



ANNO QUARTO

GEORGII V REGIS.

A.D. 1913.

No. 1138.

An Act to amend "The Crown Lands Acts, 1903 to 1912,"
and for other purposes.

[*Assented to, December 18th, 1913.*]

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 Further Amendment Act, 1913." Short titles.

(2) "The Crown Lands Acts, 1903 to 1912," and this Act may be cited together as "The Crown Lands Acts, 1903 to 1913."

(3) "The Crown Lands Act, 1903," is referred to in this Act as "the principal Act." No. 830 of 1903.

2. This Act is incorporated with "The Crown Lands Acts, 1903 to 1912," and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

3. (1) Section 50 of the principal Act (as amended by "The Crown Lands Act Further Amendment Act, 1912") is further amended by striking out the words "and remain unpaid for three months after the same shall have been demanded" in the second and third lines thereof and substituting therefor the words "the purchaser having had at least three months' previous notice in writing demanding its payment." Amendments of sections 50, 68, and 167 of principal Act, and Schedules—
When agreement or lease to be liable to forfeiture.

(2) Section 68 of the principal Act (as amended by section 20 of "The Crown Lands Act Amendment Act, 1905") is further amended— No. 899 of 1905.

(a) by striking out the words "and remains unpaid for three months after the same has been demanded" in the third and

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and fourth lines thereof and substituting therefor the words “the lessee or purchaser, as the case may be, having had at least three months’ previous notice in writing demanding its payment”; and

(b) by substituting the word “or” for the word “and” in the fourth line thereof.

(3) Section 167 of the principal Act is amended by striking out the words “and remain unpaid for three months after the same, together with any interest due thereon, shall have been demanded by the Receiver” in the second, third, and fourth lines thereof and substituting therefor the words “the purchaser having had at least three months’ previous notice in writing demanding its payment.”

(4) The Second Schedule to the principal Act is amended—

(a) by striking out the words “after three months’ notice requiring its payment” in the third line of the paragraph thereof numbered 13 and substituting therefor the words “the purchaser having had at least three months’ previous notice in writing demanding its payment.”

(b) by striking out the words “for a period of three months after notice of its non-performance requiring its performance” in the fifth and sixth lines of the said paragraph; and

(c) by adding the following provisions at the end of the said paragraph, namely:—

Provided that the vendor shall not (except in the case of an instalment being unpaid and in arrear as aforesaid, or of a breach of clause 6 hereof) exercise the powers expressed in this clause in case of a breach of covenant before the expiration of the period of three months after notice has been given to the purchaser of such breach and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the purchaser of any breach of a covenant no notice of any future breach of the same covenant or of the continuance of the same breach thereof shall be necessary before the exercise of such powers.

(5) The Third Schedule to the principal Act is amended—

(a) by striking out the words “after three months’ notice from the Receiver of Rents requiring its payment” in the third and fourth lines of the paragraph thereof numbered 15 and substituting therefor the words “the purchaser having had at least three months’ previous notice in writing demanding its payment.”

(b) by

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(b) by striking out the words “for a period of three months after notice of its non-performance requiring its performance” in the sixth and seventh lines of the said paragraph; and

(c) by adding the following provisions at the end of the said paragraph, namely:—

Provided that the vendor shall not (except in the case of an instalment being unpaid and in arrear as aforesaid or of a breach of clause 8 hereof) exercise the powers expressed in this clause in the case of a breach of covenant before the expiration of the period of three months after notice has been given to the purchaser of such breach and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the purchaser of any breach of a covenant no notice of any future breach of the same covenant or of the continuance of the same breach thereof shall be necessary before the exercise of such powers.

(6) The Fifth Schedule to the principal Act is amended —

(a) by striking out the words “written notice requiring its payment” in subparagraph 1. of the paragraph thereof numbered 3, and inserting in lieu thereof the words “the same falls due, the lessee having had at least three months’ previous notice in writing demanding its payment”; and

(b) by striking out the words “for three months after notice of its non-performance requiring its performance” in subparagraph 11. of the said paragraph numbered 3.

(7) The Sixth Schedule to the principal Act is amended—

(a) by striking out the words “written notice requiring its payment” in the third and fourth lines of the third extended meaning set forth therein and inserting in lieu thereof the words “the same falls due, the lessee having had at least three months’ previous notice in writing demanding its payment”;

(b) by striking out the words “for three months after written notice of its non-performance and requiring its performance” in the sixth, seventh, and eighth lines of the said third extended meaning; and

(c) by adding the following provisions at the end of the said third extended meaning, namely—

Provided however that the Commissioner shall not (except in the case of rent being in arrear as aforesaid

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aforesaid or of the transfer mortgage encumbrance or sub-letting of the premises without such consent as aforesaid) exercise the powers expressed in this clause in the case of default in the performance of a covenant before the expiration of the period of three months after notice has been given to the lessee of such default and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the lessee of any default in the performance of a covenant no notice of any future default in the performance of the same covenant or of the continuance of the same default shall be necessary before the exercise of such powers.

When existing agreement or lease to be liable to forfeiture.

4. Notwithstanding anything in "The Crown Lands Acts, 1903 to 1912," or in any agreement or lease heretofore made or granted under any of the Crown Lands Acts, or under any Act with which this Act is incorporated, if notice has been given to the purchaser or lessee, as the case may be, of any breach of a covenant contained in or implied by such agreement or lease, no notice of any future breach of the same covenant, or of the continuance of the same breach thereof, shall be necessary before the exercise of the powers of forfeiture or cancellation expressed in or implied by such agreement or lease, whether so implied by such Acts as aforesaid, or any of them, or otherwise.

Terms fixed on re-valuation may be accepted after time appointed by Part V. of the principal Act.

5. The following provisions contained in this section shall be read as contained in Part V. of the principal Act:—

(1) Notwithstanding anything in section 45 or 54 of the principal Act, if the land comprised in a perpetual lease or in a lease with right of purchase, or any part of such land, has not been taken on agreement or lease when offered pursuant to section 55, the Commissioner may receive the lessee's signification of his willingness to pay the rent fixed under section 42, or his acceptance of the re-valuation under sections 51 and 52, as the case may be, at any time not being later than two months from the determination of the lease.

(2) Any lease in respect of which the Commissioner exercises the power hereby conferred shall, notwithstanding its previous determination, be deemed to have continued without interruption of the term thereof.

(3) Where part of the land has been taken when offered as mentioned in subsection (1) hereof this section shall apply only in respect of the part not so taken.

Repeal of proviso to section 58 of principal Act.

6. (1) Section 58 of the principal Act is amended by striking out the proviso thereto, and the said section shall have the same effect as if such proviso had never been contained therein.

(2) Section

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- (2) Section 5 of "The Crown Lands Act Further Amendment Act, 1912," is hereby repealed. Consequent repeal of section 5 of Act 1109 of 1912.
7. With regard to any application made before the passing of this Act and anything done or to be done in consequence of such application, but not with regard to any application hereafter made or anything done in consequence thereof, section 174 of the principal Act shall be read as amended by inserting after the word "lands", in the third line thereof, the words "and any lessee under any lease granted under any Act dealing with the leasing of lands for pastoral purposes." Amendment of section 174.
Power to surrender pastoral lease.
8. Section 222 of the principal Act is amended by substituting the words "on land so leased by him and for the purpose of making improvements on such land" for the words "for making improvements on land leased by him" in the fourth and fifth lines. Amendment of section 222.
Penalty for injuring timber.
9. Section 14 of "The Crown Lands Act Further Amendment Act, 1906," is amended by inserting therein after subdivision (b) the following subdivision:— Amendment of section 14 of Act No. 909 of 1906.
- "(c) All lands the grant of which has been cancelled by the Governor under the principal Act."
10. (1) Whereas the limit formerly imposed by section 151 of the principal Act as amended by section 21 of "The Crown Lands Act Amendment Act, 1905," and the limit now imposed by the said section 151 as amended by section 4 of "The Crown Lands Act Further Amendment Act, 1910," upon the amount which might or may be expended upon the repurchase of land for the purposes of Part X. of the principal Act, have during several years been exceeded to some extent: Now it is hereby enacted that all things heretofore done or suffered, and all things hereafter to be done or suffered which are incidental to or consequent upon anything heretofore done or suffered, shall be as valid for all purposes as if the limit of expenditure for the time being in force had not during any year been exceeded, and the excesses in expenditure hereinbefore referred to are hereby validated for all purposes. Validation of excess in expenditure on lands for closer settlement.
- (2) Section 4 of "The Crown Lands Act Amendment Act, 1910," is amended by substituting for the words "in any two financial years" in the fifth line thereof the following passage, namely:— Amendment of section 4 of Act 1019 of 1910.
Limit of expenditure on lands for closer settlement.
- "in any period of two financial years (the first of such periods commencing on the first day of July, nineteen hundred and ten)."
11. "The Crown Lands Acts, 1903 to 1912," are further amended in manner set out in the Schedule to this Act. Further amendments of Crown Lands Acts.
12. In no case shall the purchase money under an agreement be increased by reason of the requirement of section 24 of "The Crown Lands Purchase money not to be increased by reason of section 24 of Act 1109, 1912.

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Lands Act Further Amendment Act, 1912," that no instalment thereof shall be less than Five Shillings, and where necessary in order that this section and the said section 24 may be complied with, the number of instalments shall be reduced; and, notwithstanding that all the instalments of purchase money may have been paid before the expiration of the period of six or nine years fixed by section 47 of the principal Act or section 13 of "The Crown Lands Act Amendment Act, 1905" (as the case may be), the purchase shall not be completed before the expiration of such period.

The Commissioner may effect improvements the cost of which shall be deemed to be advances.

Cf. Act 1105, 1912, s. 7.

Application for improvements.

13. (1) The Commissioner may, on the application of a lessee under any perpetual lease or a purchaser under any agreement (hereinafter called "the applicant"), erect and make upon the land comprised in the lease or agreement water improvements, in the nature of sheds having rainwater catchment roofs and tanks connected therewith for the storage of such water.

(2) Such application shall—

- i. be made to the Commissioner and in the prescribed form,
- ii. contain such particulars as are prescribed, and
- iii. be supported by such evidence (if any) as is prescribed, or as the Commissioner requires.

Agreement to be executed.

(3) The Commissioner shall not commence to effect any improvements under this section until the applicant has entered into an agreement with the Commissioner, in the prescribed form, agreeing to repay all moneys expended in effecting the improvements as hereinafter provided.

Cost of improvements to be certified.

(4) The Commissioner shall, by writing signed by him, certify the cost of the improvements effected by him under this section on the land comprised in the applicant's lease or agreement, and his certificate shall be conclusive as to the cost thereof.

To be repaid by instalments.

(5) The cost so certified shall be repaid by the applicant to the Commissioner by thirty equal yearly instalments where the applicant is a lessee under a perpetual lease, and where he is a purchaser under an agreement by as many half-yearly instalments as there are instalments to fall due under the agreement, together in either case with interest on the balance for the time being unpaid at the rate fixed by the Treasurer under section 3 of "The Advances to Settlers on Crown Lands Act Further Amendment Act, 1912," which is in force at the time when the cost of the improvements is certified as hereinbefore provided: Provided that the applicant may at any time pay the balance of the instalments and interest due and to fall due, and thereupon he shall cease to be liable under this section.

Purchase not to be completed until all instalments paid.

(6) No applicant who is a purchaser under an agreement shall be allowed to complete the purchase of the lands under his agreement until, in addition to anything required by his agreement, he has completed the payment of all instalments and interest due and to fall due under this section.

(7) The

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(7) The instalments under this section, and the interest thereon, shall be added to the annual rent or the half-yearly instalments of purchase money, as the case may be, payable by the applicant, and shall be due and payable at the same times as such rent or half-yearly instalments, the first instalment and interest under this section falling due on the first day, after the cost of the improvements has been certified as hereinafore provided, when the annual rent or a half-yearly instalment under the lease or agreement falls due.

Instalments to be added to rent or purchase money.

(8) If the applicant makes default in the payment of any instalment or interest under this section, the Commissioner shall have and may pursue in respect thereof the same remedies as in the case of the rent or instalments payable by the applicant under his lease or agreement.

How recoverable.

(9) The Commissioner, in the exercise of his powers under this section, shall have regard to the limitations prescribed by section 13 of "The Advances to Settlers on Crown Lands Act, 1908" (as enacted by section 5 of "The Advances to Settlers on Crown Lands Act Amendment Act, 1911"); and the said Board, in considering any application for an advance under those Acts, shall have regard to any moneys already expended by the Commissioner under this section upon the holding of the applicant under those Acts.

Limitations under Advances to Settlers Act.

No. 960 of 1908.

No. 1052 of 1911.

14. (1) The Commissioner may, with the consent of the Governor, acquire, for an estate in fee simple, lands in any part of the State which in his opinion may conveniently be set apart as sites for towns and for purposes incidental thereto.

Commissioner may acquire lands for towns.

(2) Such lands may be acquired either pursuant to agreement or compulsorily, and if the same are acquired compulsorily the provisions of "The Closer Settlement Act, 1910," and the Acts amending that Act shall, *mutatis mutandis*, apply with respect to the acquisition thereof and all things incidental thereto or consequent thereon.

By agreement or compulsorily.

No. 1032 of 1910.

(3) All lands taken and acquired under this section shall thereupon for all purposes be Crown lands, and may by proclamation be set apart and dedicated as town lands or suburban lands under subdivision (h) of section 7 of the principal Act, and for any of the purposes mentioned or referred to in subdivision (d) of the said section 7.

How such lands to be dealt with.

15. (1) When any land has by proclamation been set apart as a site for a town or for purposes incidental thereto, and part of such land has been laid out as roads or park lands, or roads and park lands, and the balance has been subdivided into allotments, some or all of which allotments have been alienated from the Crown, but no town has, in the opinion of the Commissioner, been erected on such land, and such land is, in the opinion of the Commissioner, no longer required as a site for a town—

Commissioner may resume land set apart as site for town.

(a) the Commissioner may, with the consent of the Governor, acquire for an estate in fee simple the said allotments which have been alienated from the Crown; and

(b) The

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(b) the Governor may by proclamation declare the said roads to be closed, and cancel the proclamation setting apart such land as aforesaid,

and thereupon the whole of the said land shall be deemed for all purposes to be Crown lands, and may be dealt with accordingly under Part X. or any other provisions of the principal Act or any Act amending that Act.

By agreement or compulsorily.

No. 1032 of 1910.

(2) Such allotments may be acquired, either pursuant to agreement or compulsorily, and if the same are acquired compulsorily the provisions of "The Closer Settlement Act, 1910." and the Acts amending that Act shall, *mutatis mutandis*, apply with respect to the acquisition thereof and all things incidental thereto or consequent thereon.

How moneys for purposes of sections 12, 13, and 14 to be provided.

16. The moneys required by the Commissioner for the purposes of sections 13, 14, and 15 of this Act shall be supplied to him by the Treasurer out of moneys provided by Parliament for such purposes.

Allotment of closer settlement lands may be postponed.

17. (1) Any lands repurchased or otherwise acquired for the purposes of closer settlement, as to which a resolution of both Houses of Parliament has been passed, whether before or after the repurchase or acquisition thereof, to the effect that this section shall apply, may, until such time as the Governor by proclamation declares that they shall be used for closer settlement, be dealt with as provided by subsection (2) hereof as if they were Crown lands not repurchased or acquired for the purposes of closer settlement.

(2) Any such land may be let on miscellaneous lease for any term not exceeding twenty-one years, subject, however, to a condition that after the publication in the *Government Gazette* of a proclamation under this section as to such land, or as to such land and any other land, the term of such lease shall be determinable by the Commissioner by not less than six months' notice in writing to the lessee.

Land unallotted may be offered for sale on agreement to purchase in 63 years.

18. When—

(a) any block or blocks have been offered for sale under section 153 of the principal Act, and such block or blocks remain unallotted for the space of one year after the publication of the notice in the *Government Gazette* that such block or blocks are open to be purchased, or

(b) any block or blocks comprised in an agreement which has been cancelled under section 168 of the principal Act have been offered for sale as a block or blocks newly offered, as provided by that section, and remain unallotted,

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the same may, upon the recommendation of the Board and subject to the approval of the Commissioner, be again offered for sale under the said section 153, subject, however, to a condition that the purchaser shall, under the agreement, covenant to purchase the said block or blocks and the improvements thereon at the same purchase price as was fixed by the Board in connection with the aforesaid offering thereof for sale, and to pay the purchase-money, and interest thereon at the several rates fixed by the Board, as provided by subsection (2) hereof, by instalments apportioned by the Board as provided by subsection (2) hereof, and extending over periods not exceeding in the aggregate sixty-three years, which instalments shall be paid in advance.

(2) The Board may subdivide the number of years within which a purchaser under subsection (1) hereof is to complete his purchase into periods of such lengths as they think fit, and may apportion to each of such periods the rate of interest and the amount of the respective instalments to be paid by the purchaser for that period, but so as to provide that the purchaser, shall during the currency of his agreement, pay, by way of interest, on an average a rate not less than Four Pounds per centum per annum on the amount of his purchase-money.

Varying rate of interest may be charged.

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

DAY H. BOSANQUET, Governor.

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THE SCHEDULE.

Section 11.

A.

“The Crown Lands Act, 1903,” is amended as follows :—

Definition of
“Crown lands.”

Section 6—

The definition of the term “Crown lands” is amended by the addition thereto of the words “or shall have been or shall be acquired by the Crown.”

Re-valuation of
rents.

Section 42—

The words “the next preceding period” are substituted for the words “such period” in the last line.

Completion of
purchase.

Section 47—

The words “the balance of the purchase money” are substituted for the words “all principal due” in the last line but one.

Compensation to be
paid for mining.

Section 63—

The following words are inserted at the end of subdivision (1) :—

“and such Magistrate or Justices shall assess the amount of compensation on the hearing of the information or complaint.”

Premium on transfer
of defaulter's interest.

Section 70—

The provisions of this section as to any premium paid at a sale shall also apply to any premium paid for a transfer under section 4 of “The Crown Lands Act Further Amendment Act, 1906.”

Advances to
blockholders.

Section 141—

“section 139” is substituted for “the last preceding section” in the second line of subsection (3).

Completion of
purchase.

Section 153—

The words “the purchase money” are substituted for the words “all principal moneys due” in the tenth and eleventh lines of subdivision 1.

Cancellation of lease
or agreement.

Section 168—

- I. The words “is in arrear as mentioned in section 167” are substituted for the words “remains unpaid” in the second line ;
- II. The words “as provided by section 167” in the fourth line are struck out ; and
- III. The word “Commissioner” is substituted for the word “Governor” in the fifth line.

Mode of obtaining
perpetual lease or
agreement upon
surrender.

Section 175—

- I. The words “and thereupon” in the third line and the whole of the fourth, fifth, and sixth lines are struck out ;
- II. The following subsection is added :—

(2) Upon the annual rent or purchase money being so fixed, notice in writing of the amount thereof shall be given to the applicant, and the applicant, upon surrendering the lease, may, subject to the approval of the Commissioner and subject to section 176, obtain a perpetual lease or agreement at the said rent or purchase money.

Crediting of moneys
on surrender.

Section 179 (as enacted by section 7 of “The Crown Lands Act Further Amendment Act, 1906”)—

The words “amount so paid by him in respect of the purchase money thereunder” are substituted for the words “of such purchase money” in subdivision (b).

Section

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Section 185—

The words "the rent or purchase money as fixed by the Commissioner in deciding the appeal" are substituted for the words "such rent or purchase money" in the last line.

Acceptance or refusal of amount of rent or purchase money fixed on appeal.

Section 186—

The last three lines shall be construed as if they constituted a separate section placed in Part XVI.

Noting mortgage on land grant.

Section 187—

The remainder of the section after the word "purposes" in the tenth line are struck out and the following paragraph is substituted therefor:—

Conditions of surrender.

- II. If the land so to be included is, in the opinion of the Commissioner, suitable only for pastoral purposes, the carrying capacity thereof unimproved and of all other lands held by the lessee or purchaser under any tenure, shall not altogether exceed five thousand sheep, or if the land is outside Goyder's line of rainfall, ten thousand sheep: Provided that in making any computation as to carrying capacity, lands held under a lease granted under "The Pastoral Act, 1904," or any other Pastoral Act, shall not be included.

Section 200—

The words "dedicated or reserved" are added at the end.

Exchange of lands.

Section 220—

The section is amended so as to read as follows:—

220. Any person holding any land from the Crown under a lease with right of purchase, or under an agreement obtained on a surrender, may complete his purchase at the expiration of six years from the time when such land was originally taken up by such person or his predecessors in title, or at any time thereafter during the currency of his lease or agreement, and shall, on payment of the purchase money or the balance thereof then unpaid, and of the prescribed fee for the grant, be entitled to the land in fee simple: Provided that the Commissioner may, in any case, prevent the exercise of the right herein expressed until he is satisfied that the conditions of the lease or agreement have been *bond fide* fulfilled.

Completion of purchase under lease with right of purchase or agreement obtained on surrender.

B.

"The Crown Lands Act Further Amendment Act, 1911," is amended as follows:—

Section 3—

The following provision is added to subsection (1):—

The application to surrender shall be in writing, and the provisions of sections 175, 176, and 177 of the principal Act, *mutatis mutandis*, shall apply to and in respect of such application and the surrender.

Surrender of lease under Agricultural College Endowment Act, 1886.

C.

"The Crown Lands Act Further Amendment Act, 1912," is amended as follows:—

Section 25—

The word "perpetual" is inserted before the word "lease" in the first line.

Rates of rent.

Section 26—

In subsection (2)—

- I. the words "scale of rents set forth in" are substituted for the words "provisions of" in the first line; and
- II. the word "that" is substituted for the word "this" in the last line.

Sliding scale of rents.