

WA Land Administration Act

The extract below extract is taken from WA's Land Administration Act 1997, which sets out the terms and conditions of all pastoral leases in WA.

References to stocking rate are highlighted in yellow

The references below include some other interesting passages, of which some WA lessees may not be aware.

Division 3 — Grant of a pastoral lease

101. Grant of pastoral lease, Minister's powers as to

(1) The Minister may grant a lease (a pastoral lease) over any Crown lands in accordance with Part 6 and this Part.

(2) Subject to this section, if land under a pastoral lease proposed to be granted includes improvements, the grant of the lease may be subject to the payment of a sale price.

(3) Subsection (2) does not apply in relation to a grant or renewal of a lease offered under section 140.

(4) The Minister must act under this section in consultation with the Board, which is to offer its advice on the setting of the sale price, conditions and procedures for any of the release processes, and the evaluation of applicants under section 102.

(5) A pastoral lease must not be granted unless —

(a) the Board is satisfied that the land under the lease will be capable, when fully developed, of carrying sufficient authorised stock to enable it to be worked as an economically viable and ecologically sustainable pastoral business unit; or

(b) the lease is to be amalgamated with an adjoining pastoral lease; or

(c) the lease is to become, together with an adjoining pastoral lease or part of an adjoining pastoral lease, a pastoral business unit under section 142A, the creation of which has been approved under section 142A(1).

[Section 101 amended by No. 59 of 2000 s. 24.]

102. Public offers etc. of pastoral leases to be made before grant

(1) Before granting a pastoral lease, the Minister must by advertisement in a daily newspaper circulating throughout the State —

(a) offer the pastoral lease for sale; or

(b) invite expressions of interest in the lease; or

(c) invite tenders for the lease; or

(d) offer the lease for auction.

(2) An offer or invitation under this section may be withdrawn at any time, and another offer or invitation made at any time.

(3) An application in response to an offer or invitation under this section must be in an approved form.

Division 4 — Conditions of a pastoral lease

103. Terms etc. that can be included in pastoral lease The Minister may, in consultation with the Board, include in a pastoral lease any terms, reservations, conditions, covenants or penalties not inconsistent with this Act.

104. Aboriginal people's right to enter parts of pastoral leases Aboriginal persons may at all times enter upon any unenclosed and unimproved parts of the land under a pastoral lease to seek their sustenance in their accustomed manner.

105. Duration of pastoral lease

(1) The term of a pastoral lease must be specified in the grant and may not exceed 50 years.

(2) If a pastoral lease is granted over land which has already been subject to a pastoral lease, the term of the new lease may not be greater than the term of the most recent previous lease, as expressed in that lease; in particular, a pastoral lease that expires on 30 June 2015 may be renewed for a term which commences on 1 July 2015 and runs for the same length of time as the expiring lease.

(3) For the purposes of subsection (2), if the most recent previous lease referred to in that subsection was the lease resulting from an amalgamation of leases —

(a) the date of commencement of the amalgamated lease is deemed to be the date of commencement of the last to commence of the leases that were amalgamated; and

(b) the expiry date of the amalgamated lease is deemed to be the expiry date of the first to expire of the leases that were amalgamated, unless the amalgamation order specifies an earlier expiry date.

106. Leased land to be used for pastoral purposes unless otherwise permitted

(1) A pastoral lessee must not use land under the pastoral lease for purposes other than pastoral purposes except in accordance with a permit issued under Division 5.

Penalty: \$10 000.

(2) A pastoral lessee must not sell any product of a non-pastoral use of the land except in accordance with a permit issued under section 119, 120, 122 or 122A.

Penalty: \$10 000.

(3) An offence is not committed under subsection (1) by a pastoral lessee in respect of purposes referred to in paragraph (b) or (c) of the definition of pastoral purposes referred to in section 93 (an ancillary purpose) if —

(a) a permit would otherwise be required in respect of that ancillary purpose; and

(b) a permit has been issued under Division 5; and

(c) the pastoral lessee has acted in accordance with that permit.

[Section 106 amended by No. 59 of 2000 s. 25.]

107. Development plan for pastoral lease, when required etc.

(1) If the Board is of the opinion that the reasonable development of the land under the lease for pastoral purposes requires improvements to be made, it may require the lessee to submit a development plan, satisfactory to the Board, for the progressive achievement of those improvements to a specified timetable.

(2) The lessee must make improvements to the land under the lease in accordance with any development plan approved by the Board.

(3) The lessee must maintain in good condition, and if necessary restore, renew or replace, all lawful improvements to the lease, to the satisfaction of the Board.

108. Pastoral lessee's duties as to leased land

(1) A pastoral lessee must, to the satisfaction of the Board, at all times manage and work the land under the lease to its best advantage as a pastoral property.

(2) The lessee must use methods of best pastoral and environmental management practice, appropriate to the area where the land is situated, for the management of stock and for the management, conservation and regeneration of pasture for grazing.

(3) Except with the written permission of the Board, the land under a pastoral lease must be worked as a single pastoral unit.

(4) The lessee must maintain the indigenous pasture and other vegetation on the land under the lease to the satisfaction of the Board.

(5) In satisfying itself for the purposes of subsection (4), the Board must seek and have regard to the advice and recommendations of the Commissioner on the matter.

(6) In subsection (2) —

stock means —

(a) authorised stock; and

(b) stock for which a permit has been issued under section 122A.

[Section 108 amended by No. 59 of 2000 s. 26.]

109. No clearing of leased land unless permitted

(1) A pastoral lessee must not remove trees or otherwise clear land under the lease or disturb or affect its soil except —

(a) as permitted under the lease; or

(b) as necessary for the construction of improvements permitted under the lease; or

(c) in accordance with a permit issued under Division 5.

Penalty: \$10 000.

(2) A pastoral lessee who contravenes subsection (1) must restore the land and vegetation to the satisfaction of the Board.

(3) If a pastoral lessee fails to satisfy the Board under subsection (2), the Board may, whether or not the lease has been forfeited, take such steps as are necessary to restore the land and vegetation.

(4) The costs of any action by the Board under subsection (3) are recoverable by the Minister from the lessee, or former lessee if the lease has been forfeited, in a court of competent jurisdiction as a debt due to the Crown.

110. Non-indigenous pasture not to be sown etc. on leased land without permit

(1) A pastoral lessee must not sow or cultivate non-indigenous pasture on land under the lease except in accordance with a permit issued under Division 5.

Penalty: \$10 000.

(2) A pastoral lessee must not sell fodder or other produce from non-indigenous pasture, other than the products of animals grazed on it, except in accordance with a permit issued under section 119, 120 or 122.

Penalty: \$10 000.

111. Stock numbers etc. and pests etc. on leased land

(1) The Board may from time to time determine the minimum and maximum numbers and the distribution of stock to be carried on land under a pastoral lease, based on its assessment of the sustainable carrying capacity of the land and having regard to seasonal factors, and the pastoral lessee must comply with such a determination.

(2) A pastoral lessee must not cause or allow the agistment on land of stock of any kind, except

with the permission in writing of the Board.

Penalty: \$5 000, and a daily penalty of \$500.

(3) A pastoral lessee must control declared pests on the land under the lease in compliance with the Biosecurity and Agriculture Management Act 2007 and to the satisfaction of the Board.

(4) A pastoral lessee must not —

(a) keep prohibited stock on land under a pastoral lease; or

(b) sell prohibited stock, except in accordance with a permit to do so issued under Division 5.

Penalty: \$10 000.

(5) If stock being kept on a pastoral lease by a pastoral lessee on the commencement day is prohibited stock, subsection (4) does not apply to that person until 6 months after the commencement day.

(6) If stock being kept on a pastoral lease by a pastoral lessee becomes prohibited stock after the commencement day, subsection (4) does not apply to that person until 6 months after the day on which the stock became prohibited stock or such other period as may be prescribed but which period is not to be less than one month.

(7) In subsection (1) —

stock means —

(a) authorised stock; and

(b) stock for which a permit has been issued under section 122A.

(8) In subsections (5) and (6) —

commencement day means the day on which section 27 of the Land Administration Amendment Act 2000 comes into operation 1.

[Section 111 amended by No. 59 of 2000 s. 27; No. 24 of 2007 s. 90(2).]

112. Soil conservation notice, effect of on s. 111 determination etc.

(1) If a soil conservation notice is issued as to the numbers or distribution of stock on land under a pastoral lease, the notice has the effect, while it is in force, of suspending any determination under section 111 and the operation of any permit issued under Division 5 to the extent of any inconsistency.

(2) The issue of a soil conservation notice in relation to land under a pastoral lease does not release a pastoral lessee from the obligation to control declared pests on the land under section 111(3).

(3) If the stock numbers to be carried on land under a lease are reduced by a soil conservation notice or by a variation in a determination of the Board under section 111, the Minister, on the advice of the Board, may reduce the rent in proportion to the reduction in stock.

[Section 112 amended by No. 59 of 2000 s. 28; No. 24 of 2007 s. 90(3).]

113. Annual return by lessee required

(1) A pastoral lessee must, after 30 June in each year (the return date) and not later than 31 December in that year, submit to the Board a return in an approved form of any information required by the Board relating to the land under the lease or the activities on the land.

(2) The return is to include —

(a) information as to stock numbers on the return date; and

(b) full particulars, including costs, of all improvements effected on land under the lease in the period of 12 months before the return date, or, if the lease was granted during that period, between the commencement of the lease and the return date; and

(c) full particulars of the use of each area of land affected by a permit issued under Division 5.

Penalty: \$2 000 and a daily penalty of \$200.

(3) A pastoral lessee must not —

(a) knowingly provide false information; or

(b) without reasonable excuse, fail to provide any information required, in a return under this section.

Penalty: \$8 000 or imprisonment for 12 months.

(4) In subsection (2) —

stock means —

(a) authorised stock; and

(b) stock for which a permit has been issued under section 122A.

[Section 113 amended by No. 59 of 2000 s. 29.]