

Queensland



**SPECIAL FREEHOLDING OF LEASES
ACT 1991**

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Special Freeholding of Leases Act 1991

Act No. 64 of 1991

An Act to standardise the freeholding under the *Mining Titles Freeholding Act 1980* of certain leases under the *Land Act 1962*, the *State Housing Act 1945* and the *Miners' Homestead Leases Act 1913*

[Assented to 17 October 1991]

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.

Short title

1. This Act may be cited as the *Special Freeholding of Leases Act 1991*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Definitions

3. In this Act—

“**Commission**” has the meaning given by section 4 of the *State Housing Act 1945*;

“**Director-General**” means the person appointed as Director-General of the department administered by the Minister administering the *Land Act 1962*;

“**lease**” means a lease referred to in section 4;

“**lessee**” means a registered lessee of a lease referred to in section 4;

“**relevant authority**” means—

- (a) in the case of a lease mentioned in section 4(1)(a)—the Commission; or
- (b) in the case of a lease mentioned in section 4(1)(b)—the Director-General.

Application of Act

- 4.(1) This Act applies to—

- (a) a perpetual town lease or a perpetual suburban lease that may be converted under section 4 of the *State Housing (Freeholding of Land) Act 1957*; and
- (b) a perpetual town lease (non-competitive lease), a perpetual

suburban lease (non-competitive lease), a perpetual country lease (non-competitive lease) and a special lease under the *Land Act 1962*;

if the lease—

- (c) existed before 25 March 1991; and
- (d) is in an area referred to in subsection (2); and
- (e) is registered in the name of a person referred to in subsection (3); and
- (f) is used for residential purposes; and
- (g) does not exceed 4047 square metres.

(2) A lease referred to in subsection (1) is to be in an area delineated on plan numbers M469, M471, M472, M473, M474, M475 and M476 in the Department of Lands.

These areas are generally in the vicinity of Mount Isa, Cloncurry, Charters Towers, Collinsville, Scottville, Mount Morgan and Gympie.

Other areas may be prescribed.

(3) A lease is to be registered in the name of—

- (a) an individual; or
- (b) a person who, or who is trustee for an organisation that, uses the land to house Aboriginal people within the meaning of the *Aboriginal Land Act 1991* or Torres Strait Islanders within the meaning of the *Torres Strait Islander Land Act 1991*.

(4) An area is not to be prescribed for the purposes of section 4(2) unless—

- (a) the leasehold tenure in the area is predominantly miner's homesteads within the meaning of the *Miners' Homestead Leases Act 1913*; and
- (b) it contains leases—
 - (i) granted under the *State Housing Act 1945* or the *Land Act 1962* before 25 March 1991; and
 - (ii) held in the name of a person mentioned in section 4(3); and
 - (iii) used for residential purposes; and

(c) in the opinion of the Governor in Council, it is substantially reliant, or has been substantially reliant, on the mining industry.

Application to freehold

5.(1) A lessee of a lease to which this Act applies may apply to the relevant authority to have the lease taken to be a lease for a term of years subject to a covenant entitling the lessee to a deed of grant in fee simple.

(2) If the application is granted, the lease is to start on a day determined by the relevant authority.

(3) No fees are payable on an application under this section.

(4) An application under this section may only be made within 2 years from—

- (a) the commencement of this section; or
- (b) in the case of an area prescribed under section 4(2)—the day the area is prescribed.

Application of Mining Titles Freeholding Act

6. Parts 1 and 3 of the *Mining Titles Freeholding Act 1980* apply to an application to freehold a lease as if it were a miner's homestead perpetual lease under that Act, except where inconsistent with this Act.

Application of other Acts

7. The *Land Act 1962* and the *State Housing (Freeholding of Land) Act 1957* apply to—

- (a) the time and place of payment of rent or instalments; and
- (b) forfeiture for non-payment of rent or instalments; and
- (c) registration of dealings; and
- (d) preservation of encumbrances on issue of deed of grant.

References to Minister and officers

8.(1) For the purposes of this Act a reference to the “**Minister**” in the *Mining Titles Freeholding Act 1980* is taken to be a reference to—

- (a) in the case of a lease mentioned in section 4(1)(a)—the Minister administering the *State Housing (Freeholding of Land) Act 1957*; and
- (b) in the case of a lease mentioned in section 4(1)(b)—the Minister administering the *Land Act 1962*.

(2) A reference to the “**registrar of miners’ homesteads**” in the *Mining Titles Freeholding Act 1980* is taken to be a reference to the relevant authority.

Delegation

9.(1) A Minister may delegate all or any of the Minister’s powers under this Act to any officer of the department.

(2) The Commission may delegate all or any of its powers under this Act to any officer of the department administered by the Minister administering the *State Housing Act 1945*.

(3) The Director-General may delegate all or any of the Director-General’s powers under this Act to any officer of the department administered by the Minister administering the *Land Act 1962*.

Regulations

10. The Governor in Council may make regulations, not inconsistent with this Act, with respect to any matter that—

- (a) is required or permitted to be prescribed by this Act; or
- (b) is necessary or convenient to be prescribed for carrying out or giving effect to this Act.