

Queensland



ANNO VICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

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No. 12 of 1975

**An Act to amend the Land Act 1962–1974 in certain particulars and the Forestry Act 1959–1974 in a certain particular**

[ASSENTED TO 15TH MAY, 1975]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. **Short title and citation.** (1) This Act may be cited as the *Land Act and Another Act Amendment Act 1975*.

(2) The *Land Act 1962–1974* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Land Act 1962–1975*.

**2. Amendment of s. 3.** Section 3 of the Principal Act is amended by—

(a) omitting from the heading commencing with the words “PART VI” the number “169” and substituting the number “169F”;

(b) inserting after the expression “Division III—Surrender of Leases by arrangement (s. 169);” the expression “Division IV—Conversion of certain Grazing Selections to Grazing Homestead Perpetual Leases (ss. 169A–169F);”.

**3. Amendment of s. 31.** Section 31 of the Principal Act is amended by—

(a) omitting the note appearing in and at the beginning of the section and substituting the note “Salaries of members.”;

(b) omitting subsections (4) and (5).

**4. New ss. 31A, 31B, 31C, 31D.** The Principal Act is amended by inserting after section 31 as amended by this Act the following sections:—

“**31A. Leave of absence to members.** (1) Subject to section 31B, a member of the Court in office at the date of the passing of the *Land Act and Another Act Amendment Act 1975* shall be entitled to leave of absence as follows:—

(a) in respect of a period of 10 years or more of his service as such member served prior to the date of the passing of that Act, his entitlement shall be that prescribed by section 3 of *The Supreme Court Acts Amendment Act of 1944* as if he were a Judge of the Supreme Court;

(b) in respect of any other period of his service as such member, his entitlement shall be that prescribed by section 15 (1) of the *Judges’ Pensions Act 1957–1974* as if he were a Judge of the Supreme Court.

(2) A member of the Court appointed as such after the date of the passing of the *Land Act and Another Act Amendment Act 1975* shall be entitled to leave of absence prescribed by section 15 (1) of the *Judges’ Pensions Act 1957–1974* as if he were a Judge of the Supreme Court.

(3) For the purposes of applying the proviso to section 15 (1) of the *Judges’ Pensions Act 1957–1974* to an entitlement of leave of absence prescribed by that section conferred by subsection (1) of this section the provisions of that proviso shall be read and construed as if—

(a) the references therein to *The Judges’ Salaries and Pensions Act of 1967* were references to the *Land Act and Another Act Amendment Act 1975*; and

(b) the words “but who was not in office at the time of the passing of this Act” did not appear therein.

**31B. Election as to leave of absence.** A member of the Court in office at the date of the passing of the *Land Act and Another Act Amendment Act 1975* who, under section 31C (2), makes an election therein referred to may by means of the same instrument of election elect not to take the entitlement as to leave conferred by section 31A (1) and in that event he shall be entitled to leave of absence to which he would have been entitled had the *Land Act and Another Act Amendment Act 1975* not been passed.

**31C. Pension benefits to members.** (1) Save as is prescribed by subsection (2) and subject to subsection (3), the provisions of the *Judges' Pensions Act 1957-1974* other than section 15 shall apply to every member of the Court and to his widow and to any child of his as if he were a Judge of the Supreme Court.

(2) Subsection (1) does not apply in respect of a member of the Court whether appointed before or after the date of the passing of the *Land Act and Another Act Amendment Act 1975* who being a contributor to the Fund at the date of his appointment as such member or at the date of the passing of that Act elects in accordance with this section to continue to contribute to the Fund or in respect of his widow or any child of his.

(3) A member of the Court who at the date of the passing of the *Land Act and Another Act Amendment Act 1975* has attained the age of 65 years and accordingly is entitled to benefits from the Fund may elect in accordance with this section to take the benefits conferred upon him, his widow and any child of his by subsection (1).

Where a member of the Court to whom this subsection applies duly elects under the preceding paragraph—

- (a) he shall, upon his election, cease to be entitled to any further benefits from the Fund;
- (b) upon his election, his wife and any child of his shall not be entitled upon his death to any benefits from the Fund and any right to such benefits had by them or any of them at the date of the election shall thereupon be forfeited;
- (c) his entitlement, and that of his widow or any child of his, to the benefits conferred by subsection (1) are subject to—
  - (i) in a case where the amount of the benefit that at the date of his election he has received from the Fund together with interest thereon at a rate stipulated by the Minister is greater than the amount that he would have been entitled to receive from the Fund had he ceased to be a contributor to the Fund on account of his resignation immediately before his attaining the age of 65 years, his refunding to the Fund within one month after the date of his election the difference between those amounts;
  - (ii) in a case where the amount of the benefit that at the date of his election he has received from the Fund together with interest thereon at a rate stipulated by the Minister is less than the amount that he would have been entitled to receive from the Fund on account of his resignation immediately before his attaining the age of 65 years, payment from the Fund to him of the difference between those amounts.

Where a member of the Court to whom this subsection applies does not duly elect under the first paragraph of this subsection he, his widow and any child of his shall not be entitled to any benefits conferred by subsection (1).

(4) Every election under subsection (2) or (3) shall be made within three months after the material time and shall be in writing and in duplicate and one copy thereof shall be furnished to the State Service Superannuation Board and the other copy thereof shall be furnished to the permanent head of the Department of Lands of the State.

(5) Where a member of the Court duly elects to continue to contribute to the Fund—

(a) his contribution shall be subject to and in accordance with such provisions of the 1958 Act and the 1972 Act as applied in respect of his contributions at the material time.

(b) the benefits payable to him, his widow and any child of his by reason of his contributing to the Fund shall be as prescribed by such provisions of the 1958 Act and the 1972 Act as apply in respect of him, his widow or, as the case may be, his child.

(c) for the purpose of the application of the provisions of the 1958 Act in respect of him, he shall be deemed to be an officer within the meaning of that Act, and for the purpose of the application of provisions of the 1972 Act in respect of him, he shall be deemed to be an officer within the meaning of that Act.

(6) Where a member of the Court does not duly elect to continue contributing to the Fund he shall be deemed to have ceased to contribute thereto and to have ceased to be an officer within the meaning of either the 1958 Act or the 1972 Act at the material time, and he shall be entitled to such payments as are prescribed by the provisions of those Acts to be paid to a contributor upon his resignation before attaining the age of 65 years.

(7) In this section—

(a) the expression “material time” means—

(i) in relation to a member of the Court appointed before the date of the passing of the *Land Act and Another Act Amendment Act 1975*, that date;

(ii) in relation to any other member of the Court, the date of his first appointment as a member;

(b) the term “Fund” means the State Service Superannuation Fund preserved, continued in existence and established under the *State Service Superannuation Act 1972*;

(c) a reference “1958 Act” is a reference to the *Public Service Superannuation Act 1958–1974*, as subsequently amended;

(d) a reference “1972 Act” is a reference to the *State Service Superannuation Act 1972–1974*, as subsequently amended.

**31D. Computation of length of service.** In computing the length of service of a member of the Court for the purposes of sections 31A and 31C, every period during which he has served, whether pursuant to his first appointment or any renewal thereof or any subsequent appointment as a member or acting member, shall be taken into account.”

5. **New heading and ss. 169A, 169B, 169C, 169D, 169E, 169F.** The Principal Act is amended by inserting after section 169 the following heading and sections:—

“ DIVISION IV—CONVERSION OF CERTAIN GRAZING SELECTIONS TO  
GRAZING HOMESTEAD PERPETUAL LEASES

**169A. Application for conversion.** (1) A lessee of a grazing selection may at any time apply to the Minister to have the tenure of that selection converted to that of a grazing homestead perpetual lease.

- (2) An application pursuant to subsection (1)—
- (a) shall be in the prescribed form and shall contain the prescribed particulars;
  - (b) shall be signed by the applicant;
  - (c) shall be accompanied by—
    - (i) the instrument of lease of the grazing selection in respect of which the application is made;
    - (ii) the prescribed fee;
    - (iii) the appropriate stamp duty;
  - (d) shall have endorsed thereon a surrender by the lessee of the lease of the grazing selection in question (which surrender shall take effect on and from the day immediately preceding the quarter day on which the grazing homestead perpetual lease issued pursuant to section 169B commences) and all necessary consents to the surrender and the issue to him in the stead of that lease of a grazing homestead perpetual lease.

**169B. Procedure on application.** (1) Upon receipt of an application in accordance with section 169A duly made, the Minister shall certify whether or not the grazing selection in respect of which the application is made is, in his opinion, substantially in excess of a living area.

(2) Where the certificate pursuant to subsection (1) is to the effect that the grazing selection in question is not substantially in excess of a living area, the applicant shall be entitled to a grazing homestead perpetual lease in respect of the whole of the land the subject of that grazing selection.

(3) Where the certificate pursuant to subsection (1) is to the effect that the grazing selection in question is substantially in excess of a living area, the applicant shall be entitled to a grazing homestead perpetual lease of such part of the land the subject of that grazing selection as the Minister determines.

(4) The Governor in Council may issue to a lessee a grazing homestead perpetual lease in accordance with subsection (2) or, as the case requires, subsection (3).

**169C. Provisions, terms and conditions of grazing homestead perpetual lease.** The following provisions, terms and conditions apply with respect to every grazing homestead perpetual lease issued pursuant to section 169B:—

- (a) the lease shall be a lease in perpetuity;
- (b) the term of the lease shall commence on the quarter day next following the day on which the Minister received the application pursuant to section 169A, duly made;

- (c) the annual rent payable under the lease for the first rental period thereof, which shall be the balance of the rental period of the grazing selection in respect of which the application is made current at the date on which the Minister received the application pursuant to section 169A, duly made, shall be—
  - (i) in the case of the conversion to a grazing homestead perpetual lease of the whole of the land the subject of the grazing selection, the annual rent payable under the lease issued in respect of the grazing selection immediately prior to the date of its surrender;
  - (ii) in the case of the conversion to a grazing homestead perpetual lease of part only of the land the subject of the grazing selection, a proportionate amount, as determined by the Minister, of the annual rent payable under the lease issued in respect of the grazing selection immediately prior to the date of its surrender;
- (d) the annual rent for each rental period of ten years thereafter payable under the lease shall be determined by the Court as if the land the subject of the lease were held as a grazing selection;
- (e) arrears of rent payable under this Act in respect of the grazing selection at the date of the surrender of the lease thereof shall be deemed to be arrears of rent payable under this Act in respect of the grazing homestead perpetual lease and the provisions of this Act shall apply accordingly with respect to those arrears;
- (f) moneys paid as rent subsequent to the date of surrender of the lease in respect of the grazing selection shall not be credited as rent in respect of the grazing homestead perpetual lease unless those moneys are paid in respect of a period of time subsequent to the commencement of the term of the grazing homestead perpetual lease;
- (g) the fencing, developmental and improvement conditions, if any, to which the grazing selection was subject at the date of the surrender of the lease thereof shall apply in respect of the grazing homestead perpetual lease;
- (h) a condition of personal residence to which the grazing selection was subject at the date of the surrender of the lease thereof shall continue to apply with respect to the grazing homestead perpetual lease for the unexpired period of the lease of the grazing selection during which the condition of personal residence applies that remains at the quarter day on which the term of the grazing homestead perpetual lease commences;
- (i) section 246 shall not apply to the lease;
- (j) section 284 shall apply to the lease, whether or not the lease of the grazing selection had expired prior to the date of the making of the application in respect of the grazing selection;

- (k) a lessee may at any time apply to the Minister to have the tenure of the lease converted to a grazing homestead freeholding lease and for this purpose—
  - (i) sections 139 to 142 both inclusive shall, with and subject to all necessary adaptations, apply and extend accordingly;
  - (ii) the grazing homestead perpetual lease shall be deemed to be a grazing selection;
- (l) subject to paragraphs (a) to (k) both inclusive, all such provisions, terms and conditions as apply with respect to a grazing selection shall apply with respect to the lease;
- (m) the lease shall be subject to each and every reservation or restriction to which the lease of the grazing selection was subject.

**169D. Lapse of application under s. 139.** Any application under section 139 subsisting at the date of the receipt by the Minister of an application pursuant to section 169A shall thereupon lapse.

**169E. Application of area limitation to grazing homestead perpetual lease.** For the purpose of determining whether or not—

- (a) a person other than the person thereunto entitled pursuant to this Division is qualified to acquire or hold a grazing homestead perpetual lease; or
- (b) the holder of a grazing homestead perpetual lease is entitled to acquire or hold any other tenure under this Act,

every grazing homestead perpetual lease shall be deemed to be a grazing selection and every provision of this Act relating to disqualifications upon applicants applying for or holding land under this Act and to the maximum area or maximum aggregated area of land that may be held by one and the same person under this Act and whether under the same or different tenures shall, with and subject to all necessary adaptations, apply and extend accordingly.

**169F. Non-effect of expiry of lease.** The expiry of the lease of a grazing selection the subject of an application under section 169A shall not prejudice or affect the operation of this Division.”.

**6. Amendment of s. 171.** Section 171 of the Principal Act is amended by in subsection (1), omitting from the proviso to subparagraph (c) the words “ of five pounds ” and substituting the words “ prescribed from time to time by Order in Council and until so prescribed at the rate of five ”.

**7. Amendment of s. 187.** Section 187 of the Principal Act is amended by, in subsection (4), omitting the words “ “ *The Companies Act of 1961,* ” ” and substituting the words “ and a recognised company within the meaning of the *Companies Act 1961–1974* ”.

**8. Amendment of s. 206.** Section 206 of the Principal Act is amended by omitting the words “ “ *The Companies Act of 1961,* ” ” and substituting the words “ and a recognised company within the meaning of the *Companies Act 1961–1974* ”.

**9. Amendment of s. 207.** Section 207 of the Principal Act is amended by, in subsection (4), in subparagraph (b), inserting after the word “ rate ” the words “ prescribed from time to time by Order in Council and until so prescribed at the rate ”.

**10. Amendment of s. 222.** Section 222 of the Principal Act is amended by omitting the words “ “ *The Companies Act of 1961,* ” ” and substituting the words “ and a recognised company within the meaning of the *Companies Act 1961–1974* ”.

**11. Amendment of s. 290.** Section 290 of the Principal Act is amended by omitting the words “ six thousand pounds ” and substituting the expression “ \$50 000 ”.

**12. Amendment of Forestry Act 1959–1974.** (1) The *Forestry Act 1959–1974* is amended by, in section 5, in the definition “ Crown holding ”, inserting after the words “ Grazing Selection, ” where they firstly occur, the words “ Grazing Homestead Perpetual Lease, ”.

(2) The *Forestry Act 1959–1974* as amended by this section may be cited as the *Forestry Act 1959–1975*.