



ANNO QUADRAGESIMO SEPTIMO ET QUADRAGESIMO OCTAVO

# VICTORIÆ REGINÆ.

A.D. 1884.

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## No. 321.

An Act to amend the Law relating to Pastoral Lands.

[Assented to, November 14th, 1884.]

**W**HEREAS it is desirable to amend the law relating to pas- Preamble.  
toral 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 :

**1.** This Act may be cited as “The Pastoral Crown Lands Amend- Short title and incor-  
ment Act, 1884,” and, except so far as inconsistent therewith, shall poration.  
be incorporated and read with the Crown Lands Acts.

**2.** In the construction and for the purposes of this Act, unless Interpretation.  
inconsistent with the context—

The term “Crown Lands Acts” shall include all Acts which  
relate to the leasing of Crown lands for pastoral purposes :

The term “pastoral lands” shall include all Crown lands leased  
for pastoral purposes, or which it is now or hereafter may  
be lawful to lease for pastoral purposes :

“Pastoral lessee” shall mean any person, now or hereafter, holding  
pastoral lands under lease from the Crown for pastoral  
purposes :

“Commissioner” shall mean the Commissioner of Crown Lands.

**3.** This Act shall not apply to the Northern Territory. Application of Act.

*The Pastoral Crown Lands Amendment Act.—1884.*

Power to lease.

4. The Governor may lease pastoral lands for pastoral purposes in manner hereinafter provided, and no pastoral lands shall hereafter be leased for pastoral purposes except in manner provided by this Act, or for the purpose of giving effect to any existing preferential right or any existing right of renewal.

Classification of pastoral lands.

5. For the purposes of this Act pastoral lands are divided into three classes, as follows—

Class I. Including all pastoral lands now held by any pastoral lessee for any term of years—granted by any new lease—issued pursuant to the “Waste Lands Amendment Act, 1867,” sections 3 and 4; the “Waste Lands Amendment and Procedure Act, 1869-70,” section 31; and “The Pastoral Lessees Relief Act,” No. 24 of 1872; or any or either of them; or which, having been held under any such new lease, are now held under any other leases expiring in the year 1888, or on the 1st January, 1889, and granted in lieu of such new lease.

Class II. Including all pastoral lands now held by any pastoral lessee for any other term of years, or which shall hereafter be held by any pastoral lessee for any term of years granted by any lease issued pursuant to any existing preferential right, or any existing right of renewal.

Class III. Including all pastoral lands not included in Class I. or Class II.

Division of Act.

6. This Act is divided into nine parts as follows:—

PART I.—Relating to Class I:

PART II.—Relating to Class II:

PART III.—Relating to Class III:

PART IV.—Relating to Resumptions:

PART V.—Relating to Auctions:

PART VI.—Relating to Valuations:

PART VII.—Relating to Payment for Improvements:

PART VIII.—Relating to Compensation for loss of Lease:

PART IX.—Miscellaneous.

PART I.

PART I.

## RELATING TO CLASS I.

Sale of leases.

7. Whenever any pastoral lease of any pastoral lands in Class I. shall have expired or determined, or be about to expire or determine,

*The Pastoral Crown Lands Amendment Act.—1884.*

## PART I.

mine, and the lands included in such lease shall not be required for any other purpose, the Commissioner may cause to be offered for sale by auction leases for pastoral purposes of such lands in such sized blocks as the Commissioner, with the advice of the Pastoral Board, to be appointed as hereinafter provided, may determine to be most suitable for securing the stocking and development of the country and the utilising of the improvements thereon: Provided that, in the event of the Commissioner disagreeing with the advice of the Board, he may himself determine the size of the block, after a plan and particulars of the block, as proposed by the Commissioner, shall have been laid before Parliament, together with the report of the Board, for one calendar month.

8. Every such lease shall be for a term of twenty-one years, and the annual upset rent shall be fixed by valuation, and the rent paid annually in advance. The lessee shall also pay a deposit to the amount of ten per cent. upon the value of the improvements upon the land so leased, which deposit shall be held by the Commissioner as security for the maintenance of the said improvements in a proper state of repair, such deposit to be paid at the time of the lessee becoming entitled to possession, and interest at the rate of five per cent. per annum on such deposit shall be allowed as against the rent payable under such lease; and, provided the lessee shall have complied with the conditions of the lease, such deposit shall be repaid to the lessee on the expiration of the lease, or so soon as the lessee shall have made improvements on the land leased equal in value to the amount of the deposit, whichever shall first happen, unless the lessee shall have previously permitted any improvements on the land to fall into disrepair, in which case the said deposit or an amount equal to the depreciation in value of such improvement thereby occasioned shall be forfeited to the Commissioner.

Terms of leases.

9. Leases shall be offered for sale, as provided by section 7, at any time not earlier than eighteen calendar months and not later than six calendar months before the expiration or determination of the expiring or determining lease, as mentioned in such section: Provided that any leases offered at auction and not sold may be re-offered by the Commissioner at such reduced rent as he shall think fit, but no such reduced rent shall be less than Five Shillings per square mile.

Time of sale.

Leases not sold may be re-offered.

10. The pastoral lessee of any pastoral lands in Class I., until the expiration of twelve calendar months after a new lease thereof shall have been sold as provided by section 7, may, with the consent of the Commissioner, be allowed to continue in occupation of the land originally leased to him, although the term of such lease shall have expired, as tenant on the terms of his original lease, but so that, after any new lease shall have been sold, such pastoral lessee shall, subsequent to the expiration of his existing lease, as regards the land included in each new lease, pay the rent reserved by and otherwise perform the terms of such new lease, and exonerate the

Continuation of occupation.

*The Pastoral Crown Lands Amendment Act.—1884.*

## PART I.

the purchaser from such payment and performance, and such occupation shall otherwise be subject to such terms and conditions as may be prescribed by regulation.

Payment of improvements.

**11.** On the expiration, by effluxion of time, of any existing lease of any pastoral lands in Class I., or upon the resumption of any lands included in any such lease, the pastoral lessee shall receive from the Commissioner payment of the value of all improvements then on the land leased or resumed, as the case may be, and which shall have been made after the passing of this Act. And on the expiration, by effluxion of time, of any pastoral lease to be hereafter granted of pastoral lands in Class I., or upon the resumption of any lands included in any such lease, the pastoral lessee shall, subject to the provisions of this Act, receive from the Commissioner payment of the value of all substantial water improvements then on the land leased or resumed, as the case may be, and made during the term of the lease.

## PART II.

## PART II.

## RELATING TO CLASS II.

Sections 7, 8, 9, and 10 to apply.

**12.** The provisions of sections 7, 8, 9, and 10 of this Act shall apply to all pastoral lands in Class II. as well as to all pastoral lands in Class I.

Compensation on resumption.

**13.** On the resumption of any pastoral lands in Class II. included in any pastoral lease, the pastoral lessee shall, subject to the provisions of this Act, receive from the Commissioner compensation in an amount to be fixed by valuation for the loss of or depreciation in the value of his lease, according as the whole or part of the lands leased shall be resumed.

Payment for improvements.

**14.** On the expiration, by effluxion of time, of any pastoral lease of pastoral lands in Class II., or upon the resumption of any lands included in any such lease, the pastoral lessee shall, subject to the provisions of this Act, receive from the Commissioner payment of the value of all improvements then on the land leased or resumed, as the case may be, and made during the term of the lease and prior to the passing of this Act, and of all other improvements then on such land, and which shall have been made after the passing of this Act.

## PART III.

## PART III.

## RELATING TO CLASS III.

Sale and terms of leases.

**15.** The Commissioner may cause to be offered for sale by auction leases for pastoral purposes of pastoral lands in Class III., and such leases

*The Pastoral Crown Lands Amendment Act.—1884.*

leases shall be on the following terms as regards term of lease, rent, stocking and improvements—

PART III.

- i. Term of lease.—Thirty-five years, with right to the lessee to surrender at any time during the first thirty days after the publication in the *Government Gazette* of any notice relating to such lease and required by the next sub-section :
  - ii. Rent.—During the first fourteen years Two Shilling and Sixpence per mile per annum ; afterwards, during each successive term of seven years, such annual rent as shall be fixed by valuation, and of which notice shall be given by the Commissioner by publication in the *Government Gazette* at some time not less than sixty days immediately preceding the commencement of each such successive term. All rent to be paid annually in advance :
  - iii. Stocking.—The lessee to covenant before the end of the third year of the term to stock the land leased, at the least, with sheep in the proportion of five head for every square mile leased, or with cattle in the proportion of one head for every square mile leased, and to keep the same so stocked ; and before the end of the seventh year to increase the stocking to twenty head of sheep per square mile, or four head of cattle per square mile, and to keep the same so stocked, at the least, during the remainder of the term : and so that the stocking with sheep and cattle combined shall be sufficient if the requisite number are kept, one head of cattle being equal to five head of sheep :
  - iv. Improvements.—The expenditure of money on the land leased in improvements thereon, or to the satisfaction of the Commissioner *bonâ fide* for the purpose of improving or increasing the carrying capacity of the land, shall totally or partially discharge the tenant from the covenant with reference to stocking, according to the amount expended ; an expenditure to the amount of Thirty Shillings per mile made before the end of the third year of the term, and to the value of Three Pounds per mile made before the end of the seventh year of the term, shall totally discharge the tenant from the covenant in reference to stocking ; and expenditure of a lesser amount made before such times shall proportionately discharge the lessee from such covenant.
16. If any pastoral lessee of pastoral lands in Class III., shall fail to perform or satisfy the covenant with reference to stocking contained in his lease, or if any rent reserved thereby shall at any time be six calendar months in arrear, the lease shall be liable to be forfeited. Forfeiture.
17. On any pastoral lessee of pastoral lands in Class III. surrendering his lease pursuant to the terms thereof, a lease of the land surrendered Procedure on surrender.

*The Pastoral Crown Lands Amendment Act.—1884.*

## PART III.

surrendered shall be offered for sale by public auction, and, if sold, a lease shall be granted to and accepted by the purchaser for the residue of the term from the date of sale, and on the terms of the surrendered lease, so far as applicable to such residuary term, but so that no forfeiture or liability shall be incurred by the purchaser for any default prior to the date of his purchase.

Premium on sale of surrendered lease.

**18.** Every lease offered for sale pursuant to the last section shall be so offered at a premium of three-fourths of the value, to be fixed by valuation, of all improvements thereon which shall have been made, and such premium shall be paid in cash by the purchaser to the Commissioner, and by the Commissioner to the surrendering lessee, after deducting, nevertheless, thereout any arrears of rent due by the surrendering lessee.

Reduction of premium.

**19.** If any lease offered for sale pursuant to sections 17 and 18 shall not be sold, the Commissioner may offer the same from time to time at such reduced rental as he shall think fit, being in the first instance not less than three-fourths of the rental fixed by the last valuation, and if not then sold, the upset rental shall be further reduced from time to time to the amount of rental fixed in the original lease, and the premium in respect of improvements shall be proportionately reduced with the rent after the rent shall have been reduced to three-fourths of the last valuation; and such reduced premium shall be paid to and by the Commissioner in manner provided by the last section.

Sections 13 and 14 to apply.

**20.** The provisions of sections 13 and 14 shall apply to all pastoral lands in Class III. as well as to all pastoral lands in Class II.

## PART IV.

## PART IV.

## RESUMPTIONS.

Provision for resumption.

**21.** As regards all future pastoral leases, the Governor, during the currency of any such lease, by Proclamation published in the *Government Gazette*, may determine such lease and resume possession of the lands leased, subject to the following conditions:—

1. If such lands shall be required for the purposes of any railway, road, or public work, one calendar month's written notice of the intention to resume shall first be given to the lessee, and by publication in the *Government Gazette* :
11. If such land shall be required for any other purpose, three years' written notice shall first be given to the lessee and by publication as aforesaid.

Existing powers.

**22.** As regards all existing pastoral leases, all existing powers of resumption shall continue.

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*The Pastoral Crown Lands Amendment Act.—1884.*

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## PART V.

## PART V.

## AUCTIONS.

**23.** Leases offered for sale by auction, pursuant to this Act, shall be offered at an upset annual rent, and at a premium, where a premium is provided for by this Act, and the bidding shall be on the annual rent and in advance of the upset annual rent; and the first year's rent shall be paid on the fall of the hammer, and all payments of rent reserved by a new lease made by a pastoral lessee pursuant to section 10 in exoneration of the purchaser of such new lease, shall be credited against the rent falling due under such new lease after the first year. Mode of sale.

**24.** No lease shall be offered for sale by auction, pursuant to this Act, until the expiration of two calendar months after the Commissioner shall have caused notice of such auction to be published in the *Gazette*; nor as regards any pastoral lease under Class I. until the report of Pastoral Board and the plans showing the area and value of improvements comprised in such lease shall have lain fourteen days before both Houses of Parliament. Notice.

## PART VI.

## PART VI.

## VALUATIONS.

**25.** Every valuation as to rental provided for by this Act shall be made by some person to be appointed by the Governor, and the amount thereof shall be subject to approval by the Governor; all other valuations shall be made as provided by section No. 29 of "The Crown Lands Act, 1878." Mode of valuation.

**26.** In fixing rent by valuation regard shall be had to the capacity of the land for depasturing stock, its proximity and facilities of approach to railway stations, ports, rivers, and towns, and other circumstances of situation affecting its value, and also, as to Class I. only, to the improvements thereon; but in no case shall a less annual rent be fixed than Two Shillings and Sixpence per square mile. Valuation for rent.

## PART VII.

## PART VII.

## IMPROVEMENTS.

**27.** No payment or valuation shall be made, pursuant to this Act in respect of any improvements, nor shall any improvements be considered, pursuant to this Act, unless the Commissioner shall be satisfied that the same were made *bonâ fide* for the purpose of improving the land or for increasing the carrying capacity thereof, and unless the same shall consist of wells, reservoirs, tanks, or dams Payment for improvements.

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*The Pastoral Crown Lands Amendment Act.—1884.*

of permanent character, and available for the use of cattle or sheep, and which increase the carrying capacity of the land leased, or of fences, substantial huts, sheds, and buildings erected for residence or shearing purposes.

Fencing paid for by reduction of rent.

**28.** No payment for improvements shall in any case be made in respect of fencing to the extent of which a reduction of rent shall have been made pursuant to any Crown Lands Act.

Notice of improvements.

**29.** Every lessee who shall claim any payment in respect of any improvements to be made hereafter, shall, before making the same, if conveniently practicable, and if not, with all reasonable dispatch, give written notice to the Commissioner, stating the nature and position and probable cost and date of completion thereof.

Only one payment to be made for same improvement.

**30.** As regards existing leases, the payments in respect of improvements provided for by this Act are in addition to any payments to which, under any Crown Lands Act, any lessee is or may become entitled; but so that no lessee shall be entitled to more than one payment in respect of the same improvement.

Time for payment.

**31.** All payments in respect of improvements to which any lessee shall become entitled pursuant to this Act shall be paid within six calendar months after the expiration of the lease or the resumption of the lands entitling the lessee to the payment, or on the lessee ceasing to occupy the lands leased (except under a new lease), or resumed, whichever shall last happen.

PART VIII.

## PART VIII.

## COMPENSATION FOR LOSS OF LEASE.

Certain increased value not to be included.

**32.** No compensation for loss or depreciation in the value of any lease shall in any case include or take into account any increased value given to such lease by reason of any public works executed after the granting of such lease.

Time for payment.

**33.** The amount payable for compensation for loss of or depreciation in the value of any lease shall be paid within one year after the resumption occasioning the loss or depreciation.

PART IX.

## PART IX.

## MISCELLANEOUS.

Appointment of Pastoral Board.

**34.** The Government shall appoint a Board, to be called the Pastoral Board, and to consist of three members; and such Board shall



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*The Pastoral Crown Lands Amendment Act.—1884.*


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## PART IX.

shall, in such manner as they shall think fit, investigate the matter, and from time to time report to the Commissioner as to the size of the block of which leases should be offered for sale.

**35.** Every pastoral lease of pastoral lands which shall hereafter be granted shall be executed in counterpart by the lessee, and shall contain such exceptions, reservations, covenants, terms, and conditions necessary or proper for giving effect to the provisions and purposes of this Act, or not inconsistent therewith, as the Governor may see fit to require.

General terms of leases.

**36.** The powers conferred by the sections 42, 43, and 44, of "The Crown Lands Act, 1878," shall apply to all pastoral lands, whether now leased or hereafter to be leased.

Certain sections of Crown Lands Act to apply.

**37.** The Commissioner, or any person authorised by him, may at any time enter upon any pastoral lands for the purpose of surveying or inspecting the same, or making any valuation, or for any other purpose which the Commissioner may deem convenient or desirable for the purpose of giving effect to this Act or any Crown Lands Act.

Powers of Commissioner.

**38.** In any case, in which it shall be shown to the satisfaction of the Commissioner that the performance or satisfaction, within the time appointed, of any covenant with reference to stocking contained in any pastoral lease, would occasion great hardship to the pastoral lessee, and that the pastoral lessee has *bonâ fide* endeavoured to perform or satisfy such covenant, the Commissioner may in his discretion extend the period for performing or satisfying such covenant for such period and on such terms and conditions as he may think desirable.

Extension of stocking covenant.

**39.** The Commissioner shall cause a return, showing the particulars and grounds of every such extension, to be laid, within one month after granting the same, before both Houses of Parliament, if Parliament be in session, but if not, then within one month after the next meeting of Parliament.

Return of extensions.

**40.** From and after the passing of this Act the provisions of the "Fencing Act, 1865," shall apply to all Crown lands leased under this Act for pastoral purposes: Provided always that in the application of such Act to any Crown lands so leased the word "fence" shall mean "any fence ordinarily capable of resisting the trespass of cattle or sheep."

Fencing Act to apply

**41.** The power of making, altering, and varying regulations conferred by the Crown Lands Acts shall extend to any such regulations as the Governor may deem advisable for regulating and defining the mode in which the valuations hereinbefore provided for shall be made, for providing for the construction and preservation of boundary fences and fencing of roads or tracks over the lands

Regulations.

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*The Pastoral Crown Lands Amendment Act.—1884.*

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**PART IX.**

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demised under this Act, and the erection of gates or other means of entrance to or exit from such lands, and for generally carrying out the objects, purposes, and provisions of this Act.

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

WILLIAM C. F. ROBINSON, Governor.