



ANNO QUARTO

GEORGIUS VI REGIS.

A.D. 1940.

No. 23 of 1940.

An Act to amend the Crown Lands Act, 1929-1939.

[Assented to 7th November, 1940.]

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 as the "Crown Lands Act Amendment Act, 1940". Short titles.

(2) The Crown Lands Act, 1929-1939, as amended by this Act, may be cited as the "Crown Lands Act, 1929-1940".

(3) The Crown Lands Act, 1929-1939, is hereinafter called "the principal Act".

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation;

3. Section 44 of the principal Act is amended by inserting at the end of subsection (1) thereof the following proviso:— Amendment of s. 44 of principal Act—

Provided that where an agreement is granted upon the surrender of a perpetual lease, any condition, covenant or provision of the agreement restricting the right of the purchaser to complete purchase, or binding the purchaser to erect any fence or carry out any other work, may differ from the condition, covenant or provision prescribed by the fifth schedule in relation to the same matter, in such manner as the Commissioner deems just, having regard to the length of time during which the purchaser held the land under the surrendered lease or any previous Form of agreement.

lease or agreement, and the obligations which that lease or agreement imposed upon him and the extent to which those obligations were fulfilled.

Amendment of heading to Part VI. of principal Act—
Consequential amendment.

4. The heading to Part VI. of the principal Act is amended by striking out the word “ PERPETUAL ” therein.

Amendment of s. 53 of principal Act—

5. Section 53 of the principal Act is amended by adding at the end thereof the following subsection :—

Resumption of land for public purposes.

(4) In this section “ lease ” means perpetual lease and “ lessee ” means lessee holding land under perpetual lease.

Amendment of principal Act, s. 170a.

6. Section 170a of the principal Act is amended by striking out the words “ lease or ” in the fourth and fifth lines of subsection (1) thereof.

Amendment of s. 178 of principal Act—

7. Section 178 of the principal Act is amended by adding at the end thereof the following proviso :—

Form of agreement.

Provided that where an agreement is granted upon the surrender of a perpetual lease, any condition, covenant or provision of the agreement restricting the right of the purchaser to complete purchase, or binding the purchaser to erect any fence or carry out any other work, may differ from the condition, covenant or provision prescribed by the ninth schedule in relation to the same matter, in such manner as the Commissioner deems just, having regard to the length of time during which the purchaser held the land under the surrendered lease or any previous lease or agreement and the obligations which that lease or agreement imposed upon him, and the extent to which those obligations were fulfilled.

Amendment of s. 199 (5) of principal Act—
Surrender of agreement for perpetual lease.

8. Subsection (5) of section 199 of the principal Act is amended by striking out the last sentence thereof and inserting in lieu thereof the following :—

In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease, at the price at which the lessee could have completed purchase at the time of the surrender, but so that such right may be exercised not earlier than six years after the surrendered agreement came into force, and not later than the expiration of the term of the surrendered agreement.

Amendment of s. 210 of principal Act—
Surrender.

9. Section 210 of the principal Act is amended by striking out the words “ except Agricultural College endowed lands ” in the second and third lines thereof.

10. The following section is enacted and inserted in the principal Act after section 211 thereof:—

Enactment of s. 211a of principal Act—

211a. (1) Where the lessee under a perpetual lease granted upon the surrender of a lease with a right of purchase, has by virtue of a term of the perpetual lease the right to purchase the land comprised therein, and the time within which that right must be exercised would, apart from this section, expire during the present war, that time shall be extended until the expiration of one year after the end of the present war.

Extension of time for exercising right of purchase.

(2) In this section—

“the present war” means the war between Great Britain and Germany which began on the third day of September nineteen hundred and thirty-nine ;

the “end of the present war” means the day on which the Governor-General of the Commonwealth issues a proclamation that war no longer exists.

11. Section 212 of the principal Act is amended by striking out the words “except a lease of Agricultural College endowed lands” in the second and third lines thereof.

Amendment of s. 212 of principal Act—
Purchase of leased land.

12. Section 214 of the principal Act is repealed.

Repeal of s. 214 of principal Act.

13. Section 216 of the principal Act is repealed.

Repeal of s. 216 of principal Act—
Scrub leases.

14. Subsection (4) of section 221 of the principal Act is amended by striking out the last sentence thereof and inserting in lieu thereof the following :—

Amendment of s. 221 of principal Act—
Surrender of agreement for perpetual lease.

In any such case there shall be inserted in the perpetual lease a provision giving the lessee a right to purchase the fee simple of the land comprised in the lease, at the price at which the lessee could have completed purchase at the time of the surrender, but so that such right may be exercised not earlier than six years after the surrendered agreement came into force, and not later than the expiration of the term of the surrendered agreement.

15. Section 222 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :—

Amendment of s. 222 of principal Act—

(1a) An application may also be made under subsection (1) of this section where rent or instalments payable under the lease or agreement are in arrear, if all the other lawful

Surrender of agreement or lease by executors, etc.

Crown Lands Act Amendment Act, 1940.

debts and funeral expenses of the deceased have been paid. When in any such case the application is granted—

- (a) the full amount of the said arrears of rent or instalments, together with interest thereon at such rate of interest not exceeding five pounds per centum per annum as is fixed by the board, subject to the approval of the Commissioner, shall be paid in such instalments, and at such times, as are fixed by the board, subject to the approval of the Commissioner; and
- (b) the lease or agreement issued in place of the surrendered lease or agreement shall contain covenants for the payment of the instalments so fixed; and
- (c) those instalments shall be recoverable in the same manner as the rent or purchase money under lease or agreement so issued.

Amendment of s. 223 of principal Act.

16. Section 223 of the principal Act is amended by inserting at the end thereof the following subsection:—

(4) For the purposes of this section the terms of all perpetual leases shall be deemed to end on the same date.

Enactment of s. 227a of principal Act—

17. The following section is enacted and inserted in the principal Act after section 227 thereof:—

Consent to mortgages.

227a. (1) For the purposes of this Part a mortgage of a lease or agreement shall not be deemed to be an alienation or attempted alienation of the land comprised in the lease or agreement.

(2) In this section “mortgage” includes any legal or equitable mortgage whether under the Real Property Act, 1886-1939 or not.

Enactment of s. 228a of principal Act—

18. The following section is hereby enacted and inserted in the principal Act after section 228 thereof:—

Sale of town lands, etc., by auction on agreement for sale and purchase.

228a. (1) Any town lands may, if the Commissioner so determines, be offered at auction on terms that the buyer may at his option purchase the lands for cash or on agreement for sale and purchase.

(2) A statement setting out the options offered to the purchaser and short particulars of the terms, covenants, and conditions to be included in the agreement shall be included in the statement published in the *Government Gazette* pursuant to section 230 of this Act.

(3) The terms, covenants, and conditions to be included in any such agreement shall be such as the Commissioner determines, and such agreement shall not be subject to the other provisions of this Act relating to agreements.

19. Section 232 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of s. 232 of principal Act—

(3) Town lands offered at auction on agreement for sale and purchase and not sold may be sold by private contract on agreement for sale and purchase at any price not less than the upset price at which they were last offered. Every agreement for sale and purchase under this subsection shall contain such terms, covenants, and conditions as the Commissioner determines, and shall not be subject to the other provisions of this Act relating to agreements.

Sale of town lands after offer at auction.

20. The following section is enacted and inserted in the principal Act after section 262a :—

Enactment of s. 262b of principal Act—

262b. (1) Notwithstanding the Public Supply and Tender Act, 1914-1940, or any other Act, if the board recommends that any material, plant, or equipment which belongs to the Crown and has been used in connection with primary production on any Crown lands or reverted Crown lands, is no longer required and should be sold or otherwise disposed of, the Commissioner may sell or otherwise dispose of that material, plant, or equipment to the best advantage in such manner and at such times as he considers expedient, and in so doing shall not be subject to the Public Supply and Tender Act, 1914-1940.

Power to dispose of material, plant, and equipment.

(2) In this section “reverted Crown lands” means lands which having been granted in fee simple or held under agreement, licence or lease have reverted to the Crown whether on a surrender, cancellation or other termination of the estate in fee simple, agreement, licence or lease.

21. The following section is enacted and inserted in the principal Act after section 263a :—

Enactment of s. 263b of principal Act—

263b. (1) Every term covenant or condition contained in a lease or agreement granted before the passing of the Crown Lands Act Amendment Act, 1940, and providing for the insurance of any buildings erections or improvements on the land comprised in the lease or agreement shall be deemed to require that the lessee or purchaser shall insure such buildings erections or improvements

Covenant for insurance.

Crown Lands Act Amendment Act, 1940.

against loss or damage by fire storm and tempest; and every such term covenant or condition shall be construed as if it extended and applied to such insurance.

(2) Every lease or agreement granted after the passing of the Crown Lands Act Amendment Act, 1940, shall contain a covenant—

- (a) requiring the lessee to insure the buildings erections and other improvements on the land against loss by fire storm and tempest; and
- (b) empowering the Commissioner to exercise, on default by the lessee or purchaser in compliance with such covenant, any rights and remedies therein specified.

Enactment of
ss. 271a and
271b of
principal Act—

22. The following sections are enacted and inserted in the principal Act after section 271 thereof :—

Powers of
Commissioner
as to reverted
lands.

271a. (1) Where any land which has been granted in fee simple by the Crown or included in any lease or agreement granted by the Crown has reverted in or reverted to the Crown, whether on a surrender, cancellation, or other termination of the grant, lease, or agreement, and whether before or after the passing of the Crown Lands Act Amendment Act, 1940, the Commissioner may, at his discretion do all or any of the following things namely :—

- (a) enter into an agreement with any person for the working of the land or any part thereof on shares;
- (b) purchase any stock, plant, or materials or make any other payment required in connection with the carrying out of any such agreement;
- (c) maintain and keep in repair any improvements on the land;
- (d) erect, construct or carry out on the land any further improvements which in the Commissioner's opinion are necessary or desirable.

(2) Any money received under any such agreement shall be paid into the General Revenue of the State.

(3) Any money required for the purposes of this section shall be paid out of moneys provided by Parliament for such purposes.

Description of
land in docu-
ments.

271b. Notwithstanding anything in this Act or any Act incorporated with this Act, in any lease, agreement, or grant, any town lands therein comprised may be described as allotments, and any other lands as sections.

- 23.** Section 275 of the principal Act is amended—
- (a) by inserting after the word “tree” in the second line thereof the word “shrub”:
 - (b) by inserting after the word “leased” in the fourth line thereof the word “dedicated”.
 - (c) by inserting after the word “land” in the ninth line thereof the words “or exercising or performing any of the rights conferred or duties imposed upon him by his lease”:
 - (d) by inserting after the word “tree” in the sixteenth line thereof the word “shrub”.
- Amendment of s. 275 of principal Act—
Taking shrubs without authority.
- 24.** Section 293 of the principal Act is amended by inserting after the word “Crown” in the fifth line thereof the words “or lands leased under any Act.”
- Amendment of s. 293 of principal Act—
Burden of proof.
- 25.** The following section is enacted and inserted in the principal Act after section 294 thereof:—
- Enactment of s. 294a of principal Act—
- 294a. (1) The Attorney-General, on behalf of the Crown, may bring an action in a local court for trespass or injury to any Crown Lands, dedicated lands, or reserved lands, or any property of the Crown on any such lands, in any case where the amount of damages claimed does not exceed seven hundred and fifty pounds.
- Actions for trespass in local court.
- (2) Subject to any rules of court, every such action shall be maintained and prosecuted in accordance with the ordinary practice and procedure of the court in an action between subjects.

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

C. M. BARCLAY-HARVEY, Governor.