



ANNO DECIMO TERTIO

GEORGII V REGIS.

A.D. 1922.

No. 1519.

An Act to further amend the Pastoral Act, 1904, and for other purposes.

[Assented to, December 6th, 1922.]

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 alone as the “ Pastoral Act Further Amendment Act, 1922.” Short titles.

(2) The Pastoral Acts, 1904 to 1919, and this Act may be cited together as the “ Pastoral Acts, 1904 to 1922.” No. 850 of 1904.
No. 1347 of 1918.
No. 1407 of 1919.

(3) In this Act the Pastoral Act, 1904, is referred to as “ the principal Act.”

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read together as one Act. Incorporation with other Acts.

3. Section 7 of the principal Act is amended by inserting after the definition of “ Commissioner ” the following definition :— Amendment of principal Act, s. 7—

“ Fixed rate ”.—The annual rate of interest fixed by the Commissioner under section 133A of this Act which is in force at the time when the moneys in question, or the first instalment thereof (as the case may be), becomes due. Definition of “ Fixed rate.”

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Amendment of
principal Act, s. 36,
iii.—

Deposit on
improvements.

Amendment of
principal Act, s. 66—
Rate of interest on
purchase-money for
improvements.

Repeal of s. 69 of
principal Act and
substitution of other
provisions.

Crown improve-
ments may be paid
for by instalments.

Amendment of
principal Act, s. 92—
Outgoing lessee re-
maining in occupa-
tion to pay rent for
improvements.

Amendment of Part
VIII. of principal
Act by insertion of
new section.

Provision for vaca-
tion by lessee in
certain cases on
twelve months'
notice.

4. Subdivision III. of section 36 of the principal Act is amended by adding at the end thereof the following proviso :—

Provided that this subdivision shall not apply where the applicant is an outgoing lessee who is entitled to payment for improvements on the land.

5. Section 66 of the principal Act is amended by striking out in the third line thereof the words "the rate of four per centum", and inserting in lieu thereof the words "the fixed rate".

6. Section 69 of the principal Act is repealed and the following section is substituted therefor :—

69. (1) If the improvements belong to the Crown the Commissioner may permit the lessee to pay the purchase-money, with interest at the fixed rate per annum on the balance for the time being unpaid, by equal annual instalments spread over the term of the lease.

(2) In any such case the lease shall contain, in addition to any other covenants prescribed—

(a) covenants by the lessee—

I. to pay such instalments at the times and in the manner specified in the lease ; and

II. while any instalments remain owing, to maintain the improvements in proper repair to the satisfaction of the Commissioner, reasonable wear and tear excepted ; and

(b) a condition that, if any instalments remain unpaid for three months after the same are due, the whole of the purchase-money and interest then remaining unpaid shall, at the option of the Commissioner, become instantly due, payable, and recoverable.

7. Section 92 of the principal Act is amended by striking out the passage "the amount paid" in the fourth and fifth lines thereof, and inserting in lieu thereof the passage "the total amount of the purchase-money payable".

8. Part VIII. of the principal Act is amended by inserting after section 93 thereof the following new section :—

93A. (1) Notwithstanding any other provision of this Act, if for any reason the Commissioner considers that any land, or any part of any land, comprised in any lease should, after the expiration of the lease then current—

(a) not be re-offered for lease under this Act ; or

(b) be

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(b) be offered on lease to a discharged soldier, or discharged soldiers, pursuant to section 29 of the Discharged Soldiers Settlement Act Further Amendment Act, No. 1388 of 1919, 1919,

he may, twelve months before such expiration, serve upon the lessee notice in writing requiring him to give up possession of such land, or part thereof (as the case may be), at such expiration. Any such notice may be served by post.

(2) Any such notice, if given as to a part only of the leased land, shall specify such part.

(3) A lessee upon whom any such notice has been served shall give up possession of the land specified in such notice, at the expiration of his lease. Any moneys to which such lessee is entitled in respect of improvements on such land shall be paid to him upon his so giving up possession.

9. Part XIII. of the principal Act is amended by inserting after section 118 thereof the following new section :—

Amendment of Part XIII. of principal Act by insertion of new section.

118A. If, in any proceedings before the Board, the Commissioner alleges that the lessee has made default in the observance or performance of any covenant or condition in his lease, the onus shall be upon the lessee to prove that such covenant or condition has been duly observed or performed: Provided that such onus shall be deemed to be discharged if the lessee proves to the satisfaction of the Board :—

Onus of proof in proceedings before Tenants' Relief Board.

(a) that he has *bona fide* endeavored to carry out such covenant or condition, and has taken every reasonable means in his power, having regard to all the circumstances of the case, to carry out such covenant or condition; or

(b) that such covenant or condition has been substantially complied with.

10. Subdivision II. of section 128 of the principal Act is amended by striking out in the first line thereof the words " within such sixty days".

Amendment of principal Act, s. 128, II.—Appropriation of travelling stock roads.

11. Part XV. of the principal Act is amended by inserting after section 133 thereof the following section :—

Amendment of Part XV. of principal Act by insertion of new section.

133A. (1) The Commissioner may, from time to time, by notice published in the *Government Gazette*, fix the annual rate of interest for the purposes of this Act, and may, in the same manner, annul any rate so fixed.

Commissioner may fix rate of interest. Cf. 1309, 1917, s. 3.

(2) Any rate so fixed shall come into force on the fourteenth day after the date of the *Government Gazette* in which the same is published,

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published, and shall continue in force until the fourteenth day after the date of the *Government Gazette* in which the notice annulling the same is published.

Amendment of
principal Act, s. 136,
III.—
By whom licenses,
etc., signed.

12. Subdivision III. of section 136 of the principal Act is amended by striking out the words "Surveyor-General or Deputy Surveyor-General", and inserting in lieu thereof the words "Secretary for Lands, the Assistant Secretary for Lands, or the Surveyor-General".

Repeal of Second
Schedule to principal
Act.

13. The Second Schedule to the principal Act is repealed.

New Provisions.

Special lease to
discoverer of water.

14. (1) The Governor may grant a lease under the provisions of this section to any person who has complied with the requirements of this section, and who has applied for such a lease.

(2) A person who is desirous of searching for water, with a view of obtaining a lease under the provisions of this section, may apply to the Commissioner for a permit authorising him so to search. The application shall be made in the manner prescribed, and shall contain such particulars as are prescribed. The Commissioner may, as he thinks fit, grant or refuse any such application.

(3) Every such permit—

(a) shall be in writing, in the form prescribed, and shall be signed by the Commissioner ; and

(b) shall specify approximately the land upon which the search is authorised to be made ; and

(c) shall have effect only for a period of one year from the date of the granting thereof ; and

(d) may be extended from time to time for any period not exceeding one year.

(4) Such permit shall confer upon the holder thereof the exclusive right to search for water on the land therein specified, and a preferential right to a lease under this section.

(5) The holder of a permit under this section who satisfies the Commissioner that he has discovered, by boring or well-sinking, on the land specified in such permit, a permanent supply of water suitable for great cattle, yielding not less than four thousand gallons of water a day, may apply to the Commissioner for a lease under this section of land, not exceeding one hundred square miles in area, surrounding the site of the bore or well in which such water is discovered.

(6) The Governor may grant the applicant a lease under this section of the whole or any part of the land applied for ; but so that the total area granted shall not exceed one hundred square miles.

(7) The

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(7) The following rules shall apply to a lease granted under this section :—

- (a) For the first period of ten years the rental shall be a peppercorn rental ; for the second period of ten years Six Pence per square mile ; and for the remainder of the term, Two Shillings per square mile :
- (b) The covenant relating to the stocking of the land contained in paragraph (b) of the Third Schedule to the principal Act shall be modified so as to provide that 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 :
- (c) For the first period of ten years the land shall be exempt from rating under the provisions of the Wild Dogs Acts, 1912 to 1919 :
- (d) In all other respects the lease shall be upon the same terms and conditions as a lease under Part IV. of the principal Act.

15. The Commissioner shall pay a reward of at least Two Hundred Pounds to any holder of a permit under section 14 who satisfies the Commissioner that he has discovered upon the land specified in the permit, by boring or well-sinking, a permanent supply of water, suitable for great cattle, yielding not less than four thousand gallons a day, and situate at least three miles away from every other existing bore or well : Provided that not more than one reward shall be paid for the discovery of a permanent supply of water on the land comprised in any one lease applied for or granted under the said section 14.

Reward for
discovery of water
supply for great
cattle.

16. (1) No valuation shall be made of any improvements, and no payment shall be made in respect of any improvements, and no improvements shall be considered, unless—

What improvements
to be paid for.
Cf. principal Act,
ss. 71 and 77.

- (a) the lessee, prior to their construction, has given written notice to the Commissioner stating the nature and position and the probable cost and date of completion thereof ; and
- (b) the Commissioner has, on the recommendation of the Board, consented to the making thereof ; and
- (c) the lessee, after the completion thereof, has furnished to the Commissioner a statement showing the details of the actual cost of such improvements.

(2) The provisions of subsection (1) of this section shall not apply to any improvements under the value of Twenty-Five Pounds, or to any improvements consisting of—

- (a) wells, reservoirs, tanks, or dams of a permanent character, available for the use of cattle or sheep, and which increase the carrying capacity of the land leased ; or
- (b) substantial

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- (b) substantial buildings, vermin-proof or other fences, or huts or sheds erected for residence, shearing, or other purposes, usually required for or in connection with keeping livestock,

which the Board certifies are useful and were made for the purpose of improving the land for pastoral purposes, or for increasing the carrying capacity thereof, and will have such effect.

- (3) The provisions of this section shall apply only to and in respect of improvements made after the passing of this Act.

Application of ss.
71 and 77 of
principal Act.

17. The provisions of sections 71 and 77 of the principal Act shall apply only to and in respect of improvements made before the passing of this Act.

Lands included in
hundreds may, in
some cases, be dealt
with as pastoral
lands.

18. Notwithstanding the definition of "lands" contained in section 7 of the principal Act, any lands included in a hundred, and comprised in a pastoral lease, in which are also comprised lands not included in any hundred, shall, at the expiration of the said lease, continue to be "lands" within the meaning of such definition if the Board certifies to the Commissioner that such lands not included within a hundred would be unsuitable for pastoral purposes apart from such lands included within a hundred.

Acquisition of
pastoral lands for
closer settlement.

Cf. 1199, 1915,
s. 153.

19. (1) The Commissioner may, by agreement with the lessee of any pastoral lands, acquire the lessee's interest in the whole or any part of the lands comprised in the lease for the purpose of the closer settlement thereof. The amount payable to the lessee for his interest in the land and the improvements thereon shall be paid by the Commissioner.

(2) No interest in any land shall be acquired as aforesaid unless the acquisition is recommended by the Board.

(3) The total cost of all such acquisitions and of all acquisitions under Part X. of the Crown Lands Act, 1915, shall not in the aggregate exceed Six Hundred Thousand Pounds in any period of two financial years.

Parliament to be
informed of
acquisition.

Cf., *ibid.*

20. Within thirty days after each acquisition, if Parliament is then in session, or if Parliament is not then in session, then within thirty days after the commencement of the next session, there shall be laid before both Houses copies of all recommendations and valuations pursuant to which the acquisition has been made, and full particulars of—

- (a) the locality, area, and quality of the land in question, and of the improvements thereon;
- (b) the names of the lessees and of all persons interested in the transaction; and
- (c) the price paid.

21. Upon

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21. Upon such acquisition the land shall be subdivided into holdings, and such holdings shall be offered on lease and leased under the principal Act, subject to the following provisions :—

How acquired land dealt with.

Cf. 1199, 1915, s. 177.

- i. Town lands may be sold by auction for cash in manner provided by the Crown Lands Act, 1915, and reserves may be dedicated by proclamation in like manner as Crown lands are dedicated :
- ii. The land, except such portions as may be required for town lands or for dedication or reservation for public purposes, shall be subdivided into holdings, none of which shall be of a greater carrying capacity than ten thousand sheep :
- iii. When the Board considers there are more improvements on any holding than are required for working such holding, then only the value of such improvements as, in the opinion of the Board, are reasonable, having regard to the size and situation of the holding, shall be considered in fixing the price to be paid for improvements ; and the balance of the value of such improvements shall be added to the price which has been paid for the outgoing lessee's interest in the land :
- iv. Before the holdings are offered on lease, the Board, subject to the approval of the Commissioner, shall fix the term (which, notwithstanding section 49 of the principal Act, may in any case be twenty-one years), the annual rent, and the price to be paid for the improvements (if any) and for the purchase of the outgoing lessee's interest in the holding. In fixing and approving the said price, the Board and the Commissioner shall have regard to the amount paid, as provided by subdivision iii. hereof, for the outgoing lessee's interest in the whole of the land and for the improvements thereon, the cost of any necessary accommodation works or other work effected by the Government, and the cost of valuation, subdivision, and offering on lease ; and the said price fixed in respect of the several holdings shall be so fixed as ultimately to recoup to the Government the sum total of the said amount and costs, together with interest on such total sum at the fixed rate :
- v. The said price fixed as aforesaid shall be repaid by the incoming lessee by equal annual instalments spread over the term of the lease, together with interest thereon or on the balance thereof for the time being remaining unpaid at the fixed rate, which instalments and interest shall be payable on the same days as rent is payable under the lease, and shall be recoverable in like manner : Provided that—

(a) in respect of such price, interest only shall be payable by the lessee for the first five years of the lease ;
and

(b) the

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(b) the lessee may at any time pay the balance of the instalments and interest thereon to the date of payment, and thereupon he shall cease to be liable under this subdivision.

For the purposes of the principal Act the lessee shall be deemed to have obtained the consent of the Commissioner, and to have been permitted by the Commissioner, to pay the purchase price of the improvements by instalments.

vi. It shall not be lawful—

(a) for any person to acquire, whether upon allotment or transfer, a lease of any such holding, if such person is already the lessee under the principal Act of any pastoral lands; or

(b) for any person to acquire, whether upon allotment or transfer, a lease of more than one such holding, whether of the same subdivision or not.

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

TOM BRIDGES, Governor.