



ANNO QUINTO

GEORGII V REGIS.

A.D. 1914.

No. 1175.

An Act to amend the Crown Lands Acts, 1903 to 1913,
and for other purposes.

[Assented to, November 19th, 1914.]

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 alone as "The Crown Lands Act Short titles.
Further Amendment Act, 1914."

(2) "The Crown Lands Acts, 1903 to 1913," and this Act may be
cited together as "The Crown Lands Acts, 1903 to 1914."

(3) "The Crown Lands Act, 1903," is referred to in this Act as
"the principal Act."

2. This Act is incorporated with "The Crown Lands Acts, 1903 Incorporation with
to 1913," and those Acts and this Act shall be read as one Act. other Acts.

Terms and Conditions of Agreements (not under Part X.) and Perpetual Leases.

3. (1) Subject to subsection (6) hereof, in the case of any agree- Power to surrender
ment (except an agreement under Part X. of the principal Act) or existing agreement or
perpetual lease, entered into or granted before the passing of this lease for agreement or
Act, to which the Commissioner, on the recommendation of the lease under section 25
Surveyor-General, directs that this section shall apply, the Land of Act No. 1109 of
Board shall re-value the land comprised in such agreement or lease, 1912.
and fix the purchase money or annual rent for the purposes of an
agreement or lease to be entered into or granted pursuant to this
section.

(2) When

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(2) When the Board has fixed the purchase money or annual rent pursuant to subsection (1) hereof, the purchaser or lessee may surrender his agreement or lease in exchange for an agreement or perpetual lease to be entered into or granted in accordance with the provisions of section 6 of this Act at the purchase price or annual rent fixed as aforesaid: Provided that—

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- i. the surrender shall have no effect unless or until accepted by the Commissioner, who may, in his discretion, accept or reject the surrender in the name and on behalf of His Majesty:
- ii. only an agreement may be obtained in exchange for a surrendered agreement, and only a lease may be obtained in exchange for a surrendered lease.

(3) The term of the new agreement or the new lease shall commence on the date of the commencement of the term of the surrendered agreement or lease.

(4) When an agreement or lease has been obtained pursuant to this section, the amount of the instalments or rents (as the case may be) theretofore paid under the surrendered agreement or lease shall be credited against the instalments or rents (as the case may be) which have already fallen due in accordance with the new agreement or lease; and if there is any surplus, it shall be credited against the future instalments or rents.

(5) If the agreement or lease to be surrendered is subject to a mortgage, the provisions of section 186 of the principal Act shall apply.

(6) This section shall not apply to any agreement or lease of land situate within any of the following hundreds, namely, the Hundreds of Pygery, McLachlan, Wannamana, Wudinna, and Yaninee, and such other hundreds as the Commissioner directs.

Power to cancel existing allotments in certain hundreds, and to make agreements or leases on other terms.

4. In the case of any land situate as mentioned in subsection (6) of section 3 of this Act, which has been allotted (otherwise than under Part X. of the principal Act) before the passing of this Act, but in respect of which an agreement or perpetual lease has not been entered into or granted before such passing, the Commissioner may, with the consent of the allottee, cancel the allotment; in which case the Commissioner shall—

- (a) have the land revalued by the Board at a price not exceeding that at which it had been allotted as aforesaid, and
- (b) cause the land to be re-allotted to such allottee, and an agreement or lease (according to the nature of the case) in accordance with the provisions of section 6 of this Act to be entered into with such allottee, or to be granted to him, in respect of such land.

5. (1) In

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5. (1) In the case of any agreement (except an agreement under Part X. of the principal Act) or perpetual lease, entered into or granted before the passing of this Act, the Commissioner may, if he is satisfied that the purchase money or rent (as the case may be) is too high, make such (if any) reduction thereof as, after reference by the Commissioner to the Board, is recommended by the Board.

Power to reduce purchase money or rent under existing agreements and leases.

(2) Notice in writing of such reduction shall be given to the purchaser or lessee who may, within two months after the giving of such notice, appeal in writing to the Commissioner for a further reduction; whereupon the Commissioner may make such (if any) further reduction as is recommended by the Board.

(3) Notice in writing of the Commissioner's decision on such appeal shall be given to the purchaser or lessee.

(4) If no appeal is made in the manner and within the time prescribed by subsection (2) hereof, then from the expiration of such time, or if any appeal is so made, then from the day whereon the notice required by subsection (3) hereof is given,

(a) the agreement or lease shall be construed so as to give effect to the reduction, or further reduction (as the case may be) made as aforesaid, and shall be binding on the parties accordingly; and

(b) the instalments or rents fixed by the agreement or lease shall be adjusted as may be necessary to give effect to such reduction, or further reduction (as the case may be) and any amounts shown, as the result of the adjustment, to have been overpaid shall be credited against the liability to future payments.

6. In the case of an agreement (except an agreement under Part X. of the principal Act) or perpetual lease, entered into or granted after the passing of this Act, to which the Commissioner directs that this section shall apply, the provisions shall be as follows:—

Rates of instalments and rent under future agreements and leases, in certain cases.

(1) No instalment or rent shall be payable for the first four years of the term.

(2) From the end of the fourth to the end of the tenth year of the term, instalments or rents shall be paid, and such instalments or rents shall be at the rate of two per centum per annum on the value of the land as stated in the advertisement in the *Government Gazette* declaring the land open for application. In the case of an agreement the instalments paid for the years mentioned in this subsection shall be regarded as interest only, and not as part of the purchase money.

(3) From the end of the tenth year of the term, the interest included in the instalments, or the rent (as the case may be), shall be at the rate of four per centum per annum on the value stated as mentioned in subsection (2) hereof.

(4) The

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- (4) The agreement shall be for a term of forty years, and the purchase money shall be paid by sixty half-yearly instalments, at the rate of Two Pounds Sixteen Shillings and Five Pence for every One Hundred Pounds of the purchase money, payable during the last thirty years thereof; so that from the end of the tenth year of the term the instalments shall include purchase money in addition to interest as provided by subsection (3) of this section.
- (5) All instalments or rents shall be payable in advance.
- (6) The purchaser under the agreement, having complied with the terms and conditions of his agreement, shall have the option of completing the purchase at any time after the expiration of the first six years of the term, on payment of the purchase money, or the balance thereof, with interest, at the rate or rates charged by the agreement, on the purchase money or on the balances thereof from time to time remaining unpaid, from the commencement of the term to the date of payment.
- (7) Notwithstanding anything in this section, if the purchaser or lessee transfers his agreement or lease before the end of the tenth year of the term, instalments or rent shall, if the Commissioner on the recommendation of the Board so directs, be paid as from the time when the transfer takes effect; and, in the case of an agreement, the instalments shall be at the rate of four per centum per annum on the value stated as mentioned in subsection (2) hereof until the end of the said tenth year, and, in the case of a lease, the rent shall be as provided by subsection (3) hereof.

Repeal of section 25 of Act No. 1109 of 1912; and provision for bringing agreements and leases under section 6 of this Act.

7. (1) Section 25 of "The Crown Lands Act Further Amendment Act, 1912," is hereby repealed.

(2) All agreements and leases which have heretofore been entered into or granted pursuant to the said section 25 shall, from the passing of this Act, be deemed to have been entered into or granted pursuant to section 6 of this Act, and for that purpose the said section 6 shall be deemed to have been in force when they were entered into or granted; and the terms, covenants, conditions, and other provisions of such agreements and leases are hereby varied so as to give effect to this subsection.

(3) In the case of any land which has been allotted for an agreement or lease pursuant to the said section 25, but in respect of which the agreement or lease has not heretofore been entered into or granted, the agreement or lease shall be entered into or granted pursuant to the said section 6.

(4) In the case of any land which has been advertised for applications for an agreement or lease pursuant to the said section 25, but in respect of which the allotment has not heretofore been made, the

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the matter shall proceed, as far as and including the allotment, as if the said section 25 were still in force; but the agreement or lease shall be entered into or granted pursuant to the said section 6.

8. (1) The purchaser under any agreement (except an agreement under Part X. of the principal Act), entered into before or after the passing of this Act, may surrender such agreement in exchange for a perpetual lease of the land comprised therein: Provided that the surrender shall have no effect unless or until accepted by the Commissioner, who may, in his discretion, accept or reject the surrender in the name and on behalf of His Majesty.

Surrender of existing or future agreement for perpetual lease.

(2) The lease granted in exchange shall be at an annual rent to be fixed by the Board, who in fixing the rent shall take into consideration any amount of the purchase price paid on or before the surrender.

(3) If the agreement to be surrendered is subject to a mortgage the provisions of section 186 of the principal Act shall apply.

Terms and Conditions of Agreements under Part X.

9. (1) In the case of any agreement under Part X. of the principal Act, entered into before the passing of this Act, the Commissioner may direct the Board to consider whether an extension of the term of the agreement should or should not be granted under this section.

Existing agreements as to closer settlement land may be extended to term not exceeding sixty-four years.

(2) The Board shall thereupon consider the matter, and—

(a) may recommend that the term be extended for such period (if any) as they think fit, but not so as to extend it beyond sixty-four years from the commencement thereof, as fixed by the agreement:

(b) if they recommend an extension, shall fix the amount of the instalments of purchase money to be paid during the remainder of the term (as so extended), and may, if they think proper, recommend that such term be subdivided into periods of any lengths respectively, fixing for the several periods different amounts of instalments of purchase money, and, if they think proper, different rates of interest to be included in such instalments;

(c) for the purpose of fixing the amounts of the instalments, may capitalize, and add to the purchase money, the whole or any part of such amounts of any instalments then in arrear as represent interest.

(3) If the Commissioner approves of the recommendations of the Board he may grant the extension on the terms recommended, and, from the time when notice in writing stating the period of such extension and the terms on which it is granted is given to the purchaser, the agreement shall be construed so as to give effect to such extension and terms, and shall be binding on the parties as so construed.

(4) Except

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(4) Except so far as may be necessary to give effect to this section, the agreement shall not be affected by anything in or done under this section ; and the terms, covenants, conditions, and provisions thereof shall continue in force subject to any variations which may be necessary to give effect to this section.

Term of future agreements of closer settlement land.

10. (1) In the case of any agreement under Part X. of the principal Act, entered into after the passing of this Act, to which the Commissioner directs that this section shall apply, the term shall be sixty-four years, and the purchase money and the interest thereon shall be payable by the following half-yearly instalments, namely:—

- i. the first sixteen instalments shall be at the rate of One Pound Eleven Shillings and Five Pence for every One Hundred Pounds of such purchase money ; and
- ii. each of the subsequent instalments shall be at the rate of Two Pounds Eight Shillings and Four Pence for every such One Hundred Pounds.

(2) The first of the said instalments shall be paid at the time of the application to purchase (as provided by section 156 of the principal Act), and each subsequent instalment shall be paid at the close of the period in respect of which it is payable, and not in advance.

(3) In a case in which this section applies, the agreement shall contain the terms, covenants, conditions, and provisions provided for by section 153 of the principal Act (as varied and amended by section 13 of "The Crown Lands Amendment Act, 1905," section 11 of "The Crown Lands Act Further Amendment Act, 1906," section 13 of "The Crown Lands Act Further Amendment Act, 1911," and the Schedule to "The Crown Lands Act Further Amendment Act, 1913"): Provided that the purchaser shall have the option of completing the purchase at any time after the expiration of six years from the date of the agreement, on paying the purchase money, or the balance thereof, with interest at the rate of four per centum per annum on the purchase money or on the balances thereof from time to time remaining unpaid, from the date of the agreement to the date of completion, and complying with all the terms, covenants, conditions, and provisions of the agreement.

No. 899 of 1905.
No. 1909 of 1906.
No. 1068 of 1911.
No. 1138 of 1913

Repeal of section 18 of Act No. 1138 of 1913—
Lands unallotted.

11. Section 18 of "The Crown Lands Act Further Amendment Act, 1913," is hereby repealed.

Miscellaneous Provisions.

Amendment of section 6 of principal Act—Definition of "vermin."

No. 1166 of 1912.

12. The definition of the term "vermin" in section 6 of the principal Act is amended by the addition thereto of the following passage:—"but does not include any animal which, for the time being and on the particular land, is protected by 'The Animals Protection Act, 1912.'"

13. (1) Section

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13. (1) Section 20 of "The Crown Lands Act Amendment Act, 1905," is repealed, and in lieu thereof the following provision is hereby enacted and shall be read as section 12 of the principal Act, namely:—

Amendment of section 20 of Act No. 899 of 1905—Constitution of Land Board.

12. The Governor may appoint a Board, to be called "The Land Board," consisting of not less than three and not more than four members.

(2) Nothing in this section shall affect the office of any person who is a member of the Land Board at the passing of this Act.

14. Section 68 of the principal Act is amended by striking out all the words after the word "forfeited" in the eighth line thereof.

Amendment of section 68 of principal Act—Forfeiture of leases and agreements.

15. (1) In any case in which the Commissioner has power, under section 68 of the principal Act, to cancel a lease or agreement, he may, instead of exercising that power, by notice in writing to the lessee or purchaser, impose a penalty of such sum as is fixed by the Board in the particular case.

Instead of forfeiture of lease or agreement, a penalty may be imposed.

(2) Any penalty imposed under this section shall be recoverable in the same manner as rents or instalments under the lease or agreement (as the case may be) are recoverable when in arrear.

(3) Section 72 of the principal Act shall apply to any notice to be given under this section.

16. After notice has been given under section 70 of the principal Act of intention to offer a defaulting purchaser's or lessee's interest in an agreement or lease for sale by auction, such interest shall not be withdrawn from sale unless such purchaser or lessee has paid to the Commissioner such penalty as is imposed by the Commissioner, in addition to the upset price at which his said interest was, or was to be, offered.

Withdrawal of defaulting purchaser's or lessee's interest from sale under section 70.

17. When a defaulting purchaser's or lessee's interest in an agreement or lease has been sold under section 70 of the principal Act, the purchaser at the sale shall be liable for the payment of all instalments or rents (as the case may be) and other (if any) moneys falling due under the agreement or lease after the date of the sale, and from that date shall be bound by and subject to all the terms, covenants, conditions, and provisions of the agreement or lease.

Purchaser of defaulter's interest under section 70 to be liable for future rents and breaches of covenant.

18. Section 166 of the principal Act is amended by striking out the words "and provided that no extension shall exceed nine months" at the end thereof.

Amendment of section 166—Extension of time for payment.

19. Section

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Amendment of section 182—
Surrender of agreement or lease being part of a small estate of a deceased person.

19. Section 182 of the principal Act is amended by substituting for the first twelve lines thereof the following provisions, namely:—

182. The Governor may, upon the application—

(a) of the executor of any deceased lessee or purchaser under any Crown lease or agreement, who has left a will, or of any person entitled to obtain letters of administration of the estate of such deceased lessee or purchaser or of any part of such estate left unadministered, or

(b) of the widow, widower, or next of kin of any deceased lessee or purchaser under any Crown lease or agreement, who has died intestate,

permit the surrender of the lease or agreement by such executor, person, widow, widower, or next of kin, in the name of the deceased lessee or purchaser without probate of his will or letters of administration of his estate or of any part thereof left unadministered having been granted, if the Commissioner is satisfied that—

1. the applicant is the person entitled to prove the will of the deceased, or to obtain letters of administration of his estate, or of such part thereof left unadministered.

Amendment of section 238—
Parties compellable to give evidence in certain cases.

20. Subsection (1) of section 238 of the principal Act is amended so as to read as follows:—

(1) In any proceeding under this Part, all parties to any agreement, such as mentioned in Division 1. (b) of Part XIII., made in connection with an auction, and all persons making or receiving any offer, with or without threats, to enter into such an agreement, shall be compellable to give evidence upon all matters relating to such agreement or offer.

Amendment of section 8 of Act No. 1109 of 1912.

21. Section 8 of “The Crown Lands Act Further Amendment Act, 1912,” is amended by substituting the number “6” for the number “16” in the second line thereof.

Governor's powers of cancellation and resumption to be exercised by the Commissioner.

22. Wherever by any provision of the principal Act, or of any amendment thereof (including this Act), power is given to the Governor to cancel or forfeit an agreement or lease, or to accept the surrender thereof, or to resume lands comprised therein, such provision shall, from the passing of this Act, be read as conferring the said power upon the Commissioner, instead of upon the Governor: Provided that where the power of the Governor is expressed to be exercisable in the name and on behalf of His Majesty it shall be exercisable in like manner by the Commissioner.

23. (1) The

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23. (1) The lessees under miscellaneous leases of lands situate in the town of Tumby, in the hundred of Hutchison, may surrender such leases in exchange for land grants of the lands comprised in their respective leases, at prices to be fixed by the Land Board.

Miscellaneous leases of Tumby Bay town lands may be exchanged for land grants.

(2) When any land grant is issued pursuant to this section, the land comprised therein shall be deemed to have been sold subject to the condition mentioned in section 28 of "The Crown Lands Act Further Amendment Act, 1912"; and, for the purposes of that section, the date of such land grant shall be deemed to be the date of sale. The said condition, including the date when the same is to terminate, shall be expressed in the land grant, and thereupon and thereafter the provisions of subsections (2) to (5) inclusive of the said section 28 shall apply.

No. 1068 of 1912.

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

H. L. GALWAY, Governor.