

## WESTERN LANDS (AMENDMENT) BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Western Lands Act 1901 in order—

- (a) to abolish the restrictions relating to home maintenance areas; and
- (b) to enable the rent of a lease to be redetermined at intervals of 5 years instead of 10 years, and after a change of purpose; and
- (c) to enable the rent of certain leases to be determined at auction or by tender; and
- (d) to restructure the system for disposal of Crown lands available for lease in the Western Division; and
- (e) to regulate further the clearing of land and the cultivation of certain land; and
- (f) to facilitate administration.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

**Clause 3** is a formal provision that gives effect to the Schedules of proposed amendments to the Principal Act.

**Clause 4** gives effect to Schedule 7 (transitional and other provisions).

#### **SCHEDULE 1—AMENDMENTS RELATING TO HOME MAINTENANCE AREAS**

**Schedule 1** removes from the Principal Act all references to home maintenance areas.

#### **SCHEDULE 2—AMENDMENTS RELATING TO CONDITIONS OF LEASES**

**Schedule 2 (1)** enables the controls on the cultivation of certain leased land to be extended to other land such as permissive occupancies, reserves and commons.

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**Schedule 2 (2)** makes similar provision for the extension of controls over clearing to be extended to land other than leased land.

**Schedule 2 (3)** makes an amendment that is consequential on the amendment made by Schedule 2 (4).

**Schedule 2 (4)** repeals the residence condition of leases.

**Schedule 2 (5)** deals with the duration of a consent by the Minister to the transfer of a lease and other aspects of such a consent.

**SCHEDULE 3—AMENDMENTS RELATING TO RENTS**

**Schedule 3 (1)** makes consequential amendments.

**Schedule 3 (2)** repeals sections 19B–19D and substitutes proposed sections 19B–19E.

**Proposed section 19B** provides for the time at which the rent of a lease is to be redetermined after the commencement of the proposed section in order to effect the transition to 5 yearly redeterminations (from 10 yearly) as provided by proposed section 19C.

**Proposed section 19C** requires the rent of a lease to be redetermined by the local land board at intervals of 5 years instead of the present 10 years and sets out the basis on which the rent is to be assessed.

**Proposed section 19D** deals with the manner of determining the rent of a lease when its purpose is changed.

**Proposed section 19E** enables a minimum rent for a lease to be prescribed by regulation.

**Schedule 3 (3)** repeals section 20 and substitutes a new section enabling the Minister to grant a rebate of rent for a lease or extend over 10 years (at present 5 years) the payment of rent for a lease or other money due under the Principal Act to the Crown.

**Schedule 3 (4)** inserts proposed section 22 continuing the effect of so much of the present section 19B (proposed to be repealed) as relates to the time for payment of the rent of a lease.

**SCHEDULE 4—AMENDMENTS RELATING TO THE GRANTING, EXTENSION AND FORFEITURE OF LEASES**

**Schedule 4 (1)–(5)** repeals certain provisions as a consequence of the amendments proposed by Schedule 4 (6).

**Schedule 4 (6)** repeals section 28A of the Principal Act and substitutes proposed sections 28A, 28B and 28BA.

**Proposed section 28A** would enable the Minister to grant leases for certain specified purposes (such as grazing, agriculture or mixed farming) at rents fixed by the local land board on a basis specified in the proposed section for the kind of lease. The Minister would be able to grant other leases at a rent determined at auction or by tender or at a rent determined by the local land board having regard to the purpose of the lease.

**Proposed section 28B** would continue the power of the Minister (under the present section 28A) to extend the term of a lease.

**Proposed section 28BA** deals with the power of the Minister to forfeit a lease.

**Schedule 4 (7)** facilitates the subdivision of leases by means of a surrender and grant of new leases.

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**Schedule 4 (8)** contains consequential amendments.

**SCHEDULE 5—AMENDMENTS RELATING TO ENFORCEMENT PROVISIONS**

**Schedule 5 (1)** amends section 47 of the Principal Act (which enables the Western Lands Commissioner to require a lessee to comply with a condition of the lease) to enable the Commissioner to control the cultivation and clearing of land by certain other persons (including a purchaser under an unregistered transfer, the holder of a permissive occupancy and the trustees of a reserve).

**Schedule 5 (2)** amends section 48 of the Principal Act (which enables the Commissioner, on failure by a lessee to comply with a notice under section 47, to rectify the failure and recover costs) to enable the Commissioner to take similar action in relation to an occupier other than a lessee.

**Schedule 5 (3)** penalises the cultivation of certain land without the consent of the Commissioner, the clearing of certain land without a licence issued by the Commissioner and the cultivation or clearing of land in breach of a condition imposed on giving such a consent or issuing such a licence.

**Schedule 5 (4)** extends from 6 months to 12 months the period within which proceedings for an offence against the Principal Act may be instituted.

**SCHEDULE 6—AMENDMENTS RELATING TO ADMINISTRATION**

**Schedule 6 (1)** extends the meaning of "lessee" to include a purchaser who has paid the purchase money but has not registered a transfer.

**Schedule 6 (2)–(6)** abolishes the offices of the Assistant Western Lands Commissioners, creates a new office of Deputy Western Lands Commissioner and makes consequential amendments.

**Schedule 6 (7)** creates the position of Chairperson of Local Land Boards and makes consequential amendments.

**Schedule 6 (8)** makes a consequential amendment.

**Schedule 6 (9)** provides for the service of notices under the Principal Act (proposed section 35MA).

**SCHEDULE 7—TRANSITIONAL AND OTHER PROVISIONS**

**Clause 1** defines "Principal Act" as the Western Lands Act 1901.

**Clause 2** validates certain past redeterminations of rent following a change in use of land that had been set apart for grazing.

**Clause 3** is a transitional provision relating to redeterminations of rental required following a change in the use of land—

- (a) that took place before the date of assent to the proposed Act (if the redetermination was still pending at that date); or
- (b) that takes place after that date and before the next redetermination of rent is due.

**Clause 4** enables an Assistant Western Lands Commissioner who ceases to hold office because of the operation of the proposed Act to elect between receiving compensation for loss of office and re-employment in the service of the Government.

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**Clause 5** provides for the completion of proceedings before a local land board that includes an Assistant Western Lands Commissioner if the proceedings are part heard at the time the Assistant Commissioner ceases to hold office.

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