

WESTERN LANDS (LEASES AND PRODUCTIVITY SCHEMES) AMENDMENT BILL, 1979

EXPLANATORY NOTE

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

The objects of this Bill are—

- (a) to prohibit a lessee from cultivating land subject to a lease for the purpose of grazing without the consent of the Commissioner for Western Lands (Schedule 1 (1)—proposed section 18DA);
 - (b) to remove dealings with leases for purposes other than grazing from the price control provisions of the Western Lands Act, 1901 (“the Act”) (Schedule 1 (2) (a) and (b));
 - (c) to remove the requirements that the Minister’s consent be obtained before grazing stock on a lease under a stock partnership (Schedule 1 (2) (c));
 - (d) to provide for the determination of the rent to be paid in respect of certain leases granted under section 39 of the Act (Schedule 1 (3)); and
 - (e) to authorise, retrospectively, the carrying out of schemes with respect to the productivity of land in the Western Division (Schedule 1 (4)—proposed Part IXB and clause 2 (4).)
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WESTERN LANDS LEASES AND PRODUCTIVITY
SCHMIDT, LAWRENCE B. BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note refers to the Bill as introduced in Parliament.)

The objects of the Bill are—

- (a) to provide a legal framework for the leasing of land to the Government of Western Australia for the purpose of carrying out the objects of the Government's land policy;
- (b) to provide a legal framework for the leasing of land to the Government of Western Australia for the purpose of carrying out the objects of the Government's land policy;
- (c) to provide a legal framework for the leasing of land to the Government of Western Australia for the purpose of carrying out the objects of the Government's land policy;
- (d) to provide a legal framework for the leasing of land to the Government of Western Australia for the purpose of carrying out the objects of the Government's land policy;
- (e) to provide a legal framework for the leasing of land to the Government of Western Australia for the purpose of carrying out the objects of the Government's land policy;

Act No. 1079

**WESTERN LANDS (LEASES AND PRODUCTIVITY
SCHEMES) AMENDMENT BILL, 1979**

No. , 1979.

A BILL FOR

An Act to amend the Western Lands Act, 1901, in relation to leases and the implementation of schemes with respect to the productivity of land in the Western Division, and to validate certain matters.

[MR CRABTREE—24 October, 1979.]

Western Lands (Leases and Productivity Schemes) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Western Lands (Leases and Productivity Schemes) Amendment Act, 1979". Short title.

2. (1) Except as provided in subsections (2)–(4), this Act shall commence on the date of assent to this Act. Commencement.

(2) Section 3 shall, in its application to a provision of
10 Schedule 1, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Schedule 1 (1) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified
15 by proclamation published in the Gazette.

(4) Schedule 1 (4) shall be deemed to have commenced on 1st July, 1978.

3. The Western Lands Act, 1901, is amended in the manner set forth in Schedule 1. Amendment of Act No. 70, 1901.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE WESTERN LANDS ACT, 1901.

(1) Section 18DA—

After section 18D, insert :—

5 18DA. (1) This section applies to—

Cultivation
of certain
land.

(a) a lease for the purpose of grazing; and

10 (b) any other lease not being a lease for the purpose
of agriculture, grazing and agriculture combined
or mixed farming or for any similar purpose or
purposes,

whether granted or issued before or after the day appointed
and notified under section 2 (3) of the Western Lands
(Leases and Productivity Schemes) Amendment Act, 1979.

15 (2) In this section, “cultivate”, in relation to
land, includes the preparation of land for cultivation and
the further cultivation of land previously cultivated.

20 (3) The lessee under a lease to which this section
applies shall not cultivate any part of the land the subject
of the lease without first having obtained the written consent
of the Commissioner to the cultivation of that part.

(4) Application for consent under this section
shall be made to the Commissioner in a form approved by
the Commissioner and shall be accompanied by the
prescribed fee.

25 (5) The Commissioner shall not give his consent
under this section without having first referred the applica-
tion for consent to the Commissioner of the Soil Conserva-
tion Service appointed under the Soil Conservation Act,
1938, for his consideration and advice.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

5 (6) The Commissioner may give his consent under this section unconditionally or subject to such conditions as the Commissioner may specify in the instrument of consent or may refuse his consent.

10 (7) The Commissioner shall cause an applicant for consent under this section to be notified of his consent or refusal of consent within 40 days after receipt of the application, and where an applicant is not so notified, the Commissioner shall be deemed to have refused consent.

15 (8) Without limiting the generality of subsection (6), the conditions referred to in that subsection may include a condition for the payment of an annual fee, being a fee determined having regard to the value to the lessee of the use, for the purpose of cultivation, of the land to which the consent relates.

20 (9) A consent under this section remains in force for such period as the Commissioner may specify in the instrument of consent.

(10) The applicant for a consent under this section may appeal to the local land board against—

- 25 (a) the refusal of the consent; or
(b) the imposition or terms of any conditions specified in the instrument of consent including the payment or amount of any fee referred to in subsection (8).

30 (11) An appeal under this section shall be made within the prescribed time and in the prescribed manner and the notice of appeal shall be in a form approved by the Commissioner and shall be accompanied by the prescribed fee.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

5 (12) A lease to which this section applies shall be liable to forfeiture if any part of the land the subject of the lease is cultivated in contravention of this section or any conditions imposed under this section.

10 (13) No act, matter or thing which a lessee, under or in conformity with a consent under this section, does upon or in relation to the land the subject of the lease shall render the lease liable to forfeiture under this Act merely by reason of the fact that the doing of the act, matter or thing constitutes a breach or non-performance of any covenant, condition or provision applicable to the lease.

15 (2) (a) Section 18G (1A) (a)—

20 Omit “granted after the commencement of the Western Lands (Amendment) Act, 1934, pursuant to section 23 or 39, a lease for the purpose of grazing granted pursuant to section 28A, other than such a lease for grazing that is declared under subsection (1B) to be a lease to which this subsection does not apply, or a lease issued pursuant to section 17CCC, or a lease extended to a lease in perpetuity pursuant to section 18E”, insert instead “granted or issued, under this Act, for the purpose of grazing, other than such a lease that is declared under subsection (1B) to be a lease to which this subsection does not apply”.

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(b) Section 18G (1B)—

Omit “granted pursuant to section 28A”.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

(c) Section 18G (4A)—

5 Omit “or grazes stock on the lease or any part thereof under any stock partnership”.

(3) (a) Section 19C (2)—

Omit “grazing and agriculture combined or”, insert instead “of grazing and agriculture combined or of”.

(b) Section 19C (2)—

10 After “assent” where secondly occurring, insert “or, where no such application is made, until the date on which the rent of the lease is next redetermined by the local land board”.

(c) Section 19C (3)—

15 After section 19C (2), insert :—

(3) Subsection (1) applies to and in respect of a lease granted under section 39 for the purpose of agriculture, of grazing and agriculture combined or of mixed farming or for any similar purpose or purposes in the same way as it applies to and in respect of a lease in respect of land set apart for any such purpose or purposes, but does not apply to or in respect of a lease granted under section 39 before the date of assent to the Western Lands (Leases and Productivity Schemes) Amendment Act, 1979, until such date as is fixed by the local land board on an application made by the lessee within 12 months after that date of assent or, where no such application is made, until the date on which the rent of the lease is next redetermined by the local land board.

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Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

(4) Part IXB—

After Part IXA, insert :—

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PART IXB.

Productivity Schemes.

10 35N. (1) The Minister may enter into an agreement with the owner or lessee of land in the Western Division for the purpose of carrying into effect any scheme with respect to the productivity of land in the Western Division. Agreements relating to productivity schemes.

(2) The covenants, conditions and provisions of any agreement referred to in subsection (1) may include covenants, conditions and provisions relating to any one or more of the following :—

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(a) the total number of livestock or the number of livestock of specified classes which may, from time to time, be carried on the land the subject of the agreement;

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(b) the methods and practices of land utilisation to be adopted on that land;

(c) the assistance to be provided by the Minister towards the execution of any works or measures required to be undertaken upon that land.

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(3) An agreement referred to in subsection (1) may be executed on behalf of the Minister by the Commissioner.

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(4) No act, matter or thing which a lessee, under or in conformity with an agreement referred to in subsection (1), does upon or in relation to the land the subject of the lease shall render the lease liable to forfeiture under

*Western Lands (Leases and Productivity Schemes) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

5 this Act merely by reason of the fact that the doing of the act, matter or thing constitutes a breach or non-performance of any covenant, condition or provision applicable to the lease.

35o. The Minister may, out of moneys provided by Parliament— Advances
and
payments.

(a) pay any costs or expenses incurred—

10 (i) in carrying into effect any scheme with respect to the productivity of land in the Western Division; or

(ii) in carrying out any works pursuant to such a scheme; and

15 (b) make a loan, upon such security and at such rate of interest and subject to such covenants, conditions and provisions as he may think fit, to any owner or lessee of land who has entered into an agreement referred to in section 35N (1),
20 for the purpose of enabling the owner or lessee to give effect to the agreement.

35p. Where any person with whom the Minister has entered into an agreement referred to in section 35N (1) and who has received money from the Minister pursuant to the agreement— Remedy for
default.

25 (a) uses the money or permits the money to be used for any purpose other than the purpose for which the money was paid to him; or

30 (b) at any time while any money is owed to the Minister pursuant to the agreement, without the consent of the Minister, removes, sells or otherwise disposes of any machinery, plant or other

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

5 thing purchased pursuant to the agreement or
 forming part of any works for the carrying out
 of which the agreement was entered into,

10 all money paid (other than by way of loan) pursuant to
 the agreement, whether the money was paid to the person
 or any other person on his behalf, and all money lent
 pursuant to the agreement and not repaid (together with
15 interest on the money so lent at the rate determined by the
 agreement until the date of payment to or recovery by the
 Minister) shall, notwithstanding any term of the agreement
 to the contrary, immediately become due and payable by
 the person to the Minister and may be recovered by the
 Minister from the person as a debt in any court of com-
 petent jurisdiction and, where the land to which the agree-
 ment relates is the subject of a lease under this Act, the
 lease shall be liable to forfeiture under this Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES, 1979

[24c]

THE HON. THE SECRETARY OF DEFENSE

SECRET

MEMORANDUM FOR THE SECRETARY OF DEFENSE

1. The attached report contains information regarding the activities of the [redacted] in the [redacted] area. It is requested that you review this information and advise the [redacted] of any action that may be warranted.

2. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on several occasions. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

3. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on [redacted] and [redacted]. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

4. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on [redacted] and [redacted]. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

5. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on [redacted] and [redacted]. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

6. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on [redacted] and [redacted]. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

7. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on [redacted] and [redacted]. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

8. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on [redacted] and [redacted]. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

9. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on [redacted] and [redacted]. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

10. The [redacted] has advised that the [redacted] has been observed in the [redacted] area on [redacted] and [redacted]. The [redacted] has been observed in the [redacted] area on [redacted] and [redacted].

**WESTERN LANDS (LEASES AND PRODUCTIVITY
SCHEMES) AMENDMENT ACT, 1979, No. 201**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 201, 1979.

An Act to amend the Western Lands Act, 1901, in relation to leases and the implementation of schemes with respect to the productivity of land in the Western Division, and to validate certain matters. [Assented to, 21st December, 1979.]

Western Lands (Leases and Productivity Schemes) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short
title.

1. This Act may be cited as the "Western Lands (Leases and Productivity Schemes) Amendment Act, 1979".

Commence-
ment.

2. (1) Except as provided in subsections (2)–(4), this Act shall commence on the date of assent to this Act.

(2) Section 3 shall, in its application to a provision of Schedule 1, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Schedule 1 (1) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Schedule 1 (4) shall be deemed to have commenced on 1st July, 1978.

Amendment
of Act No.
70, 1901.

3. The Western Lands Act, 1901, is amended in the manner set forth in Schedule 1.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE WESTERN LANDS ACT, 1901.

(1) Section 18DA—

After section 18D, insert :—

18DA. (1) This section applies to—

Cultivation
of certain
land.

- (a) a lease for the purpose of grazing; and
- (b) any other lease not being a lease for the purpose of agriculture, grazing and agriculture combined or mixed farming or for any similar purpose or purposes,

whether granted or issued before or after the day appointed and notified under section 2 (3) of the Western Lands (Leases and Productivity Schemes) Amendment Act, 1979.

(2) In this section, “cultivate”, in relation to land, includes the preparation of land for cultivation and the further cultivation of land previously cultivated.

(3) The lessee under a lease to which this section applies shall not cultivate any part of the land the subject of the lease without first having obtained the written consent of the Commissioner to the cultivation of that part.

(4) Application for consent under this section shall be made to the Commissioner in a form approved by the Commissioner and shall be accompanied by the prescribed fee.

(5) The Commissioner shall not give his consent under this section without having first referred the application for consent to the Commissioner of the Soil Conservation Service appointed under the Soil Conservation Act, 1938, for his consideration and advice.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

(6) The Commissioner may give his consent under this section unconditionally or subject to such conditions as the Commissioner may specify in the instrument of consent or may refuse his consent.

(7) The Commissioner shall cause an applicant for consent under this section to be notified of his consent or refusal of consent within 40 days after receipt of the application, and where an applicant is not so notified, the Commissioner shall be deemed to have refused consent.

(8) Without limiting the generality of subsection (6), the conditions referred to in that subsection may include a condition for the payment of an annual fee, being a fee determined having regard to the value to the lessee of the use, for the purpose of cultivation, of the land to which the consent relates.

(9) A consent under this section remains in force for such period as the Commissioner may specify in the instrument of consent.

(10) The applicant for a consent under this section may appeal to the local land board against—

- (a) the refusal of the consent; or
- (b) the imposition or terms of any conditions specified in the instrument of consent including the payment or amount of any fee referred to in subsection (8).

(11) An appeal under this section shall be made within the prescribed time and in the prescribed manner and the notice of appeal shall be in a form approved by the Commissioner and shall be accompanied by the prescribed fee.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

(12) A lease to which this section applies shall be liable to forfeiture if any part of the land the subject of the lease is cultivated in contravention of this section or any conditions imposed under this section.

(13) No act, matter or thing which a lessee, under or in conformity with a consent under this section, does upon or in relation to the land the subject of the lease shall render the lease liable to forfeiture under this Act merely by reason of the fact that the doing of the act, matter or thing constitutes a breach or non-performance of any covenant, condition or provision applicable to the lease.

(2) (a) Section 18G (1A) (a)—

Omit “granted after the commencement of the Western Lands (Amendment) Act, 1934, pursuant to section 23 or 39, a lease for the purpose of grazing granted pursuant to section 28A, other than such a lease for grazing that is declared under subsection (1B) to be a lease to which this subsection does not apply, or a lease issued pursuant to section 17CCC, or a lease extended to a lease in perpetuity pursuant to section 18E”, insert instead “granted or issued, under this Act, for the purpose of grazing, other than such a lease that is declared under subsection (1B) to be a lease to which this subsection does not apply”.

(b) Section 18G (1B)—

Omit “granted pursuant to section 28A”.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

(c) Section 18G (4A)—

Omit “or grazes stock on the lease or any part thereof under any stock partnership”.

(3) (a) Section 19c (2)—

Omit “grazing and agriculture combined or”, insert instead “of grazing and agriculture combined or of”.

(b) Section 19c (2)—

After “assent” where secondly occurring, insert “or, where no such application is made, until the date on which the rent of the lease is next redetermined by the local land board”.

(c) Section 19c (3)—

After section 19c (2), insert :—

(3) Subsection (1) applies to and in respect of a lease granted under section 39 for the purpose of agriculture, of grazing and agriculture combined or of mixed farming or for any similar purpose or purposes in the same way as it applies to and in respect of a lease in respect of land set apart for any such purpose or purposes, but does not apply to or in respect of a lease granted under section 39 before the date of assent to the Western Lands (Leases and Productivity Schemes) Amendment Act, 1979, until such date as is fixed by the local land board on an application made by the lessee within 12 months after that date of assent or, where no such application is made, until the date on which the rent of the lease is next redetermined by the local land board.

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

(4) Part IXB—

After Part IXA, insert :—

PART IXB.

Productivity Schemes.

35N. (1) The Minister may enter into an agreement with the owner or lessee of land in the Western Division for the purpose of carrying into effect any scheme with respect to the productivity of land in the Western Division. Agreements relating to productivity schemes.

(2) The covenants, conditions and provisions of any agreement referred to in subsection (1) may include covenants, conditions and provisions relating to any one or more of the following :—

- (a) the total number of livestock or the number of livestock of specified classes which may, from time to time, be carried on the land the subject of the agreement;
- (b) the methods and practices of land utilisation to be adopted on that land;
- (c) the assistance to be provided by the Minister towards the execution of any works or measures required to be undertaken upon that land.

(3) An agreement referred to in subsection (1) may be executed on behalf of the Minister by the Commissioner.

(4) No act, matter or thing which a lessee, under or in conformity with an agreement referred to in subsection (1), does upon or in relation to the land the subject of the lease shall render the lease liable to forfeiture under

Western Lands (Leases and Productivity Schemes) Amendment.

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

this Act merely by reason of the fact that the doing of the act, matter or thing constitutes a breach or non-performance of any covenant, condition or provision applicable to the lease.

Advances
and
payments.

35o. The Minister may, out of moneys provided by Parliament—

- (a) pay any costs or expenses incurred—
 - (i) in carrying into effect any scheme with respect to the productivity of land in the Western Division; or
 - (ii) in carrying out any works pursuant to such a scheme; and
- (b) make a loan, upon such security and at such rate of interest and subject to such covenants, conditions and provisions as he may think fit, to any owner or lessee of land who has entered into an agreement referred to in section 35N (1), for the purpose of enabling the owner or lessee to give effect to the agreement.

Remedy for
default.

35p. Where any person with whom the Minister has entered into an agreement referred to in section 35N (1) and who has received money from the Minister pursuant to the agreement—

- (a) uses the money or permits the money to be used for any purpose other than the purpose for which the money was paid to him; or
- (b) at any time while any money is owed to the Minister pursuant to the agreement, without the consent of the Minister, removes, sells or otherwise disposes of any machinery, plant or other

Western Lands (Leases and Productivity Schemes) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WESTERN LANDS ACT, 1901—*continued.*

thing purchased pursuant to the agreement or forming part of any works for the carrying out of which the agreement was entered into,

all money paid (other than by way of loan) pursuant to the agreement, whether the money was paid to the person or any other person on his behalf, and all money lent pursuant to the agreement and not repaid (together with interest on the money so lent at the rate determined by the agreement until the date of payment to or recovery by the Minister) shall, notwithstanding any term of the agreement to the contrary, immediately become due and payable by the person to the Minister and may be recovered by the Minister from the person as a debt in any court of competent jurisdiction and, where the land to which the agreement relates is the subject of a lease under this Act, the lease shall be liable to forfeiture under this Act.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 21st December, 1979.*





