



ANNO VICESIMO QUARTO

GEORGII V REGIS.

A.D. 1933.

No. 2120.

An Act to amend the Crown Lands Acts, 1929 and 1931.

[Assented to, November 2nd, 1933.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Crown Lands Act Amendment Act, 1933". Short titles.

(2) The Crown Lands Acts, 1929 and 1931, and this Act may be cited together as the "Crown Lands Acts, 1929 to 1933".

(3) The Crown Lands Act, 1929, is hereinafter referred to as "the principal Act". No. 1923 of 1929.

2. The principal Act is amended by inserting therein after section 50 the following section :— Amendment of principal Act—

50a. (1) In any case of an agreement (except an agreement under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act) the Commissioner may direct the Board to consider whether an extension of the term of the agreement should or should not be granted under this section. Power to extend agreement.

(2) The Board shall thereupon consider the matter, and—

(a) may recommend that the term be extended for such period (if any) as the Board thinks fit, but not so as to extend it beyond sixty-five years from the commencement thereof as fixed by the agreement :

Crown Lands Act Amendment Act.—1933.

(b) for the purpose of fixing the amounts of the instalments under paragraph (c) hereof may capitalize, and add to the purchase-money, the whole or or any part of such amounts of any instalments then in arrear as represent interest :

(c) if the Board recommends an extension, shall fix the instalments of purchase-money to be paid during the remainder of the term (as so extended) and for such purpose may fix the instalments so that the balance of the purchase-money and any arrears of interest capitalized as aforesaid, together with interest thereon, shall be paid in equal instalments throughout the balance of the said term so extended, or may fix the instalments at such amount as would be necessary to pay the purchase-money and interest thereon in equal instalments if the instalments were spread over the whole term of the agreement as so extended from the time when instalments of principal were first payable.

(3) If the Commissioner approves of the recommendations of the Board he may grant the extension on the terms recommended, and from the time when notice in writing stating the period of the said extension and the terms on which it is granted is given to the purchaser, the agreement shall be construed so as to give effect to the said extension and terms, and shall be binding on the parties as so construed.

(4) Except so far as may be necessary to give effect to this section, the agreement shall not be affected by anything in or done under this section ; and the terms, covenants, conditions, and provisions thereof shall continue in force subject to any variations which may be necessary to give effect to this section.

Amendment of
principal Act,
s. 176—
Extension of
agreements.

3. Section 176 of the principal Act is amended—

(a) by striking out the word “ shall ” in the second line of paragraph (c) of subsection (2) thereof, and by inserting in lieu thereof the words “ may, in any case it thinks fit ” ; and

(b) by inserting after the word “ and ” in the sixth line of the said paragraph (c) the words “ in any case to which this paragraph applies ”.

Amendment of
principal Act,
s. 193—

Remission of
penalty interest.

4. Section 193 of the principal Act is amended by adding at the end thereof the following proviso :—

Provided, further, that in any case of hardship the Receiver may remit the whole or any part of any such interest, whether chargeable before or after the passing of the Crown Lands Act Amendment Act, 1933.

5. Section

Crown Lands Act Amendment Act.—1933.

5. Section 196 of the principal Act is amended by adding at the end of subsection (4) thereof the following proviso :—

Amendment of principal Act, s. 196—

Provided further that the Commissioner may in any case in which, on the recommendation of the Board, he thinks fit, dispose of the land or any part thereof included in the cancelled lease or agreement in any manner provided in section 182 notwithstanding that the land has not remained unallotted for one year after being first offered.

Disposal of forfeited lease or agreement.

6. Section 199 of the principal Act is amended—

Amendment of principal Act, s. 199—

(a) by adding at the end of subsection (2) thereof the words “ In fixing the rent the Board shall take into consideration any amount of purchase price paid on or before the surrender ” ; and

Surrender of agreement for lease.

(b) by adding at the end thereof the following subsection :—

(5) The holder of the block surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the block. In any such case there shall be inserted in the perpetual lease a provision giving to the lessee a right to purchase at any time during the term of the lease the fee simple of the block comprised in the lease at the price at which he could have completed purchase at the time of the surrender of the agreement.

7. Section 201 of the principal Act is amended—

Amendment of principal Act, s. 201—

(a) by inserting after the word “ arrears ” in the second line of subsection (2) thereof the words “ of interest ” ;

(b) by inserting after the word “ paid ” in the second line of subsection (2) thereof the words “ together with interest on the said amount, at such rate not exceeding five pounds per centum per annum ” ; and

Reduction of purchase-money, etc.

(c) by inserting after the word “ due ” in the last line of subsection (2) thereof the words “ and the payment of the said instalments of arrears of interest shall be deemed to be a covenant implied by the agreement, or, as the case may be, by the lease issued in place of the surrendered agreement.

8. Part XI. of the principal Act is amended by inserting therein before section 205 the following section :—

Amendment of principal Act—

204B. (1) No surrender under this Part of any lease or agreement shall be of any effect unless and until accepted by the Commissioner.

Acceptance of surrenders.

(2) The Commissioner is hereby authorised to accept any such surrender in the name and on behalf of His Majesty.

(3) Any surrender shall be in the prescribed form and be made and executed in the prescribed manner.

9. Section

Crown Lands Act Amendment Act.—1933.

Amendment of
principal Act, s.
205—
Surrenders.

9. Section 205 of the principal Act is amended—

- (a) by striking out the words “subject to subsection (3) hereof” in subsection (1) thereof;
- (b) by striking out the words “and the Commissioner is authorised to accept any such surrender in the name and on behalf of His Majesty” in subsection (1) thereof; and
- (c) by striking out subsections (2) and (3) thereof.

Amendment of
principal Act—
Rights of surrender
of mortgages, &c.

10. The principal Act is amended by inserting therein after section 208 thereof the following section:—

208A. (1) Any mortgagee or encumbrancee under any mortgage or encumbrance registered under The Real Property Act, 1886, of any lease or agreement who in the exercise of any power under the mortgage or encumbrance or the said Act, sells the lease or agreement or any part thereof may, for the purpose of giving effect to any such sale, exercise all the powers of surrender under the preceding sections in this Part which the mortgagor or encumbrancer could exercise or could have exercised.

(2) Notwithstanding the provisions of The Real Property Act, 1886, or section 224 of this Act, upon the registration, under The Real Property Act, 1886, of any surrender aforesaid, the estate or interest of the mortgagor or encumbrancer therein described shall pass to and vest in the person nominated in the surrender, freed and discharged from any liability in respect of the mortgage or encumbrance or of any mortgage or encumbrance registered subsequent thereto. Any lease or agreement issued consequent upon such surrender shall be issued free of the said mortgage or encumbrance and of any mortgage or encumbrance registered subsequent thereto but shall be issued and be subject to any mortgage or encumbrance registered prior to the said mortgage or encumbrance, and such prior mortgage or encumbrance shall be noted on the lease or agreement so issued and shall be of the same force and effect and be construed as if it were a mortgage or encumbrance of the lease or agreement so issued.

(3) If any such surrender comprises part only of any such lease or agreement, the lease or agreement comprised in the mortgage shall, upon registration of the surrender as aforesaid, be deemed to be cancelled so far as regards the land comprised in the surrendered part, and the preceding sections of this Part so far as they relate to the term and conditions of the lease or agreement so partially cancelled, and to the fixing of the rent or purchase-price thereunder shall, *mutatis mutandis*, be deemed to apply to the lease or agreement so partially cancelled.

(4) Nothing in this section shall be deemed to authorise any mortgagee or encumbrancee to sell or transfer any lease or agreement or any part thereof except subject to the provisions of this Act.

11. Section

Crown Lands Act Amendment Act.—1933.

11. Section 211 of the principal Act is amended by inserting therein after subsection (1) the following subsection :—

Amendment of principal Act, s. 211—

(1A) Any application as aforesaid may be granted notwithstanding that any rent payable under the lease is in arrear. When in any such case the application is granted, the full amount of the said arrears of rent, together with interest thereon at such rate of interest not exceeding five pounds per centum per annum as is fixed by the Board, subject to the approval of the Commissioner, shall be paid in such instalments, and at such times, as are fixed by the Board, subject to the approval of the Minister, when fixing the annual rent or purchase money as aforesaid, and shall be payable and recoverable in the same manner as the said rent or purchase money to become due, and the payment of the said instalments shall be deemed to be a covenant implied in the perpetual lease or agreement issued in place of the surrendered Crown lease.

Arrears of rent on surrender of lease.

12. Section 221 of the principal Act is amended—

(a) by inserting therein after subsection (2) thereof the following subsection :—

Amendment of principal Act, s. 221—

(2A) Any application under this section may be granted notwithstanding that the instalments payable under the agreement are in arrear. When in any such case the application is granted, the full amount of the arrears of interest payable under the agreement, together with interest thereon at such rate not exceeding five pounds per centum per annum, as is fixed by the Board, shall be paid in such instalments, and at such times, as are determined by the Board, subject to the approval of the Commissioner, when fixing the rent, and shall be payable and recoverable in the same manner as the rents to become due, and the payment of the said instalments shall be deemed to be a covenant implied by the lease issued in place of the surrendered agreement.

Arrears on surrender of agreement.

(b) by adding at the end thereof the following subsection :—

(4) The purchaser under any agreement surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the land. In any such case there shall be inserted in the perpetual lease a provision giving to the lessee a right to purchase at any time during the term of the lease the fee simple of the land comprised in the lease at the price at which he could have completed purchase at the time of the surrender of the agreement.

13. (1) Notwithstanding the provisions of the Lyrup Village Association (District Extension) Act, 1921, the land comprised in Block B, hundred of Paringa (which was, pursuant to the said Act,

Lyrup Village Association commonage lands.

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set apart as commonage lands), is hereby declared to be Crown lands and the provisions of the said Act shall cease to apply to the said land.

(2) The said land may be disposed of in manner provided by the principal Act.

(3) Subsection (2) and subdivision II. of subsection (3) of section 5 and section 15 of the Lyrup Village Association (District Extension) Act, 1921, are repealed.

Amendment of
2060, 1931, s. 11.

14. Section 11 of the Crown Lands Act Amendment Act, 1931, is amended by striking out the figure “(2)” in the third and fifth lines thereof and by inserting in lieu thereof in each case the figure “(3)”.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

A. HORE-RUTHVEN, Governor.