



ANNO QUINTO

GEORGII VI REGIS.

A.D. 1941.

No. 25 of 1941.

An Act to amend the Crown Lands Act, 1929-1940.

[Assented to 3rd December, 1941.]

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, 1941".

(2) The Crown Lands Act, 1929-1940, as amended by this Act, may be cited as the "Crown Lands Act, 1929-1941".

(3) The Crown Lands Act, 1929-1940, 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.

Enactment of
s. 22a of
principal Act—

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

Allotment of
marginal lands.

22a. Notwithstanding the other provisions of this Act where the board is of opinion that any Crown lands are marginal lands within the meaning of the Marginal Lands Act, 1940, or are so situated that they can conveniently be worked in conjunction with any marginal lands as so defined, those Crown lands may be allotted in accordance with section 4 of the Marginal Lands Act, 1940, as if they were lands purchased by the Commissioner for purposes of that Act, and the said section 4 shall be deemed to extend and apply to such lands accordingly.

4. Section 58 of the principal Act is repealed and the following section is enacted and substituted in lieu thereof :—

Amendment of
s. 58 of
principal Act—

58. (1) Notwithstanding anything contained in any lease or agreement, if any rent, principal or interest payable under any lease or agreement is not paid within thirty days after the day appointed for payment thereof, interest at the rate of five per centum per annum shall be added to the said rent, principal, or interest: Provided that this subsection shall not authorize the charging of interest on interest added pursuant to the foregoing provision of this subsection.

Interest on
amounts owing
under lease
or agreement.

(2) The interest added under this section shall be calculated from the day appointed for payment of the arrears on which the interest is charged, and shall be payable on the balance of such arrears owing from time to time until such arrears are paid.

(3) The Commissioner, without prejudice to his right to recover in any other way, may, by action brought in any court of competent jurisdiction in the name of the Commissioner of Crown Lands, sue for any such rent, principal or interest, together with the interest thereon added pursuant to this section.

(4) In any case of hardship, the Commissioner or any officer authorized by him, may remit the whole or any part of—

(a) any penalty added, before the enactment of this section, to any rent, principal or interest for default in payment thereof :

(b) any interest added to rent, principal or interest pursuant to this section.

(5) This section applies to all leases and agreements granted or made under any of the Crown Lands Acts or any Act incorporated with any such Act, except leases and agreements granted under Part X. of this Act.

5. The following section is enacted and inserted in the principal Act after section 66 thereof :—

Enactment of
s. 66a of
principal Act—

66a. (1) Where any parcel of Crown land, the value of which as fixed by the board does not exceed one hundred pounds, is adjacent to the land comprised in any lease or agreement, the Commissioner, on the recommendation of the board, may—

Power to add
small areas to
leases and
agreements.

(a) allot the said parcel of land to the lessee or purchaser of the adjacent land on such terms as are recommended by the board and accepted by the lessee or purchaser ; and

(b) by a certificate of alteration alter the lease or agreement so as to include the said parcel of land therein, and make any consequential alteration of or addition to the terms, covenants and conditions thereof.

(2) It shall not be necessary by notice in the *Gazette* or otherwise, to invite applications for any such parcel of land.

(3) Every certificate of alteration under this section shall be signed by the Commissioner.

(4) The Commissioner shall forward the certificate of alteration, together with the Land Office copy of the lease or agreement and the lessee's or purchaser's copy (if produced to the Commissioner) to the Registrar-General of Deeds.

The Registrar-General of Deeds shall register the certificate of alteration in the Lands Titles Office and assign a number thereto, and shall enter a memorial thereof on the copy of the lease or agreement in the Register of Crown Leases, and on the other copies forwarded to him, and shall return those other copies to the Commissioner of Crown Lands.

(5) The land included in a lease or agreement pursuant to a certificate of alteration shall be subject to the mortgages, encumbrances, subleases or other interests to which the other land comprised in the lease or agreement is subject, unless the certificate otherwise provides. The Commissioner shall, upon the request of the lessee or purchaser, include in the certificate, a statement that the land to which it relates is not subject to any mortgage, encumbrance, sublease, or other interest specified in the certificate.

(6) For the purposes of this section a parcel of land shall be deemed to be adjacent to any other land if it abuts on such other land or is separated therefrom only by a road or travelling stock reserve.

Amendment of
s. 181 (2) of
principal Act—
Transfers or
subleases of
closer
settlement
leases.

6. Section 181 of the principal Act is amended by inserting after the word "agreement" occurring in the first and second lines of subsection (2) thereof the words "or lease".

Amendment of
s. 201 of
principal Act—
Payment of
arrears in
certain cases.

7. Subsection (2) of section 201 of the principal Act is repealed and the following subsection is enacted and inserted in lieu thereof:—

(2) When in any such case an application is made, the Commissioner, on the recommendation hereinafter provided for, shall determine to what extent, if any, and at what times

or in what circumstances, and subject to what other terms and conditions as to interest or otherwise, the arrears of interest under the agreement shall be paid by the applicant. The application shall not be granted unless the applicant accepts the terms and conditions determined by the Commissioner.

In making his determination under this subsection the Commissioner shall act upon the following recommendations, namely—

- (a) where the application is to surrender an agreement for a perpetual lease, the recommendation of the board :
- (b) where the application is to reduce the purchase money payable under an agreement, the recommendation of the Surveyor-General and of the board.

If the application is granted, a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Commissioner shall, in the case of the surrender of an agreement for a perpetual lease, be inserted in the lease issued in place of the surrendered agreement, and in the case of the reduction of the purchase money payable under the agreement, shall be deemed to be included in the agreement.

8. Section 211 of the principal Act is amended by striking out all words in subsection (1a) thereof after the first two lines and inserting in lieu of those words the following :—

Amendment of
s. 211 of
principal Act—

When in any such case an application is made, the Commissioner, on the recommendation of the board, shall determine to what extent, if any, and at what times or in what circumstances and subject to what other terms and conditions, whether as to interest on the arrears or otherwise, the arrears of rent shall be paid. The application shall not be granted unless the applicant accepts the terms and conditions so determined by the Commissioner.

Payment of
arrears when
lease
surrendered.

If the application is granted, a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Commissioner shall be inserted in the perpetual lease or agreement issued in place of the surrendered lease.

9. Section 221 of the principal Act is amended by striking out all words in subsection (2a) thereof after " arrear " in the third line and inserting in lieu of those words the following :—

Amendment of
s. 221 of
principal Act—
Payment of
arrears when
agreement
surrendered
for lease.

When in any such case an application is made, the Commissioner on the recommendation of the board, shall determine to what extent, if any, and at what times or in what circumstances and subject to what other terms and conditions, whether as to interest on the arrears or otherwise, the arrears of interest under the surrendered agreement shall be paid. The application shall not be granted unless the applicant accepts the terms and conditions so determined by the Commissioner.

If the application is granted a covenant for payment of any arrears and interest which are payable pursuant to the determination of the Commissioner shall be inserted in the lease issued in place of the surrendered agreement.

Amendment of
s. 225 of
principal Act—

10. (1) Section 225 of the principal Act is amended by inserting after subsection (4) thereof the following subsection :—

Transfers
and
subleases.

(4a) For the purposes of subsection (4) of this section, if any land has not been improved to such an extent as the board considers reasonable in the circumstances, the number of sheep which that land is capable of carrying shall be deemed to be the number which in the board's opinion it would be capable of carrying if so improved.

(2) Section 225 of the principal Act is further amended by inserting after the word "agreements" occurring in the second and fifth lines of subsection (8) thereof the words "or leases".

Enactment of
s. 249a of
principal Act—

11. The following section is hereby enacted and inserted in the principal Act after section 249 thereof :—

Remission of
rent and
interest.

249a. Where pursuant to an application made under section 199, 210, or 221 of this Act, between the first day of November, 1933, and the passing of the Crown Lands Act Amendment Act, 1941—

- (a) a lease has been issued in place of a surrendered lease or agreement; or
- (b) an agreement has been issued in place of a surrendered lease; or
- (c) approval has been given for the issue of any such lease or agreement; and
- (d) any covenant has been entered into or any arrangement made, for payment by the lessee or purchaser of any arrears of rent or interest owing under the surrendered lease or agreement,

the Commissioner on the recommendation of the board may remit such arrears of rent or interest or any part of

them, or postpone the time for payment of such arrears or any part of them.

12. The following section is hereby enacted and inserted in the principal Act after section 252 thereof :—

Enactment of
s. 252a of
principal Act—

252a. Where a lease or agreement is vested in a person as an executor, administrator or trustee, he shall not be liable under the lease or agreement except to the extent of the assets of the estate of which he is executor or administrator, or, as the case may be, to the extent of the trust property: Provided that this section shall not relieve any person from personal liability for voluntary waste or for any wrongful act causing damage to the land comprised in the lease or agreement, or affect any power to cancel the lease or agreement.

Liability of
executors and
trustees under
leases and
agreements.

13. Section 275 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :—

Amendment of
s. 275 of
principal Act—

(1a) Any lessee or purchaser who cuts, injures or destroys or permits to be cut, injured or destroyed any tree, shrub, or sapling in contravention of any term, covenant or condition in his lease or agreement, shall be guilty of an offence and liable to a fine of not less than two pounds or more than five pounds.

Penalty for
contravening
covenants as
to cutting
trees, etc.

14. The following section is enacted and inserted in the principal Act after section 271b thereof :—

Enactment of
s. 271c of
principal Act—

271c. (1) If—

Gifts of land
for the benefit
of soldiers.

(a) any person (hereinafter called “the donor”) offers to convey or transfer land to the Commissioner by way of gift for the purpose of being dealt with under this section, and informs the Commissioner by letter of his wishes as to the disposal of the land; and

(b) the Commissioner is of opinion that the letter discloses an intention to benefit any soldier (whether identified or not) or any dependants of any soldier;

the Commissioner may accept the offer, and the land may be conveyed or transferred to him accordingly.

(2) When any land is conveyed or transferred to the Commissioner under this section, he shall, subject to this section, dispose of it in accordance with the wishes of the

donor as set out in the said letter. If, however, owing to circumstances existing at any time the Commissioner is of opinion that it is impracticable or undesirable to carry out the wishes of the donor, he may on the recommendation of the board dispose of or deal with the land in any other manner which he thinks just, having regard to the wishes of the donor.

(3) Land may be disposed of by the Commissioner under this section upon such tenure and terms as in the Commissioner's opinion will best carry out the wishes of the donor, so far as the Commissioner considers it practicable or desirable to carry out such wishes, and the Commissioner shall not, in disposing of any land under this section, be bound by any of the other provisions of this Act.

(4) The wishes expressed in a letter relating to any land accepted by the Commissioner under this section shall not be deemed to create any trusts of that land.

(5) The Commissioner may be registered under The Real Property Act, 1886-1940, as the proprietor of any land which is transferred to him under this section and is subject to that Act, and may execute any transfer, conveyance, or other instrument which he deems necessary for the purpose of disposing of the land pursuant to this section.

(6) No stamp duty shall be payable on any instrument executed to convey or transfer land to the Commissioner under this section, or upon any instrument executed by the Commissioner under this section; and no fees shall be payable to the Commissioner or any public officer for the preparation or registration of any instrument executed under this section.

(7) In this section "soldier" means a person who, whilst domiciled in the State, enlisted in any naval, military or air force of any part of His Majesty's dominions for service in the war which began in September nineteen hundred and thirty-nine, and served in that force during the said war.

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

C. M. BARCLAY-HARVEY, Governor.