

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHÆ SECUNDÆ REGINÆ



No. 54 of 1984

An Act to amend the Land Act 1962–1984 in certain
particulars and for related purposes

[ASSENTED TO 15TH MAY, 1984]

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.** This Act may be cited as the *Land Act Amendment Act 1984*.

2. **Principal Act and citation as amended.** (1) In this Act the *Land Act 1962–1983* as amended by the *Land Act (Aboriginal and Islander Land Grants) Amendment Act 1984* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Land Act 1962–1984*.

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

(a) in the references to the Divisions of Part IV—

(i) omitting the words “*Division III.—Settlement Farm Leases* (s. 130);”;

(ii) omitting the words “*Grazing Selections* (ss. 131–134);” and substituting the words “*Grazing Homestead Perpetual Leases* (ss. 131–133);”;

(iii) omitting the words “*certain Selections to Freeholding Tenure* (ss. 135–147)” and substituting the words “*Grazing Homestead Perpetual Leases to Grazing Homestead Freeholding Leases* (ss. 139–147H);”;

(b) omitting the words “PART V.—BRIGALOW LEASES (ss. 150–153);”;

(c) in the reference to Part VI and in the references to its Divisions—

(i) omitting the expression “169F” where first occurring and substituting the expression “169”;

(ii) omitting the expression “162” and substituting the expression “162A”;

(iii) omitting the words “*Division IV.—Conversion of certain Grazing Selections and Settlement Farm Leases to Grazing Homestead Perpetual Leases* (ss. 169A–169F);”;

(d) in the reference to Part XII and in the reference to Division II thereof—

(i) omitting the expression “370” where first occurring and substituting the expression “370A”;

(ii) omitting the expression “(s. 370)” and substituting the words “, and Additional Powers with respect to Land (ss. 370–370A)”.

4. **Amendment of s. 5. Interpretation of terms (1910, s. 4).** Section 5 of the Principal Act is amended by, in the meaning of the term “Selection”, omitting the words “settlement farm lease grazing selection” and substituting the words “grazing homestead perpetual lease”.

5. **Amendment of s. 38. Assessment of rent, compensation, etc. (1910, s. 29).** Section 38 of the Principal Act is amended by—

(a) omitting the words “or brigalow lease”;

(b) omitting the words “, and additionally, in the case of a settlement farm lease, brigalow lease or perpetual lease selection, the area of arable land in the holding”.

6. Amendment of s. 41A. Mutual discovery of information as to basic properties and the general nature of evidence. Section 41A of the Principal Act is amended by, in subsection (4), omitting the word “ subsection ” and substituting the word “ section ”.

7. Amendment of s. 52. Additional requisites of opening notification for preferential pastoral holding. Section 52 of the Principal Act is amended by omitting the words “, grazing selection or brigalow lease” and substituting the words “ or grazing homestead perpetual lease ”.

8. Amendment of s. 54. Disqualifications for preferential pastoral holdings (1910, s. 40B). Section 54 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the words “, grazing selection or brigalow lease ” occurring in paragraph (b) and substituting the words “ or grazing homestead perpetual lease ”;

(ii) omitting the word “ selection,” occurring in paragraph (c) and substituting the words “ homestead perpetual lease ”;

(b) in subsection (5) (b)—

(i) omitting the word “ selection ” where it occurs the first time and where it occurs the second time and substituting the words “ homestead perpetual lease ” in each case;

(ii) omitting the words “ or leases ” where twice occurring;

(iii) omitting the words “ or grazing selection ”;

(iv) omitting the words “ of the grazing selection or preferential pastoral holding ”.

9. Amendment of s. 73A. Extension of term of lease of stud holding. Section 73A of the Principal Act is amended by, in subsection (1), omitting the words “ passing of the *Land Act and Another Act Amendment Act 1981* is extended by 35 years.” and substituting the words “ commencement of the *Land Act Amendment Act 1984* is extended so that it expires on 31 December 2058.”.

10. Amendment of s. 78. Licenses may be granted without previous notification (1910, s. 46). Section 78 of the Principal Act is amended by—

(a) in subsection (1), omitting the word “ fixed ” and substituting the word “ determined ”;

(b) in subsection (2)—

(i) omitting the words “ grazing selection, or settlement farm lease,”;

(ii) omitting the word “ fixes ” and substituting the word “ determines ”.

11. Repeal of and new s. 83. The Principal Act is amended by repealing section 83 and substituting the following section:—

“ **83. Classes of selections.** (1) Land may be opened for selection, applied for and selected as—

- (a) the category of agricultural selection described as agricultural farm; or
 - (b) grazing homestead perpetual lease.
- (2) Subject to subsection (3), leases may be granted and held—
- (a) in respect of land so opened as aforesaid, as agricultural farm or grazing homestead perpetual lease, as the case may be;
 - (b) in respect of land offered for lease under Part VI or Division VI of Part X, as grazing homestead perpetual lease; and
 - (c) in respect of land opened for selection as perpetual lease selection prior to the passing of the *Land Act and Another Act Amendment Act 1981*, as perpetual lease selection.

(3) (a) Land shall not be granted under perpetual lease selection tenure or agricultural farm tenure under Part VI or Division VI of Part X.

(b) A new lease may be granted under perpetual lease selection tenure only pursuant to the provisions of section 270 or section 271.”.

12. Repeal of and new s. 84. The Principal Act is amended by repealing section 84 and substituting the following section:—

“ **84. Maximum areas.** An area of land that substantially exceeds a living area shall not be declared open for lease, and a lease of that area shall not be granted as grazing homestead perpetual lease or agricultural farm.”.

13. Repeal of s. 85. Maximum area which may be held in a district (1910, s. 51). The Principal Act is amended by repealing section 85.

14. Amendment of s. 86. Maximum area which may be held in the State (1910, s. 53). Section 86 of the Principal Act is amended by—

- (a) in subsection (1)—
 - (i) omitting paragraph (b);
 - (ii) omitting the word “ selections ” occurring in paragraph (c) and substituting the words “ homestead perpetual leases ”;
- (b) in subsection (2), omitting the words “ or to be granted and to hold any new lease of the whole or part of such selections issued in pursuance of the provisions of Part VI ”;
- (c) in subsection (3), omitting the words “ section eighty-five of this Act and ”.

15. Amendment of s. 87. Section 87 of the Principal Act is amended by—

- (a) in subsection (1), omitting paragraphs (j) and (k);
- (b) in subsection (3), omitting the words “subparagraph (ii) of paragraph (j) of subsection (1) and in”;
- (c) in subsection (4), omitting the words “as agricultural farm”;
- (d) omitting subsection (5);
- (e) in subsection (6), omitting the word “selection” where it occurs after the words “as grazing” and substituting the words “homestead perpetual lease”.

16. Amendment of s. 92. Maximum holding as grazing selection (1910, s. 52). Section 92 of the Principal Act is amended by—

- (a) in the note to the section, omitting the word “selection” and substituting the words “homestead perpetual lease”;
- (b) in subsection (1)—
 - (i) omitting the expression “(1)” identifying subsection (1);
 - (ii) omitting the word “selections” where four times occurring and substituting the words “homestead perpetual leases” in each case;
 - (iii) omitting the word “selection” where three times occurring and substituting the words “homestead perpetual lease” in each case;
- (c) omitting subsection (2).

17. Amendment of s. 93. Restriction on selection by pastoral lessees (1910, ss. 53 and 53A). Section 93 of the Principal Act is amended by—

- (a) in subsection (1), omitting the word “selection” and substituting the words “homestead perpetual lease”;
- (b) in subsection (2), omitting the word “selection” where twice occurring and substituting the words “homestead perpetual lease” in each case;
- (c) in subsection (3), omitting the words “such grazing selection or” where they occur after the words “comprised in”;
- (d) in subsection (4)—
 - (i) omitting the word “selection” where it first occurs and substituting the words “homestead perpetual lease”;
 - (ii) omitting the words “such grazing selection or”;
- (e) in subsection (5), omitting the word “selection” and substituting the words “homestead perpetual lease”.

18. Amendment of s. 106. Section 106 of the Principal Act is amended by, in subsection (1), omitting the words “selection or a settlement farm lease” and substituting the words “homestead perpetual lease”.

19. Amendment of s. 107. Fencing of other selections. Section 107 of the Principal Act is amended by, in subsection (1), omitting the words “selection or settlement farm lease” and substituting the words “homestead perpetual lease”.

20. Amendment of s. 112. Fencing of contiguous grazing selections (1910, s. 82). Section 112 of the Principal Act is amended by—

(a) in the note to the section, omitting the word “selections” and substituting the words “homestead perpetual leases”;

(b) omitting the word “selections” where it occurs after the word “grazing” and substituting the words “homestead perpetual leases”;

(c) omitting the word “selection” where three times occurring after the word “grazing” and substituting the words “homestead perpetual lease” in each case.

21. Repeal of s. 130. Tenure (1910, s. 114A). Repeal of divisional heading. The Principal Act is amended by repealing section 130 and the divisional heading immediately preceding that section.

22. Amendment of divisional heading immediately preceding s. 131. The divisional heading immediately preceding section 131 of the Principal Act is amended by omitting the word “*Selections*” and substituting the words “*Homestead Perpetual Leases*”.

23. Amendment of s. 131. Section 131 of the Principal Act is amended by—

(a) omitting subsections (1) and (2) and substituting the following subsections:—

“ (1) A grazing homestead perpetual lease shall be a lease in perpetuity.

(2) In respect of a grazing homestead perpetual lease there shall be rental periods each of which shall be 10 years.”;

(b) in subsection (3)—

(i) omitting the words “the term or when the term exceeds ten years, during”;

(ii) omitting the word “selection” where twice occurring after the word “grazing” and substituting the words “homestead perpetual lease” in each case;

(iii) omitting the words “Where the term exceeds ten years, the” and substituting the word “The”;

(c) omitting subsections (4) and (5) and substituting the following subsection:—

“ (4) (a) The lease of a grazing homestead perpetual lease issued pursuant to this Part shall be subject to the condition of personal residence during the first 7 years of the lease where an opening notification has imposed such condition.

(b) Where—

- (i) the period of personal residence has expired or such a condition has not been imposed on the lease; or
- (ii) a grazing homestead perpetual lease issued otherwise than pursuant to this Part,

the lease shall be subject to the condition of occupation unless the area thereof does not, in the opinion of the Minister, constitute a living area, in which case the lease shall be exempt from such condition.

(c) Nothing contained in this subsection operates to impose the condition of occupation upon the lessee of any selection that, immediately prior to the commencement of the *Land Act Amendment Act 1984*, was not subject to such condition.”;

(d) in subsection (6), omitting the word “selection” where it occurs after the word “grazing” and substituting the words “homestead perpetual lease”.

24. Repeal of s. 134. Extension of lease in exceptional cases (1959, s. 59). The Principal Act is amended by repealing section 134.

25. Amendment of divisional heading preceding s. 137. The divisional heading preceding section 137 of the Principal Act is amended by omitting the words “*certain Selections to Freeholding or Perpetual Lease Tenure*” and substituting the words “*Grazing Homestead Perpetual Leases to Grazing Homestead Freeholding Leases*”.

26. Repeal of s. 137. Settlement farm leases (1959, s. 22). Repeal of heading. The Principal Act is amended by repealing section 137 and the heading immediately preceding that section.

27. Repeal of s. 138. Determination of unimproved value (1959, s. 23). The Principal Act is amended by repealing section 138.

28. Repeal of and new s. 139. Repeal of heading. The Principal Act is amended by repealing section 139 and the heading immediately preceding that section and substituting for that section the following section:—

“**139. Application for conversion.** (1) The lessee of a grazing homestead perpetual lease may at any time apply in writing to the Minister to have the tenure of his lease converted to that of a grazing homestead freeholding lease.

(2) The Minister shall refer to the Commission every application received by him under this section.”.

29. Amendment of s. 140. Matter to be certified by the Commission (1959, s. 26). Section 140 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the words “In every case of an application” and substituting the words “Upon a reference to it by the Minister”;

(ii) inserting after the words "section 139, the Commission" the words ", after due investigation,";

(iii) omitting the word "selection" where twice occurring and substituting the words "homestead perpetual lease" in each case;

(b) in subsection (3), omitting the word "selection" where twice occurring and substituting the words "homestead perpetual lease" in each case;

(c) in subsection (4), omitting the word "selection" and substituting the words "homestead perpetual lease";

(d) in subsection (5), omitting the word "selection" where twice occurring and substituting the words "homestead perpetual lease" in each case.

30. Amendment of s. 141. General provisions (1957, s. 5, 1959, ss. 23 and 26). Section 141 of the Principal Act is amended by, in subsection (1), omitting the words "This subsection applies subject to subsection (3) of section 136 of this Act."

31. Amendment of s. 142. Lessee to elect whether to proceed with conversion of tenure (1957, s. 6, 1959, s. 24). Section 142 of the Principal Act is amended by—

(a) omitting all that part of subsection (1) occurring after the words "Minister in writing" and substituting the words "whether he elects to proceed with his application to have the tenure of his selection converted to a grazing homestead freeholding lease.";

(b) in subsection (5), omitting the word "grazing" occurring in paragraph (b).

32. Repeal of s. 143. Terms and conditions of new agricultural farms (1957, s. 7, 1959, s. 27). The Principal Act is amended by repealing section 143.

33. Amendment of s. 144A. Terms and conditions of grazing homestead freeholding lease. Section 144A of the Principal Act is amended by—

(a) omitting the word "selection" where it occurs after the words "to which a grazing" and substituting the words "homestead perpetual lease";

(b) omitting the word "selection" where it occurs in paragraph (b) and substituting the words "homestead perpetual lease or, where applicable, the market value of the commercial timber thereon, whichever is the later date";

(c) omitting the word "selection" where it occurs in paragraph (e) and substituting the words "homestead perpetual lease";

(d) omitting the second paragraph of the section, being the paragraph commencing with the words "Subject to", and substituting the following paragraph:—

"Subject to this Division, all other terms and conditions to which the surrendered lease was subject, in force and subsisting

immediately prior to the date of its conversion, save a condition as to a reservation for, or for a purpose connected with, works under and within the meaning of the *Irrigation Act* 1922–1983, shall continue in force, and the new tenure shall be subject to all such terms and conditions.”.

34. Amendment of s. 145A. Application of area limitations under this Act to grazing homestead freeholding lease. Section 145A of the Principal Act is amended by omitting the word “selection” and substituting the words “homestead perpetual lease”.

35. Amendment of s. 147. Payment for timber (1959, s. 31). Section 147 of the Principal Act is amended by—

(a) omitting subsection (1) and substituting the following subsection:—

“(1) (a) Upon the conversion pursuant to this Division of a lease or a part thereof, commercial timber the property of the Crown that is on the land comprised in the lease or, as the case may be, the part in question and that is not a forest product to which a reservation set forth in section 147B relates shall become and be the property of the lessee.

(b) During the first 10 years of the term of the grazing homestead freeholding lease, the lessee shall pay to the Crown by way of equal annual instalments (that shall be paid each year with the annual rent in respect of that lease) the market value, determined in accordance with section 140, of the commercial timber on the land comprised in that lease.

(c) Section 249 applies to the annual instalments referred to as if they were payable as rent.”;

(b) in subsection (3)—

(i) omitting the words “(a) Subject to paragraph (b) of this subsection, upon” and substituting the word “Upon”;

(ii) omitting the words “other than a surrender to which paragraph (b) of this subsection applies,”;

(iii) omitting paragraph (b).

36. Repeal of and new s. 147A and saving. (1) The Principal Act is amended by repealing section 147A and substituting the following section:—

“147A. No transfer to corporation of certain freeholded land without consent of Governor in Council. (1) Every deed of grant in fee-simple of the land comprised in a grazing homestead freeholding lease—

(a) issued after the commencement of the *Land Act Amendment Act* 1984; and

- (b) where the area of the land comprised in the lease exceeds 2 500 hectares

shall, in addition to being issued subject to all such reservations and conditions as are authorized or prescribed by this Act or any other Act, be issued subject to a condition that the estate in fee-simple in the land or any part thereof having an area in excess of 2 500 hectares shall not be transferred or assigned, by the grantee or, subsequently, by any other person, to a corporation or to a natural person upon or subject to a trust for a corporation without the prior consent of the Governor in Council.

(2) Any certificate of title thereafter issued by the Registrar of Titles in respect of such land or part as aforesaid shall be issued subject to the like condition.

(3) Application for consent of the Governor in Council shall be made in writing to the Minister by the parties to the proposed transfer or assignment and shall be accompanied by—

- (a) a statutory declaration by the proposed transferee or assignee setting forth—

(i) full particulars as to the identity of the persons having effective control of the corporation in question and whether or not majority control is in the hands of persons resident outside Australia;

(ii) references to the description and area of all other lands, if any, in the State in which the transferee or assignee has an interest and the nature of such interest;

- (b) a certificate by the Valuer-General setting forth the unimproved value of the land the subject of the proposed transfer or assignment and of all other land in the State in which the transferee or assignee has any interest, which certificate may be a copy of or an extract from the appropriate valuation roll certified by the Valuer-General as a true copy or extract.

(4) The Minister may require either party in a particular case to furnish to him, within a time specified by him, such additional information or further particulars as the Governor in Council or the Minister considers necessary in connexion with the application and a decision thereon.

(5) The Governor in Council, after considering the application and any recommendation made by the Minister, may in his absolute discretion give or refuse to give his consent.

(6) The Secretary of the Commission shall notify the parties of the Governor in Council's decision and, in a case where consent is given, shall certify under his hand as to such consent.

(7) In a case where consent to the transfer or assignment is required under this section, it is a condition precedent to registration of the transfer or assignment that the Registrar of Titles be satisfied that such consent has been given by production to him of the certificate of the Secretary of the Commission.

(8) Where a deed of grant in fee-simple of the land comprised in a grazing homestead freeholding lease has been issued prior to the commencement of the *Land Act Amendment Act 1984*, then—

- (a) in a case where the area of the land does not exceed 2 500 hectares or a certificate of title has been issued or issues subsequent to the issue of the deed of grant, whether—
 - (i) prior to the commencement of the said Act or after such commencement; and
 - (ii) in respect of the whole thereof or a part thereof, it is not a condition of any transfer or assignment of the land or part to a corporation or to a natural person upon or subject to a trust for a corporation that the prior consent of the Governor in Council be obtained;
- (b) in a case where the area of the land exceeds 2 500 hectares and a certificate of title has been issued or issues subsequent to the issue of the deed of grant, whether prior to the commencement of the said Act or after such commencement, in respect of a part of the area of land not exceeding 2 500 hectares, it is not a condition of any transfer or assignment of the land contained in the certificate of title or any part thereof to a corporation or to a natural person upon or subject to a trust for a corporation that the prior consent of the Governor in Council be obtained;
- (c) in a case where the area of the land exceeds 2 500 hectares or a certificate of title has been issued or issues subsequent to the issue of the deed of grant, whether—
 - (i) prior to the commencement of the said Act or after such commencement; and
 - (ii) in respect of the whole of the land or any part thereof having an area in excess of 2 500 hectares, the consent of the Governor in Council is a condition precedent to any transfer or assignment of the land or any part thereof having an area in excess of 2 500 hectares as aforesaid to a corporation or to a natural person upon or subject to a trust for a corporation; and, in relation to consent, subsections (3) to (7) are applicable accordingly.

(9) Notwithstanding any other provision of this section, a condition subject to which a deed of grant or certificate of title has issued, whether before or after the commencement of the *Land Act Amendment Act 1984*, that the estate in fee-simple in the land to which the deed or certificate relates or any part thereof shall not be transferred or assigned to a corporation or to a natural person upon or subject to a trust for a corporation without the prior consent of the Governor in Council may be determined by Order in Council to be not applicable in any particular case; and such condition is not applicable upon publication of the Order in Council in the Gazette.

(10) The Secretary of the Commission shall forward a copy of the Gazette containing an Order in Council referred to in subsection (9) to the Registrar of Titles.

(11) The Registrar of Titles shall—

(a) on receipt of the copy of the Gazette in a case to which subsection (9) refers; and

(b) in any other case where a condition as aforesaid ceases or has ceased to be applicable,

at the request of the registered proprietor of the land in question and on production to him of the deed of grant or certificate of title, without fee, or, without any such request, when next the deed or certificate is in his possession in connexion with a dealing, make an endorsement on such deed or certificate and on the deed or certificate bound up in the register book or do such other act, matter or thing as he thinks fit to record that the condition is not applicable.”.

(2) A deed of grant referred to in subsection (2) of section 147A of the Principal Act that is not subjected prior to the commencement of this Act to the condition prescribed by subsection (1) of that section shall continue after such commencement not to be subjected to the condition notwithstanding the repeal of that section by subsection (1) of this section.

37. Amendment of s. 147B. Reservation for purposes of forest management. Section 147B of the Principal Act is amended by, in subsection (1)—

(a) omitting the word “selection” and substituting the words “homestead perpetual lease”;

(b) omitting the word “of” occurring before the words “areas described” and substituting the word “or”.

38. Repeal of Part V. The Principal Act is amended by—

(a) omitting the heading “PART V.—BRIGALOW LEASES” immediately preceding section 150;

(b) repealing sections 150, 151, 152 and 153.

39. Repeal of and new s. 154. The Principal Act is amended by repealing section 154 and substituting the following section:—

“**154. Application of Division.** This Division applies with respect to pastoral leases, and in this Division the term “holding” is limited in its meaning accordingly.”.

40. Amendment of s. 157. Powers of the Minister (1959, s. 44). Section 157 of the Principal Act is amended by—

(a) in subsection (2), omitting the words “tenure (which shall not be agricultural farm)” and substituting the word “tenure”;

(b) in subsection (4), omitting all words occurring after the words “the Minister shall not” and substituting the words “determine an area that substantially exceeds a living area.”.

41. **New s. 159A.** The Principal Act is amended by inserting after section 159 the following section:—

“**159A. Power to extend subsisting lease.** (1) Where a lease to which this Division applies and in respect of which a lessee has made an application pursuant to section 155 expires—

- (a) before the Minister refuses the application; or
- (b) where the Minister before or after the expiry of the lease approves the application (whether in respect of the whole or a part only of the land comprised in the lease), before the lessee gives to the Minister notice of election pursuant to section 159,

the Minister, with the approval of the Governor in Council and upon such terms and conditions as the Minister, with the approval of the Governor in Council, thinks fit, may grant to the lessee an extension of the expired lease for a period not exceeding 9 months.

(2) Where a lease is extended pursuant to subsection (1)—

- (a) the Minister shall give to the lessee notice in writing of the extension;
- (b) the Registrar of Dealings shall endorse on the duplicate of the instrument of lease and in the appropriate register kept in the Department a noting of the extension and, upon delivery of the original of the instrument of lease to him, shall endorse thereon a like noting;
- (c) the rent payable in respect of the period of the extension shall be the same proportion of the annual rent payable immediately prior to the expiry of the lease as the extended period bears to the whole rental year;
- (d) the lease as extended shall be deemed to be a subsisting lease for the purposes of this Division;
- (e) a surrender executed by the lessee under this Division shall be for the purposes of this Division a surrender of a subsisting lease.

(3) An extension of a lease granted pursuant to this section shall not prejudice or in any way affect any mortgage, charge, sublease, easement, right of way, agreement or order to which the land comprised in the expired lease was subject immediately prior to the date of its expiry.

(4) The Minister may at any time during the extended period, by notice in writing given to the lessee, terminate the lease as so extended.

(5) Where the lessee during the extended period transfers his interest in the lease, the transferee, upon registration of the transfer, shall become and be the lessee for the purposes of this Division but he shall not have conferred upon him a claim or entitlement to be granted as of right a new lease of the land comprised in the lease as extended.

(6) A refusal by the Minister of the application of the lessee under this Division shall, without further or other action, terminate the lease as extended and the Registrar of Dealings shall endorse on the duplicate of the instrument of lease and in the appropriate register kept in the Department a noting of the termination.

(7) The lease as extended shall terminate immediately an approval granted by the Minister pursuant to this Division ceases to have force or effect in accordance with section 159 (4).”.

42. New s. 162A. The Principal Act is amended by inserting after section 162 the following section:—

“**162A. Land deemed to be Crown land in certain cases.** (1) For the purpose of the issue of a new lease on surrender of a subsisting lease pursuant to this Division, the land or the part of the land in the subsisting lease that is the land or part of the land in the new lease shall, where no longer Crown land as that term is defined in this Act, in respect of the issue of the new lease, nevertheless be deemed to be Crown land.

(2) For the purpose of the extension of an expired lease pursuant to section 159A, the land comprised in the lease shall, where no longer Crown land as that term is defined in this Act, in respect of such extension, nevertheless be deemed to be Crown land.”.

43. Amendment of s. 163. Duties of Commission with respect to expired lease. Section 163 of the Principal Act is amended by omitting the words “settlement farm lease, grazing selection, brigalow lease or”.

44. Amendment of s. 164. When late lessee to receive offer of new lease (1910, s. 72). Section 164 of the Principal Act is amended by—

(a) in subsection (1), omitting the words “, brigalow lease, or selection tenure” and substituting the words “or grazing homestead perpetual lease,”;

(b) in subsection (3)—

(i) omitting the words “tenure (other than agricultural farm)” and substituting the word “tenure,”;

(ii) omitting all words occurring after the words “the Minister shall not” and substituting the words “determine an area that substantially exceeds a living area.”.

45. Amendment of s. 165. Issue of new lease, etc. Section 165 of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(5) For the purpose of the issue of the new lease, the land or the part of the land in the expired lease that is the land or part of the land in the new lease shall, where no longer Crown land as that term is defined in this Act, in respect of the issue of the new lease, nevertheless be deemed to be Crown land.”.

46. Amendment of s. 166. Covenant entitling lessee to new lease. Section 166 of the Principal Act is amended by omitting the words “settlement farm lease, grazing selection, brigalow lease or”.

47. Repeal of ss. 169A to 169F and of divisional heading. The Principal Act is amended by repealing sections 169A to 169F inclusive and the divisional heading immediately preceding section 169A.

48. Amendment of s. 178. Payment of purchasing price. Section 178 of the Principal Act is amended by omitting the words “of five dollars per centum per annum, calculated upon annual” and substituting the words “prescribed by Order in Council pursuant to section 171 (1) applicable at the time of publication of the sale notification, calculated upon yearly”.

49. Amendment of s. 242. Principles of rent assessment and valuation (1959, s. 36). Section 242 of the Principal Act is amended by—

(a) in subsection (1), omitting the words “the Court is satisfied that”;

(b) in subsection (2)—

(i) omitting the words “determining the rent the Court shall consider” and substituting the words “the determination of the rent”;

(ii) omitting the words “but, in so doing, shall have due regard” and substituting the words “shall be considered but due regard shall be had”;

(iii) omitting the words “, in the opinion of the Court.”.

50. Amendment of s. 243. Principles for determination of rent (1910, s. 125). Section 243 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the words “The Court, in determining” and substituting the words “In the determination of”;

(ii) omitting the words “, or brigalow lease, or settlement farm lease, or grazing selection, shall have regard” and substituting the words “or grazing homestead perpetual lease, regard shall be had”;

(iii) omitting the words “in the opinion of the Court”;

(iv) in the final paragraph, being the paragraph commencing with the words “The annual rent”—

(A) omitting the word “payable” and substituting the words “becoming payable after 22 April 1983”;

(B) omitting the words “in accordance with this subsection” and substituting the words “for the time being, whether determined before or after the commencement of the *Land Act Amendment Act 1984*”;

(b) in subsection (3)—

(i) omitting the words “The Court, in determining” and substituting the words “In the determination of”;

(ii) omitting the words “ shall have regard ” and substituting the words “, regard shall be had ”;

(iii) omitting paragraph (b) and substituting the following paragraph:—

“(b) any other matters that affect the rental value of the land.”.

51. Amendment of s. 246. Lessee may elect to have rent for first period determined by Land Court (1958, s. 18). Section 246 of the Principal Act is amended by, in subsection (1), omitting the words “ selection, brigalow lease or ”.

52. Amendment of s. 250. Section 250 of the Principal Act is amended by, in subsection (1)—

(a) omitting the words “ brigalow lease, grazing selection, settlement farm lease ” and substituting the words “ grazing homestead perpetual lease ”;

(b) omitting the words “ of a grazing selection or settlement farm lease ”.

53. Amendment of s. 269. Additional areas (1927, s. 10). Section 269 of the Principal Act is amended by, in subsection (1), omitting all words occurring after the words “ Crown land ” and substituting the words “(other than land that constitutes or exceeds a living area) under grazing homestead perpetual lease tenure or pastoral lease tenure, as an additional area to the lessee of a subsisting grazing homestead perpetual lease or pastoral lease.”.

54. Amendment of s. 287. Permission to transfer notwithstanding area limitations, etc. Section 287 of the Principal Act is amended by, in subsection (1), omitting the words “ settlement farm lease, grazing selection, brigalow lease ” and substituting the words “ grazing homestead perpetual lease ”.

55. Amendment of s. 290. Transmission of land in certain cases without probate or administration (1910, s. 169). Section 290 of the Principal Act is amended by—

(a) omitting all words commencing with the words “ In the case of ” and ending with the words “ Minister may, if satisfied—” and substituting the following words:—

“ In the case of the death of—

(A) a lessee;

(B) a licensee;

(C) a purchaser under Part VII;

(D) a person having an interest in a lease; or

(E) a person having an interest in a purchase under Part VII,

the Minister may, if satisfied—”;

(b) omitting the expression “\$50 000,” and substituting the words “\$100 000 or such other amount as the Governor in Council may from time to time determine by Order in Council (he being hereby thereunto authorized),”.

56. Amendment of s. 294. Partnerships (1910, s. 130A (6)). Section 294 of the Principal Act is amended by, in subsection (1), omitting the words “, perpetual country leases, and brigalow leases” and substituting the words “ and perpetual country leases ”.

57. Amendment of s. 313. Reservations for public purposes not defined. Section 313 of the Principal Act is amended by, in subsection (2), omitting the word “ selection ” and substituting the words “ homestead perpetual lease ”.

58. Amendment of s. 314. Compensation for improvements. Section 314 of the Principal Act is amended by, in subsection (1) (b)—

(a) omitting the words “, or settlement farm lease, or grazing selection, or brigalow lease,”;

(b) omitting the words “ of any of such leases,” and substituting the words “ of any pastoral lease or grazing homestead perpetual lease,”.

59. Amendment of divisional heading preceding s. 370. The divisional heading preceding section 370 of the Principal Act is amended by inserting after the word “ Roads ” the words “, and *Additional Powers with respect to Land*”.

60. New s. 370A. The Principal Act is amended by inserting after section 370 the following section:—

“ **370A. Extension of powers, etc., of Governor in Council and Minister.** The powers, authorities, functions and duties conferred or imposed by or under this Part upon the Governor in Council or Minister with respect to land shall apply and extend and those powers and authorities may be exercised and those functions and duties performed with respect to layers and strata below and air space above the surface of such land.”.

61. Savings and transitional. (1) (a) Every grazing homestead, grazing farm and settlement farm lease held under the Principal Act and subsisting immediately prior to the commencement of this Act is on and from that commencement converted to and declared to be a grazing homestead perpetual lease under and subject to the Principal Act as amended by this Act, and the instrument of lease with respect to every lease so converted shall be construed accordingly.

(b) The annual rent for the rental period subsisting immediately prior to the commencement of this Act with respect to a lease the tenure of which is converted under paragraph (a) shall continue to be the annual

rent payable with respect to the grazing homestead perpetual lease to which that lease is converted until the expiration by effluxion of time of that rental period.

(c) The rental period with respect to a lease the tenure of which is converted under paragraph (a) subsisting immediately prior to the commencement of this Act that is not of 10 years' duration shall continue in force until it expires by effluxion of time and the next and each succeeding rental period thereafter with respect to that lease shall be of 10 years' duration.

(d) Every grazing homestead perpetual lease to which a lease specified in paragraph (a) is converted under that paragraph shall on and from the commencement of this Act continue to be subject to such of those provisions, terms and conditions to which a lease so specified was subject immediately prior to that commencement as may be imposed on and from that commencement under the Principal Act as amended by this Act.

(2) Every grazing homestead perpetual lease subsisting immediately prior to the commencement of this Act continues in existence on that commencement subject to the provisions, terms and conditions to which it was subject immediately prior to that commencement, and is subject to the Principal Act as amended by this Act.

(3) (a) Every application under section 137 of the Principal Act received by the Minister prior to the repeal of that section by this Act that is not completed before the commencement of this Act by lodging with the Minister the election required by the Principal Act shall on and from that commencement become and be an application under section 139 of the Principal Act and that section 139 shall apply accordingly and the application shall be dealt with, continued and completed as if it had always been an application under that section 139.

(b) Notwithstanding paragraph (a), subsections (1) to (5) of section 140 of the Principal Act do not apply to an application under section 137 of the Principal Act that becomes, pursuant to this subsection, an application under section 139 of the Principal Act or to an application under section 139 of the Principal Act as amended by this Act by a lessee of a grazing homestead perpetual lease, which lease was, prior to its conversion by this Act, a settlement farm lease.

(4) Notwithstanding the amendment of subsection (1) of section 142 of the Principal Act by this Act, that subsection shall have operation and effect as if it had not been so amended in the case of a perpetual lease selection in respect of an application referred to in section 9 of the *Land Act and Another Act Amendment Act 1982* and not completed (within the meaning of the said section 9) at the commencement of this Act.

(5) Notwithstanding the repeal of section 143 of the Principal Act by this Act, that section shall continue in force and have the operation and effect it had immediately prior to the commencement of this Act with respect to—

(a) agricultural farms to which it applied immediately prior to that commencement; and

(b) agricultural farms granted under an entitlement accruing after that commencement.

(6) Every application under section 169A of the Principal Act received by the Minister prior to the repeal of that section by this Act that is not completed before the commencement of this Act shall on and from that commencement become and be of no force or effect.

(7) (a) Where an application under Part VI of the Principal Act in respect of a grazing homestead, grazing farm or settlement farm lease has been received by the Minister prior to the commencement of this Act, whether or not the lease the subject of the application has expired prior to that commencement—

(i) and an offer in relation thereto has not been made by the Minister prior to that commencement, the application, on and from that commencement, shall have no force or effect;

(ii) and an offer in relation thereto has been made by the Minister prior to that commencement, the offer shall continue in force and, where it is accepted within the prescribed time on or after that commencement, matters relating to the application shall be continued and completed as if this Act had not been passed.

(b) Where the term of the lease in respect of a grazing homestead, grazing farm or settlement farm lease has expired prior to the commencement of this Act and Division II of Part VI applies, the lease in question shall be deemed, save in a case where the Minister has made an offer in accordance with that Division, to have extended in its term beyond the date of its expiry and to continue in force as if the term thereof had not expired and to become and be, on and from the commencement of this Act, a grazing homestead perpetual lease.

(c) (i) The new rental period in respect of a lease to which paragraph (b) refers shall commence on the quarter day next following the commencement of this Act.

(ii) Pending commencement of that rental period, occupancy rent shall be paid in respect of the lease, and the payment of the rent for the period from the date the term of the lease would have expired but for the provisions of paragraph (b) to the date of commencement of the rental period shall satisfy the condition as to the payment of rent to which the lease was subject up to the date to which its term would have expired as aforesaid.

(iii) Section 131 of the Principal Act as amended by this Act shall, with and subject to all necessary adaptations, apply and extend with respect to a grazing homestead perpetual lease referred to in paragraph (b).

(iv) Where the Minister has made an offer as referred to in paragraph (b), action with respect to the offer shall continue as if this Act had not been passed.

(8) The conversion under a provision of this section of a tenure subsisting immediately prior to the commencement of this Act to another tenure does not prejudice or affect in any way any mortgage, charge, sublease, easement, agreement, order, other encumbrance, estate or interest registered under the Principal Act and subsisting immediately prior to the conversion over, upon or in the tenure so converted, and the tenure to which the former tenure is converted shall on and from that commencement continue to be subject to that mortgage, charge, sublease, easement, agreement, order, other encumbrance, estate or interest and it shall have and continue to have force and effect as if it had been registered in respect of the tenure to which the former tenure is so converted.

(9) The Registrar of Dealings may make an appropriate noting upon the instrument of lease of every tenure subsisting immediately prior to the commencement of this Act that is converted to grazing homestead perpetual lease tenure pursuant to this section.