



ANNO TERTIO

GEORGI VI REGIS.

A.D. 1939.

No. 40 of 1939.

An Act to amend the Crown Lands Act, 1929-1938.

[Assented to 21st December, 1939.]

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

Short titles.

1. (1) This Act may be cited as the "Crown Lands Act Amendment Act (No. 2), 1939".

(2) The Crown Lands Act, 1929-1939, as amended by this Act, may be cited as the "Crown Lands Act, 1929-1939".

(3) The Crown Lands Act, 1929-1939, is hereinafter called "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Amendment of
s. 5 of
principal Act—
Town and
suburban lands.

3. Section 5 of the principal Act is amended—

(a) by inserting after paragraph (h) thereof the following paragraph :—

(hh) by proclamation declare that any lands which have been set apart as town lands or suburban lands and which have not been alienated from the Crown or which have reverted to the Crown, or any allotments of any such lands shall cease to be town lands or suburban lands ;

(b) by inserting after paragraph (i) thereof the following paragraph :—

(ii) by proclamation declare that any suburban lands which have been excepted from being dealt with by the board and have either

not been alienated from the Crown or have reverted to the Crown, or any allotments of any such lands may be dealt with by the board.

4. Section 34 of the principal Act is repealed.

Consequential repeal of s. 34 of principal Act.

5. Section 52 of the principal Act is repealed and the following section is enacted and substituted in lieu thereof :—

Repeal and re-enactment of s. 52 of principal Act—

52. (1) As soon as conveniently may be after land offered on lease or agreement is allotted to any person under any provision of this Act, or any other Act incorporated with this Act, or any person becomes entitled to a lease or agreement pursuant to any surrender which has been accepted, the Commissioner shall cause a lease or agreement, as the case may be, to be prepared in triplicate, and shall forward it to that person or his agent.

Preparation and execution of lease or agreement.

(2) The said person shall within twenty-eight days after receipt of the lease or agreement or within such further time as the Commissioner allows, execute the lease or agreement and return it to the Commissioner, together with the first year's rent or instalment (if any), and the prescribed fees or the unpaid balances thereof.

(3) If any person fails to comply with subsection (2) of this section, the Commissioner may by notice in writing, served on him personally or by post, declare that he has forfeited all moneys paid by him and his right to a lease or agreement, and the Commissioner may thereafter re-offer or deal with the land comprised in the lease or agreement as unallotted Crown lands.

6. Section 77 of the principal Act is amended by adding at the end thereof the following subsection (the previous part of section 77 being read as subsection (1) thereof) :—

Amendment of s. 77 of principal Act—
Rent of miscellaneous leases.

(2) Any lease granted under this section may provide that the rent thereunder shall be payable either quarterly or half-yearly or annually.

7. Section 170 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of s. 170 of principal Act—
Purchase of land by arrangement with intending settlers.

(3) In this section "land" includes land held for any estate of freehold, or under a Crown lease or agreement ; and "owner" includes the lessee under a Crown lease or the purchaser under an agreement.

8. The following sections are enacted and inserted in the principal Act after section 170 thereof :—

Enactment of s. 170a and 170b of principal Act—

170a. (1) Subject to this section, where any person holds under lease or agreement any land which is not a living

Purchase of land for allotment to one settler.

Crown Lands Act Amendment Act (No. 2), 1939.

area, the Commissioner may out of moneys provided by Parliament, purchase other land for allotment to that person under lease or agreement for the purpose of increasing his holding to a living area: Provided that no land shall be purchased under this section unless—

- (a) it forms part of an existing holding which in the opinion of the Commissioner is more than a living area; or
- (b) it forms the whole of an existing holding which in the opinion of the Commissioner is less than a living area.

(2) The person desiring land to be purchased for allotment to him under this section shall submit to the Commissioner the following particulars:—

- (a) a description of the land to be purchased and, if that land is part of an existing holding, of the balance of the holding from which it will be severed:
- (b) the price at which the owner of the land offers to sell it:
- (c) the area of the other land intended to be worked as one holding in conjunction with the land to be purchased:
- (d) the estimated value of the land to be purchased and, if that land is part of an existing holding, of the balance of the holding from which it will be severed.

(3) The Commissioner may, if he thinks fit, cause the land sought to be purchased to be valued by the board and the Surveyor-General.

(4) No land shall be purchased—

- (a) at a price in excess of the value placed upon it by the board and the Surveyor-General; or
- (b) where the values placed upon the land by the board and the Surveyor-General differ, at a price in excess of the lower of those values.

(5) No land shall be allotted to any applicant unless—

- (a) the board is satisfied that he is a suitable person to hold a block:
- (b) he has first paid to the Commissioner one-tenth of the price paid by the Commissioner for the land in addition to any moneys payable on or in respect of the granting of the agreement.

(6) No land shall be allotted under this section to any person if the effect of the allotment will be that that person will hold land, the unimproved value of the fee simple of which exceeds seven thousand pounds, or which is capable of carrying more than ten thousand sheep.

(7) The provisions of Divisions V. and VI. of this Part shall, with necessary modifications, apply to land allotted, and agreements issued under this section.

(8) In this section the expression "living area" means an area which in the Commissioner's opinion is sufficiently large to provide a reasonable living for one family.

170b. (1) Subject to this section, the Commissioner may out of moneys provided by Parliament, make loans for the purpose of—

Loans for schemes of closer settlement.

(a) enabling any two or more intending settlers to buy any existing holding which in the Commissioner's opinion is capable of being subdivided so as to provide a living area for each settler; or

(b) enabling any settler whose holding is less than a living area to purchase for the purpose of increasing his holding to a living area, any land which—

(i.) forms part of an existing holding which, in the opinion of the Commissioner, is more than a living area; or

(ii.) forms the whole of an existing holding which, in the opinion of the Commissioner is less than a living area.

(2) The person or persons desiring such a loan shall submit to the Commissioner the following particulars:—

(a) the price at which the owner of the land intended to be purchased offers to sell it:

(b) where any land is to be purchased for subdivision the proposed mode of subdivision and the persons who will hold the blocks into which the land is to be subdivided and the estimated value of each block:

(c) where part of an existing holding is being purchased, the estimated value of the remainder of the holding:

(d) particulars of any other land held by the person or persons desiring the loan.

(3) The Commissioner may, if he thinks fit, cause any land sought to be purchased to be valued by the board and the Surveyor-General.

Crown Lands Act Amendment Act (No. 2), 1939.

(4) No loan made in respect of any block shall exceed—

- (a) nine-tenths of the value placed upon that block by the board and the Surveyor-General; or
- (b) if the values placed on the block by the board and the Surveyor-General differ, nine-tenths of the lower of those values.

(5) No loan shall be made to any applicant unless—

- (a) the board is satisfied that he is a suitable person to hold a block:
- (b) the applicant executes a first mortgage of his block to the Commissioner, such mortgage to be in such form and containing such terms, covenants and conditions as the Commissioner approves, and gives the Commissioner such other security (if any) for the loan as the Commissioner requires.

(6) No loan shall be made under this section to enable any person to purchase any land, if the effect of the purchase will be that that person will hold land, the unimproved value of the fee simple of which exceeds seven thousand pounds, or land which is capable of carrying more than ten thousand sheep.

(7) The Commissioner may under this section make loans upon the security of land held for any estate of freehold or under a perpetual lease from the Crown or an agreement granted by the Crown.

(8) No stamp duty shall be payable on any transfer or mortgage executed to carry out any transaction under this section.

(9) In this section the expression "living area" means an area which in the Commissioner's opinion is sufficiently large to provide a reasonable living for one family.

Amendment of
s. 171 of
principal Act—

9. Section 171 of the principal Act is amended by inserting after paragraph i. thereof the following paragraph:—

Sale of town
lands
after offer by
auction.

- ia. Any town lands offered for sale by auction and not sold by auction may, on the recommendation of the board, be sold by private contract for cash at any price not less than the upset price at which the lands were last offered at auction.

Amendment of
s. 182 of
principal Act—
Sale of
unallotted
lands.

10. Section 182 of the principal Act is amended by adding at the end thereof the following subsection, the previous part of the said section being read as subsection (1) thereof:—

- (2) Any such land so offered for sale by auction and not sold at auction may, on the recommendation of the board, be sold by private contract at any price not less than the

upset price at which the land was last offered for sale by auction and on the other terms and conditions on which it was so offered.

11. Subsection (5) of section 199 of the principal Act is amended by striking out the last sentence therein and inserting in lieu thereof the following :—

Amendment of s. 199 (5) of principal Act—
Price at which land in perpetual lease may be purchased.

In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease at any time during that portion of the term of the surrendered agreement which was unexpired at the time of the surrender, at the price at which the lessee could have completed purchase at the time of the surrender.

12. The following section is enacted and inserted in the principal Act after section 202 thereof :—

Enactment of s. 202a of principal Act—

202a. (1) When any lease or agreement issued under this Part has been absolutely surrendered to the Crown the land included therein may, according as the board recommends—

Power to re-sell surrendered lands.

- (a) be offered for sale under section 174 at a price fixed by the board ; or
- (b) be let on miscellaneous lease at a rental and on terms to be fixed by the board with the approval of the Commissioner ; or
- (c) be sold by public auction, a reserve price being fixed by the board, on the following terms, namely :—

Twenty-five per centum of the purchase money to be paid in cash and the balance of the purchase money together with interest at the fixed rate on the amount for the time being outstanding, to be paid in five equal yearly instalments.

(2) Any such land so offered for sale by auction and not sold at auction may, on the recommendation of the board, be sold by private contract at any price not less than the upset price at which the land was last offered for sale by auction, and on the other terms and conditions on which it was so offered.

Enactment of
s. 207a of
principal Act—

13. The following section is hereby enacted and inserted in the principal Act after section 207 thereof :—

Power to deal
with
surrendered
lands.

207a. The land comprised in any lease or agreement (not being a lease or agreement issued under Part X. of this Act) which has been absolutely surrendered may be dealt with in all respects as if the lease or agreement had never been granted.

Amendment of
s. 211 (5) of
principal Act—
Price at
which land in
perpetual lease
may be
purchased.

14. Subsection (5) of section 211 of the principal Act is amended by striking out the last sentence therein and inserting in lieu thereof the following :—

In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease at any time during that portion of the term of the surrendered lease which was unexpired at the time of the surrender, at the price at which the lessee could have completed purchase at the time of the surrender.

Amendment of
s. 221 (4) of
principal Act—
Price at
which land in
perpetual lease
may be
purchased.

15. Subsection (4) of section 221 of the principal Act is amended by striking out the last sentence therein and inserting in lieu thereof the following :—

In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease at any time during that portion of the term of the surrendered agreement which was unexpired at the time of the surrender, at the price at which the lessee could have completed purchase at the time of the surrender.

Repeal and
re-enactment
of s. 224—

16. Section 224 of the principal Act is repealed and the following section is enacted and substituted in lieu thereof :—

Saving of
estates and
interests in
surrendered
lands.

224. (1) No lease or agreement which is subject to any estate, interest, or caveat registered or noted on such lease or agreement shall be surrendered, as regards either the whole or any part of the land therein comprised, unless the person entitled to that estate or interest or, as the case may be, the person who lodged the caveat has consented in writing to the proposed surrender.

(2) Unless the person entitled to any such estate or interest or, as the case may be, the person who lodged the caveat, otherwise directs by notice to the Commissioner, any new lease or agreement of the surrendered land or

any part thereof shall be subject to the said estate, interest, or caveat, and that estate, interest, or caveat shall be registered or noted on the new lease or agreement and shall be of the same force and effect and be construed as if the new lease or agreement were subject to such estate, interest, or caveat.

(3) Where the surrender of a lease or agreement, whether as regards the whole or any part of the land comprised therein, is expressed to be an absolute surrender, and a person who is entitled to any estate or interest registered or noted on the lease or agreement or who has lodged a caveat so noted, consents to the surrender by writing indorsed thereon, that person shall be deemed to have directed by notice to the Commissioner that any new lease or agreement of the surrendered land or any part thereof shall not be subject to his estate interest or caveat and that such estate interest or caveat need not be noted on the new lease or agreement.

17. Section 242 of the principal Act is amended by striking out the words "valuation in case of difference" at the end thereof and inserting in lieu of those words the words "the Commissioner on the recommendation of the board".

Amendment of s. 242 of principal Act—
Purchase money for sites.

18. Section 249 of the principal Act is amended by inserting after the word "Act" in the first line thereof the words "or of any lease or agreement made under this Act or any repealed Act".

Amendment of s. 249 of principal Act—
Powers of forfeiture, etc.

19. The following section is enacted and inserted in the principal Act after section 263 thereof:—

Enactment of s. 263a—

263a. (1) Subject to subsection (2) of this section, it shall be a condition of every perpetual lease (other than a perpetual lease of town lands) or agreement, granted or entered into after the passing of the Crown Lands Act Amendment Act (No. 2), 1939, that the lessee or purchaser will set apart and keep reserved for the purpose of preventing soil erosion such areas of the land comprised in the lease or agreement, being areas covered with natural scrub growth, as the Commissioner or his servants shall notify to the lessee or purchaser, and will not destroy or permit to be destroyed any natural scrub growth growing on the said areas; the said areas to be of the respective sizes and in the respective positions notified to the lessee or purchaser by the Commissioner or his servants:

Provision for soil conservation reserves.

Crown Lands Act Amendment Act (No. 2), 1939.

Provided that the total area of the said areas shall not exceed one-tenth of the area of the land comprised in the lease or agreement.

(2) The Commissioner may wherever he deems it advisable to do so, grant an exemption in whole or in part from compliance with the said condition.

(3) The land to be set apart and kept reserved pursuant to this section shall be in addition to any land required to be set apart and reserved pursuant to section 263 of this Act.

Repeal and re-enactment of s. 267.

20. Section 267 of the principal Act is repealed and the following section is enacted and substituted in lieu thereof:—

Land grant to be noted as subject to interest.

267. Where any agreement or lease is subject to any estate, interest, or caveat noted or registered thereon, and the purchaser or lessee completes the purchase of the fee simple of the land comprised in the agreement or lease, pursuant to any right conferred on him by this Act or the agreement or lease, and a land grant is issued, that land grant shall unless the person entitled to any such estate, interest, or as the case may be, the person who lodged the caveat otherwise directs by notice to the Commissioner, be subject to that estate, interest, or caveat, and particulars of that estate, interest, or caveat, shall be noted on the land grant.

Amendment of s. 293 of principal Act—
Evidence.

21. Section 293 of the principal Act is amended by inserting after the word "Surveyor-General" in paragraph (c) thereof the words "or the Deputy Surveyor-General".

Enactment of s. 295a of principal Act—

22. The following section is hereby enacted and inserted in the principal Act after section 295 thereof:—

Appropriation of payments.

295a. Where money is paid to the Commissioner or to the receiver of rents in respect of any amounts of rent, purchase-money, or interest which became due at different times, the Commissioner or receiver may, notwithstanding any direction to the contrary, apply the money for or towards payment of those amounts in the order in which they became due, or in any other order which appears to the Commissioner or receiver to be convenient.

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

C. M. BARCLAY-HARVEY, Governor.