

## No. XI.

An Act to give certainty as to the proper amounts payable to the Crown as Rents and License Fees under the "Crown Lands Act of 1884"; to permit the determination thereof to be made by the Land Court in certain cases; to provide for the adjustment of accounts and for staying and limiting the effect of litigation in connection with the Rents and License Fees under the said Act; and to further amend the law in respect thereof. [19th September, 1890.]

CROWN RENTS  
(No. 2.)

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Crown Rents Act of 1890." Short title.

2. In this Act, unless the context otherwise requires, the Interpretation of terms.  
expression—

"Board" means any Local Land Board constituted under and in pursuance of the "Crown Lands Act of 1884."

"Holder" means the person registered in the books of the Department of Lands as the holder of the lease or license in question.

"Land Court" means the Land Court constituted in pursuance of the "Crown Lands Act of 1889."

"Lease" means and includes a pastoral, homestead, or conditional lease or an occupation license under the "Crown Lands Act of 1884."

"Minister" means the Minister for Lands.

"Rent" means and includes the rent payable under the "Crown Lands Act of 1884," in respect of a pastoral, homestead, or conditional lease, or the license fee payable under the said Act, in respect of an occupation license.

*Crown Rents (No. 2).*

Application for a new determination of the rental.

3. In any case where the rent of any lease under the "Crown Lands Act of 1884" has heretofore been determined, approved, fixed, or notified by the Minister at a rate other than that appraised, recommended, or determined by the Board, the holder of such lease may by himself or his agent apply to the Minister in the form set forth in the Schedule hereto that the proper rate of rental which should have been and should be paid in respect of such lease may be determined anew in accordance with this Act. And in any case where the lease has been or shall be transferred by way of mortgage the mortgagor shall be entitled, and is hereby empowered, to make the application as agent for the mortgagee. Every such application shall be forwarded or delivered to the Minister so as to be received by him not later than three calendar months from the passing of this Act: Provided always that no such application shall be made in connection with any lease unless rent for the current and all previous years of the lease at a rate not less than that appraised, recommended, or determined by the Board shall have been paid prior to the date of such application as aforesaid.

Reference to the Land Court.

Proceedings in the Land Court.

4. Upon an application being received as aforesaid, the Minister shall refer the matter to the Land Court, and transmit to the Registrar of the Land Court all papers in his possession containing such evidence, reports, and documents as are hereinafter referred to; and the Land Court shall deal with every such reference as if the same were a reference by the Minister for the determination of a rent under the sixth section of the "Crown Lands Act of 1889," and as if the appraisal, recommendation, or determination actually made by the Board were an appraisal in pursuance of the said Act; and for the purposes of such reference the Minister and the Land Court shall have every power conferred upon them respectively in respect of a reference under the said Act; and all provisions of the said Act in respect of proceedings before the Land Court shall apply to the proceedings upon any such reference, subject, however, to the following qualifications:—

- (I) The Land Court shall take into consideration in any case all such evidence, reports, and documents, as were actually in evidence before the Board, whether such reports or documents were legally admissible in evidence or not.
- (II) The fact that any paper purporting to be a deposition, report, or document, shall have been transmitted by the Minister to the Registrar of the Land Court, shall be *prima facie* evidence that the same is a deposition, report, or document which was actually in evidence before the Board.
- (III) No further evidence shall be adduced except in cases where no papers have been transmitted to the Registrar, or where the depositions, reports, and documents transmitted are insufficient to enable the Land Court to arrive at a decision.

Determination by the Land Court.

5. Upon the determination by the Land Court, in pursuance of this Act, of the rate of rental of any lease the rate so determined shall be deemed to have been the proper rate at which rental should have been paid under the "Crown Lands Act of 1884" from the commencement of the lease, and to be the proper rate payable under the said Act until reappraisal, redetermination, increase, or other alteration of the rent, in pursuance of the "Crown Lands Act of 1884" or "Crown Lands Act of 1889" has taken or shall take effect: Provided always that any statutory increase of the rent in accordance with the said Acts shall be calculated on the basis of the rate determined in pursuance of this Act.

*Crown Rents (No. 2).*

6. Upon the rate being determined the Minister shall notify the same in the *Gazette*, and shall also notify the amounts which should have been or should be paid as the rental from the commencement of the lease under the "Crown Lands Act of 1884"; and if the amount so notified exceeds the amount actually paid, the difference shall, within two calendar months from the date of such notification, be paid to the Colonial Treasurer by the holder of the lease; if the amount so notified is less than the amount actually paid, the difference, together with interest thereon at the rate of five per centum per annum, shall, within a like period, be refunded to the holder of the lease, whose receipt shall be a good and valid discharge to the Crown as against all persons whomsoever. Provided that nothing herein contained shall give the said holder any right to retain the moneys so refunded, or any portion thereof, for his own use and benefit, unless he be otherwise entitled thereto.

Adjustment of  
accounts.

7. The holder of any lease who shall have applied in manner hereinbefore provided, shall, in addition to any payments made before the date of such application, make payments on account of any rent falling due after the passing of this Act at a rate not less than that appraised, recommended, or determined by the Board until the proper rate of rental shall have been determined and notified in pursuance of this Act, or until reappraisal, redetermination, increase, or other alteration of the rent of such lease has taken, or shall take effect, in pursuance of the "Crown Lands Act of 1884," or the "Crown Lands Act of 1889."

Rate of rental pay-  
able pending deter-  
mination, &c.

8. In the case of any lease in respect of which an application in accordance with this Act, might have been lawfully made, and shall not have been so made, and in the case of any lease in respect of which no application can lawfully be made in accordance with this Act, the rate of rental heretofore determined, approved, fixed, or notified by the Minister shall, for all purposes and as against all persons whomsoever, be deemed to have been lawfully determined, approved, fixed, or notified, and any notification or demand made in connection therewith shall be deemed to have been and to be valid.

Confirmation of  
Minister's deter-  
mination where  
application not  
made or not  
allowed.

9. No suit or action to obtain a refund of any sums received by the Crown on account of any rents alleged or decided to have been improperly determined, approved, fixed, or notified by the Minister, shall be begun, or, if begun, shall be proceeded with, unless and until the proper rate of rental shall have been determined in pursuance of this Act, and any such suit or action, if begun, shall be stayed, temporarily or finally, as the case may require, and is hereby stayed accordingly; and in any such suit or action judgment shall not be had, or, if had, shall not stand good or be enforced for any greater sum than may lawfully be refunded in accordance with this Act and the costs of such suit or action: Provided that nothing in this section shall extend to the action of *Alison and others v. Burns* in the Supreme Court of New South Wales, or affect any rights acquired or to be acquired by the plaintiff's therein.

Stay of proceedings.

10. In any case where any refund is required to be made in pursuance of this Act, and any sums by way of arrears of rent or otherwise are due in respect of the lease, the amount of such sums shall be set off against such refund and the balance shall be refunded; and upon default of payment of any sums which the Crown may be entitled to receive from the holder of any lease, the same may be sued for in accordance with the provisions of the forty-ninth section of the "Crown Lands Act of 1889," and such lease shall be liable to be forfeited forthwith by notice in the *Government Gazette*, and such forfeiture shall take effect, and the lands may be dealt with as if the forfeiture were a forfeiture under the provisions of the "Crown Lands Act of 1884" as amended by the "Crown Lands Act of 1889."

Set off and forfeiture.

*Crown Rents (No. 2).*

Special provisions as to expiring pastoral leases in the Eastern Division.

11. (I) Any expiring or expired pastoral lease in the Eastern Division shall, for the purposes of this Act, be deemed to be a lease within the meaning of this Act, notwithstanding the expiry of such lease.

(II) The person last registered as the holder of any such expiring or expired pastoral lease, or his personal representative, shall, for the purposes of this Act, be deemed to be the holder of such lease within the meaning of this Act, notwithstanding the expiry of such lease.

(III) The holder of any such expiring or expired pastoral lease shall for the purposes of the thirty-third section of the "Crown Lands Act of 1889" be deemed to have paid up all arrears of the rent of such pastoral lease, if he has or shall within two months from the passing of this Act have made all payments on account of rent at a rate not less than that appraised or recommended by the Board, and not otherwise: Provided always that this enactment shall not be deemed to absolve any such holder from the liability to pay at the proper time any sums which may upon the determination of the Land Court or otherwise be due to the Crown on account of rent.

Saving clause.

12. Nothing in this Act shall be construed to affect any rent or license fee which may have been or may be appraised, reappraised, determined, or redetermined in pursuance of the "Crown Lands Act of 1889:" and nothing in section two of the "Crown Lands Act Amendment Act of 1887" shall be construed to apply to or affect any of the provisions of this Act.

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SCHEDULE.

"CROWN RENTS ACT OF 1890."

NOTE.—A separate application must be made in respect of each lease or license. The application when filled in is to be forwarded or delivered to the Minister for Lands.

I [*name in full and address*], being the holder of the lease or license hereunder described, hereby apply that the proper rate of rental which should have been and should be paid under the "Crown Lands Act of 1884" in respect thereof may be determined in pursuance of the "Crown Rents Act of 1890." Particulars of such lease or license are given below—

*Description of the Lease or License.*

Nature of lease or license

Division

Land District (if a conditional or homestead lease)

Name of holding (if a pastoral lease or occupation license)

No.

Date of commencement

Date of *Gazette* notification of rent

Signed this        day of        189 .

*(Signature of Applicant.)*

The Minister for Lands.

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