



# NORTHERN TERRITORY OF AUSTRALIA

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No. 94 of 1982

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## AN ACT

To amend the *Crown Lands Act*

[Assented to 15 December 1982]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Crown Lands Amendment Act 1982*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Crown Lands Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 5 of the Principal Act is amended by adding at the end the following:

"(2) In this Act, a reference to a lease or class of lease as -

- (a) granted in perpetuity means that the term of the lease or class of lease continues indefinitely; and
- (b) perpetual means that the lease or class of lease is granted in perpetuity."

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5. NEW SECTION

The Principal Act is amended by inserting in Part II immediately before section 7 the following:

"6B. DEFINITIONS

"In this Part -

'Chairman' means the Chairman of the Board and includes the Deputy Chairman when acting as Chairman;

'meeting' means a meeting of the Board but does not include a sitting of the Board under section 9AB;

'member' means a person appointed under section 9(2)(b) as a member of the Board and includes the Chairman;

'senior member' means a member appointed under section 9(2)(c) as a senior member and includes the Deputy Chairman."

6. LAND BOARD

Section 9 of the Principal Act is amended by omitting all sub-sections after sub-section (1) and substituting the following:

"(2) The Minister may, by notice in the Gazette, appoint -

- (a) a person to be Chairman of the Board;
- (b) 13 other persons to be members of the Board; and
- (c) from amongst the members, a Deputy Chairman of the Board, and such number of senior members as he thinks fit.

"(3) Where the Chairman is absent from duty or from the Territory or unable to perform his duties, the Deputy Chairman shall act as Chairman.

"(4) An act done by the Deputy Chairman in pursuance of sub-section (3) shall not be called in question on the ground that the occasion for the Deputy Chairman so acting had not arisen or had ceased.

"(5) The Chairman shall preside at each meeting of the Board at which he is present.

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"(6) In the absence of the Chairman and Deputy Chairman from a meeting of the Board, the members at the meeting shall elect one of their number to act as Chairman and that person may exercise the powers and shall perform the duties of the Chairman for that meeting.

"(7) The Chairman shall cause such meetings of the Board to be held as he thinks fit.

"(8) At a meeting of the Board -

(a) 4 members constitute a quorum;

(b) questions arising shall be determined by a majority of the votes of the members present and voting and in the event of an equality of votes the Chairman shall also have a casting vote; and

(c) subject to this Act, the Board shall determine the procedure to be followed at or in connection with the meeting.

"(9) The Board shall keep records of its meetings."

7. NEW SECTIONS

The Principal Act is amended by inserting after section 9 the following:

"9AA. QUESTIONS TO BE REFERRED TO CHAIRMAN

"A question or matter which may or shall be referred to the Board under this or any other Act shall be referred to the Chairman.

"9AB. SITTINGS OF BOARD

"(1) Where a question or matter is referred to the Chairman under section 9AA, the Chairman shall -

(a) arrange for a sitting of the Board;

(b) preside or appoint a senior member to preside at the sitting of the Board; and

(c) select not less than 2 members who shall, together with him or the senior member appointed under paragraph (b), constitute the sitting of the Board.

"(2) Where the Chairman thinks fit, more than one sitting of the Board may be held at any one time.

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- "(3) For the purposes of a sitting of the Board -
- (a) the Chairman or senior member appointed under sub-section (1)(b) shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote; and
  - (b) the person presiding and 2 other members appointed under sub-section (1)(c) shall constitute a quorum."

### 8. QUESTIONS OR MATTERS REFERRED TO BOARD

Section 9A of the Principal Act is amended by omitting "or the Administrator".

### 9. PUBLICITY OF BOARD'S MEETINGS

Section 9C of the Principal Act is amended by omitting -

- (a) "meeting" (twice occurring) and substituting "meeting or sitting"; and
- (b) "or the Deputy Chairman acting as Chairman".

### 10. PASTORAL LEASES OF UNECONOMIC AREAS

Section 10B of the Principal Act is amended -

- (a) by omitting from sub-section (1) all words after "the land included" and substituting the following:

"in the specified area -

- (a) in a case where there is only one adjoining pastoral lease, may be offered, on specified terms, to the holder of that pastoral lease; or
- (b) in a case where there is more than one adjoining pastoral lease, shall be advertised under section 16(1) as available for leasing only by an applicant who is the holder of an adjoining pastoral lease, upon the terms specified in the advertisement.";
- (b) by omitting sub-section (2) and substituting the following:

"(2) Where 2 or more applications are received in response to an advertisement under sub-section (1), the Minister shall request the Board to make a recommendation as to which applicant should be granted that land.";

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- (c) by omitting from sub-section (3) -
  - (i) "a pastoral lease of"; and
  - (ii) "a lease" and substituting "land";
- (d) by omitting from sub-section (4) "such a lease" and substituting "the land";
- (e) by omitting sub-sections (5), (6) and (7) and substituting the following:

"(5) Where a person -

- (a) accepts the Minister's offer under sub-section (1)(a);
- (b) is the only applicant for the land in response to an advertisement under sub-section (1)(b); or
- (c) is the applicant recommended by the Board under sub-section (3),

the Minister shall grant the person the land which shall be added to the person's existing adjoining pastoral lease in accordance with this section.

"(6) Where the Minister grants land under sub-section (5), he shall cause to be lodged with the Registrar-General a memorandum describing -

- (a) the land to be added to the existing adjoining pastoral lease; and
- (b) any variations of the reservations, covenants, conditions and other provisions of the existing adjoining pastoral lease agreed to by the Minister and the lessee.

"(7) Upon the lodging of a memorandum under sub-section (6), the Registrar-General shall -

- (a) register the memorandum; and
- (b) endorse the original of the existing adjoining pastoral lease with a notice -
  - (i) referring to the memorandum;
  - (ii) stating that the reservations, covenants, conditions and other provisions are varied as set out in the memorandum; and
  - (iii) setting out the changes of the land the subject of the lease."

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### 11. CLASSES OF CROWN LEASES

Section 23 of the Principal Act is amended by omitting paragraphs (a), (b) and (c) and substituting the following:

- "(a) a pastoral lease, including a perpetual pastoral lease;
- (b) a lease for a term of years for a purpose other than pastoral purposes; or
- (c) a lease in perpetuity, other than a perpetual pastoral lease."

### 12. GENERAL CONDITIONS OF LEASES

Section 23A of the Principal Act is amended by inserting in paragraph (g) after "lease" the words "(except a perpetual pastoral lease)".

### 13. REPEAL AND SUBSTITUTION

Section 24A of the Principal Act is repealed and the following substituted:

#### "24A. BREACH OF COVENANTS

"(1) If the Minister is satisfied that a lessee has failed to comply with a covenant or condition of a lease, he may give written notice of the breach to the lessee and require him to furnish to the Minister, within the time specified in the notice, an explanation of why he has not complied with the covenant or condition.

"(2) If the Minister, after considering an explanation furnished as required under sub-section (1), is satisfied with the explanation, he may waive the breach and may direct that the covenant or condition be complied with within such time as he specifies in writing to the lessee.

"(3) If -

- (a) an explanation is not furnished as required under sub-section (1);
- (b) the Minister is not satisfied with the explanation furnished; or
- (c) the lessee fails to comply with the covenant or condition within the time specified under sub-section (2),

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the Minister may, in his discretion -

- (d) by notice in writing to the lessee, direct that the covenant or condition be complied with within such time as the Minister specifies in the notice; or
- (e) except in the case of a perpetual pastoral lease, if he is satisfied that the non-compliance has been wilful and that the lessee has made no real effort to comply with the covenants and conditions, by notice in writing to the lessee, forfeit the lease.

"(4) If a lessee fails to comply with a notice under sub-section (3)(d) within the time specified in the notice, the Minister -

- (a) may, in the case of a pastoral lease other than a perpetual pastoral lease; and
- (b) shall, in the case of any other lease except a pastoral lease,

forfeit the lease.

"(5) A lessee of a pastoral lease who fails to comply with a notice under sub-section (3)(d) within the time specified in the notice is guilty of an offence.

Penalty: \$10,000 and \$100 for each day during which the offence continues.

"(6) Proceedings for an offence against this section shall not be instituted except with the consent in writing of the Minister or his delegate.

"24AA. BREACHES TO BE REFERRED TO BOARD

"(1) Before -

- (a) giving a notice under section 24A(3)(e) in respect of a pastoral lease;
- (b) forfeiting a lease under section 24A(4)(a); or
- (c) consenting under section 24A(6) to the instituting of proceedings against a lessee of a pastoral lease for an offence against section 24A(5),

the Minister shall refer the matter to the Board.

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"(2) Where a matter is referred under sub-section (1) to the Board, it shall investigate the circumstances connected with the failure to comply with the covenant or condition of the lease and shall report to the Minister whether, in its opinion -

- (a) the lessee could reasonably have complied with the covenant or condition; or
- (b) circumstances beyond the control of the lessee prevented him from complying with the covenant or condition,

and shall recommend whether or not, in its opinion, the lease should be forfeited or proceedings instituted."

### 14. TRANSFER, &c., OF LEASE

Section 26 of the Principal Act is amended by adding at the end thereof the following:

"(2) Sub-section (1)(a) does not apply to the mortgage of a pastoral lease whether the pastoral lease was granted before or after the commencement of the *Crown Lands Amendment Act 1982*."

### 15. RE-APPRAISEMENT OF RENT, &c.

Section 32 of the Principal Act is amended by inserting after sub-section (5) the following:

"(6) Notwithstanding the date on which a pastoral lease commences, for the purposes of re-appraisal of the rent, it is deemed to commence on the first day of July next following the date upon which the lease is executed by the Minister or his delegate."

### 16. TERMS AND CONDITIONS OF PASTORAL LEASES

Section 37 of the Principal Act is amended -

- (a) by omitting from paragraph (i) "and" (second occurring); and
- (b) by adding after paragraph (j) the following:

"and
- (k) a covenant by the lessee that he will, upon being requested to do so by the Minister, grant an easement or other right of access over the pastoral lease for the purpose of providing reasonable access to members of the public to watercourses or lakes within a pastoral lease or



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to the sea contiguous to the pastoral lease including access to and use of defined recreational camping areas adjacent to such watercourses or lakes or the sea."

17. REPEAL AND SUBSTITUTION

Section 38 of the Principal Act is repealed and the following substituted:

"38. PERIOD OF PASTORAL LEASES

"(1) The term of a pastoral lease granted under this Act shall be -

- (a) in perpetuity; or
- (b) for such period, not exceeding 50 years, as the Minister determines.

"(2) A pastoral lease, other than a perpetual pastoral lease, which was granted before the commencement of the *Crown Lands Amendment Act 1982* -

- (a) shall, unless sooner determined under this Act, continue until the expiration of the term of the lease, whether that term is specified in the lease or by an Act under which the lease was granted or saved; and
- (b) may be the subject of an application under section 48."

18. RESTRICTIONS APPLYING TO PASTORAL LEASES

Section 38A of the Principal Act is amended -

- (a) by omitting from sub-section (1) -
  - (i) "A person" and substituting "Subject to this section, a person"; and
  - (ii) "5,000 square miles" (wherever occurring) and substituting "12,950 square kilometres";
- (b) by inserting after sub-section (1) the following:

"(1A) An application to hold or have a beneficial interest in pastoral land in excess of that area permitted under sub-section (1) may be made, in writing, to the Minister.

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"(1B) The Minister may give his consent to an application under sub-section (1A), where he is satisfied that -

- (a) the person holding a pastoral lease, or having a beneficial interest in pastoral land, in excess of that area permitted under sub-section (1), is in the best interests of the Territory; and
- (b) the applicant will not, after obtaining the land or interest the subject of the application, hold, or have, an interest of a kind referred to in sub-section (1), the area or total area of which exceeds 20,000 square kilometres.";
- (c) by omitting from sub-section (2) "5,000 square miles" and substituting "12,950 square kilometres";
- (d) by omitting from sub-section (5) "200 dollars" and substituting "\$1,000";
- (e) by omitting from sub-section (6) -
  - (i) "The transferee" and substituting "Except upon production of the consent under sub-section (1B) of the Minister, the transferee"; and
  - (ii) "5,000 square miles" (twice occurring) and substituting "12,950 square kilometres"; and
- (f) by omitting from sub-section (8) "200 dollars" and substituting "\$1,000".

### 19. NEW SECTION

The Principal Act is amended by inserting after section 38A the following:

#### "38AA. REMEDIAL WORK ON PERPETUAL PASTORAL LEASE

"(1) Where, in the opinion of the Minister, the lessee of a perpetual pastoral lease -

- (a) has failed or neglected to observe or perform any of his obligations, expressed or implied, under this Act or the relevant lease document (including a notice under section 24A(3)(d)); or
- (b) has failed to manage the land in a proper, skilful or husbandlike manner as a result of which the value or utility of the land for pastoral purposes is, or may be, lessened,

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and that failure or negligence is, or may be in the opinion of the Minister, a danger to life or to property in the locality of the lease, he may cause such work to be undertaken in respect of the land or property as he thinks fit.

"(2) Where the Minister causes work to be undertaken under sub-section (1), an amount, equal to the value of work undertaken and expenses incurred in relation to that work, shall be a debt due and payable by the lessee to the Crown.

"(3) Notwithstanding sub-sections (1) and (2), a lessee may be prosecuted for an offence against this Act."

### 20. AGRICULTURAL DEVELOPMENT ON PASTORAL LEASES

Section 40A of the Principal Act is amended -

- (a) by omitting from sub-section (2) "so to do." and substituting the following:

", and of the nature of the agricultural development proposed.

Penalty: \$2,000."; and

- (b) by omitting from sub-section (3) all words after "in accordance with sub-section (2) shall," and substituting the following:

"give further notice to the Minister of -

- (a) any substantial change in the nature of the agricultural development;
- (b) any abandonment of the agricultural development; and
- (c) any recommencement, after a lapse of 2 years or more, of the agricultural development, whether or not the development is of the same nature as that previously carried out or proposed to be carried out.

Penalty: \$2,000."; and

- (c) by omitting sub-section (4).

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21. USE OF LAND FOR OTHER PURPOSES

Section 40B of the Principal Act is amended -

(a) by omitting from sub-section (2) all words after "by notice in writing to the lessee," and substituting "require the lessee to comply with the term or condition within the period specified in the notice."; and

(b) by inserting after sub-section (2) the following:

"(3) If a lessee of a pastoral lease, other than a perpetual pastoral lease, fails to comply with a notice under sub-section (2) within the time specified in the notice, the Minister may forfeit the lease.

"(4) A lessee of a pastoral lease who fails to comply with a notice under sub-section (2) within the time specified in the notice is guilty of an offence.

Penalty: \$10,000 and \$100 for each day during which the offence continues.

"(5) Proceedings for an offence against this section shall not be instituted except with the consent in writing of the Minister or his delegate."

22. SURRENDER OF TERM PASTORAL LEASE IN EXCHANGE FOR PERPETUAL PASTORAL LEASE

Section 48 of the Principal Act is amended -

(a) by omitting sub-sections (1) and (1A) and substituting the following:

"(1) The lessee under a pastoral lease, other than a perpetual pastoral lease, may, at any time during the currency of the lease, apply in writing to the Minister to surrender his lease in exchange for a perpetual pastoral lease of the whole or a specified part of the land included in the existing lease.";

(b) by omitting from sub-section (4)(b) all words after "to the Crown" and substituting "; and";

(c) by omitting from sub-section (4) all words after "if the Board is satisfied that the applicant -" and substituting the following:

"(d) is qualified by experience to take up the proposed perpetual pastoral lease;

(e) has sufficient finance or financial backing for that purpose; and

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- (f) has taken reasonable steps to eradicate from or reduce the incidence of tuberculosis and brucellosis on the land,

it shall recommend to the Minister that a perpetual pastoral lease of the whole or a specified part of the land included in the existing lease be granted to the applicant.";

- (d) by inserting after sub-section (4) the following:

"(4A) The Board may, in making its recommendation under sub-section (4), recommend to the Minister that he include in the proposed perpetual pastoral lease a specified area of land which -

- (a) does not constitute an economic area and is suitable for occupation by the applicant;
- (b) has been used exclusively by the applicant in conjunction with the pastoral lease which is to be surrendered; and

- (c) is wholly or partially bounded by, or has at some earlier date been excised from, the area of the pastoral lease which is to be surrendered.";

- (e) by inserting in sub-section (5) after "under sub-section (4)" the words "(including a recommendation under sub-section (4A))";

- (f) by inserting in sub-section (5) after "the Minister may" the words ", notwithstanding section 10B,";

- (g) by omitting sub-section (5)(b) and substituting the following:

- "(b) the fee, if any, which has been fixed under sub-section (7) in respect of his application;"

- (h) by omitting from sub-section (6) "elect to accept a new pastoral lease in the terms specified in the notice" and substituting "elect to accept the proposed perpetual pastoral lease upon the conditions specified in the notice";

- (j) by inserting after sub-section (6) the following:

"(7) The Minister may, in his discretion, fix a fee in respect of each application under sub-section (1) except when the application is the first application made by the lessee in respect of that land."; and

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- (k) by inserting in sub-section (8) after "upon the applicant surrendering his existing lease" the words "and paying the fee referred to in sub-section (5)(b)".

### 23. NEW SECTION

The Principal Act is amended by inserting after section 48 the following:

#### "48A. REPORT ON AREAS OF INTEREST

"(1) Where a person applies for a perpetual pastoral lease under section 48, the Minister shall request the Director of Conservation, within the meaning of the *Conservation Commission Act*, to examine the area and report to him, within the time specified in the request, as to whether or not an area wholly or partially within the pastoral lease should be reserved for public interest and what access to that area would be required by the public.

"(2) Where the Minister has received a report as a result of a request under sub-section (1), he shall take that report into consideration when advising the applicant under section 48(5) of the reservations, covenants, conditions and provisions that the proposed lease shall contain."

### 24. REPEAL

Section 48F of the Principal Act is repealed.

### 25. SERVICE OF NOTICES, &c.

Section 124A of the Principal Act is amended by adding at the end thereof the following:

"(2) A notice under this Act or arising out of a breach of this Act or a condition of a lease under this Act may, in the case of a corporation without a registered office in the Territory, be served by affixing a copy of the notice on a conspicuous part of the land."

### 26. TRANSITIONAL

(1) Where, after the commencement of this Act, the Board makes a recommendation to the Minister arising out of a matter referred to it under the Principal Act as in force at the time that it was referred, the Minister may, where, in his opinion, the recommendation relates to a matter which, under the Principal Act as amended by this Act, may be referred to the Board, treat the recommendation as a recommendation under the Principal Act as so amended and act accordingly.

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(2) Where the Minister has received an application under section 10B of the Principal Act, as then in force, for a pastoral lease of an uneconomic area, before the commencement of this Act and that application has not been fully dealt with, the applicant may, in writing to the Minister, request the Minister to treat that application as an application under section 10B of the Principal Act as amended by this Act and the application shall be dealt with accordingly.

(3) Where the Minister has received an application under section 48 of the Principal Act, as then in force, for a pastoral lease, other than a perpetual pastoral lease, before the commencement of this Act and that application has not been fully dealt with, the applicant may, in writing to the Minister, request the Minister to treat that application as an application under section 48 of the Principal Act as amended by this Act for a perpetual pastoral lease, and the application shall be dealt with accordingly.

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