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VICTORIÆ REGINÆ.

A.D. 1895.

No. 642.

An Act to amend the Pastoral Laws.

[Assented to, December 20th, 1895.]

BE it Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly, in this present Parliament assembled, as follows :

1. This Act may be cited for all purposes as "The Pastoral Act Amendment Act, 1895," and, except so far as inconsistent therewith, shall be read as one with "The Pastoral Act, 1893," hereinafter called "the Act of 1893."

Short title and incorporation.

2. The expression "Crown Lands Acts" in the Act of 1893, and all Acts incorporated therewith, shall extend to and include this Act.

Interpretation.

"Unstocked country" means pastoral land which has never been stocked, or which has been unstocked for more than two consecutive years.

3. The enactments mentioned in the Schedule hereto, to the extent mentioned in such Schedule, are hereby repealed, but such repeal, or any repeal effected by this Act, shall not affect any right, interest, or liability already created, incurred, or existing, nor anything lawfully done or suffered under any enactment hereby repealed; and any proceeding in respect of any such right, interest, or liability may be carried on as if this Act had not been passed.

Repeal.

4. In sections 64, 66, and 83 of the Act of 1893, the references to sections 66, 72, 62, and 35 shall be read and construed as if they were to sections 68, 74, 64, and 36, respectively. *Improvements.*

Alteration of references.

Improvements.

Amendment of sec.
64 of Act of 1893.

5. Sub-division (a) of section 64 of the Act of 1893 shall be extended to include any application for a lease of any land in Class C which has been unoccupied for more than three years, and is situate more than fifty miles from the seaboard.

Limit of sub-division.

6. If the area held by an outgoing lessee is reduced by sub-division for letting to an incoming tenant below the carrying capacity of five thousand sheep in Class A, ten thousand in Class B, or thirty thousand in Class C, or a proportionate number of cattle, the improvements shall be valued for the protection of the outgoing lessee as if the area let was of such carrying capacity; and as regards any amount which the outgoing lessee may be entitled to for improvements, and which the incoming lessee may not be liable to pay, such amount shall be paid by the Commissioner to the outgoing lessee at the time when the outgoing lessee is entitled to payment of the sum which the incoming lessee is liable to pay; but as regards water improvements, made with the sanction of the Commissioner, the same shall be valued as if there had been no sub-division of the area held by the outgoing lessee, and the outgoing lessee shall be paid therefor accordingly.

Re-letting of lands.

7. Before re-letting on lease any lands which had previously been held under a pastoral lease the Commissioner shall obtain a report from the Surveyor-General, for the purpose of ascertaining whether such lands, owing to the nature of the soil, the rainfall, or proximity to seaboard, or to a railway already constructed or about to be constructed, are suitable for sub-division into smaller holdings for grazing and cultivation purposes; and if the Surveyor-General shall report that such lands, or any portion thereof, are not suitable for such sub-division, then such lands, or such portion thereof, shall be dealt with as provided in this Act and in Act No. 585 of 1893: Provided that this clause shall not apply to any re-letting by way of renewal, or a surrender for a new lease.

Commissioner not
bound to recover
improvement moneys
or protect improve-
ments.

8. Nothing in the Act of 1893 contained shall impose upon the Commissioner any liability to make any payment in respect of any improvements, except as expressly provided by that Act, nor shall make it incumbent upon the Commissioner, except upon receiving to his satisfaction a full and sufficient indemnity from the outgoing lessee, to require payment for any improvements from any incoming lessee, nor to protect any improvements or the interests of any outgoing lessee therein further or otherwise than as the Commissioner in his discretion shall think fit; but if the Commissioner shall be dissatisfied with the indemnity offered by the outgoing lessee, or shall from any cause fail to enforce any claim or remedy which is vested in him on behalf of the outgoing lessee, the outgoing lessee shall be at liberty to sue or otherwise enforce his claim or remedy in his own name as fully to all intents and purposes as the Commissioner could do.

9. Every

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9. Every application for a lease shall be accompanied by a deposit equal to five per centum on the price to be paid for the improvements (if any), as notified in the *Government Gazette*, in addition to the deposit of twenty-five per centum of the first year's rent required by section 26 of the Act of 1893.

Applicants for leases to make deposit on account of improvements.

10. If the successful applicant for a lease shall fail to execute the lease, or to pay or arrange for the payment of the balance of the purchase-money of the improvements, within the time and in manner prescribed, he shall forfeit to the Commissioner all moneys (if any) deposited by him in respect of improvements. The deposit under section 9 shall be credited against the first instalment of the purchase-money.

Forfeiture of deposit.

11. The moneys so forfeited, less all proper deductions, shall be retained by the Commissioner, or paid over to the outgoing lessee, as the case may be, in the same manner in all respects as the purchase-money of the improvements would have been retained or paid over if the applicant had duly completed the purchase.

Application of forfeited deposit.

12. Notwithstanding anything contained in "The Crown Lands Amendment Act, 1890," or in any pastoral lease granted after the passing of that Act, the Commissioner shall repay all or any part of the amount deposited by the lessee as security for the maintenance of the improvements on the land if the lessee shall have maintained such improvements in good repair, reasonable wear and tear excepted, to the satisfaction of the Commissioner, so soon as the lessee shall have made other improvements on the land leased equal in value to the amount of the deposit.

Repayment of deposits for improvements if other equivalent improvements made.

13. The amount to be deducted by the Commissioner, pursuant to section 50 of the Act of 1893, in respect of costs of and incidental to the recovery of the moneys to be received from the incoming lessee shall be the cost actually incurred, but shall in no case exceed five per centum of the moneys so received.

Limitation of cost to outgoing lessee of recovery of moneys from incoming lessee.

14. All moneys paid by the Commissioner to an incoming lessee, pursuant to section 63 of the Act of 1893, for compensation for loss or depreciation of improvements, shall be expended by such lessee in replacing or making good such improvements, unless he shall have paid the purchase-money thereof in full; and in every lease hereafter to be granted under the Act of 1893 a covenant to this effect shall be expressed or implied against the lessee.

Moneys paid to incoming lessee for depreciation of improvements to be laid out in reinstatement thereof unless purchase-money paid.

15. A lessee may be released from his liability to repair improvements which are on the lease, and are of no value to such lease, if he shall make other improvements in lieu thereof to the satisfaction of the Commissioner.

Lessee may be released from liability to repair.

16. Section 25 of Act 585 of 1893 is hereby amended by striking out "may" in the fourth line, and inserting in lieu thereof "shall, at intervals of not less than three months, until applications are accepted."

Amendment of sec. 25 of Act of 1893.

17. Section

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Amendment of sec.
47 of Act of 1893.

17. Section 47 of Act 585 of 1893 is hereby amended, by adding at end thereof—"and, as regards lands which shall not be offered for lease within six months after the expiration of the lease, the amount as so determined of all improvements thereon shall be paid by the Commissioner to the outgoing lessee upon the lessee giving up possession thereof."

Amendment of sec.
60 of Act of 1893.

18. Section 60 of Act 585 of 1893 is hereby amended by striking out all words after "interval" in fifth line and inserting in lieu thereof—"at the rental at which the land shall have been last offered for lease; and in the event of any land being ultimately re-let at a rental below what the lessee shall have paid under this section, such lessee shall be repaid the excess, and a lessee so continuing in occupation shall observe the terms and conditions of his expired lease, except as hereinafter provided."

Conditions of Leases.

Covenant to stock
land may be qualified
where country
inferior.

19. In any lease to be granted under Part VIII. of the Act of 1893, and in any pastoral lease hereafter to be granted of land which the Commissioner shall be satisfied is waterless or vermin infested, or otherwise especially inferior for pastoral purposes, the covenant relating to the stocking of the land mentioned in paragraph (c) of Schedule A to the Act of 1893 may, if the Commissioner shall think fit, be qualified by a provision, to be inserted in the lease, that if the Commissioner shall be satisfied that during the first six years of the term a sum equal to Five Pounds per square mile of the leased land has been expended by the lessee in—

- (a) Destroying vermin upon the land, or erecting vermin-proof fencing thereon; or
- (b) Constructing improvements, consisting of wells, reservoirs, tanks, or dams of a permanent character and available for the use of cattle or sheep, and which increase the carrying capacity of the land:

the lessee shall not be bound to increase the stock to more than ten head of sheep or two head of cattle (or their equivalent) per square mile, at any time during the term of the lease, or any renewal thereof.

Concession to dis-
coverer of artesian
wells.

20. If any lessee shall, except upon a reserve, discover any artesian well upon his run yielding a supply of not less than five thousand gallons per diem of water suitable for stock, he shall be entitled to a remission of five years' future rent in respect of an area of one hundred square miles of the land surrounding such well comprised in his run for every such well so discovered, but not exceeding in respect of any run four such wells. The area to be affected by such remission shall be selected by the lessee, with the approval of the Commissioner.

21. Section

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21. Section 25 of Act 585 of 1893 is hereby amended, and shall be read as if all the words after “reduced” in the tenth line had been struck out and the following words had been inserted in lieu thereof—“until the rent has been reduced to the extent of fifty per centum, after which the rent and the price for improvements shall be reduced proportionately: Provided, however, that such rent shall not at any time be reduced below the minimum rental of Two Shillings and Six Pence per square mile.”

Amendment of sec.
25 of Act of 1893.

Notice of Resumption.

22. Section 74 of the Act of 1893, relating to the resumption of land, shall be read as if in sub-section II. thereof “two years’ notice” had been substituted for “one year’s notice.”

Amendment of sec. 74
of 585 of 1893.

Applications for Reduction of Rent in Class I.

23. Any of the following persons, that is to say—

(a) The pastoral lessee of any pastoral lands in Class I.:

(b) The lessee of any pastoral lands in Class I. holding under a miscellaneous lease for grazing and cultivation purposes:

may, within six months after the first day of January, one thousand eight hundred and ninety-six, apply to the Commissioner for a reduction of rent, such application to be referred to the Surveyor-General for report; and, should a reduction of rent be recommended, the Commissioner may reduce the rent or not as he thinks fit.

Certain lessees may
apply for reduction
of rent.

24. The Commissioner may refer such notice as is mentioned in section 81 of the Act of 1893 to the Pastoral Board, who shall forthwith report to him the value of the improvements to payment for which by the Government the person or lessee therein mentioned is, or on the expiration of the existing lease would be, entitled, the capacity of the land for depasturing by stock, its value for agricultural or other purposes, its proximity and facilities of approach to railway stations, ports, rivers, and markets, and all other circumstances affecting the value of the claims, lease, or rights of such person or lessee, and shall recommend for the approval of the Commissioner the term for which and rent at which a lease under the Act of 1893 should be granted to such person or lessee upon his releasing all claims to payment by the Government or surrendering his existing lease or rights to a lease, as the case may be: Provided that the Commissioner may refuse to accept the surrender of such lease or leases, or any portion thereof.

Surrender notice to
be referred to
Pastoral Board.

25. The Governor may, in any case where he thinks it expedient, accept a surrender of any lands comprised in any pastoral lease if such lands shall be contiguous to other lands resumed by the Government and held by the same lessee under another pastoral lease expiring within one year of the time of the acceptance of such surrender, and may thereupon resume possession of the land so surrendered

Governor may accept
surrender of pastoral
leases.

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surrendered. In any such case the pastoral lessee shall be entitled to receive the same payment for improvements as he would have been entitled to if the lease so surrendered had at the time of the surrender expired by effluxion of time: Provided that no payment for improvements shall be made until the land comprised in such surrendered lease be either let or sold, or the surrendered lease would have expired by effluxion of time, but the valuation shall be made as soon as practicable after such surrender.

Tenants' Relief Board.

Constitution.

26. A Board is hereby constituted for the relief of Crown lessees against forfeitures.

Name and members.

27. Such Board shall be called the "Tenants' Relief Board," and shall consist of a Judge of the Supreme Court, to be nominated by the Governor, assisted by two assessors, one to be appointed by the Commissioner and the other by the lessee.

Crown leases not to be forfeited without notice to lessees.

28. No Crown lease shall be forfeited until after the expiration of three months from the giving of a notice to the lessee of the Commissioner's intention to forfeit the same.

Lessee in certain cases may apply to Board for relief against forfeiture.

29. Any lessee upon receiving notice of the Commissioner's intention to forfeit his lease for default in the observance or performance of any covenant or condition therein, other than the covenant for payment of rent, may apply, in manner prescribed, to the Tenants' Relief Board for relief.

Board to consider whether forfeiture ought to be enforced.

30. Such Board shall thereupon inform themselves, in such manner as they shall think fit, of all matters affecting the question as to whether or not the forfeiture ought to be enforced, and determine as they may think fit.

May assess compensation.

31. If the Board shall consider that the forfeiture ought not be enforced, they may direct the lessee to pay any compensation, or do any act, within such time as they shall think fit.

Finding to be certified.

32. The Board shall in each case certify their determination to the Commissioner, who shall notify the lessee thereof in writing.

If lessee pay compensation fixed, forfeiture not to take place.

33. If the lessee shall, within the time fixed by the Board, comply with the directions of the Board, the forfeiture shall not take place.

In what cases forfeiture may proceed.

34. If the Board shall certify that the forfeiture ought to be enforced, or if the lessee shall not within the time fixed comply with the directions of the Board, the Commissioner may, if he shall think fit, proceed with the forfeiture.

35. The

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35. The Judge shall preside at all meetings of the Board, and his decision shall be the decision of the Board. President and decision.

36. No counsel or solicitor, unless he shall be the lessee of the lease affected, and registered as such, shall be permitted to conduct or appear in any proceeding before the Board, and no counsel or solicitor shall act as assessor. Solicitors not to take part in proceedings.

37. All proceedings before the Board shall be conducted in such manner as the Board shall think fit, and no rules of evidence shall necessarily be observed. Proceedings and evidence.

Central Pastoral Board.

38. A Board is hereby constituted, to be called the "Central Pastoral Board," to consist of three officers of the Civil Service to be nominated by the Commissioner, and who shall hold office during the pleasure of the Commissioner. Board to be constituted of three Civil servants.

39. Two members of the Board shall be a quorum, and may exercise and discharge all the duties of the Board. Quorum.

40. Meetings of the Board may be held as the members may determine or the Commissioner require. Meetings.

41. The Central Pastoral Board may deal with any pastoral land, a plan of which shall have been laid before both Houses of Parliament for a period of thirty-one days, and with any unstocked country, and lands contiguous to unstocked country the leases of which have expired, and which the Commissioner may certify it is desirable to offer in connection with unstocked country, and lands which have been offered, but not allotted, by the Pastoral Board. Duties.

42. No application for a lease of any pastoral land previously offered by the Pastoral Board shall be referred to the Central Pastoral Board until the Commissioner has received from the Pastoral Board a report that such land had been declared open for leasing, but had not been allotted; nor shall the Central Pastoral Board deal with applications for the surrender of pastoral leases. Applications for pastoral leases to be first referred to Pastoral Board.

43. Section 46 of Act 585 of 1893 is hereby amended, by leaving out all the words after "lease" in the fifth line, and inserting in lieu thereof "or at such date as may be agreed to by the Commissioner and the lessee." Amendment of sec. 46 of Act of 1893.

44. Section 51 of Act 585 of 1893 is hereby amended, by inserting the words after "repair," in line 7, "reasonable wear and tear excepted." Amendment of sec. 51 of Act of 1893.

45. Section 55 of Act 585 of 1893 is hereby amended, by inserting after the word "improvements," in line 1, page 10, the words "except those previously sanctioned by the Commissioner." Amendment of sec. 55 of Act of 1893.

46. Sub-section

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Amendment of sec.
84 of Act of 1893.

46. Sub-section (*a*) of section 84 of Act No. 585 of 1893 is hereby amended, by adding the following words to the end of the sub-section—"Except for the repayment of any deposit made by him in respect of improvements made previous to the date of his lease."

Amendment of
Schedule A of Act of
1893.

47. Sub-section (*q*) of Schedule A of Act 585 of 1893 is hereby amended, by striking out the words "a penalty of 5 per cent., or, if in arrear for one calendar month," and inserting after the word "cent." the words "per annum."

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

T. FOWELL BUXTON, Governor.

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SCHEDULE.

SCHEDULE.

Section 3.

No. of Section of the Act of 1893.	Extent of Repeal.
27	All the words after " simultaneous applications."
53 and 82	The whole.
44	All the words after " incoming lessee."
54	The words " and such improvements shall have been sanctioned by writing under the hand of the Commissioner," and also all the words after " dispatch" in the twelfth line."
66	All the words from " nor " in the third line to " cattle," in the seventh line, both inclusive.
83	The words in the proviso " shall not be at a less rate than that payable under the surrendered lease, and."
Schedule A	Sub-sections (<i>h</i>) and (<i>i</i>).