



ANNO VICESIMO

GEORGII V REGIS.

A.D. 1929.

No. 1937.

An Act to amend The Pastoral Act, 1904, and for other purposes.

[*Assented to, December 12th, 1929.*]

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 " Pastoral Act Amendment Act, 1929 ". Short titles.

(2) The Pastoral Acts, 1904 to 1925, and this Act may be cited together as the " Pastoral Acts, 1904 to 1929 ".

(3) The Pastoral Act, 1904, is hereinafter referred to as " the principal Act ".

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation.

3. Sections 8 to 14 of the principal Act are repealed and the following sections are hereby enacted and substituted therefor :— Alteration of constitution of Pastoral Board—

8. (1) As soon as practicable after the commencement of the Pastoral Act Amendment Act, 1929, the Governor shall appoint a Board to administer this Act. The Board shall consist of three persons, one of whom shall be appointed by the Governor to be Chairman. Constitution of Board.

Pastoral Act Amendment Act.—1929.

(2) At least one member of the Board shall be a person who, prior to his appointment as a member of the Board, has been actively engaged in the pastoral industry.

(3) Until the appointment of a Board under this section, the Board in office immediately prior to the commencement of the Pastoral Act Amendment Act, 1929, shall continue in office.

Powers and duties of Board.

9. The powers and duties assigned by the Acts hereby repealed or any of them, to the Pastoral Board constituted thereunder shall be exercised and performed by the Pastoral Board constituted under this Act.

First members of Board to be Public Servants.

10. The first members of the Board shall be appointed under and be subject to the provisions of the Public Service Act, 1916, except such as are inconsistent with this Act, and shall hold office for five years and shall give the whole of their time to the duties of their offices as such members.

Appointment of subsequent members of the Board.

11. Every subsequent member of the Board shall be appointed for such period and on such terms and conditions as the Governor determines.

Chairman.

12. The Chairman shall preside at all meetings at which he is present ; but if the Chairman is not present at any meeting, the other members present shall elect one of their number to be Chairman at that meeting.

Quorum.

13. (1) Any two members of the Board shall form a quorum.

(2) When two members only are present at a meeting any matter upon which they disagree shall be postponed for consideration by the full Board.

Meetings.

14. The Board shall meet whenever a majority of the members think fit, and whenever the Commissioner directs a meeting to be held.

Amendment of principal Act, s. 49—

4. Section 49 of the principal Act is repealed and the following sections are hereby enacted and substituted in lieu thereof :—

Terms of leases granted after this Act.

49. (1) Every lease granted after the commencement of the Pastoral Act Amendment Act, 1929, and not being a lease of unoccupied land as defined in Part XII. of this Act nor of land situated south or east of the River Murray shall be for a term of forty-two years.

(2) The rent of every such lease shall be re-valued for the last twenty-one years of the term : Provided that upon any such re-valuation the rent shall not be increased more than fifty per centum above nor decreased more than fifty per centum below the rent immediately prior to the re-valuation.

Procedure to surrender old lease for new lease.

49A. The lessee under any lease in force immediately prior to the commencement of the Pastoral Act Amendment Act, 1929, and not being a lease of land situated south or east of the River

Pastoral Act Amendment Act.—1929.

River Murray shall if he has complied with the terms and conditions of his lease, or if although he has not so complied the Board considers that compliance should be dispensed with, be entitled to surrender that lease and obtain in lieu thereof a lease under section 49 of this Act of the whole or a part of the land comprised in the surrendered lease, in accordance with and subject to the following provisions:—

- (a) The lessee shall, within twelve months from the commencement of the Pastoral Act Amendment Act, 1929, apply to the Commissioner to surrender his existing lease for a new lease.
- (b) The Commissioner shall refer every application to the Board which shall, subject to the approval of the Commissioner, as soon as practicable determine—
 - i. whether or not in lieu of the lease proposed to be surrendered there shall be granted a new lease of the whole of the land comprised in the lease proposed to be surrendered, and if not, of what part of that land a new lease shall be granted:
 - ii. the date of the commencement of the new lease:
 - iii. at what rent and subject to what (if any) modifications of or additions to the terms set out in the Third Schedule the lease will be granted:
 - iv. in any case where the new lease is to be of part only of the land in the lease to be surrendered, the value of the improvements on that part of the said land which is not to be included in the new lease.
- (c) The Commissioner shall give notice of the Board's determination to the applicant.
- (d) If the applicant does not within the period of six months from receiving the notice or such further time as the Commissioner allows, accept the terms offered, his existing lease shall remain in force and continue subject to the laws in force immediately prior to the commencement of the Pastoral Act Amendment Act, 1929.
- (e) If the applicant accepts the terms offered within the time aforesaid, he shall surrender his existing lease and shall thereupon be entitled to be granted a lease of the whole or a part, as the case may be, of the land comprised in the surrendered lease.
- (f) The lease or leases granted to any person in lieu of a surrendered lease or leases shall comprise in the aggregate—
 - i. at least two-thirds of the total amount of Class A land formerly held by him;
 - ii. at

Pastoral Act Amendment Act.—1929.

ii. at least seven-eighths of the total amount of Class B land formerly held by him :

iii. all the Class C land formerly held by him,

and shall be where practicable a continuous area and shall include the land on which the homestead improvements are situated, and land which can be economically worked, and shall, if the surrendered lease or leases contained one hundred square miles or more, be not less than one hundred square miles in area: Provided that a lessee who surrenders a lease or leases comprising in the aggregate less than one hundred square miles shall be entitled to a lease or leases of the whole of the surrendered land. The classes referred to in this section are the classes determined under the next succeeding section.

(g) If any part of the land comprised in a lease surrendered under this section is not included in the lease granted in lieu thereof, the lessee shall be entitled to be paid by the Commissioner the value of the improvements on that part (not being improvements belonging to the Crown) as determined under paragraph (b) of this section.

Classification of
lands.

49B. (1) For the purposes of the next preceding section the Board, subject to the approval of the Commissioner, shall classify all the lands in the State into three classes, namely, Class A, Class B, and Class C, in accordance with the following principles :—

Class A shall include all lands which, in the opinion of the Board, can carry not less than thirty sheep per square mile and have convenient rail and market facilities :

Class B shall include all lands which, in the opinion of the Board, can carry not less than thirty sheep per square mile, but have not convenient rail and market facilities, or which, in the opinion of the Board, whilst having convenient rail or market facilities can not carry thirty sheep per square mile :

Class C shall include all lands not included in Class A or Class B.

(2) The Board, subject to the approval of the Commissioner, may vary the classification of any land at any time

(3) The decision of the Board as to the class to which any land belongs shall, subject to the Board's power to vary it, be final and conclusive.

(4) The Board shall forthwith after completing its classification, and also forthwith after varying the classification of any land notify every lessee of the classification of his lands.

49c. When

Pastoral Act Amendment Act.—1929.

49C. When any of the land comprised in a lease surrendered under section 49A is not included in a lease granted in lieu of the surrendered lease, and is not immediately allotted to any other person, the Commissioner may, on behalf of the Governor, from time to time grant to the person who held the land under the surrendered lease, an annual licence to use and occupy the land on any terms and conditions which the Commissioner thinks proper.

Temporary occupation of resumed lands.

49D. Every lease granted after the passing of the Pastoral Act Amendment Act, 1929, and comprising land situated south or east of the River Murray, shall be for a term of forty-two years, unless the Board with the approval of the Commissioner certifies that the said land is likely to be required for closer settlement, in which case the lease shall be for a term of twenty-one years. Every such lease for a term of forty-two years shall be subject to re-valuation of rent for the last twenty-one years thereof.

Terms of leases of land south or east of the River Murray.

49E. (1) Whenever any land proposed to be included in any lease about to be granted under this Act surrounds, wholly or partially, any land held by any person under a miscellaneous lease granted pursuant to section 82 of the Crown Lands Act, 1915, the Commissioner, on the recommendation of the Board, may without compensation to any person determine that miscellaneous lease and include the land in the lease of the surrounding land.

Power to determine miscellaneous lease of water reserves and include land in pastoral lease.

(2) Any pastoral lease may contain any terms, covenants, and conditions which the Commissioner thinks proper binding the lessee to supply water for stock travelling through the leased land: Provided that the lease shall reserve to the lessee the right to determine from what water supply the travelling stock are to take water, and the water supply so determined shall not necessarily be that nearest to the most direct route through the leased land.

49F. Every lease granted after the commencement of the Pastoral Act Amendment Act, 1929, shall contain conditions that no land therein comprised shall be used for agriculture unless the consent of the Commissioner has been first obtained, and that the Commissioner may re-value the rent of any land so used; but no land shall be deemed to be used for agriculture within the meaning of this section by reason only of the fact that any produce is grown thereon solely for consumption on that land.

Terms of leases.

49G. Notwithstanding any other provision of this Part, no person shall be entitled to be granted a lease which in the Commissioner's opinion is suitable or would be likely, during the term of the lease, to become suitable for agricultural settlement.

No right to lease of agricultural land.

49H. (1) Any lessee holding a lease for forty-two years may during the thirty-fifth year of the term thereof request the Commissioner to notify him whether the Commissioner is willing to offer

Subsequent leases.

Pastoral Act Amendment Act.—1929.

offer him another lease of the whole or any part of his land, to take effect on the expiration of the existing lease, and if so at what rent and on what other terms and conditions not inconsistent with this Act.

(2) When such a request is made, the Commissioner shall, on the recommendation of the Board, determine the matters mentioned in subsection (1) and notify the lessee of his determination.

(3) If the Commissioner notifies the applicant that he is willing to offer him a new lease of the whole or any part of his land, the notification shall be deemed an offer of a lease on the terms notified, and may be accepted by the applicant at any time within one year from the time when the Commissioner notifies him thereof.

Amendment of
principal Act, s. 61.

5. Section 61 of the principal Act is amended so as to read as follows:—

61. Every pastoral lease hereafter granted shall in addition to the covenants otherwise provided for, contain a covenant binding the lessee to expend such amount (if any) of money as is necessary to ensure that—

(a) by the end of the fifth year of the term thereof the value of the improvements on the said land will be not less than Ten Pounds per square mile; and

(b) by the end of the thirteenth year of the term thereof the value of the improvements on the said land will be not less than Fifteen Pounds per square mile;

(c) by the end of the twenty-first year of the term thereof the value of the improvements on the said land will be not less than Twenty Pounds per square mile.

Repeal of s. 91 of
principal Act.

6. Section 91 of the principal Act is repealed.

Consequential
amendment of s. 92.

7. Section 92 of the principal Act is amended by striking out all the remaining words therein after the word "Commissioner" in the third line.

Repeal of section
93A of principal
Act.

8. Section 93A of the principal Act (which section was enacted by section 8 of the Pastoral Act Further Amendment Act, 1922) is repealed.

Amendment of
Part X. of
principal Act—

9. Part X. of the principal Act is amended by inserting therein after section 97 the following sections:—

Interpretation.

97A. In sections 97B to 97J inclusive, unless the context otherwise requires, "artesian bore" means an artesian well or bore from which the water flows naturally to the surface of the land, together with all works constructed or erected in connection therewith.

97B. No

Pastoral Act Amendment Act.—1929.

97B. No person shall on any land included in a pastoral lease construct or commence to construct any artesian bore unless he has obtained a licence from the Commissioner authorising him to do so.

Licence for constructing bore.

97C. No person shall on any land included in a pastoral lease maintain any artesian bore existing or under construction at the time of the commencement of the Pastoral Act Amendment Act, 1929, unless within six months from the commencement of the said Act he obtains a licence from the Commissioner authorising him to maintain that bore. A bore shall be deemed to be maintained within the meaning of this section if any water escapes therefrom.

Licence for maintaining bore existing at commencement of Act.

97D. Every application under either of the last two preceding sections shall be made to the Commissioner in the form prescribed and shall be accompanied by all the information which is prescribed or which the Commissioner requires. No fee shall be chargeable in respect of the application for or the grant of a licence under this section.

Mode of making application.

97E. Any person applying in accordance with this Act shall be entitled as of right to a licence to maintain a bore, existing or under construction at the time of the commencement of the Pastoral Act Amendment Act, 1929, but the Commissioner may upon the recommendation of the Board grant or refuse any licence to construct a new bore, or grant such a licence subject to any conditions, and the decision of the Commissioner shall be final.

Grant of licences.

97F. Any licence to maintain or construct an artesian bore may contain such provisions as to the mode in which the bore is to be maintained, constructed, and kept in repair as the Commissioner thinks proper.

Terms of licence.

97G. No person shall deepen or enlarge any artesian bore on the land included in a pastoral lease—

Duty to obtain approval of Commissioner for enlarging and deepening bore.

- (a) unless the Commissioner on the recommendation of the Board has given him permission in writing to do so; nor
- (b) otherwise than in accordance with any requirements imposed by the Commissioner on the recommendation of the Board as a condition of giving his permission.

97H. If any person contravenes any provision of section 97B, 97C, or 97G, or fails to observe any term, condition, or requirement of a licence, he shall be guilty of an offence and liable to a penalty not exceeding One Hundred Pounds, and where the offence continues from day to day he shall be liable to a penalty not exceeding Five Pounds for every day on which the offence continues.

Penalty.

97I. (1) If the Commissioner is of opinion that the water from any artesian bore constructed after the commencement of the Pastoral Act Amendment Act, 1929, on any land included in

Power of Commissioner to prevent waste of water.

Pastoral Act Amendment Act.—1929.

a pastoral lease is being improperly used or is being wasted, or is not being used to the best advantage, he may on the recommendation of the Board direct the lessee of that lease—

- (a) to close the bore partially within such time and for such period as he fixes; or
- (b) to take such other precautions as he deems necessary to prevent the water from being improperly used or wasted, or to ensure that the water will be used to the best advantage.

(2) If the lessee fails to comply with any such direction the Commissioner may do all or any of the following things:—

- (a) take all steps necessary to carry out such direction:
- (b) recover the cost of so doing from the lessee by action in any Court of competent jurisdiction:
- (c) forfeit the lease in the same manner as a lease may be forfeited under this Act for breach of covenant.

Supply of water to adjoining lands.

97J. (1) If any land held under a pastoral lease is insufficiently watered, but is so situated that it can conveniently be supplied with water from an artesian bore constructed after the commencement of the Pastoral Act Amendment Act, 1929, situated on other land held under a pastoral lease by a different lessee, the lessee of the first-mentioned land may apply to the Commissioner for an order under this section directing the lessee of the land on which the bore is situated to supply him with water from that bore.

(2) If upon such an application being made in accordance with the regulations the Commissioner is satisfied that the land of the applicant is insufficiently watered and that the quantity of water flowing from the bore is in excess of the reasonable requirements of the lessee of the land on which it is situated, and that the surplus water could, under a practicable scheme of distribution, be supplied to the land of the applicant, the Commissioner may on the recommendation of the Board—

- (a) order that the lessee of the land on which the bore is situated shall supply water to the applicant in such quantities and on such reasonable terms and in such manner as are specified in the order:
- (b) in and by the order give to either party any directions necessary for the purpose of carrying the order into effect:
- (c) impose any conditions in the order which the Commissioner thinks fit.

The lessee of the land on which the bore is situated shall not be required by any such order to construct or lay down, at his own expense, any additional apparatus, pipe, or drain for the purpose of supplying water in accordance with that order.

(3) The

Pastoral Act Amendment Act.—1929.

(3) The order shall be deemed to be an agreement between the parties for the supply of water in the manner and on the terms and conditions therein stated, and may be enforced accordingly.

In addition, if the lessee ordered to supply water fails without just excuse substantially to comply with the order, he shall be liable to have his lease forfeited in the same manner as a lease may be forfeited under this Act for breach of covenant.

(4) If, for the purpose of giving effect to an order under this section, it is necessary to convey surplus water on, through, or across any land intervening between the land whereon the bore is situated and the land to be supplied, the Commissioner may on the recommendation of the Board order the lessee of the intervening land on such reasonable terms as he thinks just, to permit any person to convey water on, through, or across that land and to enter thereon, with or without horses, vehicles, workmen, tools, and apparatus for the purpose of laying or repairing pipes or constructing or repairing drains thereon, or doing any other thing necessary to convey the water. If any lessee of any such intervening land fails to comply with the order in any material particular, he shall be liable to have his lease forfeited in the same manner as a lease may be forfeited for breach of covenant.

10. Part XII. of the principal Act is repealed and the following Part is hereby enacted and substituted in lieu thereof :—

Re-enactment of
Part XII. of
principal Act.

PART XII.

PROVISIONS RELATING TO UNOCCUPIED LANDS.

106. In this Part "unoccupied lands" means lands which are not included in any hundred and which at the time of the commencement of the Pastoral Act Amendment Act, 1929, are not held under a lease.

Interpretation.

107. Notwithstanding the other provisions of this Act the following provisions shall apply with regard to every lease of unoccupied land granted after the commencement of the Pastoral Act Amendment Act, 1929, namely :—

Terms of leases of
unoccupied lands.

- (a) Every such lease shall be granted for the term of twenty-one years :
- (b) Every such lease shall be granted at a peppercorn rental :
- (c) Every such lease shall where practicable comprise not less than two hundred and fifty square miles of land :
- (d) Every such lease shall contain the terms, covenants, and conditions set out in the Third Schedule, subject to any modifications thereof or additions thereto which the Commissioner upon the recommendation of the Board fixes, and a covenant by the lessee

Pastoral Act Amendment Act.—1929.

to spend money on improvements on the leased land so that by the end of the fifth year of the term thereof not less than Ten Pounds per square mile will have been spent, and by the end of the thirteenth year not less than Fifteen Pounds per square mile, and by the end of the twenty-first year not less than Twenty Pounds per square mile. In computing the amount spent on improvements there shall not be included any money advanced by the Commissioner or by any other person or body on behalf of the Crown to the lessee for vermin-proof or dog-proof fencing and spent by the lessee for that purpose :

- (e) Where a lessee or his predecessors in title have held land for twenty-one years on such a lease as previously mentioned in this section, and all the terms thereof have been complied with to the satisfaction of the Board, he shall be entitled to receive a lease of the same land under the other provisions of this Act for the term of forty-two years. The rent under any lease for forty-two years so granted shall not, in the first instance, exceed Two Shillings and Six Pence per square mile, but shall be re-valued for the last twenty-one years of the period of forty-two years for which the lease is originally granted, and on such re-valuation may be increased or decreased by not more than fifty per centum of the amount thereof for the time being. On any renewal of the lease the rent may be re-valued without restriction on the amount of increase or decrease thereof.

Amendment of
principal Act,
s. 110—
Forfeitures to be
approved by
Board.

New section 128A—

Power of Commis-
sioner to alter
boundaries between
leases.

11. Section 110 of the principal Act is amended by inserting at the end thereof the following:—"and unless the Board has previously approved of the proposed forfeiture."

12. Part XV. of the principal Act is amended by inserting after section 128 therein the following section:—

128A. (1) If the Commissioner is of opinion that the boundary or any part of the boundary between contiguous areas of land held by different lessees under leases granted under this Act is so situated that it cannot conveniently be fenced, or is otherwise inconvenient for the lessees, the Commissioner on the recommendation of the Board, and with the consent of both the lessees concerned, and of any person interested in the land comprised in the lease the area of which will be diminished by the proposed alteration, may alter such boundary or part of a boundary.

(2) When a boundary is altered as aforesaid the Commissioner may lodge in the office of the Registrar-General a memorandum setting forth—

- (a) a reference to the volume and folio, as appearing in the Register Book of Crown Leases, of each lease affected by the alteration :

(b) particulars

Pastoral Act Amendment Act.—1929.

(b) particulars of the alteration, with a plan thereof if the Registrar-General so requires :

(c) a statutory declaration by the Chairman or a member of the Board declaring that the said alteration has been made with the consent of both lessees and of all parties interested in the lease the area of which will be diminished by the proposed alteration.

(3) When a memorandum of the alteration of boundaries has been lodged in accordance with this section, the Registrar-General of Deeds shall indorse on the appropriate folios in the Register Book of Crown Leases and on the lessees' copies of the Crown leases (if produced to him) and on any registered instrument relating to the land affected, a memorandum of the alteration of the boundaries of the land comprised in the said leases, and thereupon the land to which the leases and any such instrument relate shall for all purposes be increased or diminished, as the case may be, in accordance with the alteration. Each of the lessees shall be liable to pay to the Commissioner his proper proportion of any fees payable in connection with the alteration of boundaries and the registration thereof.

13. Section 130 of the principal Act is amended by striking out all the words therein commencing with the words " Any person " in the fourth line and inserting in lieu thereof the following :—

Amendment of principal Act, s. 130—

Any person who injures, destroys, or opens and fails to shut any gate erected pursuant to this section, or any gate on or on the boundary of any Crown lands or any land comprised in a lease granted under this Act shall be guilty of an offence and shall be liable to a fine of not more than Fifty Pounds, or to imprisonment for any period not exceeding six months.

Duty to close gates after opening.

14. The Third Schedule to the principal Act is amended by striking out Covenant (e) of the Covenants by the lessee and inserting in lieu thereof the following :—

Amendment of Third Schedule to principal Act.

(e) Not to assign or sub-let the whole or any part of the leased land without the consent of the Commissioner : Provided that :—

- (1) the Commissioner shall not consent to an assignment or sub-letting of the whole of the leased land during the first five years of the term unless it is proved to his satisfaction that a refusal of consent would cause severe hardship :
- (2) the Commissioner shall not, during the first ten years of the term, consent to any assignment or subletting, giving effect to a subdivision of the leased land into two or more parts unless it is proved to his satisfaction that a refusal of consent would cause severe hardship :
- (3) the Commissioner shall not, at any time, consent to any assignment or sub-letting, giving effect to a subdivision of the leased land into two or more parts unless plans of the proposed subdivision have first been submitted to and approved by him,
and

Pastoral Act Amendment Act.—1929.

and he is satisfied that the subdivision is such as would enable the best use to be made of all the improvements, waters, and grazing areas:

- (4) subject to the preceding paragraphs of this proviso the Commissioner shall not capriciously withhold his consent to any assignment or sub-letting.

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

G. J. R. MURRAY, Deputy Governor.