



ANNO VICESIMO SEXTO

# GEORGII V REGIS.

A.D. 1935.

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## No. 2256.

An Act to amend the Crown Lands Acts, 1929 to 1933,  
and the Discharged Soldiers Settlement Act, 1931.

[Assented to, 21st December, 1935.]

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 "Crown Lands Act Short titles.  
Amendment Act, 1935".

(2) The Crown Lands Acts, 1929 to 1933, and this Act may  
be cited together as the "Crown Lands Acts, 1929 to 1935".

(3) The Crown Lands Act, 1929, is hereinafter referred to as No. 1923 of  
1929.  
"the principal Act".

2. Section 73A of the principal Act (as enacted by section 3 Amendment of  
principal Act,  
s. 73A—  
Extension of  
right of  
purchase lease.  
of the Crown Lands Amendment Act, 1931) is amended by  
striking out subsection (2) thereof and by inserting in lieu  
thereof the following subsection:—

(2) Any such extension may be given from time to time  
on the recommendation aforesaid, but every such extension  
shall expire not later than five years after the passing of  
the Crown Lands Act Amendment Act, 1935.

3. Section 184 of the principal Act is amended by inserting Amendment of  
principal Act,  
s. 184.—  
Surrender of  
leases.  
after the word "lessee" in the first line thereof the words "of  
any lease of repurchased land granted under the provisions of  
this Act or the Crown Lands Act, 1903, or any repealed Act  
passed after the latter Act, and the lessee".

*Crown Lands Act Amendment Act.—1935.*

Amendment of  
principal Act,  
s. 199—  
Surrender of  
agreements of  
repurchased  
land.

**4.** Section 199 of the principal Act is amended by striking out subsections (2) and (3) and by inserting in lieu thereof the following subsections :—

(2) Upon an application being made under this section the board, subject to the approval of the Commissioner, shall fix—

(a) the annual rent at which the lease may be obtained in perpetuity ; and

(b) the annual rent at which the lease may be obtained for the first ten years after which the rent shall be fixed in perpetuity as hereinafter provided.

In fixing the rents pursuant to this section the board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

(3) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (a) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (b) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the board, subject to the approval of the Commissioner.

(3A) The rent to be fixed under any such lease shall in no case exceed an amount equal to interest on the price at which the applicant could have completed purchase at the time of the surrender of the agreement, calculated for one year at the rate of interest provided for in the agreement.

(3B) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the board subject to the approval of the Commissioner. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

Amendment of  
principal Act,  
s. 200—  
Reduction of  
purchase  
money.

**5.** Section 200 of the principal Act is amended by striking out all the words in subsection (3) occurring after the word “board” in the penultimate line and by inserting in lieu thereof the words “Every such reduction shall take effect from such date as the Commissioner in each case determines”.

*Crown Lands Act Amendment Act.—1935.***6. Section 206 of the principal Act is amended—**

- (a) by inserting after the word “lease” in the first line thereof the words “or any part or parts thereof”; and
- (b) by striking out the words “comprised in the said lease” in the second line thereof and by inserting in lieu thereof the words “so surrendered”.

Amendment of principal Act, s. 206—  
Surrender of lease.

**7. Section 208 of the principal Act is repealed, and the following sections are enacted in lieu thereof:—**

Repeal of principal Act, s. 208—

208. (1) The purchaser under an agreement may surrender his agreement, or any part or parts thereof, and the Commissioner may grant an agreement or agreements of the land so surrendered 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.

Surrender of agreement for new agreement.

(2) If the agreement is wholly surrendered, and only 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.

(3) If the agreement is partially surrendered or if the agreement is surrendered in whole and two or more agreements are granted in lieu thereof each new agreement granted in lieu of the surrendered agreement or part thereof 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 and the balance not surrendered, if any, 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 or partially surrendered.

208AA. (1) Any surrender under section 206 or 207 may be accepted, notwithstanding that any rent payable under the lease or any instalment or part thereof payable under the agreement is in arrear. In any case where the lease or agreement is partially surrendered or where the lease or agreement is surrendered in whole and two or more leases or agreements are granted in lieu thereof, the amount of the said arrears shall be apportioned between each of the new leases or agreements, as the case may be, and the balance not surrendered, if any, by the Commissioner on the

Provisions on surrender.

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*Crown Lands Act Amendment Act.—1935.*

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recommendation of the board. If the lease or agreement is wholly surrendered and only one lease or agreement is granted in lieu thereof, the whole of the amount of the arrears shall be payable in respect of the new lease or agreement. The amount of the said arrears or, as the case may be, the amount of arrears apportioned as aforesaid, together with interest thereon at such rate of interest not exceeding five pounds per centum per annum as is fixed by the board, subject to the approval of the Commissioner, shall be paid in such instalments, and at such times and within such period as is fixed by the board, subject to approval of the Commissioner and shall be payable and recoverable in the same manner as the said rent or instalments to become due. The payment of the said instalments of arrears shall be deemed to be a covenant implied in the leases or agreements issued in place of the surrendered or partially surrendered lease or agreement and in the leases or agreements, if any, partially surrendered.

(2) If any such surrender comprises part only of any such lease or agreement, the lease or agreement shall upon registration of the surrender be deemed to be cancelled so far as regards the land comprised in the surrendered part, and the preceding sections of this Part so far as they relate to the term and conditions of the lease or agreement so partially cancelled, and to the fixing of the rent or purchase-price thereunder shall, *mutatis mutandis*, be deemed to apply to the lease or agreement so partially cancelled.

Amendment of  
principal Act,  
s. 211—  
Surrender.

8. Section 211 of the principal Act is amended—

(a) by striking out the words “ for grazing and cultivation, or miscellaneous lease for grazing or cultivation ” in subsection (4) thereof and by inserting in lieu thereof the words “ surrendered as aforesaid ” ; and

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

(5) Where a lease with a right of purchase is surrendered for a perpetual lease, the lessee may at the time of making the application for surrender, make application for the insertion in the perpetual lease of a provision for the purchase of the land. In any such case there shall be inserted in the perpetual lease a provision giving to the lessee a right to purchase at any time during the term of the lease the fee simple of the land comprised in the lease at the price at which he could have completed purchase at the time of the surrender of the lease with right of purchase.

*Crown Lands Act Amendment Act.—1935.*

9. Section 221 of the principal Act is amended by striking out subsection (2) thereof and by inserting in lieu thereof the following subsections :—

Amendment of  
principal Act,  
s. 221—  
Surrender of  
agreements.

(2) Upon an application being made under this section the board, subject to the approval of the Commissioner, shall fix—

(a) the annual rent at which the lease may be obtained in perpetuity ; and

(b) the annual rent at which the lease may be obtained for the first ten years after which the rent shall be fixed in perpetuity as hereinafter provided.

In fixing the rents pursuant to this section the board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

(2AA) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (a) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (b) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the board, subject to the approval of the Commissioner.

(2AB) The rent to be fixed under any such lease shall in no case exceed an amount equal to interest on the price at which the applicant could have completed purchase at the time of the surrender of the agreement calculated for one year at the rate of interest provided for in the agreement.

(2AC) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the board subject to the approval of the Commissioner. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

10. Section 252 of the principal Act is amended by inserting after the word “ granted ” in the second line of subsection (2) thereof the words “ transferred or transmitted ”.

Amendment of  
principal Act,  
s. 252—  
Right of  
minors.

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*Crown Lands Act Amendment Act.—1935.*


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Amendment of  
principal Act—

**11.** The principal Act is amended by inserting therein after section 262 the following section :—

Power to  
dispose of  
surplus lands.  
Cf. 1346, 1918,  
s. 19.

262A. (1) Where it appears to the Governor that any land acquired for any public purpose which after such acquisition has become Crown lands, is not suitable for, or is not required for the said public purpose and is not required for any purpose of the Government of the State, he may—

- (a) sell the land, or any estate, right, or interest therein, either by public auction or private contract ; or
- (b) exchange the land, or any estate, right, or interest therein, for any other land or property, or any estate, right, or interest therein ; or
- (c) dispose in any other way of the land, or any estate, right, or interest therein,

for such price or other consideration as may be recommended by the board and the Governor deems sufficient, and upon such (if any) terms and conditions as the board recommends and he deems proper.

(2) For the purpose of carrying out any such transaction as mentioned in subsection (1) of this section, the Governor may execute any and every assurance, deed, instrument, and writing, and do all such other things as may be deemed necessary or expedient.

(3) The Commissioner's receipt shall be a sufficient discharge for any moneys to be paid in pursuance of any such transaction, and it shall not be necessary for the person paying any such moneys to inquire whether or not a proper case has arisen for the exercise of any power conferred by this section.

(4) Nothing in this section shall be deemed to derogate from any other power vested in the Governor or any other person by this Act.

Amendment  
of principal  
Act—

**12.** The principal Act is amended by inserting therein after section 265 the following section :—

Cancellation of  
lease or agree-  
ment where  
holder  
abandons  
land.  
1531, 1923, s. 3.

265A. Notwithstanding anything contained in this or any other Act or anything contained in any lease or agreement under this Act or any other Act relating to Crown lands, if the person who is the lessee or purchaser under any such lease or agreement (whether the lease or agree-

*Crown Lands Act Amendment Act.—1935.*

ment was issued before or after the passing of this Act) intimates, whether verbally or by writing, to the Commissioner or any officer of the Department of Lands that he has abandoned the land comprised in the lease or agreement, or makes any intimation to the like effect, the Commissioner may, by writing under his hand, without notice to the said person, and without re-entry, forthwith determine the lease or agreement and thereupon the interest of the said person in the said land shall absolutely cease and determine.

**13.** (1) Section 8 of the Discharged Soldiers Settlement Act, 1931, is amended so as to read as follows:—

Amendment of  
2058, 1981,  
s. 8—

8. (1) The purchaser under any agreement for sale or purchase of any land made under any of the Acts incorporated with this Act may apply in writing to surrender his agreement for a perpetual lease of the land comprised therein.

Surrender of  
agreement  
for perpetual  
lease.

(2) Upon an application being made under this section the Land Board, subject to the approval of the Minister, shall fix—

- (a) the annual rent at which the lease may be obtained in perpetuity; and
- (b) the annual rent at which the lease may be obtained for the first ten years, after which the rent shall be fixed in perpetuity as hereinafter provided.

In fixing the rents pursuant to this section the Land Board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

(3) The rent to be fixed under any such lease shall in no case exceed an amount equal to interest on the price at which the applicant could have completed purchase at the time of the surrender of the agreement calculated for one year at the rate of interest provided for in the agreement.

(4) Upon the rents aforesaid being fixed, notice in writing shall be given to the applicant, who shall within three months after the giving of the notice, accept or refuse the lease offered. If the applicant accepts the lease he may, upon surrendering the agreement, obtain a perpetual lease as provided in this section.

(5) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (a) of subsection (2), or a perpetual lease of which the rent for

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*Crown Lands Act Amendment Act.—1935.*

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the first ten years shall be as fixed pursuant to paragraph (b) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the Land Board, subject to the approval of the Minister.

(6) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the Land Board subject to the approval of the Minister. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

(7) The Minister shall forthwith cancel the agreement and the applicant shall execute the perpetual lease issued in lieu thereof.

(8) Any application as aforesaid may be granted notwithstanding that any instalment of purchase money or interest payable under the agreement is in arrear. When in any such case the application is granted, the full amount of the said arrears together with interest thereon at such rate of interest not exceeding five pounds per centum per annum as is fixed by the Land Board, subject to the approval of the Minister, shall be paid in such instalments, and at such times, as are fixed by the Land Board, subject to the approval of the Minister, when fixing the annual rent as aforesaid, and shall be payable and recoverable in the same manner as the rent to become due under the perpetual lease, and the payment of the said instalments shall be deemed to be a covenant implied in the perpetual lease issued in place of the surrendered agreement.

(9) The purchaser under any agreement for sale and purchase surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the land. In any such case there shall be inserted in the perpetual lease a provision giving to the lessee a right to purchase at any time during the term of the lease the fee simple of the land comprised in the lease at the price at which he could have completed purchase at the time of the surrender of the agreement.



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*Crown Lands Act Amendment Act.—1935.*

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(2) On the bringing into operation of the Discharged Soldiers Settlement Act, 1934, section 24 of that Act shall be deemed to be amended by the striking out of subsections (2), (3), (4), and (5) thereof, and by the insertion therein after subsection (1) thereof of new subsections (2) to (9), both inclusive, as enacted by subsection (1) of this section.

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

W. DUGAN, Governor.