



ANNO OCTAVO

GEORGI VI REGIS.

A.D. 1944.

No. 29 of 1944.

An Act to amend the Pastoral Act, 1936-1939.

[Assented to 14th December, 1944.]

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, 1944". Short titles.
- (2) The Pastoral Act, 1936-1939, as amended by this Act, may be cited as the "Pastoral Act, 1936-1944".
- (3) The Pastoral Act, 1936-1939, is hereinafter called "the principal Act".
2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.
3. Section 34 of the principal Act is amended by striking out the word "application" in the second line and inserting in lieu thereof the word "publication". Amendment of s. 34 (1) of principal Act—
Execution of leases.
4. Section 39 of the principal Act is amended by adding after the word "additions" in the fourth line thereof the words "required or permitted by any other provision of this Act or". Amendment of s. 39 of principal Act—
Form and conditions of lease.
5. Section 42a of the principal Act is amended by inserting after the words "Pastoral Act, 1904" in the fifth line the words "or any Act relating to Crown lands". Amendment of s. 42a of the principal Act—
Term of leases of previously unoccupied land.
6. The following sections are enacted and inserted in the principal Act after section 42a thereof :— Enactment of ss. 42b and 42c of principal Act—

Leases on
special terms
and conditions.

42b. If—

- (a) upon the expiry of a lease the Commissioner has permitted the land comprised therein to remain unoccupied for a period with the object of restoring or improving the vegetation thereon; and
- (b) the board recommends that it is expedient, in order to conserve the vegetation on the land that it should be leased for a term or on covenants and conditions different from those prescribed by the other provisions of this Act,

the Governor may, on the recommendation of the board, grant a lease of the land for such term not exceeding forty-two years and containing such covenants and conditions, whether complying with the other provisions of this Act or not, as the Commissioner approves on the recommendation of the board.

Power to add
small areas to
leases.

42c. (1) Where any parcel of land the area of which does not exceed that prescribed in subsection (7) of this section, is adjacent to land comprised in any lease the Commissioner, on the recommendation of the board, may—

- (a) allot the said parcel of land to the lessee of the land comprised in the lease on such terms as are recommended by the board and accepted by the lessee; and
- (b) by a certificate of alteration alter the lease so as to include the said parcel of land therein and make any consequential alteration of or addition to the covenants and conditions of the lease.

(2) It shall not be necessary by notice in the *Gazette* or otherwise to invite applications for any such parcel of land.

(3) Every certificate of alteration under this section shall be signed by the Commissioner.

(4) The Commissioner shall forward the certificate of alteration, together with the Land Office copy of the lease and the lessee's copy (if produced to the Commissioner) to the Registrar-General. The Registrar-General shall register the certificate of alteration in the Lands Titles Office and assign a number thereto and shall enter a memorial thereof on the copy of the lease in the Register of Crown Leases and on the other copies forwarded to him and shall return those other copies to the Commissioner.

(5) The land included in a lease pursuant to a certificate of alteration shall be subject to the mortgages, encum-

brances, sub-leases, or other interests to which the other land comprised in the lease is subject, unless the certificate otherwise provides. The Commissioner shall on the request of the lessee include in the certificate of alteration a statement that the land to which it relates is not subject to any mortgage, encumbrance, sub-lease or other interest specified in the certificate.

(6) For the purpose of this section land shall be deemed to be adjacent to any other land if it abuts on that other land or is separated therefrom only by a road or travelling-stock reserve.

(7) This section shall apply only to—

- (a) any parcel of land which does not exceed two square miles in area and which is within district A as defined in the second schedule to this Act ;
- (b) any parcel of land which does not exceed ten square miles in area and which is within district B as defined in the second schedule to this Act ;
- (c) any parcel of land which does not exceed fifty square miles in area and which is south of the twenty-sixth parallel of south latitude and is not included in district A or district B above-mentioned.

7. The following section is enacted and inserted in the principal Act after section 48 thereof :—

Enactment of
s. 48a of the
principal Act—

48a. The Commissioner may on the recommendation of the Board—

Power to waive
conditions and
covenants.

- (a) exempt any lessee from the obligation to comply in whole or part with any condition or covenant of his lease or any provision of any such condition or covenant :
- (b) waive any right or remedy arising from the breach of any such condition, covenant or provision :
- (c) impose conditions on any exemption or waiver granted under this section :
- (d) revoke any exemption or waiver upon breach of any condition imposed on the grant thereof.

8. Section 51 of the principal Act is repealed and the following section is enacted and substituted in lieu thereof :—

Repeal and
re-enactment
of s. 51 of the
principal Act—

Re-letting
of lands.

51. (1) Before re-offering land previously held under lease the Commissioner shall obtain reports on the following questions :—

- (a) whether the land or any part of it is suitable for subdivision into smaller holdings for grazing or cultivation ;
- (b) whether it is desirable that the land or any part of it should remain unoccupied for a period so as to restore or improve the vegetation thereon ;
- (c) whether it is desirable that the land or any part thereof should be allotted under any other Act.

(2) If after considering the reports so obtained, with respect to any land, the Commissioner, on the recommendation of the board, decides that the land is not suitable for subdivision and that it is not desirable to leave it unoccupied or to allot it under any other Act, the land shall be re-let under this Act.

Repeal and
re-enactment of
s. 57 of
principal Act—

Appeal.

9. Section 57 of the principal Act is repealed and the following section is enacted and inserted in lieu thereof :—

57. (1) Any lessee may within three months after service upon him of a notice of revaluation as provided in section 53 or 56, by notice in writing, request that the rent fixed on that revaluation be reconsidered ; and thereupon the Commissioner and the board shall reconsider the matter and the board, subject to the approval of the Commissioner, shall fix the rent, and give the lessee notice in writing of its decision.

(2) If the lessee is dissatisfied with the rent as so fixed, he may within three months after receiving notice of the board's decision give the Commissioner notice that he requires the rent to be fixed by arbitrators and thereupon the matter shall be decided by arbitrators under the Arbitration Act, 1891-1934, one arbitrator being appointed by the Commissioner and one by the lessee.

Amendment of
s. 62 of
principal Act—
Valuation of
improvements.

10. Section 62 of the principal Act is amended by striking out the words " Within twelve months " in the first line and inserting in lieu thereof " During the period of fifteen months ending on the last day of the tenth month ".

Amendment of
s. 64 of
principal Act—
Valuation by
arbitration.

11. Section 64 of the principal Act is amended by striking out the words " within nine months " in the second line and inserting in lieu thereof the words " before the commencement of the ninth month ".

12. Section 66 of the principal Act is amended by striking out the word "within" after the word "lease" in the first line of subsection (2) and inserting in lieu thereof the words "either under this Act or the Crown Lands Act, 1929-1941, before the end of".

Amendment of
s. 66 of
principal Act—
Payment for
improvements.

13. Section 70 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of
s. 70 of the
principal Act—
Payment for
Crown
improvements.

(3) Where the improvements belong to the Crown, and the Commissioner, on the recommendation of the board, decides that the purchase-money payable by the lessee for those improvements is too high, having regard to any restrictions on the number of stock which may be depastured on the land comprised in the lease or to any other relevant circumstances, the Commissioner may—

- (a) reduce the amount of the purchase-money ;
- (b) postpone the time for the payment of any instalments ;
- (c) make any other concessions in relation to the purchase-money which he thinks proper.

14. Section 81 of the principal Act is amended by striking out subsection (5) thereof and inserting in lieu thereof the following subsection :—

Amendment of
s. 81 (5) of
principal Act—
Resumption.

(5) If any land resumed under this section is at any time not required for a purpose specified in this section, the lessee or his successor in title to the lease from which the land was resumed shall have the first right to a lease thereof upon the same covenants and conditions as those on which the land was held at the time of resumption, for the balance of the term named in the lease first mentioned, upon repayment by the lessee of the compensation received by him for the resumption, or such part thereof (if any) as the Commissioner on the recommendation of the board deems just.

15. Section 86 of the principal Act is repealed.

Repeal of
s. 86 of
principal Act—
Consequential
repeal.

16. Section 95 of the principal Act is amended by adding at the end of subsection (1) thereof the following passage :—

Amendment of
s. 95 of
principal Act—
Leases of
contiguous
blocks.

In this subsection the average date of expiry of any leases shall be the date fixed by the board ; and in fixing

such average date the board shall take into account the areas comprised in the respective leases, as well as the unexpired periods of the terms of the leases.

Amendment of
s. 96 of
Principal Act—

Occupation by
outgoing
lessee.

17. Section 96 of the principal Act is amended—

- (a) by inserting after the word “thereof” in the fourth line the words “and the Commissioner has determined that it is not necessary that the land should remain unoccupied as mentioned in section 51 of this Act”;
- (b) by striking out the words “the rental at which the land was last offered for lease” at the end of subsection (1) and inserting in lieu thereof the words “a rent at the same annual rate as that payable during the last year of the term of the expired lease”.

Amendment of
s. 137 of
the principal
Act—

18. (1) Subsection (1) of section 137 of the principal Act is repealed and the following subsections are enacted and substituted in lieu thereof:—

Power of
Commissioner
to alter
boundaries.

137. (1) In this section “boundary” includes any part of a boundary.

(1a) If the Commissioner is of opinion that the boundary of the land comprised in any lease cannot conveniently be fenced, or is otherwise inconvenient, he may, on the recommendation of the board, and with the consents prescribed by this section, alter that boundary.

(1b) A boundary shall not be altered under this section except with the consent of—

- (a) every lessee (whether of land under this Act or the Crown Lands Act, 1929-1941), the area of whose holding will be altered;
- (b) every other person who has an interest in any land, the area of which will be diminished by the proposed alteration.

(1c) This section shall not authorize the Commissioner to alter the boundary of any land which abuts on land held for an estate of freehold by any person other than the Crown.

(2) Subsection (4) of section 137 is amended by adding at the end thereof the following provision :—

Where the boundary of one lease only is altered the lessee shall be liable to pay to the Commissioner half of the said fees.

19. Section 139 of the principal Act is repealed.

Amendment of
s. 139 of
principal Act—
Gates.

20. (1) Section 141 of the principal Act is amended by striking out the figures “ 100 ” at the end and inserting in lieu thereof “ 99 ”.

Amendment of
ss. 141, 142,
and 146 of
principal Act—
Drafting and
consequential
amendments.

(2) Section 142 of the principal Act is amended by striking out the word “ third ” in the last line of subsection (1) and inserting in lieu thereof the word “ first ”.

(3) Section 146 of the principal Act is amended by striking out in paragraph III. thereof the words “ Secretary for Lands, the Assistant Secretary for Lands ” and inserting in lieu thereof “ Director of Lands ” and by inserting after the words “ Surveyor-General ” the words “ or Deputy Surveyor-General ”.

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

J. M. NAPIER, Lieutenant-Governor.