



ANNO DECIMO NONO.

GEORGII V REGIS.

A.D. 1928.

No. 1882.

An Act to amend the Crown Lands Act, 1915, and for other purposes.

[Assented to, November 7th, 1928.]

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 Amendment Act, 1928." Short titles.

(2) The Crown Lands Acts, 1915 to 1927, and this Act may be cited together as the "Crown Lands Acts, 1915 to 1928."

(3) The Crown Lands Act, 1915, is hereinafter called "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. Section 5 of the principal Act is amended—

(a) by adding at the end of subdivision II. of paragraph (g) thereof the words "and that all or any of the roads in any town so ceasing to exist shall be closed" :

Amendment of principal Act, s. 5—
Closing of roads when towns abolished or diminished in area.

(b) by adding at the end of subdivision III. of paragraph (g) thereof the words "and that all or any of the roads in any land by which the area of a town is so diminished shall be closed".

4. Section 9 of the principal Act is amended by inserting at the end of paragraph XVII. thereof the words "or if no fees are prescribed

Amendment of principal Act, s. 9—
Power to fix fees in special cases.

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in relation to any matter under this Act, such fees as he fixes for that matter ”.

Amendment of principal Act, s. 18—
Power of Board to determine area to be cleared for improving grazing.

5. Section 18 of the principal Act is amended by striking out in the fourth and fifth lines of paragraph 1. thereof the words “and rendered available for cultivation,” and inserting in lieu thereof the words “so as to render the same available for cultivation or so as to improve the grazing capacity thereof”.

Amendment of principal Act, s. 23—
Consequential amendment.

6. Section 23 of the principal Act is amended by striking out in paragraph (b) thereof the words “and rendered available for cultivation” and inserting in lieu thereof the words “so as to render the same available for cultivation or so as to improve the grazing capacity thereof”.

Amendment of principal Act, s. 25—
Deposits under leases and agreements.

7. Section 25 of the principal Act is amended—

(a) by adding at the end of subsection (1) thereof the following proviso :—“ Provided that if twenty per centum of the said first year’s rent is less than One Pound no amount need be forwarded with the application ”;

(b) by striking out the words “ of the purchase-money of the land and improvements ” at the end of subsection (2) thereof, and inserting in lieu of those words “ payable under the agreement whether of principal, interest, or both ”; and

(c) by adding at the end thereof the following subsection :—

(3) If no rent or instalment of interest or principal is payable for the first four years of the lease or agreement applied for the application shall be accompanied by a deposit equal to the prescribed fee for the lease or agreement.

Amendment of principal Act, s. 31—
Limitation of holdings.

8. Section 31 of the principal Act is amended by inserting after the word “ leases ” in the sixth line thereof the words “ and miscellaneous leases and except lands within the limits of any city or town ”.

Amendment of principal Act, s. 36—
Consequential amendment.

9. Section 36 of the principal Act is amended—

(a) by striking out the words “and render land available for cultivation” in the second line and inserting in lieu thereof the word “land”; and

(b) by adding at the end thereof the following passage :—

Land shall be deemed to have been cleared for cultivation or so as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

10. Section

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10. Section 42 of the principal Act is amended by inserting at the end of paragraph (b) of subsection (1) thereof the following proviso:—

Amendment of principal Act, s. 42—

Provided that if the Commissioner on the recommendation of the Board so approves the covenant for payment of purchase-money and interest may be as follows:—

Alternative provisions in agreements.

- (i.) For the first four years the purchaser shall pay in advance half-yearly instalments of interest only on the purchase-money, but no instalments of principal, and that interest shall be at the following rates:—

For the first year at one-fifth of the full rate of interest provided for in the agreement:

For the second year at one-third of the said full rate:

For the third year at two-thirds of the said full rate:

For the fourth year at the said full rate.

- (ii.) During the subsequent thirty years the purchaser shall pay the purchase-money with interest thereon at the full annual rate provided for in the agreement in sixty equal half-yearly instalments of principal and interest, and the instalments shall be payable in advance.

11. Section 44 of the principal Act is amended—

Amendment of principal Act, s. 44—

- (a) by striking out the words “and render land available for cultivation” in the second line of subsection (2) and inserting in lieu thereof the word “land”:

Consequential amendments.

- (b) by striking out the words “and rendered available for cultivation” in the fifth and sixth lines thereof:

- (c) by striking out the words “three-quarters of the” in the ninth line of subsection (2) thereof and inserting in lieu of those words “the total”:

- (d) by striking out the words “and rendered available for cultivation as so specified” in the ninth and tenth lines of subsection (2).

12. Section 45 of the principal Act is amended—

Amendment of principal Act, s. 45—
Consequential amendment.

- (a) by striking out the words “and render land available for cultivation” in the second line thereof and inserting in lieu thereof the word “land”; and

- (b) by adding at the end thereof the following passage:—

Land shall be deemed to have been cleared for cultivation or so as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

13. Section 48 of the principal Act is amended—

Amendment of principal Act, s. 48.

- (a) by striking out the words “or nine” in the sixth line of subsection (2) thereof;

(b) by

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(b) by inserting after the figures "42" in the seventh line of subsection (2) thereof "section 49"; and

(c) by striking out the words "as the case may be" in the seventh line of subsection (2) thereof.

Amendment of principal Act, s. 49—

Payment of rent and instalments on transfer before tenth year of lease or agreement.

14. Section 49 of the principal Act is amended by inserting after the word "from" in the fifth line of subsection (7) thereof the words "the time of the allotment of the land or any subsequent time not later than the".

Amendment of principal Act, s. 53—

Power to reduce interest.

15. Section 53 of the principal Act (as amended by section 3 of the Crown Lands Act Amendment Act, 1917) is amended—

(a) by inserting therein at the end of subsection (1A) the following passage:—

"and every reduction of rent may be for such period as the Commissioner in each case determines"; and

(b) by inserting therein after subsection (1A) the following subsection:—

(1B) The Commissioner may also in his discretion and for such period as he thinks fit reduce the interest payable under any agreement except an agreement under Part X. of the Crown Lands Act, 1903.

Amendment of principal Act, s. 83.

16. Section 83 of the principal Act is amended by striking out the word "part" in paragraph VIII. thereof and inserting in lieu thereof the word "Act."

Amendment of principal Act, s. 125—
Removal of limitation of value of homestead block.

17. Section 125 of the principal Act is amended by striking out all the words therein after the word "area" in the second line thereof.

Amendment of principal Act, s. 129—
Consequential amendment.

18. Section 129 of the principal Act is amended by striking out all the words therein after the word "land" in the second line.

Amendment of principal Act, s. 132—
Consequential amendment.

19. Section 132 of the principal Act is amended by inserting after the word "transferee" in the penultimate line thereof, the words "or blockholder".

Amendment of principal Act, s. 177—
Covenant to clear in case of closer settlement agreements.

20. Section 177 of the principal Act is amended by inserting after the word "thereon" in the fourth line of paragraph VI. the words "the area to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof".

Amendment of principal Act, s. 179—
Time within which completion of purchase permitted under closer settlement agreement.

21. Section 179 of the principal Act is amended by striking out the word "nine" in the second line of paragraph (a) of subdivision I. of subsection (1) thereof, and inserting in lieu of that word "six".

22. (1) Section

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22. (1) Section 179 of the principal Act is further amended by adding after paragraph II. of subsection (1) thereof the following paragraph :—

Amendment of principal Act, s. 179—
Covenant to clear in closer settlement agreements.

III. To clear so as to render available for cultivation or so as to improve the grazing capacity thereof, the area specified in that behalf in the notice in the *Government Gazette* declaring that the blocks are open to be purchased. Any money spent on clearing land under this paragraph shall be deemed to be money spent on substantial improvements within the meaning of the last preceding paragraph.

(2) Section 179 of the principal Act is further amended by adding after subsection (2) thereof the following subsections :—

(3) In filling up the blank spaces in the form of the covenant in the Ninth Schedule which binds the purchaser to clear land so as to render the same available for cultivation or so as to improve the grazing capacity thereof, the following directions shall be followed :—In the first, second, and third spaces there shall be inserted an area equal to one-eighth of the area so specified in the notice in the *Government Gazette*, and in the fourth space an area equal to the full area so specified.

(4) The Commissioner shall determine whether the said covenant to clear has been complied with in any case, and if his decision is disputed by the purchaser the matter shall be determined by arbitration in manner provided by section 292. Land shall be deemed to have been cleared for cultivation or so as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

23. Part X. of the principal Act is amended by inserting therein after section 188 the following section :—

New section 188a—

188A. (1) The lessee of any miscellaneous lease of repurchased land may, having fulfilled all the covenants and conditions contained in his lease, apply in writing to surrender such lease and obtain in lieu thereof an agreement under Part X. of this Act at a price to be fixed by the Board, and approved by the Commissioner.

Power to surrender miscellaneous lease for agreement.

(2) The provisions of section 213, *mutatis mutandis*, shall apply to and in respect of the said application and surrender.

24. Section 191 of the principal Act is amended by adding at the end thereof the following proviso :—

Amendment of principal Act, s. 191.

Provided that this section shall not apply as regards cutting, injuring, or destroying any growing timber in accordance with any covenant which is contained in an agreement and requires the purchaser to clear any land.

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New sections 209A,
209B—

25. Part XI. of the principal Act is amended by inserting therein after section 209 the following sections:—

Power to surrender
agreement.

209A. The purchaser under any agreement may surrender his agreement in the same manner and subject to the same provisions as are set forth in section 208 with reference to the surrender of a lease.

Surrender of
agreement for new
agreements.

209B. (1) The purchaser under an agreement may surrender his agreement, and the Governor may grant an agreement or agreements of the land comprised in the surrendered agreement to the person or persons nominated in that behalf by the purchaser surrendering: Provided that the transfers to the person or persons nominated have been approved in the usual manner.

(2) If one new agreement is granted in lieu of the surrendered agreement it shall be granted for the unexpired period of the term of the surrendered agreement and for the balance unpaid of the purchase-money thereof, but in other respects shall be subject to the same terms and conditions as the agreement surrendered.

If more than one new agreement is granted in lieu of the surrendered agreement each such agreement shall be granted for the unexpired period of the term of the surrendered agreement and the balance unpaid of the purchase-money mentioned in the original agreement shall be apportioned between each of the new agreements by the Commissioner on the recommendation of the Board. In other respects each such agreement shall be subject to the same terms and conditions as the agreement surrendered.

Amendment of
principal Act, s. 213.

26. Section 213 of the principal Act is amended—

(a) by striking out the word “posting” in the first line of subsection (3) and inserting in lieu thereof the word “giving”:

(b) by striking out the proviso to subsection (4) thereof.

New section 213A—

27. Part XI. of the principal Act is amended by inserting therein after section 213 the following section:—

Power for lessee to
purchase leased
land.

213A. (1) The lessee under any Crown lease granted under any of the Crown Lands Acts, except a lease of Agricultural College endowed lands, may apply in writing to surrender his lease and purchase the fee simple thereof: Provided that this section shall apply only to any lease of land which—

I. is solely used for pastoral or agricultural purposes or both ;
or

II. in the opinion of the Commissioner will not be required for subdivision or for public purposes.

(2) Upon

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(2) Upon an application being made under this section the Board shall, subject to the approval of the Commissioner, fix the sum at which the fee simple of the land may be purchased and shall give notice thereof in writing to the applicant.

(3) The applicant shall, within three months after the giving of the notice under subsection (2) of this section, notify the Commissioner whether he accepts or refuses the terms offered. If he accepts, and if within one month after the Commissioner receives notice of his acceptance he surrenders his lease and pays the purchase-money and all proper fees he shall be entitled to receive a Land Grant for the land: Provided that the Commissioner may extend the time for surrender and payment.

(4) No lessee shall be entitled to purchase any land under this section until after the expiration of six years from the time when that land was originally leased to him or to his predecessor in title, nor unless the Commissioner is satisfied either that all the conditions of the lease have been fulfilled, or that the lessee has made such permanent improvements on the land that strict compliance with the conditions of the lease should be dispensed with.

(5) No person shall be entitled under this section to purchase the fee simple of any land of greater value than the maximum amount of land which could lawfully be included in an agreement granted to such person and to which section 221 of this Act applies.

28. Section 222 of the principal Act is amended so as to read as follows :—

Amendment of
principal Act,
s. 222—

222. (1) The purchaser under any agreement (except an agreement under Part X. of the Crown Lands Act, 1903, or Part X. of this Act) may apply in writing to surrender his agreement for a perpetual lease of the land comprised therein.

Surrender of
agreement for lease.

(2) Upon an application being made under this section the Board, subject to the approval of the Commissioner, shall fix the annual rent at which the perpetual lease may be obtained, and in fixing the rent shall take into consideration any amount of purchase price paid on or before the surrender.

(3) The provisions of subsections (2), (3), and (4) of section 213, *mutatis mutandis*, shall apply to and in respect of such application and surrender.

29. Section 225 of the principal Act is amended by inserting therein after the word "surrendered" in the first line thereof the words "wholly or partially".

Amendment of
principal Act, s. 225.

30. Section 227 of the principal Act is amended—

Amendment of
principal Act, s. 227

(a) by inserting after the word "act" in the second line of paragraph II. of subsection (1) thereof the words "or transfers by the trustees of a settlement to the *cestuis que trustent* thereunder";

(b) by

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(b) by striking out the word "Five" in the fifth line of subsection (2) thereof and inserting in lieu thereof the word "Seven".

(c) by inserting at the end of subsection (2) the following passage:—

If at the time when the application for consent is being dealt with by the Board the proposed transferee or sublessee does not hold any land and is not entitled to any land under a transfer or sublease to which the Minister has given his consent, the Board may recommend and the Minister may give his consent to the transfer or subletting although the unimproved value of the fee simple of the land proposed to be transferred or sublet exceeds the said amount.

(d) by inserting after paragraph III. of subsection (1) the following paragraph:—

IIIA. If any person places before the Commissioner or the Board any objection to the granting of an application, the Board shall give the objector an opportunity of attending personally before the Board to substantiate his objection. The Board shall not uphold any such objection unless it has first given the applicant and the intended transferee or sublessee an opportunity of answering the objection either in writing or by appearing personally before the Board.

(e) by striking out the words "city, town, or suburban" in the second line of subsection (3) thereof and inserting after the word "lands" in the said line the words "within the limits of any city or town";

(f) by inserting after the word "under" in the fourth line of subsection (3) thereof the words "any miscellaneous lease or";

(g) by inserting after subsection (4) the following subsection:—

(4A) Notwithstanding anything in this section the Board may also recommend and the Commissioner consent to the transfer or subletting of any land if owing to special circumstances it is in the opinion of the Board and the Commissioner just and reasonable that such transfer or subletting should be permitted.

(h) by striking out paragraph II. of subsection (6) thereof; and

(i) by inserting after the word "section" in the first line of subsection (7) thereof the words "other than subsections (1) and (5)";

(j) by inserting at the end thereof the following subsection:—

(8) The Commissioner shall not capriciously withhold his consent to any proposed transfer or subletting.

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31. Section 258 of the principal Act is amended by inserting after subsection (3) thereof the following subsection :—

Amendment of principal Act, s. 258—

(4) If no bid is obtained at public auction or no tender received for any cattle offered for sale those cattle may be destroyed by any Crown Lands Ranger authorised by the Commissioner to do so.

Destruction of unbranded wild cattle on Crown lands.

32. Section 263 of the principal Act is amended—

Amendment of principal Act, s. 263—

(a) by striking out the words “ by proclamation ” in the first line thereof :

Resumption of land set apart for town site.

(b) by inserting after the words “ fee simple ” in the second line of paragraph (a) of subsection (1) thereof the words “ all or any of ” :

(c) by inserting after the word “ cancel ” in the second line of paragraph (b) of subsection (1) thereof the words “ wholly or partially ”.

(d) by inserting after the word “ proclamation ” in the second line of paragraph (b) of subsection (1) thereof the words “ (if any) ” :

33. Section 265 of the principal Act is amended by inserting at the end of paragraph (a) of subsection (3) thereof the words “ unless the surrendered lease or agreement in lieu of which the lease or agreement first mentioned was granted, contained the condition mentioned in subsection (1) of this section, or unless that surrendered lease was a miscellaneous lease ”.

Amendment of principal Act, s. 265—

Provisions as to preservation of timber.

34. Section 278 of the principal Act is amended by inserting after the word “ Acts ” in the fifth line thereof the words “ or the Pastoral Act, 1904, or any Act substituted therefor or incorporated therewith ”.

Amendment of principal Act, s. 278

35. The Third Schedule of the principal Act is amended—

Amendment of principal Act, Third Schedule.

(a) by striking out the words “ and render available for cultivation ” in paragraph III. of clause 2 thereof and inserting in lieu thereof the words “ so as to render available for cultivation or so as to improve the grazing capacity thereof ” :

(b) by inserting after paragraph VI. of the said clause 2 the following paragraph :—

VII. Erect brush fence or suffer or permit the same to be erected or to remain on the land.

36. The Fourth Schedule to the principal Act is amended—

Amendment of principal Act, Fourth Schedule.

(a) by inserting at the end of clause 2 (1) thereof the words “ and during the term of the lease maintain such fence or wall in good and substantial repair ” :

(b) by

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(b) by striking out clause 2 (III.) thereof and inserting in lieu thereof the following:—

2. (III.) Covenant to clear.—The lessee will during the first two years clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than one-eighth of the area specified in that behalf in the lease, and will during the second two years clear as aforesaid not less than one-eighth of the area so specified, and will during each succeeding year clear as aforesaid not less than one-eighth of the area so specified until the whole of the area so specified has been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.

Amendment of
principal Act, Fifth
Schedule.

37. The Fifth Schedule to the principal Act is amended—

(a) by striking out clause 6 thereof and inserting in lieu thereof the following clause:—

6. The purchaser will during the first two years from the date of this agreement clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than acres of the said land and will during the second two years clear as aforesaid not less than acres of the said land and will during each succeeding year clear as aforesaid not less than acres of the said land until acres of the said land have been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.

(b) by striking out clause 10 thereof and inserting in lieu thereof the following clause:—

10. The vendor reserves unto himself and all persons and bodies authorised by him full right and liberty without any payment to the purchaser by way of compensation from time to time and at all times hereafter with or without beasts of draught or burden or any vehicles whatever to enter into and upon the said land for the purpose of laying pipes or a pipe track in, along, over, or under the said land, and to view the condition of and to cleanse, relay, repair, and maintain the said pipes or pipe track, and to allow water to be in and to flow through the said pipes or pipe track, and to construct drains and pipe tracks, and to lay pipes where required in, along, over, or under the said land, and to view the condition of and cleanse, relay, repair, and maintain the said drains and pipe tracks and pipes, and to allow water to be in and to flow through the said drains, pipe tracks, and pipes.

38. The

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38. The Ninth Schedule to the principal Act is amended—

Amendment of
principal Act, Ninth
Schedule.

- (a) by striking out the word “nine” in the seventh line of clause 2 thereof and inserting in lieu thereof “six”;
- (b) by inserting therein after clause 7 the following new clause:—

7A. The purchaser will during the first two years from the date of this agreement clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than acres of the said land and will during the second two years clear as aforesaid not less than acres of the said land and will during each succeeding year clear as aforesaid not less than acres of the said land until acres of the said land have been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.

- (c) by striking out clause 11 thereof and inserting in lieu thereof the following clause:—

11. The vendor reserves unto himself and all persons and bodies authorised by him full right and liberty without any payment to the purchaser by way of compensation from time to time and at all times hereafter, with or without beasts of draught or burden or any vehicles whatever to enter into and upon the said land for the purpose of laying pipes or a pipe track in, along, over or under the said land, and to view the condition of and to cleanse, relay, repair, and maintain the said pipes or pipe track, and to allow water to be in and to flow through the said pipes or pipe track, and to construct drains and pipe tracks, and to lay pipes where required in, along, over or under the said land, and to view the condition of and cleanse, relay, repair, and maintain the said drains and pipe tracks and pipes, and to allow water to be in and to flow through the said drains, pipe tracks, and pipes.

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

G. J. R. MURRAY, Deputy Governor.