



ANNO QUADRAGESIMO SEPTIMO ET QUADRAGESIMO  
OCTAVO

# VICTORIÆ REGINÆ.

A.D. 1884.

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## No. 318.

An Act to amend the Law relating to Crown Lands.

[*Assented to, November 14th, 1884.*]

**W**HEREAS it is desirable to amend the law relating to Crown lands—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows: Preamble.

**1.** This Act may be cited as “The Agricultural Crown Lands Amendment Act, 1884,” and, except so far as inconsistent therewith, shall be incorporated and read with the Crown Lands Acts. Short title and incorporation.

**2.** In the construction and for the purposes of this Act, unless inconsistent with the context— Interpretation.

The term “Crown Lands Acts” shall mean the “Crown Lands Consolidation Act” and all subsequent Acts amending the same:

The term “selector” shall mean any person now or hereafter holding land under any agreement for purchase upon credit under any Crown Lands Act:

The term “selection” shall mean the land held under any such agreement as aforesaid:

The term “scrub lessee” shall mean any person now or hereafter holding land under any lease granted pursuant to section 58 of the “Crown Lands Consolidation Act,” and section

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section 20 of "The Crown Lands Amendment Act, 1882," or either of them, or under Part II. of this Act :

The term "scrub land" shall mean the land held under any such lease as aforesaid :

The term "lands reserved for leasing" shall mean all Crown lands situated within the boundaries described in the Schedule hereto.

Division of Act.

**3.** This Act is divided into four parts, as under—

PART I.—Relating to Selectors :

PART II.—Relating to Scrub Lessees :

PART III.—Relating to Leases and Renewals of Leases :

PART IV.—Miscellaneous.

PART I.

PART I.

RELATING TO SELECTORS.

Remission of past interest payments.

**4.** All interest paid or payable by any selector in respect of the purchase of his selection for any period since the first day of January, one thousand eight hundred and seventy-nine, excepting only the Ten Pounds per centum first instalment, is hereby remitted, and all such interest paid shall be credited against the purchase-money of such selection: Provided that every selector claiming the benefit of this section shall surrender his agreement in exchange for a new agreement under section 7.

Future selections.

**5.** All purchases upon credit of Crown lands made hereafter, pursuant to any Crown Lands Act, and whether upon the condition of personal or substituted residence, shall be made upon the terms, as regards payment of purchase-money and otherwise, contained in sections 11, 12, and 13 of "The Crown Lands Amendment Act, 1882."

Surrender of existing agreements.

**6.** Any selector may, in manner to be provided by regulation at any time before the first day of March, one thousand eight hundred and eighty-five, surrender his agreement for purchase of his selection in exchange for a new agreement for purchase thereof, with the benefit of the terms, as regards payment of purchase-money and otherwise, contained in sections 11, 12, and 13 of "The Crown Lands Amendment Act, 1882": Provided that such selector shall have paid all interest accruing in respect of the purchase of such selection under the agreement surrendered up to the first day of January, one thousand eight hundred and seventy-nine, and in all other respects shall have complied with such agreement to the satisfaction of the Commissioner.

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7. The new agreement shall bear date the day of such surrender, and the purchase-money payable thereunder shall be the purchase-money fixed by the surrendered agreement, less all sums paid by the selector on account thereof, or which it is provided shall be credited against such purchase-money, and such new agreement shall provide for the payment of the purchase-money in manner following—that is to say, ten per cent. at the date of such new agreement, ten per cent. three years from such date, and at the expiry of every year thereafter an amount equal to five per cent. of the purchase-money, until the whole shall have been paid; and as if the selection had been purchased by the selector on the date of such new agreement; and such new agreement shall otherwise contain the terms on which the selection shall have been held prior to surrender, except that, if the selector so desires at the time of surrendering, the conditions of personal residence may be inserted therein, instead of the conditions of substituted residence.

Terms of new agreement.

8. The surrendered agreement shall continue binding upon the surrendering selector until he shall have entered into the new agreement for the purchase of his selection, but afterwards the selector shall be exempt from all liability under the surrendered agreement.

Cesser of surrendered agreement.

9. No mortgaged selection shall be surrendered under this Act unless the written consent of the mortgagee to the proposed surrender shall first be obtained, and unless the mortgagee shall otherwise direct, the selection under the new agreement shall be subject to the mortgage, and such mortgage shall be noted thereon in the Crown Lands Office in like manner as if the selection had been held under such new agreement when the selection was mortgaged.

Surrender of mortgaged selection.

10. Any selection held under any new agreement entered into in lieu of any surrendered agreement under this Act, or any Crown Lands Act, may be mortgaged subject to the provisions of the Mortgage of Selections Act, after the lapse of two and a half years from the date of the surrendered agreement, although the selector may not have complied with all the provisions of his agreement for a period of at least two and a half years from the date thereof, as required by the said Act; and no mortgage to which the written approval of the Commissioner has heretofore in fact been had and obtained shall be deemed invalid or be called in question by reason only that the mortgaging selector had not complied with such provisions for such period.

Mortgage of new agreement.

11. Any selector who shall plant and keep planted, in conformity with any regulation to be made on the subject, not less than one-fifth of his selection with wattles or wattles and cereals, shall be deemed to have complied with the conditions of his agreement so far as relates to cultivation.

Wattle planting.

12. Any selector who may have entered or shall hereafter enter into

Time for completion by substituted residence selectors.

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into any agreement for the purchase of a selection upon the condition of substituted residence, may complete such purchase at the end of ten years from the date of such agreement.

Lands to be first opened to personal residents.

**13.** No Crown lands shall hereafter be open for purchase upon credit upon the condition of substituted residence until after the same shall have been open for purchase upon credit upon the condition of personal residence for at least three calendar months.

## PART II.

## PART II.

## RELATING TO SCRUB LESSEES.

Remission of rent.

**14.** All rent (except the first instalment) paid or payable under any existing scrub lease for any period since the first day of January, one thousand eight hundred and seventy-nine, shall be credited against the money payable under the lease for purchase of the land: Provided that every scrub lessee claiming the benefit of this section shall, before the first day of March, one thousand eight hundred and eighty-five, surrender his lease in exchange for a new lease, pursuant to the next section.

Mode of surrender.

**15.** Every scrub lessee may, in manner to be provided by regulation, at any time before the first day of March, one thousand eight hundred and eighty-five, surrender his lease in exchange for a new lease, which shall bear the date of such surrender and contain the same terms as the original lease, except that the purchase-money shall be reduced by the amount of all payments of rent already made, which it is provided shall be credited against such purchase-money; and it shall also be provided that future payments of rent shall be credited against purchase-money, and such lease shall contain a condition of personal residence similar to the condition of personal residence in selectors' agreements.

Scrub leases to be first opened to personal residents.

**16.** Scrub lands shall hereafter be open for leasing on the same terms as heretofore, with the addition, in the first instance, in every lease of a provision that all payments of rent shall be credited against purchase-money, and of a condition of personal residence similar to the condition of personal residence in selectors' agreements.

Scrub lands afterwards to be opened to substituted residents.

**17.** Scrub lands which may have been open for leasing on the terms mentioned in the last section for at least three calendar months may afterwards be opened for leasing on the same terms as heretofore without any addition.

Remission of clearing condition.

**18.** The Commissioner may, by any writing, wholly or partially remit the provisions for clearing contained in any scrub lease, and the Commissioner shall cause a return of all such remissions, with the reason therefor, to be annually laid before Parliament within

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one month after the opening of Parliament for the dispatch of business.

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**19.** If any scrub lessee shall hold scrub lands under more than one scrub lease, and such lands shall be contiguous, the covenants contained in any such lease shall be deemed to be sufficiently performed if performed in respect to land not included in such lease but contiguous thereto, and included in any other of such leases to an extent which would have been a sufficient performance of the covenant if such contiguous lands had all been included in such lease.

Provision as to adjoining leases.

**20.** Personal residence on any land situated within ten miles of any scrub lands shall be considered personal residence on such scrub lands for all the purposes of any condition of residence affecting such scrub lands.

Performance of residence condition.

## PART III.

PART III.

## LEASES AND RENEWALS OF LEASES.

**21.** Any selector may, in manner to be provided by regulation, surrender his agreement in exchange for a lease of the same land.

Persons entitled to leases.

And any person who, under any Crown Lands Act, has surrendered any selection which has not since been sold may, in like manner, obtain a lease of the land so surrendered.

**22.** Every such lease shall be for a term of twenty-one years, computing from the date of such lease being granted, at such rent, not being less than Twopence per acre, as shall be fixed by the Commissioner by valuation of the land, exclusive of the improvements thereon, with a right of renewal for a further term of twenty-one years, commencing from the expiration of the original lease, at an annual rent not less than the original rent, to be fixed by valuation of the land exclusive of the improvements thereon.

Rent and right of renewal.

**23.** The lessee shall have the right to transfer any such lease, and upon such transfer the transferee shall hold the same under the same conditions as the transferor; but no person shall hold under transfer, or under lease and transfer combined, more in the aggregate than three thousand acres, except in such hundreds, or parts of hundreds, as may be from time to time proclaimed by the Governor, when the aggregate may be extended to five thousand acres; and residence, whether personal or substituted, as the case may be, on any portion of the land in any one or more of such leases shall be considered residence on the land comprised in the whole of such leases.

Power to transfer.

**24.** No Crown lands reserved for leasing shall hereafter be sold, except as town or suburban lands.

Reserved lands not to be sold.

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Leases to be sold by auction.

**25.** The Commissioner shall cause all lands reserved for leasing to be surveyed, and leases thereof to be offered for sale by auction at an upset annual rental to be fixed by the Commissioner according to the quality of the land and the value of the improvements thereon.

Lands benefited by public works.

**26.** As to any lands reserved for leasing which, in the opinion of the Commissioner, may probably be beneficially affected by any works to be carried out at the public cost, the term of the lease shall be for seven years with a right of renewal for a further term of seven years, commencing from the expiration of the original lease, at an annual rent to be fixed by the Commissioner by valuation having particular reference to any increase in the value of the land by reason of any works carried out at the public cost.

Classification of reserved lands.

**27.** All lands reserved for leasing, except those referred to in section 26 shall be classified into two classes, according to the quality of the land, and the leases thereof to be offered for sale shall be for a term of fourteen years with a right of renewal for a further term of fourteen years, commencing from the expiration of the original lease, at an annual rent to be fixed by the Commissioner in the same manner as the rent under the original lease shall have been fixed.

Conditions of leases.

**28.** The rent reserved by every lease granted pursuant to this Act shall be paid annually in advance, and every such lease shall bind the tenant to fence the land leased within two years from the date of such lease, and to personally reside on such land for nine months at the least in every year of the term; and every such lease shall also contain such right of re-entry and such terms and conditions, not inconsistent with the provisions of this Act, as the Commissioner may see fit to require.

Resumption of leased lands.

**29.** Provision shall be made in every such lease enabling the Governor to resume, for public purposes, the whole, or from time to time any portion, of the land leased, provided that at least six calendar months' notice of intended resumption shall be given to the tenant by publication in the *Government Gazette*, and that within three calendar months after resumption the tenant shall be paid compensation for the loss which he shall sustain thereby, in an amount to be fixed by valuation.

Conditions of renewed lease.

**30.** Every such renewed lease shall contain the same terms and conditions, so far as applicable, as the original lease, excepting only that it shall not confer any right of renewal.

Mode of exercising right of renewal.

**31.** Every tenant desiring to exercise any right of renewal conferred by this Act, must, not less than three months nor more than six months before the expiration of the original lease, give written notice to the Commissioner of such desire, and must execute the renewed lease within a time to be fixed by the Commissioner for the purpose by notice published in the *Government Gazette*.

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**32.** Every tenant who shall fail to give such notice, or to execute such renewed lease as herein provided, or to perform and observe the terms and conditions of the original lease to the satisfaction of the Commissioner, shall forfeit his right of renewal. And the Commissioner shall cause all improvements made by the tenant, with the consent of the Commissioner, on the land during the term of the lease to be valued, and shall cause a lease similar to that in respect of which the tenant forfeited his right of renewal to be offered for sale by auction at a premium of not less than three-fourths of the value of such improvements, to be paid in cash by the purchaser to the Commissioner, and afterwards to be paid by the Commissioner to the outgoing tenant. And every tenant, at the expiration of any renewal of any lease granted under this Act, shall be entitled to be paid by the Commissioner three-fourths of the value of any improvements made by the tenant with the consent of the Commissioner on the land during the original or renewed term of the lease, such value to be fixed by valuation.

Proceedings on  
failure to renew.

**33.** If any person entitled to a lease of unsold surrendered land, under section 21 of this Act, shall, for six months after the passing of this Act, neglect to take such lease, the Commissioner shall cause such lease to be offered for sale by auction at a premium of not less than three-fourths of the value of the improvements made on such land by such person, to be paid in cash by the purchaser to the Commissioner, and afterwards to be paid by the Commissioner to the person so, as aforesaid, entitled to a lease of the land.

Proceedings on  
failure to lease.

**34.** No lease of any lands reserved for leasing shall include more than three thousand acres of land of the second class, nor more than one thousand acres of any other such land; and no person shall, at the same time, hold more than three thousand acres of second-class lands, and one thousand acres of other lands reserved for leasing; but residence on any land situated within the Schedule to this Act or within ten miles of any second-class land, shall be considered residence on such second-class land for all the purposes of any condition of residence affecting such second-class land. And the Commissioner shall have the power to waive the condition contained in any lease of first-class land enforcing personal residence, if the tenant shall be a credit selector residing upon his selection, within the limits of the said Schedule; and where the total area held by such credit selector of land purchased under agreement, and land taken upon lease, shall not exceed in all one thousand acres.

Area of leases.

**35.** Every lease of any lands reserved for leasing which shall have been offered for sale by auction, and shall not have been sold, may be taken up at the upset price by any person on the terms on which such lease was offered for sale, on application to be made in manner to be provided by regulation to be made under this Act; and if not so taken up within such time as shall be prescribed by regulation, leases of such lands may be offered for sale by auction at such reduced rent as the Commissioner shall fix from time to time.

Leasing by private  
contract.

PART

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## PART IV.

## PART IV.

## MISCELLANEOUS.

## Valuations.

**36.** All valuations provided for this by Act shall be made by some person to be appointed by the Governor, and the amount thereof shall be subject to approval by the Governor.

## Extension of power of Commissioner.

**37.** The power conferred by section 37 of the "Crown Lands Consolidation Act" on the Commissioner, enabling him in certain cases to authorise the receipt of overdue purchase-money and interest is hereby extended to all cases of overdue purchase-money, interest, or rent, and in whatever Act or by whatever mode the time for payment thereof shall be fixed.

## Further extension.

**38.** The powers conferred by section 19 of "The Crown Lands Amendment Act, 1882," on the Commissioner, enabling him to remit certain provisions and conditions, shall apply as well to all agreements thereafter made and executed and hereafter to be made and executed as to agreements theretofore made and executed.

## Penalty on excessive holding.

**39.** Any person who shall knowingly become, or shall, for the space of three months knowingly continue, the beneficial holder under lease or transfer of lease, or lease and transfer of lease combined, and whether in his own name or in the name of any other person on his behalf, of more second-class land reserved for leasing than three thousand acres, or more of other land reserved for leasing than one thousand acres, or of more than three thousand acres or five thousand acres contrary to section 23 of this Act, or of more lands leased under this Act than five thousand acres in the aggregate, shall forfeit all land and leases so held, and be deemed guilty of a misdemeanor punishable on a first conviction by a fine not exceeding Five Hundred Pounds and not less than Ten Pounds, or in default of payment, imprisonment not exceeding twelve months; and for a second and every subsequent offence by imprisonment not exceeding five years with or without hard labor. All prosecutions under this clause must be instituted at the instance of the Attorney-General, and it shall be presumed that the act complained of was done knowingly unless the defendant shall prove the contrary.

## Power to mine under reserves.

**40.** All lands under the surface of any street, road, highway, or reserve, now or hereafter dedicated to or reserved for any public purpose, and the fee simple whereof shall not have been granted from the Crown, shall, for the purpose of mining, as well for gold as for other metals and minerals, and for the purpose of all acts relating to mining, be deemed to be Crown lands, and also to be waste lands, and may be dealt with accordingly, subject to such regulations as may be approved of by the Governor for protecting the public uses of such land, in terms of the dedication or reservation, and for providing for protection to any person or persons and property, and for securing to any persons who, for the time being, shall have the right of mining on any property intersected by or abutting



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abutting on any such lands, not being a reserve, a preferential right of mining in respect of the lands intersecting or abutting on such property.

**41.** Notwithstanding anything therein contained, the provisions of an Act, No. 255 of 1882, intituled "An Act to enable the lessees of mineral leases to surrender their leases and to obtain fresh leases under the Crown Lands Consolidation Act," shall be extended for a further period of six calendar months from the passing of this Act as regards any mineral lease which, in the opinion of the Governor, shall not have been surrendered pursuant to the said Act by reason of any mistake, oversight, or inadvertence, and for the purposes of this Act every such mineral lease which shall have expired within six calendar months prior to the passing of this Act shall be deemed to expire on the thirty-first day of December next.

Extension of time to surrender mineral leases.

**42.** The Commissioner may alter the prescribed form of any agreement, lease, or instrument to be hereafter executed, and whether such form is prescribed by Act, regulation, or otherwise, in such manner as he shall think fit for the purpose of making such form correspond with the provisions, and of giving effect to the objects of this or any other Crown Lands Act.

Prescribed forms may be altered.

**43.** The Governor may make and publish such regulations as to him shall seem fit for fully and effectually carrying out and giving force and effect to the various purposes, provisions, powers, and authorities in this Act contained, and may from time to time alter rescind, vary, and amend the same or any of them, and make other regulations in lieu thereof for more fully and effectually carrying out and giving force and effect to such purposes, provisions, powers, and authorities, and every regulation when published in the *Gazette* shall have the force of law, and shall be laid before Parliament as provided by the Crown Lands Consolidation Act.

Regulations.

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

WILLIAM C. F. ROBINSON, Governor.

## SCHEDULE.

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*Definition of Boundaries.*

Commencing at the north-west corner of the hundred of Benara; thence east along the north boundary of said hundred to its north-east corner; thence north along the west boundaries of the hundreds of Young, Grey, Monbulla, and Killanoola to the south-west corner of the hundred of Robertson; thence westerly to the south-east corner of the hundred of Joyce, and north-north-westerly to its north-eastern corner; thence north along the western boundaries of the hundreds of Lochaber, Glen Roy, and Parsons to the north-west corner of the latter hundred; thence westerly along the north boundary of county MacDonnell to its north-west corner; thence in a southerly, south-westerly, and south-easterly direction, following the sea-coast to the point of commencement.