



ANNO QUADRAGESIMO OCTAVO ET QUADRAGESIMO  
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# VICTORIÆ REGINÆ.

A.D. 1885.

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## No. 363.

An Act to amend the Law relating to Crown Lands.

[*Assented to, December 11th, 1885.*]

**W**HEREAS it is desirable to amend the law relating to Crown lands—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows: Preamble.

1. This Act may be cited as “The Crown Lands Amendment Act, 1885,” and, except so far as inconsistent therewith, shall be incorporated and read with the “Crown Lands Consolidation Act,” and all Acts incorporated with or amending the same. Short title and incorporation.

2. Where more than one section or block of land shall be held by the same selector at any one time under agreement, the conditions as to personal residence, improvements, ploughing, and cultivation, contained in his agreement or agreements, shall, with the consent of the Commissioner, be deemed to apply to such sections or blocks of land taken together, and shall continue to so apply during the currency of any of his agreements, notwithstanding that he may complete his purchase under any one or more of such agreements: Provided that such performance of the said conditions on any purchased land shall cease to apply whenever such selector shall sell, or agree to sell, or shall let, or in any way part with the possession of the land purchased by him: And that in every case, and so long as any such selector shall claim the benefit of this section, as to residence on, or improvements, ploughing, or cultivation of any purchased land, he shall deliver the like returns Construction of residence and cultivation clauses in selectors' agreements.

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at the office of the Commissioner respecting the purchased land, as it would have been obligatory upon him to do had such land been still held under agreement.

Repeal of part of sec. 33 of 86 of 1877, as to returns by selectors.

**3.** So much of section 33 of the "Crown Lands Consolidation Act" as is contained in the first four lines, and the word "hereto" in the fifth line thereof, is hereby repealed, and the said section shall, after the coming into operation of this Act, be read and construed as if the next following section of this Act had been inserted therein in lieu of that part of the said section so repealed.

Annual returns to be made.

**4.** Every holder of land under agreement shall, after the coming into operation of this Act, within fourteen days from the expiration of each year of the date of his agreement, deliver at the office of the Commissioner a return containing all the particulars mentioned in the Fifth Schedule to this Act.

Notice of sale to be given to Commissioner.

**5.** Whenever the interest in any land of any selector shall be sold pursuant to section 39 of the "Crown Lands Consolidation Act," by the Official Receiver of the Court of Insolvency, or by the clerk of any Local Court of Insolvency having and exercising the powers of the Official Receiver, or by the trustee appointed under any adjudication of insolvency of any selector, or by the trustee of any deed of assignment made by any selector under Division VI. of "The Insolvent Act, 1860," whereby the selector assigns his estate for the benefit of his creditors, or whenever the lands described in any mortgage under the "Mortgage of Selections Act" shall be sold by the mortgagee, the Official Receiver, clerk, trustee, or mortgagee effecting such sale, shall forthwith after such sale forward to the Commissioner a certificate in the form and containing the particulars set out in the Schedule A hereto, and furnish him with evidence to his satisfaction of the truth of the particulars therein contained, and shall therewith forward the agreement under which the land so sold shall be held for the purpose of having the name of the purchaser substituted for that of the selector whose interest shall have been so sold.

After ineffectual attempt at sale by public auction land may be sold by private contract.

**6.** Whenever the interest of any selector shall be offered for sale by public auction under section 39 of the "Crown Lands Consolidation Act," or under the "Mortgage of Selections Act," and shall not be then sold, the person entitled to sell such interest may, with the consent of the Commissioner, effect a sale thereof by private contract at any time within twelve months after the selector becomes insolvent or makes an assignment. On such sale by private contract being effected, the person selling shall forthwith after such sale forward to the Commissioner a certificate in the form and containing the particulars set forth in the Schedule B hereto, and shall therewith forward the agreement under which the land so sold shall be held, for the purpose of having the name of the purchaser substituted for that of the selector whose interest shall have been so sold.

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7. In default of the documents and evidence required by the two last preceding sections, or either of them, being forwarded and furnished within twelve months from the date of the adjudication or assignment, or of the sale by the mortgagee, the agreement under which the land shall be held shall be void, and the land therein mentioned shall revert to the Crown.

Agreement to be void if notices and evidence not furnished.

8. If any person, after notice of intention to forfeit any agreement or after being summoned under section 15 of "The Crown Lands Act, 1878," shall remove, injure, or destroy, or permit, or procure to be removed, injured, or destroyed, or be concerned in removing, injuring, or destroying any improvements on the land held by him under agreement, and any other person removing, injuring, or destroying, or being concerned in removing, injuring, or destroying any improvements on any land held under agreement, shall be guilty of a misdemeanor: and on being convicted thereof shall be liable to be imprisoned with or without hard labor for any term not exceeding two years.

Penalty for removing improvements.

9. Section 48 of the "Crown Lands Consolidation Act" shall be read and construed as if, after the word "purchasing" in the last line but one thereof, the words "or becoming the transferee of" had been inserted therein.

Amendment of section 48 of 86 of 1877.

10. Any selector who shall heretofore have surrendered, or shall hereafter surrender his agreement in exchange for a lease under the provisions of Part III. of "The Agricultural Crown Lands Amendment Act, 1884," and who shall have purchased and paid for any excess area of land under section 8 of "The Crown Lands Act, 1878," shall, on surrendering his receipt for the purchase-money of such excess area to the Commissioner, be credited with the amount so paid by him against the rent payable under his lease, and the land purchased by him as aforesaid shall thereupon revert to the Crown, and shall be included in his lease.

Lessee to be credited with amount paid for excess acreage.

11. So much of section 23 of "The Agricultural Crown Lands Amendment Act, 1884," as follows the words "five thousand acres" in the seventh line thereof is hereby repealed.

Repeal of part sec. 23 of 318 of 1884, as to personal residence.

12. Any person may hold a selection and also lands leased under section 21 of "The Agricultural Crown Lands Amendment Act, 1884": Provided that no person shall hold, under agreement and lease combined, more, in the aggregate, than three thousand acres, except in such hundreds, or parts of hundreds, as may be from time to time proclaimed by the Governor, when the aggregate may be extended to five thousand acres, and that no selector within the Schedule to "The Agricultural Crown Lands Amendment Act, 1884," who shall avail himself of the provisions of this section shall be entitled to lease any second-class lands, except so as to make of second-class lands and lands leased as above, in all three thousand acres.

Credit and surrendered lands may be held together.

13. Personal

Construction of personal residence condition on credit and surrendered lands.

**13.** Personal residence by any such person on any portion of such three thousand or five thousand acres, as the case may be, shall be considered personal residence on the whole of such land; and such personal residence on a selection shall continue to be so considered notwithstanding the completion of the purchase of the selection; and personal residence by any such person on any portion of the land held by him under one or more leases shall be considered personal residence on the whole of the land held by him under such lease or leases: Provided that such performance of the said conditions on any purchased land shall cease to apply whenever such selector shall sell or agree to sell, or shall let, or in any way part with the possession of the land purchased by him; and that in every case, and so long as any such selector shall claim the benefit of this section, as to residence on or improvements, ploughing or cultivation of any purchased land, he shall deliver the like returns at the office of the Commissioner, respecting the purchased land, as it would have been obligatory upon him to do had such land been still held under agreement.

Credit lands and lands reserved for leasing may be held together.

**14.** Any person now holding a selection situate wholly or partly within the boundaries described in the Schedule to "The Agricultural Crown Lands Amendment Act, 1884," may also hold on lease drainage lands and first-class lands: Provided that the aggregate area of land so held by him under agreement and lease combined shall not exceed one thousand acres of drainage or first-class land.

Construction of personal residence condition on credit lands and lands reserved for leasing.

**15.** Personal residence by any such person on any portion of such one thousand acres shall be considered personal residence on the whole of such one thousand acres, as well as on any second-class land held by the same person; and such personal residence on a selection shall continue to be so considered notwithstanding the completion of the purchase of the selection: Provided that personal residence by a selector on his leased land shall not be considered personal residence on his selection unless the consent in writing of the Commissioner to such residence shall have been first obtained.

Commissioner may remit personal residence condition in lease.

**16.** The Commissioner shall have the same power of remitting the condition or covenant for personal residence contained in any lease as is conferred upon him by section 19 of "The Crown Lands Amendment Act, 1882," with respect to credit agreements.

Commissioner may waive forfeiture in certain cases.

**17.** Whenever any agreement for the purchase of land by a selector shall have become or be liable to revocation for non-performance or violation of any of the conditions therein contained, and in the opinion of the Commissioner a lesser penalty than revocation would meet the justice of the case, the Commissioner may from time to time extend the period during which the purchase of the land mentioned in such agreement may be completed, for such time and subject to such terms and conditions as he may think fit; and all acts done by the Commissioner, and all terms and conditions imposed by him in such cases before the passing of this Act, are hereby

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hereby declared to be as valid and effectual as if done under this Act. The terms and conditions so imposed by the Commissioner shall be binding upon the selector, and all transferees, mortgagees, assignees, and other persons claiming through or under him and the agreement under which the selection is held, shall be construed as if the said terms and conditions were contained therein.

**18.** The executors or administrators of any selector or lessee of Crown lands with a right of purchase may, with the consent of the Commissioner of Crown Lands, mortgage the lands selected by or leased to the person whom they may represent for the purpose of completing the purchase from the Crown of such lands.

Personal representatives of selector or lessee may mortgage to complete purchase.

**19.** The Governor may, in any case where any selector shall desire to use or transfer any portion of his selection as a site for a blacksmith's shop, carpenter's shop, mill, store, post office, or for any other purpose to be approved by the Governor, at the request in writing of such selector, and on payment by him to the Treasurer of the purchase-money for the land granted at the same rate per acre as the purchase-money of the whole section, grant to such selector or his nominee any portion of such selection not exceeding, for any one of the aforesaid purposes, half an acre: Provided that no such grant shall be made of any land situate within five miles of any town lands. The purchase-money paid for such land shall be credited against the purchase-money payable under the selector's agreement.

Sites for blacksmiths' shops and other purposes may be granted.

**20.** No person who would be disqualified under section 38 of the "Crown Lands Consolidation Act" from holding any land upon credit, shall be entitled to hold any land under lease from the Crown, in any case where the maximum area of land that any one person may hold under lease, is fixed by any of the Crown Lands Acts.

Disqualification of certain persons from becoming lessees.

**21.** Notwithstanding anything contained in any of the Crown Lands Acts, the person who shall be entitled to a lease of any scrub land offered by public auction for sale with a right of purchase, shall be the person who at such auction shall offer the highest sum for the purchase of such land. The land shall be offered at the upset price of One Pound per acre, and the competition at such auction shall be in advance of such upset price. The amount of the purchase-money shall be payable as rent by equal yearly instalments, payable in advance, distributed over the term of the lease, but the lessee shall be at liberty to complete his purchase at any time during the last eleven years of the term, upon payment of the balance of the purchase-money then remaining unpaid.

Leases of scrub lands, how offered for sale.

Proviso.

**22.** Notwithstanding that any person shall have surrendered his agreement for a lease of the same land, and shall have transferred such lease, such person shall, subject to the approval of the Commissioner of Crown Lands, at any time be entitled to become a purchaser, upon credit, of any other land not exceeding in area the quantity which such person shall be entitled to hold under the provisions

Persons surrendering lease may select other land.

provisions of the "Crown Lands Consolidation Act," or any Act amending the same: Provided that such land shall have been surrendered previous to August first, one thousand eight hundred and eighty-five.

Improvements made by selector during surrendered agreement to be paid for.

**23.** Every person who shall have surrendered or shall hereafter surrender his agreement in exchange for a lease of the same land, shall be entitled to be paid by the Commissioner for all improvements made by him on the land during the term of his agreement, in the same manner and to the same extent as if such improvements had been made by him during the term of his lease.

Extension of time for surrendering agreements.

**24.** Section 6 of "The Agricultural Crown Lands Amendment Act, 1884," shall be read as if the words "first day of March, one thousand eight hundred and eighty-six," had been inserted in the said section in lieu of the words "first day of March, one thousand eight hundred and eighty-five." The said section and section 4 of the said Act shall be read as if the words "first day of January, one thousand eight hundred and eighty" had been inserted in the said sections in lieu of the words "first day of January, one thousand eight hundred and seventy-nine."

Renewed lease may be granted, notwithstanding neglect to give notice.

**25.** Whenever under any of the Crown Lands Acts any lessee is entitled to a renewal of his lease on giving notice of his desire therefor within some fixed time, the Commissioner may accept such notice, and cause a new lease to be issued, notwithstanding the time so fixed shall have passed, or the lease shall have expired, in all cases in which he shall be satisfied that the omission to give such notice in due time was accidental, and that it is just and equitable that a new lease should be granted; and the Commissioner may impose any terms that he may think fit as a penalty for such omission.

Land orders available for payments under personal residence scrub leases.

**26.** Every land order issued under the provisions of "The Immigration Act, 1872," shall be as available to its full nominal value for any payment to be made under any lease of scrub land held under the condition of personal residence, as it now is for the purchase of Crown lands.

Surrendered lands offered on lease and not sold to revert to the Crown.

**27.** Whenever the lease of any unsold surrendered land shall have been or shall be offered for sale by public auction, pursuant to section 33 of "The Agricultural Crown Lands Amendment Act, 1884," and shall not be sold, the land so surrendered shall revert to the Crown and become Crown lands, and may be dealt with accordingly.

Selector to receive amount paid for improvements.

**28.** Where any land shall revert to the Crown, pursuant to section 27 of this Act, or to section 4 of "The Crown Lands Amendment Act, 1882," the selector who shall have surrendered his agreement relating to the purchase of such land, shall be entitled to be paid any amount which the Crown may thereafter be paid for the improvements made by him on such land.

**29.** The

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- 29.** The Commissioner may, after a plan of the land proposed to be so divided has been laid before Parliament for thirty days, cause any Crown lands, town lands, suburban lands, and Crown lands reserved for the use and benefit of the aboriginal inhabitants of the province, or as travelling stock reserves, to be surveyed, in blocks not exceeding twenty acres in area, and cause leases of such lands to be offered for sale by auction at an upset annual rental of not less than Sixpence per acre.
- Surveys may be made of lands in blocks not exceeding twenty acres, and leases thereof offered at auction.
- 30.** No lessee, under section 29 of this Act, shall be entitled to impound any cattle or sheep trespassing on any land comprised in such lease, unless such land shall be fenced against cattle and sheep.
- Lessee not to impound unless land fenced.
- 31.** No person, except one who gains his livelihood by his own labor, and who has attained the full age of eighteen years, shall be entitled to any such lease, nor shall any such person hold a lease of more than one block of land under the provisions of section 29 of this Act.
- Only working men eligible to become lessees.
- 32.** The highest bidder at such auction shall be entitled to a lease as hereinafter provided, and shall, on being declared the purchaser, pay his first year's rent, and shall also satisfy the Commissioner that he gains his livelihood by his own labor, and is of the full age of eighteen years.
- Proceedings at auction.
- 33.** Every such lease shall be for the term of twenty-one years, commencing from the first day of January or the first day of July, as the case may be, next succeeding the date of the sale.
- Term of lease to be twenty-one years.
- 34.** Every such lessee shall have the right to a new lease of the lands demised to him for a further term of twenty-one years on the expiration of the term of the first lease, at such rent as shall be fixed by the Commissioner: Provided that he shall give the Commissioner six months' previous notice, in writing, of his desire to have such new lease, which notice shall expire during the currency of the then existing lease.
- Renewal of term.
- 35.** The rent payable under every such lease shall be payable annually, in advance; and every such lease shall bind the lessee to personally reside on such land for nine months at the least in every year of the term, and shall contain a covenant by the lessee not to transfer, assign, sublet, or part with the possession of any of the demised land without the consent of the Commissioner, and such other terms and conditions as the Commissioner shall see fit to require.
- Terms and conditions of lease.
- 36.** On the lessee making default for the period of twenty-one days in the payment of the rent reserved by such lease, or making default in the observance or performance of the condition or covenant for personal residence contained in the lease, the lease shall
- Forfeiture.

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shall be absolutely void, and the land thereby demised shall, with all improvements thereon, revert to the Crown and become Crown lands: Provided that the Commissioner may, if he think fit, waive such forfeiture, and impose any other penalty in lieu thereof.

Construction of personal residence condition.

**37.** Personal residence by the wife, or family, of any such lessee on the demised land, shall be considered personal residence by the lessee.

Forfeiture on neglect to execute lease.

**38.** Should any person who shall have become entitled to any such lease neglect to execute the same within twelve months after the date of the sale, his right to a lease, and all moneys paid by him, shall be absolutely forfeited to the Crown.

Governor may make regulations.

**39.** The Governor may, from time to time impose such fees and make such regulations for carrying into effect the provisions of this Act relating to leases of blocks of land not exceeding twenty acres in area as he may think fit.

Lessees under Act No. 86 of 1877 charged travelling stock fees.

**40.** Pastoral lessees of land under the "Crown Lands Consolidation Act," No. 86 of 1877, shall be charged travelling stock fees only on sheep or cattle that are travelling over waste lands of the Crown on February first, April first, June first, August first, October first, and December first: Provided that such sheep or cattle have been included in returns of stock depasturing on Crown lands, in accordance with clause 68 of the "Crown Lands Consolidation Act."

Governor may lease roads.

**41.** It shall be lawful for the Governor to let on lease any roads not within the limits of any District Council that are not required for public use to the owners of land adjoining such roads at such rates as may be fixed by the Commissioner of Crown Lands, or to offer leases of the same for sale by auction: Provided that such leased roads may be resumed at one month's notice from any time.

Ninth Schedule of Crown Lands Consolidation Act repealed.

**42.** The Ninth Schedule of the "Crown Lands Consolidation Act" is hereby repealed, and section 47 thereto shall be read as if Schedule C to this Act were referred to and incorporated with the said section in lieu of the Schedule hereby repealed; and it shall be competent for the Commissioner to include in any one notice the names of one or more persons holding land under agreements liable to be revoked.

Interpretation.

**43.** In the construction and for the purposes of this Act the following terms in inverted commas shall have the meanings herein-after assigned to them, that is to say.—

"Drainage lands" shall mean lands reserved for leasing which in the opinion of the Commissioner are or probably may be beneficially affected by any public works now already, or hereinafter to be carried out at the public cost:

"First-class



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“First-class lands” shall mean the first of the two classes of lands reserved for leasing referred to in section 27 of “The Agricultural Crown Lands Amendment Act, 1884”:

“Second-class lands” shall mean the inferior class of lands referred to in the same section.

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

WILLIAM C. F. ROBINSON, Governor.

## SCHEDULES REFERRED TO.

## SCHEDULE A.

*Form of Certificate on Sale by Auction of Credit Agreement.*

To the Commissioner of Crown Lands—

I, the undersigned [*fill in name*], being the [Official Receiver of the Court of Insolvency, *or*, the Clerk of the Local Court of Insolvency at \_\_\_\_\_, *or*, the trustee appointed at the instance of the creditors in the matter of [*name of selector*], an insolvent, *or*, the trustee of the deed whereby [*name of selector*] assigns his estate for the benefit of his creditors, *or*, the mortgagee under the mortgage by [*name of selector*], dated \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_], do hereby certify that on the day of \_\_\_\_\_ 18\_\_\_\_, the interest of the said [*name of selector*], under agreement No. \_\_\_\_\_, was offered for sale by public auction by [*name of auctioneer*], at [*place of sale*], and that at such sale [*name, address, and description of purchaser*], became the purchaser of the interest of the said [*name of selector*] in the land held under the said agreement, and that notice of such sale was advertised in [*names of newspapers*] on [*dates of insertions of advertisements*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.

[*Signature.*]

## SCHEDULE B.

*Form of Certificate on Sale by Private Contract of Credit Agreement.*

To the Commissioner of Crown Lands—

I, the undersigned [*fill in name*], being the [Official Receiver of the Court of Insolvency, *or*, the Clerk of the Local Court of Insolvency at \_\_\_\_\_, *or*, the trustee appointed at the instance of the creditors in the matter of [*name of selector*], an insolvent, *or*, the trustee of the deed whereby [*name of selector*] assigns his estate for the benefit of his creditors, *or*, the mortgagee under the mortgage by [*name of selector*], dated \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_] do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, the interest of the said [*name of selector*], under agreement No. \_\_\_\_\_, was offered for sale by public auction by [*name of auctioneer*] at [*place of attempted sale*], and that no sale was then effected; that notice of such attempted sale was advertised in [*names of newspapers*] on [*dates of insertions of advertisement*], and that on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, I effected a sale of such interest by private contract to [*name, address, and description of purchaser*].

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

[*Signature.*]

## SCHEDULE C.

“The Crown Lands Amendment Act, 1885.”

To each of the several selectors whose names, addresses, and occupations, and the description of whose respective selections and selectors' agreements are set forth in the first, second, and third columns of the schedule hereto:

Take notice that I, the Commissioner of Crown Lands for the province of South Australia, am satisfied that the selector's agreement held by you, and specified in the said schedule, is liable to be revoked, and the selections held by you, described in the said schedule, and all other selections held by you, are liable to be resumed,  
by

