



**PASTORAL LAND MANAGEMENT AND CONSERVATION (BOARD
PROCEDURES, RENT, ETC.) AMENDMENT ACT 1998**

No. 64 of 1998

SUMMARY OF PROVISIONS

1. Short title
2. Amendment of s. 3—Interpretation
3. Amendment of s. 15—Procedure at meetings
4. Insertion of s. 18A
 - 18A. Annual Report
5. Substitution of s. 23
 23. Rent
6. Amendment of s. 56—Right of review or appeal
7. Amendment of schedule
8. Statute law revision amendments

SCHEDULE

Statute Law Revision Amendments



ANNO QUADRAGESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1998

No. 64 of 1998

An Act to amend the Pastoral Land Management and Conservation Act 1989.

[Assented to 10 September 1998]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Pastoral Land Management and Conservation (Board Procedures, Rent, etc.) Amendment Act 1998*.

(2) The *Pastoral Land Management and Conservation Act 1989* is referred to in this Act as "the principal Act".

Amendment of s. 3—Interpretation

2. Section 3 of the principal Act is amended by inserting after the definition of "the Tribunal" the following definition:

"unimproved value", in relation to land, means unimproved value as defined in the *Valuation of Land Act 1971*;

Amendment of s. 15—Procedure at meetings

3. Section 15 of the principal Act is amended—

(a) by striking out subsection (4) and substituting the following subsection:

(4) Each member present at a meeting of the Board has one vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.;

(b) by inserting after subsection (5) the following subsections:

(5a) A conference by telephone or other electronic means between members of the Board will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—

- (a) notice of the conference is given to all members in the manner determined by the Board for that purpose; and
- (b) each participating member is capable of communicating with every other participating member during the conference.

(5b) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—

- (a) a notice of the proposed resolution is given to all members in accordance with procedures determined by the Board; and
- (b) a majority of the members expresses concurrence in the proposed resolution by letter, telex, facsimile transmission or other written communication setting out the terms of the proposed resolution.

(5c) The Board must cause accurate minutes of its meetings to be kept.

Insertion of s. 18A

4. The following section is inserted in Division 2 of Part 3 of the principal Act after section 18:

Annual report

18A. (1) The Board must, no later than 30 September in each year, furnish the Minister with a report of its operations during the preceding financial year.

(2) The Minister must, within 12 sitting days of receiving a report, have copies of it laid before both Houses of Parliament.

Substitution of s. 23

5. Section 23 of the principal Act is repealed and the following section is substituted:

Rent

23. (1) The rent payable to the Crown under a pastoral lease—

- (a) is the amount from time to time determined under this section to be the annual rent for the lease; and
- (b) is payable annually in arrears.

(2) The annual rent for a pastoral lease is to be determined as follows:

- (a) the Valuer-General will from time to time determine the unimproved value of the land in accordance with the *Valuation of Land Act 1971*, taking into account, in addition to any other matters taken into account under that Act, the following matters:
 - (i) the purposes, whether authorised under the lease or by the Board, for which the land is used and the inherent capacity of the land to be used for those purposes; and

- (ii) any prevailing climatic conditions currently affecting the productivity of the land; and
 - (iii) the proximity and accessibility of markets and other facilities to the extent that they affect the profitability of the lessee's enterprise; and
 - (iv) any views as to land condition factors expressed by the soil conservation authority within whose area the land is situated (and the Valuer-General must seek those views before making the determination); and
 - (v) the views of any consultative committee established by the Minister for the purpose of assisting in the determination of pastoral lease rents;
- (b) the Valuer-General will, on making a determination under paragraph (a), fix the annual rent for the lease as a percentage of the unimproved value of the land, being a percentage—
- (i) that represents, in the Valuer-General's opinion, the appropriate rate of return for the land, taking into account the purposes for which the land is being used; and
 - (ii) that may vary from lease to lease according to the various purposes for which land is being used.

(3) The Valuer-General must make a determination of the rents for all pastoral leases at the same time.

(4) The Valuer-General—

- (a) may make such a determination at any time; and
- (b) must do so on direction by the Minister,

but, in any event, must make such a determination at least every 5 years.

(5) On completing a determination of the annual rent for a pastoral lease, the Valuer-General must give to the Board a notice of the determination that includes a statement of the unimproved value of the land and the percentage on which the rent is based.

(6) The Minister may, on the recommendation of the Board, and if the Minister is satisfied—

- (a) that some factor exists affecting the profitability of the enterprise under a pastoral lease that has arisen since the Valuer-General last determined the annual rent for the lease; or
- (b) that the lessee has, under an agreement with the Minister, carried out work on the land on behalf of the Minister for which the lessee has not been recompensed; or

- (c) that the lessee has, on his or her own initiative, undertaken special measures to remedy or prevent degradation of the land,

reduce by an appropriate amount the rent that would otherwise be payable under the lease in respect of any particular year.

- (7) The Board is responsible for issuing and sending to lessees annual rent accounts.

(8) The Board may, for the purposes of administrative efficiency, fix a common day by which the rent under all pastoral leases must be paid in each year and, for that purpose, rent accounts for a period greater or less than a year may be sent to lessees.

- (9) A rent account must be accompanied by or include—

- (a) a copy of the Valuer-General's notice of determination if a new determination has been made since the last rent account sent to the lessee; and
- (b) an explanation of any debits or credits shown on the account; and
- (c) a statement of the reasons for any reduction, waiver or deferment of rent pursuant to this section.

(10) The Minister may, on the recommendation of the Board, and if the Minister is satisfied that a case of hardship exists, waive or defer payment of any amount of the rent due and payable under a pastoral lease, subject to such conditions (if any) as the Board recommends.

Amendment of s. 56—Right of review or appeal

6. Section 56 of the principal Act is amended—

- (a) by striking out subsection (1) and substituting the following subsections:

(1) A lessee who is dissatisfied with a determination by the Valuer-General of the annual rent for his or her pastoral lease may, within 3 months of receiving a copy of the notice of determination—

- (a) apply to the Valuer-General for review of the determination; or
- (b) appeal to the Land and Valuation Court against the determination.

(1a) The Valuer-General must, on the written request of a lessee who is dissatisfied with a determination of annual rent, endeavour to resolve the matter informally by conferring with the lessee, whether or not the lessee has lodged an application for review under subsection (1).;

- (b) by striking out from subsection (3) "A lessee who is dissatisfied with the decision of a licensed valuer on a review under subsection (2)" and substituting "If a lessee or the Valuer-General is dissatisfied with the decision of a land valuer on a review under subsection (2), he or she";
- (c) by inserting in subsection (5) "determination or" after "must review the";

**Pastoral Land Management and Conservation (Board
Procedures, Rent, etc.) Amendment Act 1998**

No. 64 of 1998

(d) by inserting in paragraphs (a), (b) and (c) of subsection (5) "determination or" before "decision" wherever it occurs.

Amendment of schedule

7. The schedule of the principal Act is amended by striking out from clause 4(3)(a) "eight years after the commencement of this Act" and substituting "31 December 2000".

Statute law revision amendments

8. The principal Act is further amended in the manner indicated in the schedule.

SCHEDULE
Statute Law Revision Amendments

Provision Amended	How Amended
Long title	Strike out "to repeal the <i>Pastoral Act 1936</i> ;"
Section 2	Strike out this section.
Section 3 Definition of "the Minister"	Strike out this definition.
Section 8	Strike out "Notwithstanding" and substitute "Despite".
Section 12(2)(b)	Strike out "the Environment and Natural Resources" and substitute "Environment and Heritage".
Section 12(2)(c)	After "Primary Industries," insert "Natural Resources and Regional Development,".
Section 15(2)	Strike out "notwithstanding" and substitute "despite there being".
Section 16(3)	Strike out the penalty provision and substitute: Maximum penalty: \$5 000 or imprisonment for 1 year.
Section 16(5)	Strike out the penalty provision and substitute: Maximum penalty: \$5 000 or imprisonment for 1 year.
Section 22(1)(a)(v)(E)	Strike out " <i>Soil Conservation Act 1939</i> " and substitute " <i>Soil Conservation and Land Care Act 1989</i> ".
Section 22(1)(a)(v)(F)	Strike out "1976" and substitute "1997".
Section 28(6)	Strike out "notwithstanding" and substitute "despite".
Section 37(5)	Strike out "General Revenue of the State" and substitute "Consolidated Account".
Section 44(4)	Strike out the penalty provision and substitute: Maximum penalty: \$5 000.
Section 45(10)	Strike out "Notwithstanding subsection (9)" and substitute "However,".
Section 46(3)	Strike out the penalty provision and substitute: Maximum penalty: \$1 250.
Section 46(4)	Strike out the penalty provision and substitute: Maximum penalty: \$1 250.
Section 47(1)	Strike out "Notwithstanding" and substitute "Despite".
Section 49(1)	Strike out the penalty provision and substitute: Maximum penalty: \$1 250.
Section 49(2)	Strike out the penalty provision and substitute: Maximum penalty: \$1 250.
Section 52(2)	Strike out the penalty provision and substitute: Maximum penalty: \$10 000.
Section 55(1)	Strike out "notwithstanding" and substitute "despite".

Pastoral Land Management and Conservation (Board
Procedures, Rent, etc.) Amendment Act 1998

No. 64 of 1998

SCHEDULE

Section 57(1)	Strike out the penalty provision and substitute: Maximum penalty: \$10 000. Expiation fee: \$315.
Section 58(2)	Strike out the penalty provision and substitute: Maximum penalty: \$1 250.
Section 60(2)	Strike out the penalty provision and substitute: Maximum penalty: \$2 500.
Section 62	After " <i>Mining Act 1971</i> " insert ", the <i>Opal Mining Act 1995</i> ". Strike out "either" and substitute "any".
Section 63(1)	Strike out the penalty provision and substitute: Maximum penalty: \$2 500. Expiation fee: \$210.
Section 63(2)	Strike out the penalty provision and substitute: Maximum penalty: \$2 500. Expiation fee: \$210.
Section 63(3)	Strike out the penalty provision and substitute: Maximum penalty: \$2 500 or imprisonment for 6 months.
Section 68(a)	Strike out "Chief Executive Officer of the Department of Lands" and substitute "Chief Executive of the Department responsible to the Minister for the administration of this Act".
Section 69(1)	Strike out this subsection.
Section 70(2)(d)	Strike out "a division 8 fine" and substitute "\$1 250".
Schedule	
Divisions 1 and 2	Strike out these Divisions.
Division 3	
Clause 3	Strike out this clause.
Clause 2	Renumber this clause as clause 4.
Clause 4	Renumber this clause as clause 5.
Clause 4(1)	Strike out "clause 5" and substitute "clause 6".
Clause 4(3)	Strike out "Notwithstanding" and substitute "Despite".
Clause 5	Renumber this clause as clause 6.
Clause 5(1)	Strike out "Clause 4" and substitute "Clause 5".
Clause 5(3)(a)	Strike out "notwithstanding" and substitute "despite".

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

E. J. NEAL Governor