

PASTORAL ACT, 1936.

No. 2274 of 1936.

An Act to consolidate the Acts relating to pastoral lands,
and for other purposes.

[Assented to 13th August, 1936.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.

PART I.

PRELIMINARY.

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|-----------------------------------|---|
| Short title. | 1. This Act may be cited as the "Pastoral Act, 1936." |
| Commence-
ment of Act. | 2. This Act shall come into operation on a day to be fixed by proclamation. |
| Divisions.
850, 1904,
s. 3. | <p>3. This Act is divided into Parts, as follows:—</p> <p style="margin-left: 40px;">PART I.—Preliminary.</p> <p style="margin-left: 40px;">PART II.—The Pastoral Board.</p> <p style="margin-left: 40px;">PART III.—Mode of Offering Lands.</p> <p style="margin-left: 40px;">PART IV.—Applications and Leases.</p> <p style="margin-left: 40px;">PART V.—Rent, Valuations, and Re-valuations.</p> <p style="margin-left: 40px;">PART VI.—Improvements.</p> <p style="margin-left: 40px;">PART VII.—Resumptions and Surrenders.</p> <p style="margin-left: 40px;">PART VIII.—Occupation by Outgoing and Possession
by Incoming Lessee.</p> <p style="margin-left: 40px;">PART IX.—Travelling Stock.</p> <p style="margin-left: 40px;">PART X.—Water.</p> <p style="margin-left: 40px;">PART XI.—Unoccupied Land.</p> |

s. 2. This Act was proclaimed to commence on the 1st day of June, 1937: *Gazette* 25th March, 1937, p. 645.

PART XII.—The Tenants' Relief Board.

PART XIII.—Regulations.

PART XIV.—Miscellaneous.

PART XV.—Legal.

4. The following Acts are repealed, namely:—

Repeal.

No. 850 of 1904.—The Pastoral Act, 1904.

No. 1347 of 1918.—Pastoral Act Amendment Act, 1918.

No. 1407 of 1919.—Pastoral Act Further Amendment Act, 1919.

No. 1519 of 1922.—Pastoral Act Further Amendment Act, 1922.

No. 1711 of 1925.—Pastoral Act Further Amendment Act, 1925.

No. 1937 of 1929.—Pastoral Act Amendment Act, 1929.

No. 2239 of 1935.—Pastoral Act Amendment Act, 1935.

5. This Act shall apply to all leases granted since the twenty-eighth day of January, one thousand eight hundred and ninety-nine.

Application of
Act.
850, 1904,
s. 6.

6. (1) In this Act, unless the subject matter, or context, or other provisions require a different construction—

Interpreta-
tion.
850, 1904,
s. 7,
1519, 1922,
ss. 3, 18.

“board” means the Pastoral Board provided for by this Act:

“boundary fence” means any fence used as an outer boundary fence of any contiguous lands occupied as one run:

“cattle” means camels, horses, geldings, mares, asses, mules, bulls, bullocks, and cows; also foals and calves over six months old:

“Commissioner” means the Commissioner of Crown Lands:

“fixed rate” means the annual rate of interest fixed by the Commissioner under section 143 of this Act which is in force at the time when the money in question, or the first instalment thereof (as the case may be) becomes due:

“intense culture” means the growth of fruit, plants, and vegetables, or any other produce by means of irrigation from artesian wells, or natural springs, or water conserved by the State:

PART I.

“lands” means lands not included in any hundred, and also all lands vested in the Crown, and subject to any pastoral lease at the time of the passing of this Act, and any lands included in this definition by virtue of subsection (2) of this section:

“lease” means a lease of any pastoral lands, or a right to any such lease:

“published” means published in the *Gazette*:

“run” means the land comprised in any lease under this Act; and also contiguous lands, or lands worked together as one run although not contiguous, comprised in two or more leases held by the same lessee:

“sheep” means rams goats wethers ewes and lambs over six months old:

“unstocked country” means lands which have never been stocked, or which have been unstocked for more than two consecutive years:

“vermin” means dingoes (or native dogs) dogs run wild dogs at large foxes rabbits hares and any other animals which the Governor, by proclamation, declares to be vermin for the purposes of this Act.

1519, 1922,
s. 18.

(2) Notwithstanding the definition of “lands” contained in this section, any lands included in a hundred, and comprised in a pastoral lease, in which are also comprised lands not included in any hundred, shall, at the expiration of that lease, continue to be “lands” within the meaning of that definition if the board certifies to the Commissioner that the lands not included within a hundred would be unsuitable for pastoral purposes apart from the lands included within a hundred.

PART II.

PART II.

THE PASTORAL BOARD.

Constitution
of board.
850, 1904,
s. 8.
1937, 1929,
s. 8.

7. (1) There shall be a board to administer this Act, and to be known as the “Pastoral Board.” The board shall consist of three persons, one of whom shall be appointed by the Governor to be Chairman.

(2) At least one member of the board shall be a person who, prior to his appointment as a member of the board, has been actively engaged in the pastoral industry.

8. The Pastoral Board as existing immediately before the commencement of this Act under the Acts repealed by this Act shall continue in office subject to this Act as the board under this Act with all the powers conferred upon it by this Act or any Act repealed by this Act or any Act repealed by the Pastoral Act, 1904.

Continuance
and powers
of existing
board.

9. Every member of the board shall be appointed for such period and on such terms and conditions as the Governor determines.

Appointment
of members of
the board.
830, 1904,
s. 11.
1937, 1929,
s. 3.

10. The chairman shall preside at all meetings at which he is present; but if the chairman is not present at any meeting, the other members present shall elect one of their number to be chairman at that meeting.

Chairman.
850, 1904,
s. 12.
1937, 1929,
s. 3.

11. (1) Any two members of the board shall form a quorum.

Quorum.
850, 1904,
s. 13.
1937, 1929,
s. 3.

(2) When two members only are present at a meeting any matter upon which they disagree shall be postponed for consideration by the full board.

12. The board shall meet whenever a majority of the members think fit, and whenever the Commissioner directs a meeting to be held.

Meetings.
850, 1904,
s. 14.
1937, 1929,
s. 3.

13. Any valuation made by the chairman or by anyone authorised by the board shall, when confirmed by the board, be deemed to be a valuation by the board.

Valuations
850, 1904,
s. 15.

14. (1) No person while a member of the board shall be eligible as an applicant or be interested, directly or indirectly, in any application for or the surrender of a lease, and no member of the board shall hear or deal with an application in which any partner or relative of that member is interested.

Members and
relatives not
to be inter-
ested in
applications.
850, 1904,
ss. 16, 17, 18.

(2) Any member of the board acting contrary to the preceding section in any particular shall be liable to a penalty not exceeding one hundred pounds.

(3) Any application granted contrary to this section shall be absolutely void, except as against any purchaser, not being a partner or relative of the member, who has purchased *bona*

fide for value without notice of the offence having been committed.

(4) All premiums or other consideration received by the member, or his partner or relative, from any such purchaser shall belong to the Crown, and be recoverable from the member, partner, or relative by the Commissioner or any person appointed by him, by action in any court of competent jurisdiction.

General powers of board.

The board's
powers.
850, 1904,
s. 20.

15. The board, with the approval of the Commissioner, shall—

- (a) deal with any lands:
- (b) decide upon the area, the boundaries of the land, the annual rent to be paid, and the term to be granted in any lease:
- (c) consider, decide, and, if necessary, accept or reject applications, and thereupon report its decision to the Commissioner:
- (d) subdivide or alter the boundaries of any land applied for, and adjust the rental and value of improvements:
- (e) deal with all other matters referred to it by the Commissioner.

Power to
board to
enter lands.
850, 1904,
s. 21.

16. The board, any member thereof, or any person authorised by the board may, for any of the purposes of this Act, enter upon any lands leased.

Evidence.

Oaths and
affirmations.
850, 1904,
ss. 22, 23.

17. (1) Notwithstanding any Act to the contrary, the chairman or any member nominated by the board is hereby authorised and empowered when obtaining evidence preliminary to the allotment or transfer of any lands to administer the prescribed oath or affirmation to any person, and the evidence given by such person shall be taken down in writing and signed by him, and countersigned by the chairman or member or members taking the evidence.

(2) The oath may be in the following form:—"The evidence which you shall give before this board shall be the truth, the whole truth, and nothing but the truth—So help you God."

PART II.

18. (1) Where any witness conscientiously objects to take an oath, he may make the following declaration:—"I, A.B., do solemnly, sincerely, and truly declare and affirm that the taking of any oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely, and truly declare and affirm that I will state the truth, the whole truth, and nothing but the truth to all questions that may be asked me."

Affirmation
in lieu of
oath.
850, 1904,
s. 24.

(2) Such a declaration shall be of the same effect as an oath taken in the form provided in the last preceding section.

19. (1) The board may, by notice under the hand of the chairman or acting chairman, require the attendance of, and examine upon oath or affirmation all applicants and other persons, and may require such applicants or persons to produce to the board all documents in their possession, custody, or control relating to any pastoral land, lease, or other matter or thing whatsoever which may be under the consideration of the board.

Witnesses
and docu-
ments.
850, 1904,
s. 25.

(2) Any person whose attendance is so required, and who does not duly attend the board at the time and place appointed in the notice, or who fails or neglects to produce any documents in his possession, custody, or control, of which due notice has been given, shall, for every such offence, be liable to a fine not exceeding ten pounds a day for every day on which the offence is committed or continues.

850, 1904,
s. 26.

PART III.

PART III.

MODE OF OFFERING LANDS.

20. In fixing the size and boundaries of the land to be comprised in each lease regard shall be paid to the natural features of the country so as to utilise the improvements and waters to the best advantage to each lease as equally as possible.

Size and
boundary of
land.
850, 1904,
s. 28.

PART III.

Amounts payable for improvements.
850, 1904,
s. 29.

21. If there are any improvements on the land intended to be leased the board shall fix the amount to be paid therefor as hereinafter provided, distinguishing between the amounts payable to the Crown and to the outgoing lessee.

Re-offer of land on expiry of lease.
850, 1904,
s. 30.

22. At, or within twelve months before, the expiration by effluxion of time of any lease all land comprised in that lease not required for any other purpose shall be re-offered for lease.

Notice of lands open for leasing.
850, 1904,
s. 31.

23. When any lands are open for leasing under this Act the Commissioner shall give notice hereof in the *Gazette*.

Particulars in notice.
850, 1904,
s. 32.

24. The notice shall, besides any other necessary particulars, mention the area and situation of the land, the term, the annual rent, and the price to be paid for the improvements (if any), and to whom the price is to be paid, and the cost of valuation of improvements, and shall specify a date, not less than thirty days after the first publication, up to which applications for leases may be received.

Withdrawal of lands.
850, 1904,
s. 33.

25. The Commissioner may, by notice in the *Gazette*, withdraw any lands declared open for leasing, and may subsequently, by a notice in the *Gazette*, declare the same lands, or any part thereof, to be open for leasing under this Act.

Offer of leases unsold.
850, 1904,
s. 34.

26. (1) If any lands have been declared open for leasing, but no applications are duly made therefor within one month after the date specified in the notice, or all applications received are rejected or refused, the Commissioner shall, at intervals of not less than three months, until applications are accepted, upon giving further notice in the *Gazette*, re-offer those lands at such reduced rent and reduced price for improvements, or at such reduced rent, or reduced price for improvements as he, with the advice of the board, thinks proper: Provided that, if the improvements belong to the lessee, the price for them shall not, except to the extent to which there has been depreciation therein from the first publication of the notice mentioned in section 23 hereof, be reduced until—

(a) the rent has been reduced to the extent of fifty per centum, after which the rent and the price for improvements shall be reduced proportionately; and

(b) twenty-one days' notice in writing has been given by the Commissioner to the outgoing lessee of an

intention to make those reductions, and of particulars thereof.

(2) When notice of intention to make reductions has been given the outgoing lessee may, within twenty-one days after receiving that notice, appeal in manner prescribed to the Tenants' Relief Board to fix the amount of rent and the price for improvements, and that board may reduce or increase the rent or price for improvements to such extent as it thinks fit.

(3) Until the determination of the Tenants' Relief Board is certified to the Commissioner, and by him notified to the appellant lessee, the Commissioner shall postpone offering such lands for leasing; and the determination of that board, when so certified, shall be acted upon by the Commissioner: Provided that, after the rent and price of improvements are once fixed by the Tenants' Relief Board, no further appeal shall be allowed, and without the consent of the outgoing lessee the price for improvements, except for depreciation, shall only be reduced when the rent is reduced proportionately.

PART IV.

PART IV.

APPLICATIONS AND LEASES.

Applications.

27. Applications for leases shall be made in writing to the Commissioner.

Form of
application.
850, 1904,
s. 35.

28. (1) Each application shall be accompanied by deposits—

Amount of
deposit.
850, 1904,
ss. 36, 37,
1519, 1922
s. 4.

(a) equal to twenty-five per centum of the first year's rent, as notified in the *Gazette*:

(b) equal to five per centum on the price to be paid for the improvements (if any), as notified in the *Gazette*:

(c) equal to ten per centum of the price to be paid for the improvements where the improvements are not the property of the Crown:

Provided that this subdivision shall not apply where the applicant is an outgoing lessee who is entitled to payment for improvements on the land.

PART IV.

(2) The deposit referred to in paragraph (b) of subsection (1) of this section shall, if the application is accepted, and the applicant executes the lease within the time and in the manner specified, be credited against the first instalment of the purchase-money.

(3) All moneys deposited by any unsuccessful applicant shall, subject to deductions therefrom of any moneys which may be due by him to the Crown, be repaid to him within twenty-one days from the time of his application being rejected.

Simultaneous
applications.
850, 1904,
s. 38.

29. All applications for or including the same land, received before or on the date specified in the *Gazette* notice, shall be dealt with as simultaneous applications, and after such date all applications received prior to the next meeting of the board shall be dealt with as simultaneous applications.

Lessee of
expired lease
may apply
for lease.
850, 1904,
s. 39.

30. Nothing in this Act shall be construed as implying that any lessee whose lease has expired may not be an applicant for and obtain a new lease of all or part of the lands comprised in his expired lease.

Applications
to be referred
to board.
850, 1904,
s. 40.

31. All applications shall be referred by the Commissioner to the board, who shall, subject to the approval of the Commissioner, determine to which applicants leases shall be granted.

Land suitable
for agricul-
ture.
850, 1904,
s. 27.

32. The board shall not be bound to grant an application for a lease of any land which is considered suitable for agricultural purposes.

Names of
successful
applicants to
be gazetted.
850, 1904,
s. 41.

33. Notice of the names of the successful applicants, together with particulars of the lands to be leased to them, and the rents and price to be paid for improvements (if any), and any other particulars the Commissioner thinks necessary, shall be published in the *Gazette*.

Execution of
lease and
payment.
850, 1904,
ss. 42, 43.

34. (1) Every successful applicant shall, within one month after the first application of the notice mentioned in the last preceding section, and in the manner prescribed, pay the balance of the first year's rent and, subject to sections 70 and 71, the purchase-money for the improvements (if any); and shall execute the lease within the time and in manner prescribed.

(2) A successful applicant shall not be entitled to have the lease executed by the Governor until payment of the first year's rent and the purchase-money for the improvements

(if any), unless he has obtained the consent of the Commissioner for payment by instalments for the improvements the property of the Crown, or, as regards improvements the property of the outgoing lessee, a mutual agreement has been entered into as provided in section 71.

Forfeitures by applicant.

35. If any successful applicant fails to comply with subsection (1) of the last preceding section he shall forfeit his deposit and all other moneys paid by him in respect of the land applied for or the improvements thereon, and all right to a lease of the lands, without prejudice nevertheless to any other rights or remedies the Crown or the Commissioner may have against him by reason of such non-compliance.

Forfeiture
for non-
compliance.
850, 1904,
s. 44.

36. (1) Any moneys forfeited with respect to rent or improvements, the property of the Crown, shall be retained by the Commissioner.

Application of
forfeited
deposit.
850, 1904,
s. 45.

(2) Any moneys forfeited with respect to improvements, the property of the outgoing lessee, shall be forthwith paid to such lessee, less all proper deductions.

Leases.

37. The Governor may grant leases for pastoral purposes of any pastoral lands; but no lease shall be granted except in manner provided by this Act or for the purpose of giving effect to any right existing at the commencement of this Act.

Power of
Governor to
grant leases.
850, 1904,
s. 5.

38. Any person entitled to a lease shall be deemed a lessee within the meaning of this and all Acts affecting pastoral lands.

Pastoral
leases.
850, 1904,
s. 46.

39. Every lease shall be in a form containing the covenants, exceptions, reservations, and provisions mentioned in the first schedule to this Act, subject to any modifications or additions stated in the notice offering the lands for leasing; and every lease shall be prepared by the Commissioner, and executed in manner prescribed.

Form and
conditions of
lease.
850, 1904,
s. 47.

40. No lease shall authorise the lessee to carry on mining operations of any description whatsoever upon any part of his run, but the lessee shall be at liberty to utilise the surface of the land, or any part thereof, for pastoral purposes, or for any other purpose approved by the Commissioner.

Use of leased
land.
850, 1904,
s. 48.

PART IV.

Terms of
leases granted
after this Act.
850, 1904,
s. 49.
1937, 1929,
s. 4.

41. (1) Every lease granted after the twelfth day of December nineteen hundred and twenty-nine, and not being a lease of unoccupied land as defined in Part XI. of this Act nor of land situated south or east of the River Murray shall be for a term of forty-two years.

(2) The rent of every such lease shall be re-valued for the last twenty-one years of the term in accordance with Part V. of this Act.

Terms of
leases of
land south or
east of the
River Murray.
1937, 1929,
s. 4.

42. (1) Every lease granted after the twelfth day of December nineteen hundred and twenty-nine, and comprising land situated south or east of the River Murray, shall be for a term of forty-two years, unless the board with the approval of the Commissioner certifies that that land is likely to be required for closer settlement, in which case the lease shall be for a term of twenty-one years.

(2) The rent of every such lease for a term of forty-two years shall be re-valued for the last twenty-one years of the term in accordance with Part V. of this Act.

Power to
determine mis-
cellaneous
lease of
water reserves
and include
land in
pastoral
lease.
1937, 1929,
s. 4.

43. (1) Whenever any land proposed to be included in any lease about to be granted under this Act surrounds, wholly or partially, any land held by any person under a miscellaneous lease granted pursuant to section 76 of the Crown Lands Act, 1929, the Commissioner, on the recommendation of the board, may without compensation to any person determine that miscellaneous lease and include the land in the lease of the surrounding land.

(2) Any pastoral lease may contain any terms, covenants, and conditions which the Commissioner thinks proper binding the lessee to supply water for stock travelling through the leased land: Provided that the lease shall reserve to the lessee the right to determine from what water supply the travelling stock are to take water, and the water supply so determined shall not necessarily be that nearest to the most direct route through the leased land.

Terms of
leases.
1937, 1929,
s. 4.

44. Every lease granted after the twelfth day of December nineteen hundred and twenty-nine shall contain conditions that no land therein comprised shall be used for agriculture unless the consent of the Commissioner has been first obtained and that the Commissioner may re-value the rent of any land so used; but no land shall be deemed to be used for agriculture within the meaning of this section by reason only of the fact that any produce is grown thereon solely for consumption on that land.

45. Notwithstanding any other provision of this Part, no person shall be entitled to be granted a lease of land which in the Commissioner's opinion is suitable or would be likely, during the term of the lease, to become suitable for agricultural settlement.

No right to
lease of
agricultural
land.
1937, 1929,
s. 4.

46. (1) Any lessee holding a lease for forty-two years may during the thirty-fifth year of the term thereof request the Commissioner to notify him whether the Commissioner is willing to offer him another lease of the whole or any part of his land, to take effect on the expiration of the existing lease, and if so at what rent and on what other terms and conditions not inconsistent with this Act.

Subsequent
leases.
1937, 1929,
s. 4.

(2) When such a request is made, the Commissioner shall, on the recommendation of the Board, determine the matters mentioned in subsection (1) and notify the lessee of his determination.

(3) If the Commissioner notifies the applicant that he is willing to offer him a new lease of the whole or any part of his land, the notification shall be deemed an offer of a lease on the terms notified, and may be accepted by the applicant at any time within one year from the time when the Commissioner notifies him thereof.

47. (1) Notwithstanding anything in this Act, when any land has before or after the passing of this Act been acquired by the Commonwealth, and at the time of such acquisition was held under a pastoral lease (hereinafter referred to as "the original lease") and has been re-conveyed or surrendered by the Commonwealth to His Majesty the King, the Governor may grant a lease or leases of such land, or any portion thereof, to the person in whom the leasehold interest created by the original lease was vested at the time of the acquisition, or to his executors or administrators, or to his or their nominee or nominees approved by the Commissioner.

Re-allotment
of land
acquired and
given up by
Common-
wealth.
1947, 1918,
s. 3.

(2) Every lease so granted shall be for and upon the same purpose, terms and conditions as were contained in the original lease, but subject to such modifications thereof or additions thereto as the Governor thinks fit, and for a term not exceeding the period of the term created by the original lease which was or is unexpired at the time of the acquisition by the Commonwealth of the land comprised therein.

48. No covenants or conditions shall be inserted in any lease except such as are authorised by law.

Conditions of
lease.
850, 1904,
s. 50.

Pastoral leases of lands within hundreds.

Surrender of
Crown leases
and agree-
ments for
pastoral
leases.

850, 1904,
s. 50A.
2289, 1935,
s. 3.

49. (1) The Governor may by proclamation declare that the whole or any part of any hundred shall be a proclaimed area within the meaning of this section.

(2) Any person (in this section called "the applicant") who, pursuant to any other Act, holds any land within a proclaimed area under lease from the Crown or under an agreement for sale and purchase made with the Crown, may, whether the amounts payable under the lease or agreement are in arrears or not, notify the Commissioner in writing that he desires to surrender that lease or agreement and obtain a lease under this Act of the land comprised in that lease or agreement.

(3) The board shall thereupon consider the matter and report to the Commissioner, making recommendations on such of the following matters as are applicable to the case:—

- (a) whether the Commissioner should accept the proposed surrender:
- (b) at what rent a lease of the surrendered land should be granted under this Act:
- (c) whether any provisions for payment of the arrears owing under the surrendered lease or agreement should be embodied in the lease proposed to be granted, and the nature of any such provisions.

(4) The Commissioner shall, after considering the board's recommendations, inform the applicant whether he agrees to accept the proposed surrender, and if he so agrees, on what terms and conditions the new lease will be granted.

(5) The applicant shall within three months after receiving the notice from the Commissioner, or such further time as the Commissioner allows, accept or reject the terms offered.

(6) If the applicant accepts the terms offered he may surrender his existing lease or agreement and the Commissioner shall thereupon accept the surrender and the Governor shall grant the applicant a lease under this Act of the land surrendered. The rent payable under that lease for the first

s. 49. The following proclamations were in force under this section on 19th July, 1937:—
Gazette 6th August, 1936, p. 207, relating to hundreds of Arkaba, Ash, Barna, Barndioota, Batchelor, Bice, Bunday, Bunyeroo, Caldwell, Carr, Castine, Cavanagh, Copley, Cotabena, Crozier, Edeowie, French, Gillen, Goode, Handyside, Hardy, Horn, Jenkins, Kanyaka, Ketchowla, Kevin, King, Lindley, Lucy, Maude, May, Minburra, Moonabie, Moralana, Nash, Nilginee, Nilpena, Oratunga, Parachilna, Paratoo, Poynton, Randal, Rees, Russell, Stuart, Tonkinson, Trunch, Warowie, Waroonee, Warrakimba, Wirreanda, Wonoka, Woolyana, Wyacea, Yantanabie, Yarrah; *Gazette* 11th February, 1937, p. 286, relating to hundreds of Cunyarie and Glynn; *Gazette* 22nd April, 1937, p. 850, relating to hundreds of Davenport, Wallanippie, and Wallis; *Gazette* 10th June, 1937, p. 1281, 24th June, 1937, p. 1363, both relating to the hundreds of Coonatto and Palmer.

twenty-one years of its term shall be that accepted by the applicant, and that lease shall contain any covenants, terms, and conditions as to payment of the arrears of rent under the surrendered lease or agreement, which have been so accepted.

(7) Every lease so granted shall contain such other covenants, exceptions, reservations, and provisions as are authorised or required by this Act, and shall in other respects be subject to this Act.

(8) It shall not be necessary before granting such a lease, to publish a notice declaring the surrendered lands open for leasing, nor to consider any application other than that of the applicant.

50. If any land in a proclaimed area within the meaning of the last preceding section belongs to the Crown, and is not subject to any lease or agreement to purchase and is not dedicated or reserved for any purpose, that land may be leased and otherwise dealt with under this Act and whilst so leased shall remain subject to this Act.

Power to deal
with Crown
lands in
proclaimed
areas.
850, 1904,
s. 50B.
2239, 1935,
s. 3.

Reletting.

51. (1) Before re-offering any lands previously held under lease the Commissioner shall obtain a report whether such lands, owing to the nature of the soil, the rainfall, or proximity to seaboard, or to a railway already constructed or about to be constructed, are suitable for subdivision into smaller holdings for grazing and cultivation purposes.

Re-letting of
lands.
850, 1904,
s. 51.

(2) If the Surveyor-General reports that any lands, or any portion thereof, are not suitable for such subdivision, then those lands, or portion thereof, shall be re-let under this Part.

PART V.

PART V.

RENT, VALUATIONS, AND RE-VALUATIONS.

52. The rent under every lease shall be determined by the board, subject to the approval of the Commissioner, having regard to—

Determina-
tion of rent
850, 1904,
s. 52.

(a) the carrying capacity of the land for depasturing by stock:

(b) the value of the land for agricultural or other purposes:

(c) the proximity and facilities of approach to railway stations, ports, rivers, and markets:

(d) all other circumstances affecting the value of the land to a lessee:

Provided that in fixing rents of a run, whether by re-valuation or otherwise, no regard shall be had to any increase in value of the run caused by improvements thereon which are not the property of the Crown.

Re-valuation
of rent by
reason of
public
works.
850, 1904,
s. 53.

53. (1) If during the term of any lease any railways, waterworks, reservoirs, or other works of a public nature are executed by the Government on or in the vicinity of a run, and by reason thereof the value of the run is, in the opinion of the Commissioner, enhanced, the Commissioner may direct the board to make a re-valuation of the run, or any part thereof.

(2) The board shall thereupon make a re-valuation, and determine, subject to the approval of the Commissioner, the amount (if any) by which the rent should be increased, and the date from which the increased rent should be payable; and the Commissioner shall thereupon serve notice of the increased rent upon the lessee.

Re-valuation
not to be
retrospective,
nor made
within certain
intervals.
850, 1904,
s. 54.

54. No such re-valuation shall be retrospective or be made within five years after the commencement of the lease, nor within ten years after any previous re-valuation.

Time of re-
valuation.
850, 1904,
s. 55

55. During the first six months of the twenty-first year of the term of every lease for forty-two years the board shall make a revaluation of the run and determine, subject to the approval of the Commissioner, the rent to be paid by the lessee during the last twenty-one years of the lease.

Completion of
re-valuation.
850, 1904,
s. 56.

56. The re-valuation shall be completed not less than six months before the expiration of the twenty-first year of the term of the lease, and the Commissioner shall forthwith serve upon the lessee notice in writing of the rent to be paid during such last twenty-one years: Provided that the annual rent to be paid on re-valuation as provided in this and the last preceding section shall not be more than fifty per centum above or below the rent payable during the twenty-first year of the term of the lease.

Appeal.
850, 1904,
s. 57.

57. Any lessee may, at any time within three months from the service of any notice of re-valuation, as provided in section 53 or 56, by notice in writing, appeal to the Commissioner against that re-valuation and thereupon the matter

shall be determined by arbitrators pursuant to the "Arbitration Act, 1891," one arbitrator being appointed by the Commissioner and the other by the lessee.

58. The Commissioner shall give notice to the lessee of the decision of the arbitrators or umpire, and (in the case of a re-valuation pursuant to section 53) the date from which the rent fixed on that re-valuation shall be payable, and shall insert a like notice in the *Gazette*.

Notice of
result of
appeal.
850, 1904,
s. 58.

59. If the lessee does not within the time mentioned in section 57 appeal against the board's re-valuation the rent fixed on that re-valuation shall be payable by the lessee from the date of the expiration of the twenty-first year of the lease or from the date mentioned in the notice, as the case may be.

Rent where no
appeal.
850, 1904,
s. 59.

60. (1) If the board is satisfied that the rent payable under any lease is too high, having regard to the productive capacity of the demised land and any other matters which the board deems relevant, the Commissioner may in his discretion and on the recommendation of the board reduce that rent.

Reduction of
rent in cases
of hardship.
850, 1904,
s. 59A.
2239, 1935,
s. 4.

(2) Every such reduction shall take effect from such date, whether before or after the passing of this Act, and operate for such period, as the Commissioner on the recommendation of the board determines in each case.

(3) When the rent payable under a lease has been reduced under this section, no rent at a rate in excess of the reduced rate shall be payable during the period for which the reduction was granted, notwithstanding that a re-valuation of the run is made and that the rent fixed pursuant to that re-valuation is at a rate greater than the reduced rent.

(4) The rent fixed on such a re-valuation, if at a rate greater than the reduced rent, shall be payable at that rate only from the end of the period for which the reduction was granted.

(5) Except as provided in the last preceding subsections the reduction of rent under this section shall not affect the power or duty of the board to re-value any run in accordance with this Act; and, if any reduction of rent is operative during the twenty-first year of the term of any lease, the rent which would have been payable by the lessee during that year if no reduction had been granted, shall, for the purpose only of fixing the rent on re-valuation, be taken to be the rent payable during that year by the lessee.

PART VI.

PART VI.

IMPROVEMENTS.

Covenants
to spend
money on
improvements.
850, 1904,
s. 61.
1987, 1929,
s. 5.

61. Every pastoral lease granted after the twelfth day of December nineteen hundred and twenty-nine shall in addition to the covenants otherwise provided for, contain a covenant binding the lessee to expend such amount (if any) of money as is necessary to ensure that—

- (a) by the end of the fifth year of the term thereof the value of the improvements on the said land will be not less than ten pounds per square mile; and
- (b) by the end of the thirteenth year of the term thereof the value of the improvements on the said land will be not less than fifteen pounds per square mile;
- (c) by the end of the twenty-first year of the term thereof the value of the improvements on the said land will be not less than twenty pounds per square mile.

Valuation
of improve-
ments within
twelve months
before expiry
of lease.
850, 1904,
s. 60.

62. Within twelve months before the expiration by effluxion of time of any lease, all improvements existing upon the land shall be valued, where practicable, in detail, and their position indicated on a plan to be prepared by the Commissioner and signed by the Commissioner and outgoing lessee.

Basis of
valuing im-
provements.
850, 1904,
s. 62.

63. (1) No improvement shall be valued at a sum in excess of its value to an incoming lessee: Provided that if the area held by an outgoing lessee is reduced by subdivision for letting to an incoming tenant below the carrying capacity of ten thousand sheep in Class A, thirty thousand in Class B, or sixty thousand in Class C, or a proportionate number of cattle, the improvements shall be valued for the protection of the outgoing lessee according to their value to an incoming lessee as if the area let was of that carrying capacity, but water improvements shall be valued as if there had been no subdivision of the area held by the outgoing lessee, and the outgoing lessee shall be paid therefor accordingly.

(2) Any amount which the outgoing lessee is entitled to for improvements, and which the incoming lessee is not liable to pay, shall be paid by the Commissioner to the outgoing lessee at the time when the outgoing lessee is entitled to payment of the sum which the incoming lessee is liable to pay.

(3) For the purpose of this section pastoral lands are divided into three classes, as follows:—

Class A—Including all pastoral lands in District A as described in the second schedule to this Act:

Class B—Including all pastoral lands in District B as described in the second schedule:

Class C—Including all pastoral lands situate to the south of the twentysixth parallel of south latitude and not included in Class A or B.

64. If the Commissioner and the outgoing lessee do not, within nine months before the expiration of the lease, agree as to the value and position of any such improvements, a valuation thereof shall be made by arbitrators, pursuant to the "Arbitration Act, 1891," one arbitrator to be appointed by the Commissioner and the other by the lessee.

In case of dispute, valuation to be made by arbitration.
850, 1904,
s. 63.

65. The date for the appointment of arbitrators shall be fixed by the Commissioner, by notice in the *Gazette*, and shall not be later than six months before the expiration of the lease. The decision of the arbitrators or umpire shall be reported in writing to the Commissioner and the lessee three months before the expiration of the lease, or at such date as may be agreed by the Commissioner and the lessee.

Date of appointment of arbitrators and of award.
850, 1904,
s. 64.

66. (1) Subject to this Act, the outgoing lessee shall be entitled to receive from the incoming lessee the value, as so determined, of all improvements made or purchased by the outgoing lessee and existing upon that portion of the outgoing lessee's run which is comprised in the new lease.

Outgoing lessee to receive payment from new lessee.
850, 1904,
s. 65.

(2) If any land is not offered for lease within six months after the expiration of the lease, the amount, as so determined, of all improvements thereon shall be paid by the Commissioner to the outgoing lessee upon the lessee giving up possession thereof.

67. The purchase-money to be paid for improvements by the incoming lessee, whether afterwards payable to the outgoing lessee or not, together with interest at the fixed rate per annum on any amount overdue shall be a debt from the incoming lessee to the Commissioner, payable as herein-after provided, and recoverable in any Court of competent jurisdiction.

Payment of purchase-money for improvements to Commissioner.
850, 1904,
s. 66.
1519, 1922,
s. 5.

68. The moneys received by the Commissioner for improvements belonging to the Crown shall be paid to the credit of the Loan Fund.

Application of Crown improvements.
850, 1904,
s. 67.
1711, 1925,
s. 2.

Provided that if any payment for improvements made by the Commissioner pursuant to section 66 is made out of General Revenue, then any moneys received by the Commissioner in respect of any such improvements shall be paid into General Revenue.

Payments to
outgoing
lessee.
850, 1904,
s. 68.

69. The moneys received by the Commissioner from the incoming lessee in respect of improvements, the property of the outgoing lessee, shall be paid over to the outgoing lessee on his giving up possession, as hereinafter provided, less all costs actually incurred of and incidental to the recovery thereof, not exceeding in any case five per centum of the money so received, and less all proper deductions for rent, depreciation, or otherwise.

Crown
improvements
may be paid
for by
instalments.
850, 1904,
s. 69.
1519, 1922,
s. 6.

70. (1) If the improvements belong to the Crown the Commissioner may permit the lessee to pay the purchase-money, with interest at the fixed rate per annum on the balance for the time being unpaid, by equal annual instalments spread over the term of the lease.

(2) In any such case the lease shall contain, in addition to any other covenants prescribed—

(a) covenants by the lessee—

I. to pay such instalments at the times and in the manner specified in the lease; and

II. while any instalments remain owing, to maintain the improvements in proper repair to the satisfaction of the Commissioner, reasonable wear and tear excepted; and

(b) a condition that, if any instalments remain unpaid for three months after they are due, the whole of the purchase-money and interest then remaining unpaid shall, at the option of the Commissioner, become instantly due, payable, and recoverable.

Arrangements
between out-
going and
incoming
lessee as to
payment for
improve-
ments.
850, 1904,
s. 70.

71. If any outgoing lessee entitled to payment and any incoming lessee liable to pay for improvements agree as to the amount to be paid, and the time and manner of payment for improvements, and, within one month from the date of that agreement, notify the Commissioner of the agreement in writing, then the purchase-money for the improvements and all rights of action formerly vested in the Commissioner in respect thereof shall be vested in and enforceable by the outgoing lessee.

72. (1) No payment or valuation shall be made on any resumption in respect of any improvements, nor shall any improvements be considered except those previously sanctioned by the Commissioner, unless—

Payment for
improvements
on resumption.
850, 1904,
s. 71.
1519, 1922,
s. 17.

(a) the board certifies that they are useful and were made for the purpose of improving the land for pastoral purposes, or for increasing the carrying capacity of the land, and that the improvements will have that effect; and

(b) they consist of wells, reservoirs, tanks, or dams of a permanent character, available for the use of cattle or sheep, and which increase the carrying capacity of the land leased, or of substantial buildings, vermin-proof or other fences, huts, or sheds erected for residence, shearing, or other purposes, usually required for or in connection with keeping livestock.

(2) This section applies only to improvements made before the sixth day of December, nineteen hundred and twenty-two.

73. (1) No valuation shall be made of any improvements, and no payment shall be made in respect of any improvements, and no improvements shall be considered, unless—

What improve-
ments to be
paid for.
1519, 1922,
s. 16.

(a) the lessee, prior to their construction, has given written notice to the Commissioner stating the nature and position and the probable cost and date of completion thereof; and

(b) the Commissioner has, on the recommendation of the board, consented to the making thereof; and

(c) the lessee, after the completion thereof, has furnished to the Commissioner a statement showing the details of the actual cost of such improvements.

(2) The provisions of subsection (1) of this section shall not apply to any improvements under the value of twenty-five pounds, or to any improvements consisting of—

(a) wells, reservoirs, tanks, or dams of a permanent character, available for the use of cattle or sheep, and which increase the carrying capacity of the land leased; or

(b) substantial buildings, vermin-proof or other fences, or huts or sheds erected for residence, shearing, or other purposes, usually required for or in connection with keeping livestock,

which the board certifies are useful and were made for the purpose of improving the land for pastoral purposes, or for increasing the carrying capacity thereof, and will have such effect.

(3) The provisions of this section shall apply only to and in respect of improvements made after the sixth day of December, nineteen hundred and twenty-two.

Water
appliances to
be deemed
improvements.
850, 1904,
s. 72.

74. All machinery or appliances which, in the opinion of the board, arbitrators, or umpire making a valuation pursuant to this Act, are necessary for the purpose of raising or distributing water raised, attached, or appurtenant to any well, dam, tank, or reservoir or natural waters, including all under and over-ground tanks and troughs, shall, when approved by the valuator, be included in their valuation.

Incoming
lessee to
recoup
Commissioner
costs of
valuation.
850, 1904,
s. 73.

75. The incoming lessee, at the time and in manner appointed for the payment of the first year's rent, shall pay to the Commissioner the cost to the Commissioner, according to a scale to be prescribed, of any valuation of the improvements of the outgoing lessee made by the Commissioner, or to which the Commissioner was a party; but no cost shall be charged to the incoming lessee for a valuation made by the board.

Lessees not to
destroy or
injure
improvements
while money
owing for
improvements.
850 1904,
s. 74.

76. (1) So long as any principal or interest money remains owing for improvements the lessee shall not, without first obtaining the consent of the Commissioner in writing, pull down or remove from the demised land, or knowingly suffer to be pulled down or removed, or wilfully or knowingly destroy, damage, or injure, or suffer to be destroyed, damaged, or injured, any permanent building, erection, fence, or water improvement erected or made upon the land.

(2) Any person offending against this section shall forfeit his lease, and shall be guilty of a misdemeanour, and liable to imprisonment for any term not exceeding two years.

Commissioner
not bound to
recover
improvement
moneys or
protect im-
provements.
850, 1904,
s. 75.

77. (1) Nothing in this Act shall—

- (a) impose upon the Commissioner any liability to make payment in respect of any improvements except as expressly provided in this Act; nor
- (b) make it incumbent upon the Commissioner, except upon receiving a full and sufficient indemnity from the outgoing lessee, to enforce payment for any improvements from any incoming lessee, nor to

protect any improvements or the interests of any outgoing lessee therein otherwise than as the Commissioner thinks fit.

(2) If the Commissioner is dissatisfied with the indemnity offered by the outgoing lessee, or fails to enforce any claim or remedy which is vested in him on behalf of the outgoing lessee, the outgoing lessee may sue or otherwise enforce his claim or remedy in his own name as fully as the Commissioner could do.

78. A lessee may be released from his liability to repair improvements which are of no value to the lessee if he makes other improvements in lieu thereof to the satisfaction of the Commissioner.

Relief from
liability to
repair.
850, 1904,
s. 76.

79. (1) No lessee shall be entitled to payment for improvements made after the expiration of the first ten years of his lease unless prior to their construction he has given written notice to the Commissioner, stating the nature and position and probable cost and date of completion thereof: Provided that, where it is not practicable to give such notice prior to the making of such improvements, the lessee shall be entitled to payment for such improvements if such notice is given with all reasonable dispatch.

Notice of
improvements.
850, 1904,
s. 77.
1519, 1922,
s. 17.

(2) This section applies only to improvements made before the sixth day of December, nineteen hundred and twenty-two.

PART VII.

PART VII.

RESUMPTIONS AND SURRENDERS.

Resumptions.

80. The Governor may, for the purposes mentioned in the next following section hereof, by notice published in the *Gazette* and notice in writing forwarded to the lessee, setting out the purpose for which the land is intended to be resumed, resume possession of all or any part of the lands leased and determine the lease in so far as it relates to the land resumed: Provided that—

Power of
Governor to
resume.
850, 1904,
s. 78.

- (a) no land shall be resumed for intense culture during the first ten years of the term of the lease without the consent in writing of the lessee;

(b) whenever any pastoral lands are partly resumed for intense culture the lessee may require the Governor to resume the whole of the lands comprised in the lease in respect to which notice of such partial resumption has been given;

(c) no lessee shall be entitled to require the resumption of the whole of the land comprised in any lease on account of resumption of an area not exceeding one-tenth thereof for commonage, residential, or other purposes incidental to mining.

Resumption
for re-letting
for pastoral
purposes pro-
hibited.
850, 1904,
s. 79.

81. (1) No lands comprised in a lease shall be resumed for any purpose except such lands as are required for—

(a) intense culture; or

(b) public works, such as railways, tramways, roads, bridges, public buildings, water conservation works; or

(c) a site for a town or cemetery; or

(d) mining, or residential sites, commonage, or other purposes incidental to mining; or

(e) park lands.

(2) In all such cases, except where the resumption is for intense culture, one month's notice of the intention to resume shall be given; and where the resumption is for the purpose of intense culture, one year's notice shall be given.

(3) Immediately after notice of resumption for any purpose specified in this section the Commissioner may enter upon the land comprised in any such lease for the purpose of making any necessary surveys.

(4) Nothing in this section shall prevent the Commissioner from resuming pastoral lands in hundreds existing on the twenty-first day of December, one thousand nine hundred and one.

(5) If no portion of any land resumed for intense culture is used for intense culture for a period of two years from the date of the expiry of the notice of resumption, the lessee or his successor in title to the lease from which that land was resumed shall have the first right to a lease thereof, upon the same terms and conditions as the land was held at the time of resumption, for the balance of the term named therein, upon payment by the lessee of any compensation for such resumption.

82. The lessee of pastoral lands shall, if required by the Commissioner, permit the owner of a gold claim or mineral claim duly registered in terms of Part III., Division II., of the Mining Act, 1930, and pegged out on the land comprised in the pastoral lease of such lessee, to take for mining and domestic purposes a reasonable quantity of water from any of the wells or dams on such lands: Provided that—

Water to be supplied for mining purposes.
850, 1904,
s. 80.

- (a) the owner of any claim shall not take water as afore-said until he has paid to the lessee fair and reasonable compensation, such compensation in case of dispute to be determined by the Commissioner; and
- (b) the quantity of water so taken shall not at any time be such as to deprive the lessee of the quantity of water necessary for his stock, domestic, and general station purposes.

83. If land included in any lease is resumed, the lessee shall, subject to this Act, be compensated by the Government for the loss or depreciation in the value of the lease caused by that resumption, and also in respect of such improvements as he would have been entitled to payment for from an incoming lessee, if his lease had expired and the land had been re-let as on the date of the notice of resumption.

Compensation on resumption.
850, 1904,
s. 81.

84. (1) The amount of compensation to be paid on any resumption under this Act shall, in case of dispute or difference, be determined by two arbitrators, of whom one shall be appointed by the Commissioner and the other by the party entitled to payment or compensation.

Valuation by arbitrators.
850, 1904,
s. 82.

(2) The Arbitration Act, 1891, shall apply to every such arbitration, except in so far as that Act is inconsistent with this Act.

(3) The date for the appointment of arbitrators shall in every instance be fixed by the Commissioner by notice in the *Gazette*, and shall not be later than three months after the resumption of the lands.

(4) The decision of the arbitrators or umpire shall, within three months after their or his appointment, or within such further time, not exceeding another three months, as the Commissioner allows, be reported in writing to the Commissioner and the other party.

85. In computing the compensation to be paid for loss or depreciation in the value of any lease, no increased value given to that lease by reason of any public works executed

Certain increased value not to be included.
850, 1904,
s. 83.

after the granting of the lease shall be included or taken into account.

Lands resumed
for mining.
850, 1904,
s. 84.

86. If any lands resumed for or in connection with mining, and included in any pastoral lease, are afterwards found to be not required for the purposes for which they were resumed, the pastoral lessee shall have a preferential right to occupy those lands during the residue of his lease on terms to be prescribed.

Time for pay-
ment of
compensation.
850, 1904,
s. 85.

87. The amount payable for improvements or compensation for loss or depreciation in the value of any lease shall be paid within six months after the expiry of the lease or resumption occasioning the loss or depreciation, if the lessee has then given up possession of the land.

Acquisition of land for closer settlement.

Acquisition of
pastoral lands
for closer
settlement.
1519, 1922,
s. 19.

88. (1) The Commissioner may, by agreement with the lessee of any pastoral lands, acquire the lessee's interest in the whole or any part of the lands comprised in the lease for the purpose of the closer settlement thereof. The amount payable to the lessee for his interest in the land and the improvements thereon shall be paid by the Commissioner.

(2) No interest in any land shall be acquired as aforesaid unless the acquisition is recommended by the board.

(3) The total cost of all such acquisitions and of all acquisitions under Part X. of the Crown Lands Act, 1929, shall not in the aggregate exceed six hundred thousand pounds in any period of two financial years.

Parliament
to be informed
of acquisition.
1519, 1922,
s. 20.

89. Within thirty days after each acquisition, if Parliament is then in session, or if Parliament is not then in session, then within thirty days after the commencement of the next session, there shall be laid before both Houses copies of all recommendations and valuations pursuant to which the acquisition has been made, and full particulars of—

- (a) the locality, area, and quality of the land in question, and of the improvements thereon;
- (b) the names of the lessees and of all persons interested in the transaction; and
- (c) the price paid.

How acquired
land dealt
with.
1519, 1922,
s. 21.

90. Upon such acquisition the land shall be subdivided into holdings, and such holdings shall be offered on lease and

leased under the principal Act, subject to the following provisions:—

- i. Town lands may be sold by auction for cash in manner provided by the Crown Lands Act, 1929, and reserves may be dedicated by proclamation in like manner as Crown lands are dedicated:
- ii. The land, except those portions which are required for town lands or for dedication or reservation for public purposes, shall be subdivided into holdings, none of which shall be of a greater carrying capacity than ten thousand sheep:
- iii. When the Board considers there are more improvements on any holding than are required for working that holding, then only the value of such improvements as, in the opinion of the board, are reasonable, having regard to the size and situation of the holding, shall be considered in fixing the price to be paid for improvements; and the balance of the value of such improvements shall be added to the price which has been paid for the outgoing lessee's interest in the land:
- iv. Before the holdings are offered on lease, the board, subject to the approval of the Commissioner, shall fix the term (which, notwithstanding any other provision of this Act, may in any case be twenty-one years), the annual rent, and the price to be paid for the improvements (if any) and for the purchase of the outgoing lessee's interest in the holding. In fixing and approving the said price, the board and the Commissioner shall have regard to the amount paid, as provided by subdivision iii. hereof, for the outgoing lessee's interest in the whole of the land and for the improvements thereon, the cost of any necessary accommodation works or other work effected by the Government, and the cost of valuation, subdivision, and offering on lease; and the said price fixed in respect of the several holdings shall be so fixed as ultimately to recoup to the Government the sum total of the said amount and costs, together with interest on such total sum at the fixed rate:
- v. The said price fixed as aforesaid shall be repaid by the incoming lessee by equal annual instalments spread over the term of the lease, together with interest thereon or on the balance thereof for the time being remaining unpaid at the fixed rate, which instalments and interest shall be payable on the same days as

rent is payable under the lease, and shall be recoverable in like manner: Provided that—

- (a) in respect of such price, interest only shall be payable by the lessee for the first five years of the lease; and
- (b) the lessee may at any time pay the balance of the instalments and interest thereon to the date of payment, and thereupon he shall cease to be liable under this subdivision.

For the purposes of this Act the lessee shall be deemed to have obtained the consent of the Commissioner, and to have been permitted by the Commissioner, to pay the purchase price of the improvements by instalments.

vi. It shall not be lawful—

- (a) for any person to acquire, whether upon allotment or transfer, a lease of any holding under this section if he is already the lessee under this Act of any pastoral lands; or
- (b) for any person to acquire, whether upon allotment or transfer, a lease of more than one such holding, whether of the same subdivision or not.

Surrenders.

Surrender of
lease.
850, 1904,
s. 86.

91. (1) Any lessee may surrender his lease at any time during the currency thereof, and the Governor is hereby authorised to accept such surrender in the name and on behalf of His Majesty.

(2) Every surrender shall be in the form, and shall be made and executed in the manner, prescribed by the regulations: Provided that no surrender of any lease shall be of any force and effect until accepted by the Governor.

Partial
surrender.
1407, 1919,
s. 8.

92. Any lessee may surrender any portion of the land comprised in his lease on such terms as the board recommends, subject to the consent of the Commissioner.

Grant of
new leases.
850, 1904,
s. 87.

93. When any lease has been so surrendered it shall be lawful for the Governor, in the name and on behalf of the Crown, to grant a lease or leases of the land comprised in the surrendered lease to the person or persons nominated in that behalf by the lessee surrendering the lease and approved by the Commissioner; and every such new lease shall be

granted for the unexpired period of the term of, and for the same purposes, and subject to the same terms, conditions, and regulations, as the lease so surrendered.

94. (1) Where a lease expires by effluxion of time, or where leased lands are resumed and the lessee holds pastoral lands contiguous to the lands comprised in the expiring lease, or to the lands resumed, the Governor may accept a surrender of the lease of those contiguous lands: Provided that the lease of the contiguous lands expires within a year from the date of such surrender.

Surrender of
contiguous
lands.
850, 1904,
s. 88.

(2) In any such case the pastoral lessee shall be entitled to receive the same payment for improvements as he would have been entitled to if the lease so surrendered had at the time of the surrender expired by effluxion of time: Provided that no payment for improvements shall be made until the land comprised in the surrendered lease is either let or sold, or the surrendered lease would have expired by effluxion of time; but the valuation shall be made as soon as practicable after such surrender.

95. (1) When any pastoral lessee holds several contiguous blocks of land under leases expiring at different dates, the Governor may, with the advice of the board, accept surrenders of such leases and issue a lease or leases in lieu thereof, expiring at or about the average date of expiry of those leases.

Leases of
contiguous
blocks.
850, 1904,
s. 89.

(2) If the leases of any blocks which are held by the same lessee and worked together as one run expire at different dates, the Governor may, with a view to the simultaneous expiry of the leases, grant to the outgoing lessee a lease under this Act for a further term not exceeding three years, at an annual rental to be fixed by the board, subject to the approval of the Commissioner, and not being less than the annual rental paid under the previous lease.

PART VIII.

PART VIII.

OCCUPATION BY OUTGOING LESSEE AND POSSESSION BY INCOMING LESSEE.

96. (1) If any interval elapses between the determination by effluxion of time of any lease and the commencement of the term of any new lease of the same land, or any part thereof, the outgoing lessee may continue in occupation of that land during that interval at the rental at which the land was last offered for lease.

Occupation by
outgoing
lessee.
850, 1904,
s. 90.

PART VIII.

(2) If any land is ultimately re-let at a rental below that which the lessee paid under this section, the lessee shall be repaid the excess.

(3) A lessee so continuing in occupation shall observe the terms and conditions of his expired lease, except as herein-after provided.

Outgoing
lessee to
maintain
improvements.

850, 1904,
s. 92,
1937, 1929,
s. 7.

Outgoing
lessee to be
paid for
improvements
after giving
up possession.
850, 1904,
s. 93.

97. Any outgoing lessee so remaining in occupation shall keep all improvements upon the land leased in good order and condition to the satisfaction of the Commissioner.

98. The purchase-money paid by the incoming lessee for improvements, the property of the outgoing lessee, shall be paid to the outgoing lessee when he gives up possession of the land, together with interest at the rate of three per centum per annum from the time of the receipt of the purchase-money by the Commissioner.

PART IX.

PART IX.

TRAVELLING STOCK.

Rights to
travel stock.
850, 1904,
s. 94.
1711, 1925,
s. 8.

99. (1) Any person may enter and cross any run with sheep or cattle subject, however, to the observance of the following rules:—

- i. Notice in writing shall be given by the owner or person in charge of the sheep or cattle to the lessee, overseer, or manager of the run or to a person authorised by the lessee, overseer, or manager, to accept notices pursuant to this section, not less than two days or more than seven days before it is proposed to enter and cross the run as aforesaid; if at the time it is desired to give the notice there is no person on the run to whom it may be given, then the notice may be given by affixing it to a conspicuous place on the homestead on the run, or, if there is no homestead, then on a conspicuous place at the gateway or place where the stock are to enter the run.

s. 99. YANDAMA PASTORAL COMPANY LIMITED v. MUNDI MUNDI PASTORAL COMPANY LIMITED (1925) 36 C.L.R. 340; 32 A.L.R. 11; 6 Austr. Digest 928; affirming MUNDI MUNDI PASTORAL COMPANY LIMITED v. YANDAMA PASTORAL COMPANY LIMITED (1924) S.A.S.R. 492. Held (before the enactment of 1711, 1925) that s. 94 of the Pastoral Act, 1904, did not confer on the owner of stock a right to travel them across land comprised in a pastoral lease, except upon a recognised route.

II. Every such notice shall specify—

- (a) the number of such sheep or cattle and by whom they are owned;
- (b) their starting point and proposed destination and whether they are or are not only travelling for feed;
- (c) the points (which shall be by gates where the run is fenced) and dates on which it is proposed to enter and leave the run; and
- (d) the person in whose charge the sheep or cattle will be.

III. If the entry on the run is delayed for not more than forty-eight hours, a corresponding extension shall be allowed in the time for leaving the run:

IV. The person in charge of the sheep or cattle, if there is a stock route through the run leading to their destination, shall follow that stock route; and if there is no such stock route, shall follow the directions of the lessee, overseer, or manager of the run as to the line of travel which shall be practicable, in which the run is to be crossed; if no directions are given as aforesaid, and there is no such stock route through the run, the person in charge of the sheep or cattle shall cross the run from the point of entry to the point of leaving the run by the most direct practicable line of travel:

V. The person in charge of the sheep or cattle shall, in the case of sheep, travel the sheep a distance of not less than five miles on each day while crossing the run, and shall, in the case of cattle, travel the cattle a distance of not less than ten miles on each day while crossing the run, and shall securely close all gates on the line of travel:

VI. If the sheep or cattle are only travelling for feed the owner or person in charge of the sheep or cattle shall be liable to pay to the lessee of the run, or to the overseer or manager of the run on behalf of the lessee, a sum of sixpence for every hundred of such sheep or part of one hundred of such sheep, and sixpence for every twenty of such cattle or part of twenty of such cattle, for every day or part of a day during which the sheep or cattle are upon the run, which sum shall be recoverable by the lessee from the owner or person in charge of the sheep or cattle

either summarily or by action in any court of competent jurisdiction.

(2) If there is a stock route leading to their destination, then the sheep or cattle shall be travelled by the most direct practicable line of travel from their starting point to the nearest point on the nearest stock route leading to their destination: Provided that, as far as practicable, the starting point in such a case shall be the point on the run from which the sheep or cattle are proceeding which is nearest to the nearest stock route leading to their destination.

(3) Any notice required to be given pursuant to this section may be given in the form set out in the third schedule.

(4) The lessee of any run which is fenced shall provide a gate at every point where any fence on the run crosses a stock route and shall, in addition, provide gates in every fence on the said run so that there is at least one gate provided in every ten miles of such fence.

(5) For the purpose of this section "stock route" means any stock route shown in red on the plan deposited in the Land Office and numbered 322, and shall also include any further stock route which is declared by the Governor by proclamation to be a stock route for the purpose of this section. The Governor may, by proclamation, declare that any stock route shall cease to be a stock route, and may, by proclamation, declare that any stock route shall be varied, altered, or amended in the manner set forth in the proclamation.

(6) Any person who commits any act in contravention of this section shall be liable to a fine of not less than twenty pounds nor more than one hundred pounds.

(7) Nothing in this section shall in anywise affect the operation of the provisions of section 42 of the Stock and Poultry Diseases Act, 1934.

PART X.

PART X

WATER.

Power to bore
for water.
850, 1904,
s. 95.

100. (1) The Commissioner, and all persons authorised by him, shall have full and free liberty of access, ingress, egress, and regress, with or without horses, carriages, and machinery, into, over, through, and upon any land comprised in any lease,

and may thereon sink bores and wells, construct dams, reservoirs, and embankments, for the purpose of finding or conserving water.

(2) If any person other than the Commissioner discovers or conserves any water on any land resumed for mining purposes, a lease of the area resumed, not exceeding one square mile, shall be granted to that person.

(3) No such bore, well, dam, reservoir, or embankment shall be sunk or constructed within one mile of any improvement, consisting of a well, reservoir, dam, dwelling-house, factory, or building of the value of one hundred pounds or upwards, the property of the pastoral lessee.

101. The area which may be resumed where any artesian water is found or conserved by the Government is limited to five miles: Provided that, if that area is afterwards proposed to be leased, the lessee or lessees whose land was resumed shall have a preferential right to that lease.

Resumption of
land where
water found.
850, 1904,
s. 96.

102. (1) If any lessee, except upon a reserve, discovers any artesian well upon his run, situated at least ten miles distant from any other artesian well or any permanent natural spring existing on that run at the time, yielding a supply of not less than five thousand gallons per diem of water suitable for stock, he shall be entitled to a remission of ten years' future rent in respect of an area of one hundred square miles of the land surrounding that well comprised in his run for every such well so discovered, but not exceeding in respect of any run four such wells.

Concession to
lessee
discovering
artesian
wells.
850, 1904,
s. 917.

(2) The area to be affected by such remission shall be selected by the lessee, with the approval of the Commissioner.

Control and management of artesian bores.

103. In the nine following sections of this Part, unless the context otherwise requires, "artesian bore" means an artesian well or bore from which the water flows naturally to the surface of the land, together with all works constructed or erected in connection therewith.

Interpreta-
tion.
850, 1904,
s. 97A.
1937, 1929,
s. 9.

104. No person shall on any land included in a pastoral lease construct or commence to construct any artesian bore unless he has obtained a licence from the Commissioner authorising him to do so.

Licence for
constructing
bore.
850, 1904,
s. 97B.
1937, 1929,
s. 9.

105. No person shall on any land included in a pastoral lease maintain any artesian bore existing or under construction on the twelfth day of December, nineteen hundred and twenty-nine, unless within six months from that date he has

Licence for
maintaining
bore existing
at commence-
ment of Act.
850, 1904,
s. 97C.
1937, 1929,
s. 9.

obtained a licence from the Commissioner authorising him to maintain that bore. A bore shall be deemed to be maintained within the meaning of this section if any water escapes therefrom.

Mode of
making
application.
850, 1904,
s. 97D.
1937, 1929,
s. 9.

106. Every application under either of the last two preceding sections shall be made to the Commissioner in the form prescribed and shall be accompanied by all the information which is prescribed or which the Commissioner requires. No fee shall be chargeable in respect of the application for or the grant of a licence under this section.

Grant of
licences.
850, 1904,
s. 97E.
1937, 1929,
s. 9.

107. Any person applying in accordance with this Act shall be entitled as of right to a licence to maintain a bore, existing or under construction on the twelfth day of December, nineteen hundred and twenty-nine, but the Commissioner may upon the recommendation of the board grant or refuse any licence to construct a new bore, or grant such a licence subject to any conditions, and the decision of the Commissioner shall be final.

Terms of
licence.
850, 1904,
s. 97F.
1937, 1929,
s. 9.

108. Every licence to maintain or construct an artesian bore may contain such provisions as to the mode in which the bore is to be maintained, constructed, and kept in repair as the Commissioner thinks proper.

Duty to
obtain
approval of
Commissioner
for enlarging
and deepening
bore.
850, 1904,
s. 97G.
1937, 1929,
s. 9.

109. No person shall deepen or enlarge any artesian bore on the land included in a pastoral lease—

(a) unless the Commissioner on the recommendation of the board has given him permission in writing to do so; nor

(b) otherwise than in accordance with any requirements imposed by the Commissioner on the recommendation of the board as a condition of giving his permission.

Penalty.
1937, 1929,
s. 9.

110. If any person contravenes any provision of section 104, 105, or 106, or fails to observe any term, condition, or requirement of a licence, he shall be guilty of an offence and liable to a fine not exceeding one hundred pounds, and where the offence continues from day to day he shall be liable to a fine not exceeding five pounds for every day on which the offence continues.

111. (1) If the Commissioner is of opinion that the water from any artesian bore constructed after the twelfth day of December, nineteen hundred and twenty-nine, on any land included in a pastoral lease is being improperly used or is being wasted, or is not being used to the best advantage, he may on the recommendation of the board direct the lessee of that lease—

Prevention of
waste.
850, 1904,
s. 97r,
1937, 1929,
s. 9.

(a) to close the bore partially within such time and for such period as he fixes; or

(b) to take such other precautions as he deems necessary to prevent the water from being improperly used or wasted, or to ensure that the water will be used to the best advantage.

(2) If the lessee fails to comply with any such direction the Commissioner may do all or any of the following things:—

(a) take all steps necessary to carry out such direction:

(b) recover the cost of so doing from the lessee by action in any court of competent jurisdiction:

(c) forfeit the lease in the same manner as a lease may be forfeited under this Act for breach of covenant.

112. (1) If any land held under a pastoral lease is insufficiently watered, but is so situated that it can conveniently be supplied with water from an artesian bore constructed after the twelfth day of December, nineteen hundred and twenty-nine, and situated on other land held under a pastoral lease by a different lessee, the lessee of the first-mentioned land may apply to the Commissioner for an order under this section directing the lessee of the land on which the bore is situated to supply him with water from that bore.

Supply of
water to
adjoining
lands.
850, 1904,
s. 97r,
1937, 1929,
s. 9.

(2) If upon such an application being made in accordance with the regulations the Commissioner is satisfied that the land of the applicant is insufficiently watered and that the quantity of water flowing from the bore is in excess of the reasonable requirements of the lessee of the land on which it is situated, and that the surplus water could, under a practicable scheme of distribution, be supplied to the land of the applicant, the Commissioner may on the recommendation of the board—

(a) order that the lessee of the land on which the bore is situated shall supply water to the applicant in such quantities and on such reasonable terms and in such manner as are specified in the order:

(b) in and by the order give to either party any directions necessary for the purpose of carrying the order into effect:

(c) impose any conditions in the order which the Commissioner thinks fit.

The lessee of the land on which the bore is situated shall not be required by any such order to construct or lay down, at his own expense, any additional apparatus, pipe, or drain for the purpose of supplying water in accordance with that order.

(3) The order shall be deemed to be an agreement between the parties for the supply of water in the manner and on the terms and conditions therein stated, and may be enforced accordingly.

In addition, if the lessee ordered to supply water fails without just excuse substantially to comply with the order, he shall be liable to have his lease forfeited in the same manner as a lease may be forfeited under this Act for breach of covenant.

(4) If, for the purpose of giving effect to an order under this section, it is necessary to convey surplus water on, through, or across any land intervening between the land whereon the bore is situated and the land to be supplied, the Commissioner may on the recommendation of the board order the lessee of the intervening land on such reasonable terms as he thinks just, to permit any person to convey water on, through, or across that land, and to enter thereon, with or without horses, vehicles, workmen, tools, and apparatus for the purpose of laying or repairing pipes or constructing or repairing drains thereon, or doing any other thing necessary to convey the water. If any lessee of any such intervening land fails to comply with the order in any material particular, he shall be liable to have his lease forfeited in the same manner as a lease may be forfeited for breach of covenant.

Special leases to discoverers of water.

Special lease
to discoverer
of water.
1519, 1922,
s. 14.

113. (1) The Governor may grant a lease under this section to any person who has complied with the requirements of this section, and who has applied for such a lease.

(2) A person who is desirous of searching for water, with a view of obtaining a lease under this section, may apply to the Commissioner for a permit authorising him so to search. The application shall be made in the manner prescribed, and shall contain such particulars as are prescribed. The Commissioner may, as he thinks fit, grant or refuse any such application.

(3) Every such permit—

- (a) shall be in writing, in the form prescribed, and shall be signed by the Commissioner; and
- (b) shall specify approximately the land upon which the search is authorised to be made; and
- (c) shall have effect only for a period of one year from the date of the granting thereof; and
- (d) may be extended from time to time for any period not exceeding one year.

(4) Such a permit shall confer upon the holder thereof the exclusive right to search for water on the land therein specified, and a preferential right to a lease under this section.

(5) The holder of a permit under this section who satisfies the Commissioner that he has discovered, by boring or well-sinking, on the land specified in such permit, a permanent supply of water suitable for great cattle, yielding not less than four thousand gallons of water a day, may apply to the Commissioner for a lease under this section of land, not exceeding one hundred square miles in area, surrounding the site of the bore or well in which such water is discovered.

(6) The Governor may grant the applicant a lease under this section of the whole or any part of the land applied for; but so that the total area granted shall not exceed one hundred square miles.

(7) The following rules shall apply to a lease granted under this section:—

- (a) For the first period of ten years the rental shall be a peppercorn rental; for the second period of ten years sixpence per square mile; and for the remainder of the term, two shillings per square mile:
- (b) The covenant relating to the stocking of the land contained in paragraph (b) of the first schedule to this Act shall be modified so as to provide that the lessee shall not be bound to increase the stock to more than ten head of sheep or two head of cattle (or their equivalent) per square mile at any time during the term of the lease:
- (c) For the first period of ten years the land shall be exempt from rating under the Wild Dogs Act, 1931:

PART X.

- (d) In all other respects the lease shall be upon the same terms and conditions as a lease under Part IV. of this Act.

Reward for
discovery of
water supply
for great
cattle.
1519, 1922,
s. 15.

114. The Commissioner shall pay a reward of at least two hundred pounds to any holder of a permit under the last preceding section who satisfies the Commissioner that he has discovered upon the land specified in the permit, by boring or well-sinking, a permanent supply of water, suitable for great cattle, yielding not less than four thousand gallons a day, and situate at least three miles away from every other existing bore or well: Provided that not more than one reward shall be paid for the discovery of a permanent supply of water on the land comprised in any one lease applied for or granted under the last preceding section.

PART XI.

PART XI.

UNOCCUPIED LANDS.

Interpreta-
tion.
850, 1904,
s. 106.
1937, 1929,
s. 10.

115. In this Part “unoccupied lands” means lands which are not included in any hundred and which on the twelfth day of December, nineteen hundred and twenty-nine, were not held under a lease.

Terms of
leases of
unoccupied
lands.
850, 1904,
s. 107.
1937, 1929,
s. 10.

116. Notwithstanding the other provisions of this Act the following provisions shall apply with regard to every lease of unoccupied land granted after the twelfth day of December, nineteen hundred and twenty-nine, namely:—

- (a) Every such lease shall be granted for the term of twenty-one years:
- (b) Every such lease shall be granted at a peppercorn rental:
- (c) Every such lease shall where practicable comprise not less than two hundred and fifty square miles of land:
- (d) Every such lease shall contain the terms, covenants, and conditions set out in the first schedule, subject to any modifications thereof or additions thereto which the Commissioner upon the recommendation of the board fixes, and a covenant by the lessee to spend money on improvements on the leased land so that by the end of the fifth year of

the term thereof not less than ten pounds per square mile will have been spent, and by the end of the thirteenth year not less than fifteen pounds per square mile, and by the end of the twenty-first year not less than twenty pounds per square mile. In computing the amount spent on improvements there shall not be included any money advanced by the Commissioner or by any other person or body on behalf of the Crown to the lessee for vermin-proof or dog-proof fencing and spent by the lessee for that purpose:

- (e) Where a lessee or his predecessors in title have held land for twenty-one years on such a lease as previously mentioned in this section, and all the terms thereof have been complied with to the satisfaction of the board, he shall be entitled to receive a lease of the same land under the other provisions of this Act for the term of forty-two years. The rent under any lease for forty-two years so granted shall not, in the first instance, exceed two shillings and sixpence per square mile, but shall be re-valued for the last twenty-one years of the period of forty-two years for which the lease was granted, and on such re-valuation may be increased or decreased by not more than fifty per centum of the amount thereof for the time being. On any renewal of the lease the rent may be re-valued without restriction on the amount of increase or decrease thereof.

PART XII.

PART XII.

THE TENANTS' RELIEF BOARD.

117. A board is hereby constituted to exercise and discharge the powers and duties conferred or imposed upon it by this Act. Constitution.
850, 1904.
s. 103.

118. That board shall be called the "Tenants' Relief Board," and shall consist of a Judge of the Supreme Court, to be nominated by the Governor, assisted by two assessors, one to be appointed by the Commissioner and the other by the lessee. Name and
members.
850, 1904.
s. 109.

PART XII.

Notice of
intended
forfeiture.
850, 1904,
s. 110.
1937, 1929,
s. 11.

119. No lease shall be forfeited until after the expiration of three months from the giving of notice to the lessee of the Commissioner's intention to forfeit the same, and unless the board has previously approved of the proposed forfeiture.

Application
for relief
against
forfeiture.
850, 1904,
s. 111.

120. Any lessee upon receiving notice of the Commissioner's intention to forfeit his lease for default in the observance or performance of any covenant or condition therein, other than the covenant for payment of rent, may apply, in manner prescribed, to the Tenants' Relief Board for relief.

Board to con-
sider whether
forfeiture
ought to be
enforced.
850, 1904,
s. 112.

121. The board shall thereupon inform itself, in such manner as it thinks fit, of all matters affecting the question whether or not the forfeiture ought to be enforced, and determine as it thinks fit.

Compensa-
tion.
850, 1904,
s. 113.

122. If the board considers that the forfeiture ought not to be enforced, it may direct the lessee to pay any compensation, or do any act, within such time as it thinks fit.

Finding to be
certified.
850, 1904,
s. 114.

123. The board shall in each case certify its determination to the Commissioner, who shall notify the lessee thereof in writing.

Payment of
compensation
in lieu of
forfeiture.
850, 1904,
s. 115.

124. If the lessee, within the time fixed by the board, complies with the directions of the board, the forfeiture shall not take place.

In what cases
forfeiture
may proceed.
850, 1904,
s. 116.

125. If the board certifies that the forfeiture ought to be enforced, or if the lessee does not within the time fixed comply with the directions of the board, the Commissioner may, if he thinks fit, proceed with the forfeiture.

President and
decision.
850, 1904,
s. 117.

126. The judge shall preside at all meetings of the board, and his decision shall be the decision of the board.

Proceedings
and evidence.
850, 1904,
s. 118.

127. All proceedings before the board shall be conducted in such manner as the board thinks fit, and no rules of evidence shall necessarily be observed.

Onus of proof
in proceedings
before
Tenants'
Relief Board.
850, 1904,
s. 118A.
1919, 1922,
s. 9.

128. If, in any proceedings before the board the Commissioner alleges that the lessee has made default in the observance or performance of any covenant or condition in his lease, the onus shall be upon the lessee to prove that such covenant or condition has been duly observed or performed:

Provided that such onus shall be deemed to be discharged if the lessee proves to the satisfaction of the board:—

- (a) that he has *bona fide* endeavoured to carry out such covenant or condition, and has taken every reasonable means in his power, having regard to all the circumstances of the case, to carry out such covenant or condition; or
- (b) that such covenant or condition has been substantially complied with.

PART XIII.

PART XIII.

REGULATIONS.

129. The Governor may, for carrying out and giving force and effect to the various objects, purposes, rights, powers, and authorities of this Act, make, alter, rescind, and amend regulations, and make other regulations in addition to or in lieu thereof, including regulations for fees, and penalties not exceeding twenty pounds for any one offence.

Regulations.
850, 1904,
s. 119

130. (1) Such regulations, alterations, amendments, and revocations shall be published in the *Gazette*, and shall be laid before both Houses of Parliament within fourteen days after the publication thereof, if Parliament is then sitting, and if not, then within fourteen days after the next session of Parliament begins.

Procedure
when regula-
tions made.
850, 1904,
s. 120.

(2) If within sixty days of the laying before Parliament of such regulations either House of Parliament passes a resolution objecting to any such regulations, amendments, or revocations, they shall (so far as so objected to) thenceforth cease to have the force of law, and notice of such resolution shall forthwith be published by the Commissioner in the *Gazette*.

131. Subject to the foregoing provisions, all such regulations, amendments, and revocations shall have the full force of law from the first date of publication thereof.

Effect of
regulations.
850, 1904,
s. 121.

PART XIV.

PART XIV.

MISCELLANEOUS.

Mineral
leases may
be granted.
850, 1904,
ss. 122, 123,
and 124.

132. (1) Claims and mining leases may be pegged out or granted under and subject to the provisions of the Mining Act, 1930, over and of lands comprised in any lease whether granted before or after the passing of this Act without resumption.

(2) This section shall not extend to any land comprised in any lease within two hundred yards of any well, reservoir, dam, dwelling-house, factory, or building of the value of one hundred pounds or upwards.

Annual report
on improve-
ments.
850, 1904,
s. 125.

133. The Commissioner shall furnish to Parliament every year a report showing the names of the lessees to whom he has granted permission to make improvements, and the value of such improvements.

Public
reserves to
be under
Commissioner
of Crown
Lands.
850, 1904,
s. 126.

134. Notwithstanding anything expressed to the contrary in any previous Act, all public stock reserves and waters within pastoral country shall be under the direct control of the Commissioner of Crown Lands.

Annual leases
and common-
age licences.
850, 1904,
s. 127.

135. The Commissioner may grant annual leases of lands included in any hundred, and also commonage licences for the depasturing of cattle or sheep, upon such terms and conditions as are prescribed; but every annual lease shall be subject to the rights of commonage of owners of land within such hundred and of persons holding land within such hundred under agreement for purchase from the Crown or on perpetual lease.

Reserves.
850, 1904,
s. 128,
1519, 1922,
s. 10.

136. No land used as a travelling stock road or reserve shall be appropriated for any other purpose unless—

(a) plans showing the road or reserve proposed to be so appropriated shall have been first laid for sixty days before both Houses of Parliament; and

(b) both Houses of Parliament have affirmed a resolution that it is desirable that that road or reserve should be so appropriated.

Power of
Commissioner
to alter
boundaries
between
leases.
850, 1904,
s. 128A.
1937, 1929,
s. 12.

137. (1) If the Commissioner is of opinion that the boundary or any part of the boundary between contiguous areas of land held by different lessees under leases granted under this Act is so situated that it cannot conveniently be fenced, or is otherwise inconvenient for the lessees, the Commissioner on the recommendation of the board, and with the

consent of both the lessees concerned, and of any person interested in the land comprised in the lease the area of which will be diminished by the proposed alteration, may alter that boundary or part of a boundary.

(2) When a boundary is altered as aforesaid the Commissioner may lodge in the office of the Registrar-General a memorandum setting forth—

- (a) a reference to the volume and folio, as appearing in the Register Book of Crown Leases, of each lease affected by the alteration:
- (b) particulars of the alteration, with a plan thereof if the Registrar-General so requires:
- (c) a statutory declaration by the chairman or a member of the board declaring that the said alteration has been made with the consent of both lessees and of all parties interested in the lease the area of which will be diminished by the proposed alteration.

(3) When a memorandum of the alteration of boundaries has been lodged in accordance with this section, the Registrar-General of Deeds shall indorse on the appropriate folios in the Register Book of Crown Leases and on the lessees' copies of the Crown leases (if produced to him) and on any registered instrument relating to the land affected, a memorandum of the alteration of the boundaries of the land comprised in the said leases, and thereupon the land to which the leases and any such instrument relate shall for all purposes be increased or diminished, as the case may be, in accordance with the alteration.

(4) Each of the lessees shall be liable to pay to the Commissioner his proper proportion of any fees payable in connection with the alteration of boundaries and the registration thereof.

138. The Commissioner, the board, and any member of the board, and any person authorised by him or them, may at any time enter upon any lands for the purpose of surveying or inspecting them, or making any valuation, or for any other purpose which the Commissioner, board, or member deems convenient or desirable for the purpose of giving effect to this Act.

Power of
entry.
850, 1904,
s. 129.

139. (1) The Commissioner may give permission to any person to erect gates on any road vested in His Majesty, not being a main road or within the limits of any municipality or district council district, and may let the right of depasturing on such road.

Gates.
850, 1904,
s. 130.
1937, 1929,
s. 13.

(2) Any person who injures, destroys, or opens and fails to shut any gate erected pursuant to this section, or any gate on or on the boundary of any Crown lands or any land comprised in a lease granted under this Act shall be guilty of an offence and shall be liable to a fine of not more than fifty pounds, or to imprisonment for any period not exceeding six months.

Leases for
aboriginal
reserves may
be granted.
850, 1904,
s. 181.

140. Leases may be granted to charitable incorporated bodies for any term not exceeding twenty-one years, at such rent and upon such terms and conditions as the Governor thinks fit, of any land as aboriginal reserves, in blocks not exceeding one thousand square miles. Every such lease shall be subject to a right of renewal so long as it can be shown to the satisfaction of the Governor that the lands therein described are required for and applied to the use of the aboriginal inhabitants of the State.

Giving of
notices.
850, 1904,
s. 181A.
1711, 1925,
s. 4.

141. (1) Any notice to be given to any lessee pursuant to this Act or under any lease shall be deemed to have been duly given if it has been sent through the post office enclosed in an envelope addressed to the lessee at—

- (a) any address stated in any application, letter, or document received from the lessee;
- (b) the lessee's usual or last known place of abode in the State; or
- (c) the care of any solicitor, attorney, or agent acting in the lessee's behalf in the particular matter in respect whereof such notice is given,

and such notice shall be deemed to have been given on, and shall run from, the day of the posting thereof.

(2) This section shall not apply to any notice given pursuant to section 100.

Forfeiture
may be
waived.
850, 1904,
s. 183.

142. (1) The Commissioner, upon any terms and conditions which he thinks fit, may rescind or annul the forfeiture of any lease and extend the period during which any lessee may perform the covenants or conditions mentioned in section 61 or the third schedule of this Act.

(2) The terms and conditions so imposed by the Commissioner shall be binding on the lessee on his accepting them.

PART XIV.

143. (1) The Commissioner may, from time to time, by notice published in the *Gazette*, fix the annual rate of interest for the purposes of this Act, and may, in the same manner, annul any rate so fixed.

Commissioner
may fix rate
of interest.
850, 1904,
s. 133A.
1519, 1922,
s. 11.

(2) Any rate so fixed shall come into force on the fourteenth day after the date of the *Gazette* in which the rate is published, and shall continue in force until the fourteenth day after the date of the *Gazette* in which the notice annulling the rate is published.

PART XV.

PART XV.

LEGAL.

144. The production of the *Gazette* containing any publication required to be published shall be *prima facie* evidence of the facts stated, recited, or assumed therein.

Gazette
evidence of
facts stated
therein.
850, 1904,
s. 134.

145. No proclamation shall be invalid by reason of anything required as preliminary thereto not having been done, or not having been duly done.

Proclamation
valid for all
purposes.
850, 1904,
s. 135.

146. In any action, suit, or proceeding under this Act—

Burden of
proof.

I. the averment that any lands are pastoral lands, dedicated lands, reserved lands, or lands belonging to or vested in the Crown, or that any person is authorised to take any proceedings, or perform any duty, or sue for the recovery of any penalties, or other moneys under this Act, shall be sufficient without proof of such fact, unless the defendant proves the contrary:

850, 1904,
s. 136.
1519, 1922,
s. 12.

II. where the authority of the defendant to do any act is in question the proof thereof shall lie upon such defendant:

III. all licences, certificates, maps, plans, and office copies purporting to be certified as true under the hand of the Secretary for Lands, the Assistant Secretary for Lands, or the Surveyor-General of the State shall be sufficient evidence without production of original records, and without the personal attendance of such officers, or proof of their signatures.

PART XV.

Procedure for
offences,
850, 1904,
s. 137.

147. (1) All proceedings may be had and taken and all complaints may be laid for any offence against this Act at the instance of the Commissioner, or any person authorised by him; and all complaints shall be heard, and determined, and all moneys, costs, and expenses shall be recovered in a summary way before a special magistrate or any two or more justices.

(2) The special magistrate or justices may also, if any penalty is imposed, order the defendant, in default of payment thereof, to be imprisoned, with or without hard labour, for any period not exceeding six months.

Penalties.
850, 1904,
s. 138.

148. All penalties shall, except when otherwise provided, when recovered, be paid to the Treasurer of the State.

Treasurer
may order
costs to be
paid.
850, 1904,
s. 143.

149. The Treasurer may cause to be paid out of the General Revenue the costs or charges of any action brought by or against any justice, Crown lands ranger, constable, or other person acting under the authority and in the execution of this Act.

Protection to
persons acting
in execution
of this Act.
850, 1904,
s. 144.

150. (1) Every action for anything done under this Act shall be commenced within six months after the cause of action arose, and not afterwards.

(2) Notice in writing of the action, and the cause thereof, shall be given to the defendant one month at least before the commencement of the action.

(3) In every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon.

(4) No plaintiff shall recover in any such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into court by or on behalf of the defendant after action brought, together with the costs incurred up to that time.

SCHEDULES.

THE FIRST SCHEDULE.

Pastoral leases shall contain a condition that the lessee shall not be entitled to possession of the run until he shall have paid the first year's rent, and paid or arranged pursuant to this Act for payment of the price for the improvements (if any).

Covenants by the lessee:—

(a) To pay the rent annually, in advance:

(b) To stock with sheep in the proportion of at least five head, or with cattle in the proportion of at least one head, for every square mile leased, and to keep the same so stocked, and before the end of the seventh year to increase the stocking to at least twenty head of sheep, or four head of cattle, per square mile, and to keep the same so stocked during the remainder of the term and of any renewal thereof, and so that the stocking with sheep and cattle combined shall be sufficient if the requisite number are kept, one head of cattle being computed as equal to five head of sheep; and in all cases, upon being required thereunto, to furnish the Commissioner and the Pastoral Board with true particulars of the number of sheep and cattle with which the leased land is stocked:

850, 1904,
s. 47.
1937, 1929,
s. 14.

(c) That the lessee will not at any time during the last three years of the term of the lease, or of any renewal thereof, overstock the land or any part thereof, or keep thereon any excessive number of sheep, cattle, horses, or other stock which, in the opinion of the Commissioner or the Pastoral Board, would have the effect of depreciating the ordinary capacity of the land for depasturing stock:

(d) To forthwith commence to destroy and use reasonable means to keep the land free from vermin, to the satisfaction of the Commissioner or the Pastoral Board, during the currency of the lease and any renewal thereof, subject to the provisions of this Act:

(e) Not to assign or sub-let the whole or any part of the leased land without the consent of the Commissioner: Provided that:—

(1) the Commissioner shall not consent to an assignment or sub-letting of the whole of the leased land during the first five years of the term, unless it is proved to his satisfaction that a refusal of consent would cause severe hardship:

(2) the Commissioner shall not, during the first ten years of the term, consent to any assignment or sub-letting, giving effect to a subdivision of the leased land into two or more parts unless it is proved to his satisfaction that a refusal of consent would cause severe hardship:

(3) the Commissioner shall not, at any time, consent to any assignment or sub-letting, giving effect to a subdivision of the leased land into two or more parts unless plans of the proposed subdivision have first been submitted to and approved by him, and he is satisfied that the subdivision is such as would enable the best use to be made of all the improvements, waters, and grazing areas:

(4) subject to the preceding paragraphs of this proviso, the Commissioner shall not capriciously withhold his consent to any assignment or sub-letting:

(f) Not to erect or suffer brush fences on the land leased:

(g) Not to cut timber, except for improvements, or firewood, without the licence of the Commissioner:

(h) Not to obstruct or interfere with any public roads, paths, or ways, or the use thereof by any person:

(i) To make and furnish all such statements and returns as may be required by any rule or law for the time being in force:

(j) To observe and comply with the regulations for the time being in force under this Act:

And, in addition to such covenants—

(k) An exception or reservation in favour of the Crown, and all persons authorised, of all minerals, metals, gems, precious stones, coal, and mineral oils, together with all necessary rights of access, search, procurement, and removal, and all incidental rights and powers:

- (l) An unrestricted right for the Crown and all persons authorised to enter and view the demised premises, and view the state and condition thereof, and to serve notice on the lessee of any wants of reparation, &c.:
- (m) An unrestricted right for the Pastoral Board, Land Boards, and the members, agents, and officers thereof, respectively, to enter upon and examine the demised land and premises:
- (n) A condition that if rent be not paid on due date, then a penalty of 10 per cent. per annum on the amount of the rent unpaid may, if the Commissioner think fit, be added:
- (o) A proviso that if rent shall be in arrear for more than three months after due date, or if there has been a breach or non-performance of any of the lessee's covenants or conditions, the Commissioner may cancel the lease, subject to the provisions of this Act:
- (p) Provisions for the re-valuation or resumption of the demised land or premises, or any part thereof, for increasing the rent upon re-valuation, and for compensation of the lessee on resumption, in accordance with the Acts and regulations for the time being on that behalf:
- (q) Such leases shall also contain all such exceptions and reservations in favour of the Crown, the Commissioner, the Pastoral Board, Land Boards, Road Boards, and other authorities, the aborigines of the State, and other persons necessary or proper for giving effect to any Act or regulation for the time being in force, or not inconsistent therewith, as may be prescribed, or as the Commissioner may require:
- (r) All the above to be expressed in such form as may be prescribed.

THE SECOND SCHEDULE.

District A.

Comprising all that portion of the State south of pastoral blocks 584, 585, 586, 587, 579, and 535; south and east of portions of pastoral block 536; south of the production westerly of the northern boundary of pastoral lease 2626, pastoral block 577, and the production easterly of its southern boundary to the north-west corner of county Hopetoun; south of the north boundary and west of portion of the east boundary of said county; south of portions of pastoral leases 233 and 239, pastoral lease 259, pastoral blocks 387, 388, 391, and 392; west of portion, and south of pastoral block 349; west of pastoral block 354, and south of portion of said block; west and south of portions of pastoral lease 2765; west of pastoral lease 2943, and south of portion of said lease; west and south of pastoral lease 5170; west and south of portions of former pastoral lease 2195; north-west of portion and south-west of pastoral lease 211; south-east of portion of said lease; south-west of pastoral lease 2303 and portion of pastoral lease 210; north-west of portion, and west of pastoral lease 2777; south of portions of said lease; west and south of portions of pastoral lease 267; west of pastoral block 282A; north of portion of pastoral lease 2847; north and west of miscellaneous lease 2554; north and west of portions of pastoral lease 2847; south of the production westerly of the northern boundary of pastoral lease 137; south of the northern boundary of said lease and of a straight line from its north-eastern corner to the south-western corner of pastoral block 491; south of portions of pastoral blocks 491 and 511; west of a true south line about five and a half miles east of Wudinna Hill Trigonometrical Station; north of an east and west line about six and a quarter miles south of said trigonometrical station; west of a true south line about twenty-one miles east of the east boundary of county Robinson; north of an east and west line about fourteen and a half miles north of the northern boundary of county Musgrave; west of portion of the east boundary of county Robinson; north of portion of the hundred of Talia; east of the hundred of Downer and north of portion of said hundred; east of the hundreds of Wright and Witera; north of portion of the latter hundred; east of the hundreds of Campbell and Murray; east, north, and west of the hundred of Tarlton; north of portion of the hundred of Scott; east of the hundreds of Finlayson and Haslam; south of portion and east and north of the hundred of Petina; east and north of the hundred of Hague; east of portion of the hundred of Guthrie; north of said hundred and the hundreds of Chillundie and Wandana; east and north of the hundred of Goode, and west of portion of said hundred; north of the hundred of Moule; east of portions and north of the hundreds of Catt and Bagster; north of the hundreds of Burgoyne, Cohen, Giles, Magarey, and Nash; east of portion of county Hopetoun; north of the production easterly of the north boundary of the hundred of Miller and portion of said hundred; east and north of former pastoral lease 1685; north of the production westerly of the northern boundary of said lease; and west of portion of county Hopetoun.

And all that portion of the State east of the west boundary of county Manchester and its production northerly; south of portion and east of pastoral lease 2515; south of portion of pastoral lease 2433, pastoral lease 2433A, former pastoral lease 2185, and portion of pastoral lease 2339; south-west of portion of Lake Torrens; south of the production of portion of the southern boundary of pastoral lease 98 easterly from the western to the eastern shore of said lake; east of portion of Lake Torrens aforesaid; south and east of pastoral lease 280; east and north of pastoral lease 2318; north and east of portions of pastoral lease 2468; east of pastoral lease 2579, former pastoral lease 1840, and portion of former pastoral lease 1839; south of pastoral lease 2426; west of portion and south of former pastoral lease 2156.

And all that portion of the State east of portions of counties Burra and Kimberley, and south of portion of District A, north of the hundred of Stuart; east of portion of said hundred; north-east of portion of pastoral block 275; north of the production westerly of the northern boundary of former pastoral lease 2158A; north of said lease and former pastoral lease 2158; west of portion and north of former pastoral lease 2161; west of portion of pastoral lease 1816; north of the southern boundary of pastoral lease 5193 and its production easterly to the western boundary of Chaffey Brothers' Irrigation Colony; west of portion and north of the said irrigation colony to the eastern boundary of the State.

All that portion of the State south of county Alfred and portion of county Albert; east and south of the hundred of Bowhill; east of portion of the hundred of Ettrick; north of portion of former pastoral lease 2078; north of former pastoral leases 1876 and 2093; north and west of portion of pastoral lease 2553; east of portion of county of Buecleuch; north of hundreds of Cotton and Bews; west of portion of the hundred of Parilla; and north of the said hundred and the hundred of Pinnaroo.

Also all that portion of the State north of portion of the hundred of Tatiara; north-east of a line seven miles north-east of and parallel to the line of railway from Murray Bridge to the Victorian border; east of portions of counties Cardwell and Buecleuch; and south of an east and west line fifteen miles south of the hundreds of Cotton, Bews, Parilla, and Pinnaroo.

Together with all those portions of the State east of portion and south of the hundred of Coolinong; east of the hundreds of Bonney, Glyde, Santo, and Neville; north of portion of county MacDonnell; west of portion of the hundred of Wirrega; south and west of portion of the hundred of Stirling and south-west of a line seven miles south-west of and parallel to the line of railway from Murray Bridge to the Victorian border; together with that portion of county MacDonnell not included in any hundred.

District B.

Comprising all that portion of the State north of portion of District A; east and north of portions of the hundred of Yednalue; east, north, and west of portions of District A; west of portion of pastoral lease 2326; north and west of former pastoral lease 2711; west and north of portions of pastoral block 599; north of portions of counties Jervois and Musgrave; east of a true north line about five and a half miles east of Wudinna Hill Trigonometrical Station; south of portion of pastoral block 511, and pastoral block 486; west and south of portions of pastoral block 187A; west and south of pastoral block 187B, and east of portion of said block; south of portion of pastoral lease 2332; south-east and north of Lake Gilles; north-east and east of pastoral block 183A; east of pastoral leases 209, 2269, 2544, and the production northerly of the eastern boundary of the latter lease; east of portion of Lake McFarlane; east and south of portion of pastoral lease 2695; south of portion of pastoral lease 2389c; east of the said lease, pastoral leases 2550, 2350, 2682A, 2682, 2644, and 2679; north of portion of the latter lease, east of pastoral leases 2677, 2674, 2671; north of the latter lease; east of portions of pastoral leases 2634D, 2795, pastoral leases 2452, 2255; south and east of portions of former pastoral lease 1845; south of pastoral lease 2344, and portion of pastoral lease 2639; south and east of former pastoral lease 1888, and portion of pastoral lease 2639; east of portion of pastoral lease 2639A; south of former pastoral lease 2865A; east of portion of Lake Eyre North; south of pastoral block 399, pastoral leases 2362, 2361, and portion of 2360; west and south of portions of pastoral leases 2842 and 2570; south of former pastoral lease 2916; south-west of portions of pastoral lease 2405, former pastoral lease 2918; and pastoral leases 2739 and 2739A; south of pastoral leases 2773 and 2589A; south and west of portions of pastoral lease 218; west and south of portion of pastoral lease 2784; west of the eastern boundaries of pastoral lease 2979, portion of pastoral lease 73 and pastoral lease 2530A; west of portion of pastoral lease 2530B, pastoral leases 2497A, 2497, and 2794, pastoral block 517; west of pastoral lease 247; south of portion of said lease; west of portion of pastoral lease 2542; west and south of pastoral lease 2645; south of pastoral leases 2499, 2514, 2240, 2985, and 5004.

And all that portion of the State east of portions of counties Burra and Kimberley, and south of portion of District A, north of the hundred of Stuart; east of portion of said hundred; north-east of portion of pastoral block 275, north of the production westerly of the northern boundary of former pastoral lease 2158A; north of said lease and former pastoral lease 2158; west of portion and north of former pastoral lease 2161; west of portion of pastoral lease 1816; north of the southern boundary of pastoral lease 5193 and its production easterly to the western boundary of Chaffey Brothers' Irrigation Colony; west of portion and north of said irrigation colony to the eastern boundary of the State.

All that portion of the State south of county Alfred and portion of county Albert; east and south of the hundred of Bowhill; east of portion of the hundred of Ettrick; north of portion of former pastoral lease 2078; north of former pastoral leases 1876 and 2093; north and west of portion of pastoral lease 2553; east of portion of county of Buccleuch; north of the hundreds of Cotton and Bews; west of portion of the hundred of Parilla; and north of the said hundred and the hundred of Pinnaroo.

Also all that portion of the State north of portion of the hundred of Tatiara; north-east of a line seven miles north-east of and parallel to the line of railway from Murray Bridge to the Victorian border; east of portions of counties of Cardwell and Buccleuch; and south of an east and west line fifteen miles south of the hundreds of Cotton, Bews, Parilla, and Pinnaroo.

Together with all those portions of the State east of portion and south of the hundred of Coolinong; east of the hundreds of Bonney, Glyde, Santo, and Neville; north of portion of county MacDonnell; west of portion of the hundred of Wirrega; south and west of portion of the hundred of Stirling and south-west of a line seven miles south-west of and parallel to the line of railway from Murray Bridge to the Victorian border; together with that portion of county MacDonnell not included in any hundred.

THE THIRD SCHEDULE.

Pastoral Act, 1936.

NOTICE OF INTENTION TO CROSS RUN WITH

{ SHEEP.
CATTLE.
CAMELS.
HORSES.

To of the *lessee*,
overseer, or manager of.....run.

Please take notice that it is proposed to cross.....run with

..... { sheep
cattle
camels in the charge of.....
horses

It is proposed to enter the said run at.....on the
.....day of.....19...., and to leave the run
at on the day of

19..... The { sheep
cattle
camels are owned by..... and are
horses
proceeding from.....to.....and are
not only travelling for feed.

Dated this.....day of.....19....

Signature of owner }
or person in charge }
of the stock }

NOTE.—This notice must be given not less than two days or more than seven days before the proposed date of entry on the run.

Regulations.

The following regulations were in force under this Act on the 19th day of July, 1937 :—

GENERAL REGULATIONS—

Gazette—18th January, 1923, p. 103.

AMENDING REGULATIONS—

Gazette—20th March, 1930, p. 565.