the commencement of this Act held office as chairmen of local land boards shall be deemed to have been appointed under the Western Lands Act of 1901, as amended by subsequent Acts, including this Act, as Assistant Commissioners. The term of office of an Assistant Commissioner deemed to have been so appointed shall, subject to the Western Lands Act of 1901, as so amended, be ten years as from the date on which he was appointed as chairman of local land boards.

Savings.

(b) The persons who immediately before the commencement of this Act held office as members of local land boards shall continue to hold office as such members and shall be deemed to have been appointed under the Western Lands Act of 1901, as so amended.

(c) All matters, proceedings, investigations or inquiries initiated, pending or part heard before a local land board immediately before the commencement of this Act shall be continued and completed before the local land boards constituted under the Western Lands Act of 1901, as so amended.