

14 GEO. V. No. 34, 1923. *Prickly-pear Land Act.*

**An Act to Make Better Provision for the Administration of Lands infested with Prickly-pear within the State, and for other consequential purposes.**

14 Geo. V.  
No. 34.  
THE  
PRICKLY-  
PEAR LAND  
ACT OF 1923.

[ASSENTED TO 12TH NOVEMBER, 1923.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Prickly-pear Land Act of 1923*," and shall be read as one with \*"*The Land Act of 1910*" herein, with its several amendments, collectively referred to as the Principal Act.

Short  
title and  
construction  
of Act.

2. Save as is by this Act otherwise expressly provided, this Act shall come into operation on a date to be fixed by a Proclamation published in the *Gazette*, which date is herein referred to as the commencement of this Act.

Commence-  
ment of Act.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

Interpreta-  
tion.

"Buffer Area"—Any part of the State contiguous or adjacent to any Prickly-pear Area which has been declared to be a Buffer Area under and for the purposes of this Act;

Buffer Area.

"Chairman"—The chairman of the Commission: the term includes the member of the Commission for the time being performing the functions of the chairman thereof;

Chairman.

"Commission"—The Prickly-pear Land Commission created by this Act;

Commission.

"District"—A district appointed under and for the purposes of this Act;

District.

"Fund"—The Prickly-pear Land Commission Fund created under this Act;

Fund.

"Inspector"—An inspector appointed under and for the purposes of this Act: the term includes a warden and also, where necessary, any officer or person for the time being performing the functions of an inspector;

Inspector.

\* 1 Geo. V. No. 15 and Amending Acts, *supra*, pages 8775, 9177, 9180, and 10096.

Member.	“Member”—A member of the Commission;
Prescribed.	“Prescribed”—Prescribed by this Act or the Principal Act or by this Act and the Principal Act;
Prickly-pear Area.	“Prickly-pear Area”—Any part of the State which has been declared by Order in Council to be a Prickly-pear Area under and for the purposes of this Act;
Prickly-pear land.	“Prickly-pear land”—Any land situated within a Prickly-pear Area or Buffer Area, whether such land is held from the Crown by any tenure whatsoever under the Principal Act or this Act or any other Act, or is held in fee-simple, and whether such land was taken up or acquired from the Crown before or after the commencement of this Act: the term includes every road and reserve situated within a Prickly-pear Area or Buffer Area, and also all vacant Crown land so situated;
Prickly-pear ranger or ranger.	“Prickly-pear ranger” or “ranger”—A prickly-pear ranger appointed under and for the purposes of this Act: the term includes a warden and also, where necessary, any State officer or other officer or person for the time being performing the functions of a ranger;
Prickly-pear warden or warden.	“Prickly-pear warden” or “warden”—A prickly-pear warden appointed under and for the purposes of this Act: the term where necessary includes any State officer for the time being performing the functions of a warden;
Secretary.	“Secretary”—The secretary of the Commission appointed under this Act: the term includes the officer or person for the time being performing the functions of the secretary;
This Act.	“This Act”—This Act and all Orders in Council, notifications, regulations, and rules made thereunder: the term where necessary includes the provisions of the Principal Act and any Orders in Council, notifications, or regulations made thereunder.

And generally, save as herein mentioned, the terms used have the same meanings as are assigned to them respectively by the Principal Act, provided that the

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term "lessee" used in the Principal Act shall include the holder of a prickly-pear grazing lease under this Act, and the land held under such lease shall be a holding within the meaning of the Principal Act.

*Prickly-pear Land Commission and Officers.*

4. (1.) For the purposes of this Act there shall be constituted a Commission, to be called the Prickly-pear Land Commission, consisting of three persons appointed from time to time by the Governor in Council by Commission under his hand and the Great Seal of the State.

Prickly-pear Land Commission.

One of such persons shall be so appointed chairman of the Commission.

Each member shall devote the whole of his time to his duties under this Act, and shall not engage in any other business.

To engage in no other business.

(2.) A member of the Commission shall not be capable of being a member of the Executive Council or of Parliament, and shall not act as director or auditor or in any other capacity take part in the management of any bank, joint stock company, trade, or business, or acquire any interest in any land held under lease or license under this Act or under the Principal Act.

Disabilities.

(3.) The members of the Commission shall, during continuance in office, receive a clear annual salary as follows:—

Salary.

Chairman .. .. .	£900
Each of the other members ..	£800

which shall be a charge upon and be paid out of the Fund.

(4.) Each member shall be appointed for a term of ten years, but may be reappointed for a further term not exceeding ten years:

Tenure of office.

Provided that each member shall retire from office upon attaining the age of seventy years, notwithstanding that he has not then remained in office for a term of ten years.

(5.) Each member shall hold office during good behaviour, and shall not be removed therefrom unless an address praying for such removal shall be presented to the Governor by the Legislative Assembly:

Removal from office — Suspension.

Provided that at any time when Parliament is not sitting the Governor in Council may suspend any member from his office for inability or misbehaviour, in which case a statement of the cause of suspension shall be laid before the Legislative Assembly within seven days after the commencement of the next session of Parliament.

If an address shall, during that session, be presented to the Governor by the Legislative Assembly praying for the restoration of the suspended member to his office, he shall be restored accordingly; but if no such address shall be presented the Governor in Council may confirm such suspension and declare the office of the member to be vacant, and the same shall be vacant accordingly.

Appoint-  
ment of a  
deputy.

(6.) In the case of illness, suspension, inability, or absence of any member, the Governor in Council may appoint some other person to act as the deputy of such member during such illness, suspension, inability, or absence, and every such person shall, while he acts as such deputy, have all the powers and perform all the duties of and be subject to the same disabilities as such member.

Judicial and  
administra-  
tive  
functions.

(7.) The Commission shall exercise—

- (a) Administrative functions; and
- (b) Judicial functions;

as provided by this Act.

Appoint-  
ment, &c.,  
of officers.

5. (1.) The Governor in Council, on the recommendation of the Commission, may from time to time appoint a secretary to the Commission, and such and so many wardens, rangers, and officers of an administrative staff as in his opinion are necessary for the execution of this Act.

(2.) Each warden shall have, exercise, and perform such powers, rights, authorities, jurisdiction, and duties as are conferred upon or vested in or imposed upon him under this Act, and also such other functions as are assigned to him by the Governor in Council on the recommendation of the Commission or as are prescribed.

Appoint-  
ments may  
be made  
pending  
commence-  
ment of  
Act.

6. The appointment of the Commission, including the chairman thereof and of the secretary of the Commission, and of any wardens or rangers or inspectors, and of any officers of the administrative staff, may be made at any time after the passing of this Act.

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7. (1.) The Commission, as soon as may be, shall cause surveys or investigation to be made of the various regions of the State which—

- (a) Are infested with prickly-pear ; and  
 (b) Although not so infested, are likely to become infested unless precautions are taken ;

Survey of  
lands  
infested or  
likely to  
become  
infested with  
prickly-pear.

and shall from time to time cause maps and descriptions to be prepared showing the lands of the two classes above mentioned, and so far as practicable the existing boundaries of all parcels of such lands held under any form of tenure whatsoever, whether from the Crown or in fee-simple, and all roads, reserves, and vacant Crown land.

(2.) The Commission shall from time to time recommend to the Governor in Council which of the lands aforesaid should be included in—

- (a) Prickly-pear Areas ; and  
 (b) Buffer Areas :

Provided that the Commission shall not be precluded from making any such recommendation before any survey or investigation or map aforesaid shall have been made or prepared.

(3.) The Governor in Council shall have regard to every such recommendation, survey, investigation, and map for the purpose of declaring and defining Prickly-pear Areas and Buffer Areas under this Act.

(4.) This section comes into operation on the passing of this Act.

*Areas.*

8. (1.) The Governor in Council, on the recommendation of the Commission, may from time to time by Order in Council define and declare any part of the State wherein there are lands which are infested with prickly-pear to be a Prickly-pear Area to which the provisions of this Act are extended and made applicable ; and thereupon the provisions of this Act shall be extended to and shall apply to all such lands according to their several tenures, and to all roads and reserves situated within such Area and to all vacant Crown land therein.

Prickly-pear  
Areas and  
Buffer Areas.

Lands may be included in one and the same Prickly-pear Area notwithstanding that the same are separated from each other by lands to which the provisions of this Act are not extended or made applicable.

(2.) The Governor in Council, on the recommendation of the Commission, may from time to time by Order in Council define and declare any part of the State wherein there are lands which are contiguous or adjacent to lands infested with prickly-pear to be a Buffer Area to which the provisions of this Act shall be extended and made applicable; and thereupon the provisions of this Act shall be extended to and shall apply to all such lands according to their several tenures, and to all roads and reserves situated within such Area and to all vacant Crown land therein.

Lands may be included in a Buffer Area notwithstanding that any of such lands are separated from each other by lands which are not included in a Buffer Area.

(3.) This section comes into operation on the passing of this Act.

Districts.

9. The Governor in Council, on the recommendation of the Commission, may from time to time by Order in Council appoint districts under and for the purposes of this Act.

Any such district may be wholly comprised in a Prickly-pear Area or in a Buffer Area, or may comprise several Prickly-pear Areas or Buffer Areas, or may comprise lands situated both within a Prickly-pear Area or Areas and a Buffer Area or Areas.

The Governor in Council, on the like recommendation, may assign to any warden or ranger any such district or districts: Provided that without any such assignment or after such assignment the Commission may direct any warden or ranger to perform any functions with respect to any prickly-pear lands, whether situated in a district or not, or whether situated within a district assigned to him or not.

*Jurisdiction of Commission.*

Jurisdiction  
of the  
Commission.

10. Subject to this Act, the Commission in the discharge of both its judicial and administrative functions shall be the authority charged with the control, administration, and management of all prickly-pear land:

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Provided always that the Commission in the discharge only of its administrative functions shall be subject to the direction and control of the Minister.

*Administrative Functions.*

11. In all matters which are not included within the judicial functions of the Commission, the Commission shall, subject to the direction and control of the Minister, for all the purposes of this Act have and be charged with the following powers and duties, that is to say :—

Administra-  
tive  
functions.

- (1) The control of all expenditure under this Act;
- (2) The power of appointing inspectors and all employees and workmen for the purposes of this Act, and the power to discontinue the employment of such inspectors, employees, and workmen, and to disrate or suspend from office any of them.

In the employment of such inspectors, employees, or workmen, the Commission shall observe any relative award of the Court of Industrial Arbitration, or if no such award covering any specific inspector, employee, or workman exists, shall apply the award which appears to the Commission most fitting to the case.

- (3) The control, so far as the Commission deems necessary for the effectual execution of this Act, of all roads and reserves within every Prickly-pear Area or Buffer Area, and of any lands which at any time become infested or are likely to become infested with prickly-pear and are not then situated within any Prickly-pear Area or Buffer Area.

The Governor in Council, upon the recommendation of the Commission, may from time to time by Order in Council define and declare the rights, powers, authorities, jurisdiction, and functions of the Commission with respect to all such roads and reserves, including (if deemed expedient) the assumption of the powers, authorities, and duties of the Local Authorities or the Treasurer or any trustee having or charged

with the control and management of any such road or reserve with respect to the prickly-pear.

By such Order in Council (if deemed expedient) any such Local Authority or the Treasurer or any such trustee may be exonerated and discharged from any further duty or obligation with respect to such road or reserve so far as relates to prickly-pear.

- (4) Such powers, authorities, jurisdiction, duties, and obligations as may from time to time, upon the recommendation of the Commission, be conferred or imposed upon the Commission by Order in Council—
- (a) Which were before the making of such Order conferred or imposed upon any Local Authority or Joint Local Authority under the Local Authorities Act or any other Act or upon any other local governing body under any Act, or
- (b) Which in any case whatsoever the Governor in Council by such Order deems it expedient to confer or impose upon the Commission ;
- with respect to any prickly-pear land which is held in fee-simple or which is held under any lease, license, or any other form of tenure whatsoever from the Crown under the Principal Act or this Act or any other Act.

By such Order in Council any Local Authority, Joint Local Authority, or other local governing body or the Treasurer may be exonerated and discharged from any further duty or obligation in relation to prickly-pear.

- (5) The administration and carrying into execution of the provisions of the Principal Act relating to prickly-pear and the enforcement of the conditions and covenants contained in any lease, license, or other tenure under the Principal Act for the destruction of noxious plants so far as relates to prickly-pear in cases where such lessee or licensee has not elected to take advantage of the provisions of this Act.



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For this purpose, wherever in the Principal Act the Minister is empowered or required to exercise or discharge any power, authority, or duty with respect to or in relation to land held under lease or license, the same shall be exercised or discharged by him with respect to prickly-pear land upon the recommendation of the Commission, and the said provisions of the Principal Act shall be construed accordingly.

- (6) The manufacture, purchase, or other provision of poisons, specifics, destroyers, apparatus, and appliances for the destruction or prevention of prickly-pear, and the sale, supply, distribution, or disposal of the same to any persons for the purposes of this Act.
- (7) The adoption and carrying out of all or any means and methods, whether mechanical, biological, or otherwise, for the destruction or prevention of prickly-pear, and the acquirement and dissemination of information and the giving of directions relating to the purposes and use of the same, and the enforcement of all such directions by prescribed means and remedies.
- (8) The administration of all regulations under this Act or the Principal Act relating to prickly-pear.
- 9) The carrying out of prickly-pear clearing operations in localities approved by the Commission.
- (10) Generally the power and responsibility of carrying the provisions of this Act into execution and of effecting all matters and things necessary for the proper administration of this Act.

By an Order in Council under this Act the Governor in Council may from time to time require any Local Authority or Joint Local Authority or other local governing body to exercise and perform any function or duty in aid of the Commission in the exercise of its administrative functions under this Act, and may direct by whom and in what manner the expenses incurred shall be defrayed. And every such Local Authority or

Joint Local Authority or other local governing body shall have authority to and shall exercise and perform such function or duty accordingly.

The manner in which the administrative functions of the Commission may be performed, whether by the Commission as a whole or by the chairman as its executive officer or by any two members or any one member, or by the Secretary, may be defined and declared by the regulations.

The regulations may also authorise the Commission or the chairman to delegate any specified administrative function in whole or in part to any warden, ranger or inspector or other administrative officer of the Commission.

*Judicial Functions.*

Judicial  
functions.

12. (1.) The judicial functions of the Commission shall be--

- (a) The determination of rent due to the Crown in respect of any holding which is prickly-pear land ;
- (b) The fixing of rent and capital value, as the case may require, of prickly-pear land, which it is proposed to open or make available under this Act or under the Principal Act ;
- (c) Determining the conditions relating to the destruction of prickly-pear which should be inserted as conditions in any lease or license issued, after the commencement of this Act, of prickly-pear land ;
- (d) Determining the area that may be made available to a lessee on the expiration of any existing lease of a pastoral holding or grazing selection (being prickly-pear land) as a priority selection in terms of section seventy-two of the Principal Act.

By such determination such area may include, if so adjudged by the Commission, the whole of the holding the lease of which has expired ;

- (e) By way of appeal from the warden, the liability to forfeiture of the lease of a holding (being prickly-pear land) for breach of any condition of such lease under the Principal Act or under this Act ;

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- (f) Such other judicial functions as may from time to time be vested in the Commission by the Governor in Council by Order in Council ;
- (g) Generally, the judicial functions of the Land Court conferred and imposed upon such Court by the Principal Act in respect of any holding (being prickly-pear land).

Wherever in the Principal Act any powers, authorities, jurisdiction, or duties are conferred or imposed upon the Land Court or the Land Appeal Court in its original jurisdiction, all and several of the said respective powers, authorities, jurisdiction, and duties shall be conferred and imposed upon and shall be exercised and discharged by the Commission acting in its judicial capacity with respect to all land under its jurisdiction or control, whether a notice of election to take advantage of the provisions of this Act with respect to the same as hereinafter provided has been given or not.

For the purpose of the exercise of the judicial functions of the Commission, the provisions of Division III. of Part II. of the Principal Act, with such modifications thereof or additions thereto as the Governor in Council may from time to time by Order in Council declare so as to meet the circumstances, shall be applicable and shall be observed.

(2.) The Land Court and Land Appeal Court shall cease to have any jurisdiction over or in respect of holdings the leases or licenses whereof are in existence at the date of the creation of any Prickly-pear Area or Buffer Area wherein such lands are situated or any other holding under the control of the Commission, and shall have no jurisdiction over any holding taken up under this Act.

Land Court &c. not to have jurisdiction.

**13.** (1.) The Commission when exercising its judicial functions shall be a court of record, and shall have a seal which shall be judicially noticed in all courts.

Court of record.

(2.) Subject to Rules of Court, the Commission shall from time to time hold judicial sittings in Brisbane or elsewhere, at which all judicial business required to be transacted by it shall be transacted.

(3.) Minutes of the proceedings and records of the decisions of the Commission shall be kept by the secretary.

No appeal  
from the  
decision of  
the  
Commission.

14. The decision in any case of the Commission acting in its judicial capacity shall be final and conclusive. Such decision shall not be impeachable for any informality or want of form or be appealed against, reviewed, quashed, or in any way called in question in any Court or on any account whatsoever.

Proceedings in the Commission in its judicial capacity shall not be removable by certiorari, and no writ of prohibition shall be issued and no injunction or mandamus shall be granted by any Court in respect of or to restrain such proceedings.

*Rules of Court.*

Rules of  
Court.

15. (1.) Rules of Court may make provision with respect to all or any of the following matters, namely:—

- (a) What matters arising under this Act may be heard and determined by one member of the Commission ;
- (b) What matters arising under this Act shall be heard by two or more members of the Commission ;
- (c) In the event of a disagreement by the Commission where two members only are sitting, whether the matter shall be reheard by three members or whether the decision of one of such members shall prevail and be the decision of the Commission ;
- (d) That any of the matters arising under this Act may be heard and determined by one member or by two or more members of the Commission sitting in Chambers in Brisbane or elsewhere ;
- (e) Cases in which the provisions of section twenty-nine of the Principal Act need not be complied with by the Crown or the lessee of any holding (being prickly-pear land), and whether or the extent to which the Commission may receive as evidence in any case any report, valuation, or claim theretofore made or furnished to the Land Court or to

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the Land Appeal Court by the Minister or the lessee under the said section twenty-nine or whether and the extent to which any evidence, whether oral or in writing, theretofore given or adduced in the Land Court or the Land Appeal Court in any prior proceeding under the Principal Act relating to the holding in question or to any land in respect of which the Commission has judicial functions to perform under this Act shall be accepted and used by the Commission as part of the record before it ;

- (f) Prescribing forms for all matters or proceedings before the Commission sitting in its judicial capacity ;
- (g) Regulating the practice and proceedings of the Commission in such capacity, and the sittings and practice and proceedings in the Warden's Court ;
- (h) The transference of the records of any Commissioner's Court or Land Court or Land Appeal Court to the Commission in respect of any holding under the Principal Act (being prickly-pear land).

(2.) The Commission, with the approval of the Governor in Council, may from time to time make all such Rules of Court, and upon the publication thereof in the *Gazette* the same shall be judicially noticed and shall have the same force and effect as if they were enacted in this Act, and shall not be questioned in any proceedings whatsoever.

Power to  
make such  
rules.

*Warden's Court.*

**16.** The warden shall at such times as shall be fixed by the Commission hold an open court, to be called the "Warden's Court," at which—

Warden's  
Court.

- (a) All applications to lease prickly-pear land under pastoral lease or prickly-pear lease, or to obtain an occupation license of prickly-pear land, or to select prickly-pear land as a selection, or to obtain certificates, shall be considered and accepted or granted or refused or otherwise dealt with ; and

- (b) All inquiries shall be held and all matters which by the Principal Act are declared to be within the cognizance of a Land Commissioner so far as relates to prickly-pear land shall be dealt with if such inquiries and matters are required by the Commission to be held and dealt with by the warden in open court.

The provisions of sections seventeen, eighteen, and nineteen of the Principal Act shall apply to the warden and to the Warden's Court, and for that purpose wherever in those provisions the word "Commissioner" is used the word "warden" shall be deemed to be substituted, and wherever the word "Court" is used the word "Commission" shall be deemed to be substituted.

*Prickly-pear Leases.*

Prickly-pear  
leases.

17. (1.) The Minister, on the recommendation of the Commission, with the approval of the Governor in Council, may, by notification, declare any Crown land (being prickly-pear land) open for prickly-pear lease, and withdraw any land from being open for prickly-pear lease.

(2.) Such land may in any case be declared so open, subject to any of the conditions applicable under Division I. of Part III. of the Principal Act, to pastoral leases, and shall be subject to such further conditions relating to prickly-pear as the Commission recommends. In every case the notification shall declare the necessary particulars to be inserted in the conditions of lease for effecting the prescribed purposes.

(3.) All the provisions of the Principal Act relating to pastoral leases shall be applicable to prickly-pear leases, subject, however, to the modifications hereinafter mentioned and to such other modifications whatsoever, whether of the Principal Act or of this Act, relating to pastoral leases or prickly-pear leases as the Governor in Council may from time to time, on the recommendation of the Commission, by Order in Council direct and declare to be applicable to prickly-pear leases.

Any such modifications made by such Order in Council may be made applicable to all prickly-pear land or to prickly-pear land situated within a Buffer Area or to prickly-pear land situated within a Prickly-pear Area or to any particular holding or class of holdings.

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(4.) The land comprised in any prickly-pear lease or any part thereof may be resumed under the Principal Act for agricultural or mixed farming settlement without compensation, except for improvements, upon giving twelve months' prior notice to the lessee.

*Existing Holdings.*

**18.** At any time within six months after the commencement of this Act or such further time as the Commission may allow, the lessee under the Principal Act of any holding, whether then situated within a Prickly-pear Area or Buffer Area or not, the lease whereof contains or is deemed to contain any conditions relating to prickly-pear, may give notice in writing under his hand or under the hand of his agent to the secretary that he desires to have his holding considered by the Commission.

Notice to Commission as to existing holdings under Principal Act.

Every such notice shall be in the prescribed form or to the like effect.

**19.** Upon the receipt of such notice the Commission shall take such holding into consideration, and in so doing shall be guided by the following provisions:—

Duty of Commission.

(1.) The Commission shall consider the conditions of the lease, and in particular the conditions relating to prickly-pear under the Principal Act, taking into due consideration—

General duty in respect of all holdings.

- (a) The state of the land with respect to prickly-pear; and
- (b) The compliance or non-compliance, as the case may be, by the lessee with the existing conditions of his lease; and
- (c) The expenditure incurred by him and that may require to be incurred by him in compliance with such conditions or any modifications thereof; and
- (d) The public interest;

and shall determine—

- (i.) All the conditions that should be made applicable to such holding; and
- (ii.) What reduction (if any) in rent or purchasing price or capital value should be made in respect of the holding; and
- (iii.) What extension of lease (if any) should be recommended to the Governor in Council to be granted to the lessee of a grazing selection; and

(iv.) Any readjustment of the periods of the term.

Extension of  
terms of  
grazing  
selection.

(2.) The Commission, in considering the extension (if any) which should be recommended to be granted of the term of any existing grazing selection, shall have regard to the following provisions:—

- (i.) No such lease shall be extended so as to be of greater duration than twenty-eight years from the quarter day next following the date of the decision of the Commission ;
- (ii.) No extension of any such lease shall be for a greater period than twenty years from the said quarter day ;
- (iii.) In deciding upon the length of any extension of lease the Commission shall take into consideration the extent to which the selection comprises land which is suitable for agricultural or mixed farming purposes ;
- (iv.) In fixing the length of any such extension, the Commission shall also take into consideration—
  - (a) Whether the lessee has in the past made reasonable efforts to comply with the conditions of his lease relating to prickly-pear ;
  - (b) The extent to which the holding is now infested with prickly-pear ;
  - (c) The proximity or otherwise of the holding to existing or probable agricultural settlement.
- (v.) No such extension of lease shall be recommended by the Commission in favour of any lessee who holds a grazing selection or an aggregation of such selections—
  - (a) Exceeding thirty thousand acres in area ; or
  - (b) Having a carrying capacity of five thousand sheep or one thousand cattle.

In estimating carrying capacity the Commission shall adopt as a basis the carrying capacity of the selection or selections in question without any improvements thereon except reasonable water improvements.



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(3.) Notwithstanding anything contained in the Principal Act, the rent of every such holding which is a pastoral holding or grazing selection shall be paid at the rate fixed under the Principal Act until the quarter day last mentioned, and thereafter a new period shall be deemed to begin.

Payment of rent and periods of pastoral holdings and grazing selections.

The rent determined by the Commission in respect to such holding shall be the rent for the balance of the term of the lease if such balance does not exceed twenty years in the case of a pastoral holding or fourteen years in the case of a grazing selection.

If the balance of the term of the lease exceeds twenty years in the case of a pastoral holding, or fourteen years in the case of a grazing selection, it shall be divided into periods, the first of which periods shall be twenty years or fourteen years respectively, and the rent determined by the Commission in respect of the holding shall be the rent for such period of twenty years or fourteen years.

The rent payable for the balance of the term after the expiration of the said period shall be determined by the Commission as soon as may be after the expiration of the said period.

(4.) Save as is next hereinafter provided, \**"The Land Acts (Review of Cattle Holding Rents) Amendment Act of 1923"* shall not apply to any holding being prickly-pear land :

Special provisions as to cattle holdings.

Provided, however, that the Commission, when taking into consideration any holding which is a cattle holding within the meaning of the last-mentioned Act, shall fix the rent payable for the period commencing on the first day of July, one thousand nine hundred and twenty-one, provided for in section five of the last-mentioned Act, having regard to the provisions of the said section five and the lessee shall be entitled to the credit (if any) of rents already paid by the lessee up to the quarter day next following the date of the decision of the Commission, as provided by the said section. The said period shall not, however, be a period of the term of the lease. The Commission in fixing the rent for the new period mentioned in the last preceding subsection shall, in addition to any other matters mentioned in subsection one hereof, have regard to the rent fixed by it in accordance with the provisions of the last-mentioned Act with respect to such period thereunder.

\* 14 Geo. V. No. 33, *supra*, last preceding Act.

Priority  
right to  
selection.

(5.) In the case of a pastoral holding, the area of which exceeds thirty thousand acres and the unexpired term of which, at the date when the holding is being considered, does not exceed seven years and which is so infested with prickly-pear that exceptional expenditure would, in the opinion of the Commission, be entailed in respect thereof, the Commission may, if the lessee so desires and so states in his notice requesting the holding to be taken into consideration by the Commission, determine the area to which the lessee shall be entitled in priority as a selection under section seventy-two of the Principal Act on the expiration of the lease and upon compliance with the conditions thereof in respect to prickly-pear.

The Commission in deciding the area of such selection may fix the same at such area as in its discretion it thinks proper under all the circumstances, without regard to any limit of area contained in any provision of the Principal Act or in this Act, and upon the expiration of the lease the lessee shall be entitled to such selection in priority accordingly upon the Commission being satisfied that the aforesaid conditions of his lease have been duly complied with.

Special  
provisions as  
to selections  
other than  
grazing  
selections.

(6.) With respect to selections other than grazing selections under the Principal Act, being prickly-pear land, the following provisions shall be applicable:—

- (i.) In the case of agricultural selections, unconditional selections, and prickly-pear selections which are not perpetual lease prickly-pear selections, the Commission shall reconsider the purchasing price fixed under the Principal Act for each such selection, and shall decide what shall be the purchasing price thereof, and the price so determined shall be the purchasing price thereof.

The selector shall be allowed credit for all moneys theretofore paid by him in respect of the purchasing price of his selection in terms of the original purchasing price, and if the moneys so paid exceed or are equal to the purchasing price as decided by the Commission he shall, subject to the provisions of the Principal Act in that behalf, be entitled to the issue of a deed of grant for his selection forthwith.

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If the moneys so paid are not equal to the purchasing price as decided by the Commission, upon payment by the selector of the balance of the purchasing price he shall, subject to the provisions of the Principal Act in that behalf, be entitled to the issue of a deed of grant of the selection forthwith, or at his option such balance of the purchasing price may be paid by him as and by way of rental of the selection during the remaining years of the term thereof, whereupon he shall become entitled, subject to the provisions of the Principal Act in that behalf and upon compliance with the new conditions (if any) with respect to prickly-pear contained in the decision of the Commission, to the issue of a deed of grant of the selection.

- (ii.) In the case of agricultural selections which are perpetual lease selections, and in the case of perpetual lease prickly-pear selections, the Commission shall reconsider the capital value fixed under the Principal Act for each such selection, and shall determine what shall be the unimproved capital value thereof for a period of thirty years from the next following quarter day aforesaid, and the rent of the selection during that period shall be a sum equal to one pound ten shillings per centum of the capital value so decided.

The annual rent for each period of thirty years thereafter shall be determined by the Commission, at a sum equal to one pound ten shillings per centum of the unimproved capital value of the land as if it were held in fee-simple at the date of the commencement of each such period.

- (iii.) Notwithstanding anything contained in the Principal Act, the rent payable for the current period of the lease of each such selection shall be paid by the selector up to the quarter day aforesaid at the existing rate, and the new period of thirty years during which the new rental as decided by the Commission shall be

payable shall begin on the said quarter day, and all subsequent periods of thirty years shall be adjusted accordingly.

The Commission shall decide what alteration in the conditions with respect to prickly-pear shall be made in each such perpetual lease.

Notice of decision.

**20.** The Commission shall give to the lessee in the prescribed form a written notice of its decision with respect to such holding in regard to all the matters mentioned in the last preceding section.

Notice of election by lessee.

**21.** (1.) At any time within three months after the date of such decision of the Commission with respect to any holding, the lessee of such holding may give notice in writing under his hand or of his agent to the secretary, electing to take advantage of the provisions of this Act with respect to his holding.

(2.) Every such notice of election shall be in the prescribed form or to the like effect, and when received by the secretary shall be irrevocable and shall bind both the lessee and his successors in title and the Crown.

(3.) In the case of two or more holdings held by the same lessee, the whole of the lands comprised therein which have been considered by the Commission may be included in one such notice of election.

(4.) Upon the receipt by the secretary of such notice of election, the decision of the Commission with respect to such holding shall take effect as from the quarter day next following the date of the decision of the Commission with respect to the holding.

(5.) The lessee (if his lease has been issued) shall forward the same to the secretary, and the necessary amendments containing the new or altered conditions shall be endorsed thereon and the lease shall be returned to the lessee.

(6.) The proper registers kept in the Lands Department of lands, the conditions of the leases whereof have been altered under this Act, shall be amended so as to be made conformable with such alterations.

Conversion of pastoral holdings to grazing selections.

**22.** Any lessee of a pastoral holding (being prickly-pear land) the area whereof does not exceed thirty thousand acres or the carrying capacity whereof does not exceed five thousand sheep or one thousand cattle,

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may at any time after the commencement of this Act apply to the Commission to be allowed to surrender his lease and to obtain in substitution therefor a lease of the land as a grazing selection under this Act.

The Commission in its discretion may grant such application, in which case the term of the new lease, the rental, and such other conditions as the case may be deemed to require, shall be determined by the Commission.

Upon the surrender of the subsisting lease the lessee shall be entitled to a new lease from the Crown of the land as a grazing selection for the term and on the conditions so determined, and generally the provisions of the Principal Act and of this Act relating to grazing selections shall apply to every such grazing selection.

**23.** Notwithstanding anything in the Principal Act contained, upon any resumption from a pastoral holding under section one hundred and forty-six of the Principal Act of any land comprised therein which has been cleared and kept clear of prickly-pear, compensation shall, unless the lessee otherwise agrees, be payable to the lessee in respect of the clearing and keeping clear of such land, and such compensation shall be determined by the Commission.

**24.** Any lessee of a grazing selection (being prickly-pear land), the area whereof does not exceed five thousand acres and which in the opinion of the Commission mainly comprises land suitable for grazing purposes only, may at any time after the commencement of this Act apply to the Commission to be allowed to surrender his lease and obtain in substitution therefor a lease of the land as a perpetual lease prickly-pear selection.

The Commission in its discretion may grant such application, in which case the capital value of the new selection and such other conditions as the case may be deemed to require shall be determined by the Commission.

Upon the surrender of the subsisting lease the selector shall be entitled to a perpetual lease from the Crown of the land as a perpetual lease prickly-pear selection on the conditions so determined, and generally

the provisions of the Principal Act and of this Act shall apply to every such new perpetual lease prickly-pear selection.

Conversion of prickly-pear selections to perpetual lease prickly-pear selections.

**25.** Any lessee of a prickly-pear selection, the lease whereof is not perpetual, may at any time after the commencement of this Act apply to the Commission to be allowed to surrender his lease and obtain in substitution therefor a lease of a perpetual lease prickly-pear selection.

The Commission in its discretion may grant such application, in which case the capital value of the new selection and such other terms and conditions as the case may be deemed to require shall be determined by the Commission.

Upon the surrender of the subsisting lease the selector shall be entitled to a perpetual lease from the Crown of the land as a perpetual lease prickly-pear selection on the conditions so determined, and generally the provisions of the Principal Act and of this Act shall apply to every such new perpetual lease prickly-pear selection.

Priority right on expiration of lease of pastoral holding or grazing selection.

**26.** On the expiration of the lease of any pastoral holding or grazing selection (being prickly-pear land), if the lessee has complied with all the conditions of his lease, whether or not he has elected to take advantage of the provisions of this Act, he shall become entitled to the priority right provided by section seventy-two of the Principal Act:

Provided that notwithstanding any limit whatever as to area contained in the Principal Act, the Commission shall decide the area of the selection to which he shall be entitled in priority, and such area shall be not less than twenty-five per centum nor more than fifty per centum greater than an area which, in the opinion of the Commission, having regard to all the conditions of the locality, would constitute a sufficient area of land whereon grazing or farming pursuits could be profitably carried on in average seasons by a prudent selector.

Compensation for destruction of prickly-pear on resumption of grazing selection.

**27.** In the event of the resumption of a grazing selection, being prickly-pear land, destruction of prickly-pear shall be regarded as an improvement for which compensation is payable: Provided that no compensation shall be payable to the late selector on the expiration of his lease in respect of the destruction of prickly-pear which was imposed as a condition of the lease under the Principal Act or under this Act.

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**28.** The conditions relating to prickly-pear with respect to any holdings (being prickly-pear land) held under the Principal Act (whether the lessee or licensee thereof has or has not elected to take advantage of the provisions of this Act) or held under this Act, shall be strictly complied with by the lessee or licensee to the satisfaction of the Commission, and if the Commission is satisfied upon the report of a warden or ranger that the lessee or licensee has failed to comply with such conditions the conditions may be complied with by the Commission at the expense of the lessee, which expenditure shall be recoverable by the Commission from the lessee as a debt in any court of competent jurisdiction, or at the option of the Commission proceedings may be taken for the forfeiture of the holding.

Conditions as to prickly-pear to be strictly complied with—  
Consequences of non-compliance.

*New Holdings.*

**29.** (1.) Notwithstanding any limit whatever as to area provided by the Principal Act with respect to grazing selections, perpetual lease selections, or perpetual lease prickly-pear selections, the Commission may recommend the opening of any prickly-pear land to selection under any of the foregoing tenures in such areas as, having due consideration to all the circumstances, it deems expedient, and such land may be so opened by the Minister for selection accordingly.

Areas for new selections of prickly-pear land.

(2.) The provisions of the second paragraph of subsection four of section sixty-six of the Principal Act shall not apply to prickly-pear land opened for selection after the commencement of this Act, but the applicant shall at the time of making his application lodge therewith one-fifth part of the prescribed survey fee.

Survey fees.

**30.** In every case where after the commencement of this Act the rate of any rent is fixed in respect of any new lease of prickly-pear land issued under this Act and the Principal Act, the time during which such rent shall be payable at such rate shall, notwithstanding anything contained in the Principal Act, in the case of a pastoral lease be for the next ensuing two periods of ten years, and in the case of a prickly-pear lease be for the period of ten years, and in the case of grazing selections be for the next ensuing two periods of seven years, and in the case of perpetual lease selections be for the next ensuing two periods of fifteen years.

Periods of new holdings.

*Financial.*

Fund.

**31.** There shall be kept in the Treasury a Fund to be called "The Prickly-pear Land Commission Fund."

All expenditure under and for the purposes of this Act shall be paid out of such Fund.

All moneys (other than rents for holdings) received under this Act shall be paid into such Fund.

Subject to the direction of the Minister the Fund shall be managed by the Commission, and shall be applied by it for the purpose of the administration and execution of this Act and for no other purpose whatsoever.

Appropriation.

**32.** During a period of ten years commencing on the first day of July, one thousand nine hundred and twenty-four, there shall be paid to the credit of the Fund in each year out of the Consolidated Revenue (which is hereby appropriated for the purpose) the sum of one hundred thousand pounds.

Until moneys are available in the Fund, all expenditure incurred by or on behalf of the Commission or otherwise for the purposes of the execution and administration of this Act shall be paid out of the Consolidated Revenue, which is hereby appropriated for the purpose, but upon moneys becoming available in the Fund the Commission shall cause all such sums so expended to be repaid to the Treasurer, to be placed by him to the credit of the Consolidated Revenue.

Accounts.

**33.** Accounts kept under or in pursuance of this Act shall be subject to audit by the Auditor-General.

*General.*

Application of certain provisions of the Principal Act.

**34.** The provisions of subsections two to ten inclusive of section fourteen and the provisions of section fifteen of the Principal Act shall in particular apply to wardens, rangers, inspectors, and other officers appointed or engaged under and for the purposes of this Act, and generally shall be applicable to all matters and things arising under this Act.

The powers of entry thereby conferred may be exercised for the performance of any work or operations which the Commission or any officer or employee thereof is by this Act authorised to perform on any land.



14 GEO. V. No. 20, 1923. *Sugar Workers' Perpetual Lease Selections Act.*

And generally the powers, authorities, jurisdiction, and duties conferred and imposed respectively upon land commissioners and land rangers by the Principal Act shall respectively be conferred and imposed upon prickly-pear wardens and prickly-pear rangers appointed under this Act.

**35.** The Governor in Council, on the recommendation of the Commission, may from time to time make regulations for the effective execution of this Act, and the provisions of section two hundred and nine of the Principal Act shall apply to such regulations: Provided that by the regulations under this Act penalties may be imposed for any breach thereof of varying amounts not exceeding in any case one hundred pounds as the Governor in Council on such recommendation thinks proper. Regulations.

**36.** The Commission shall furnish to the Minister an annual report of its operations under this Act. Such report shall be laid before Parliament. Annual report.

**An Act to make Provision for the Selection of Perpetual Lease Selections by Sugar Workers, and for other consequential purposes.**

14 Geo. V.  
No. 20.  
THE SUGAR  
WORKERS'  
PERPETUAL  
LEASE  
SELECTIONS  
ACT OF 1923.

[ASSENTED TO 10TH OCTOBER, 1923.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Sugar Workers' Perpetual Lease Selections Act of 1923*," and shall be read as one with \*"*The Land Acts, 1910 to 1922*," herein collectively referred to as the Principal Act. Short title and construction of Act.

2. In this Act the term "Sugar worker" means a male person who is employed as an employee mainly in a sugar works or in field work in connection with the growing and harvesting of sugar-cane; the term "Sugar works" means any mill for the extraction and manufacture Interpretation—Sugar worker.

\* 1 Geo. V. No. 15 and Amending Acts, *supra*, pages 8775, 9177, 9180, and 10096.