

WESTERN LANDS (AMENDMENT)
ACT.

Act No. 12, 1934.

An Act to dissolve the Western Land Board of New South Wales; to provide for the appointment of a Western Lands Commissioner, and for the exercise and discharge by such Commissioner of the powers, authorities, duties and functions of the said

George V.
No. 12, 1934.

No. 12, 1934.

said Board; to extend such powers and authorities in certain respects; to provide for the establishment of administrative districts in the Western Division and of local land boards to deal with certain matters; to empower the chairmen of such boards to exercise and perform certain powers, authorities, duties and functions; to confer certain additional powers as to withdrawal of lands held under lease, and to provide for the extension of the terms of certain leases of land in the Western Division upon certain conditions; to impose certain restrictions on dealings with leases; and for these and other purposes to amend the Western Lands Act of 1901, the Wild Dog Destruction Act, 1921, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd August, 1934.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the “Western Lands (Amendment) Act, 1934,” and shall be read and construed with the Western Lands Act of 1901, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

Commencement.

2. This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 70, 1901, ss. 4-10.

3. (1) The Principal Act is amended by omitting sections four (and the short heading thereto), five, six, seven, eight, nine and ten and by inserting in lieu thereof the following new sections:—

Western Lands Commissioner.

4. (1) The Governor may appoint a Western Lands Commissioner (in this Act hereinafter referred to as “the Commissioner”).

(2)

(2) The Commissioner shall, subject to the direction and control of the Minister, be charged with the administration of this Act, and shall exercise and perform the powers, authorities, duties and functions conferred and imposed upon the Commissioner by this Act.

(3) The Governor may appoint two persons to be chairmen of local land boards.

A person so appointed shall—

- (a) preside as chairman at the sittings of such of the local land boards as the Commissioner may direct; and
- (b) exercise and perform such of the powers, authorities, duties and functions of the Commissioner as the Commissioner may direct generally, or in any special case.

(4) The following salaries shall be paid to the Commissioner and the chairmen, namely—

The Commissioner, one thousand five hundred pounds per annum.

Each of the chairmen, one thousand pounds per annum.

Such salaries are hereby charged upon the Consolidated Revenue Fund, and such fund, to the extent required for payment of such salaries, is hereby permanently appropriated.

Such salaries shall be subject to any deduction provided by the Public Service Salaries Acts, 1931-1933, or any Act amending or replacing the same.

(5) Any person appointed as Commissioner or as a chairman shall, subject to this section, hold office for a term of ten years, and shall be eligible for reappointment.

Term of office.

(6) A Commissioner or a chairman may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in manner following, that is to say:—

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session, or if not, then

No. 12, 1934.

then within seven sitting days after the commencement of the next session. A Commissioner or a chairman suspended under this subsection shall be restored to office unless each House of Parliament within twenty-one sitting days from the time when such statement has been laid before such House declares by resolution that the Commissioner or the chairman, as the case may be, ought to be removed from office, and if each such House within the time aforesaid does so declare, the Commissioner or the chairman, as the case may be, shall be removed by the Governor accordingly.

Disabilities of Commissioners and chairman.

5. Neither the Commissioner nor a chairman shall, directly or indirectly, be interested in any land in the Western Division or in any matter which may arise in connection therewith under this Act, and any contravention of this enactment shall render void as well the office of the Commissioner or of the chairman, as the case may be, as any adjudication or determination in which such Commissioner or chairman takes part and in which he is personally interested.

Public Service Act, 1902, not to apply to appointment of or to Commissioner or chairman. cf. Act No. 62, 1932, s. 2.

6. (1) The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of the Commissioner or a chairman.

The Commissioner or a chairman shall not be subject to the provisions of the Public Service Act, 1902, or any Act amending that Act, during his tenure of office.

(2) The Commissioner shall be the permanent head within the meaning of the Public Service Act, 1902, and any Act amending that Act.

(3) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1930, or any Act amending such Acts, to any officer of the Public Service appointed as Commissioner or chairman.

(4) Any officer of the Public Service so appointed shall continue to contribute to any fund or account, and shall be entitled to receive any deferred

or

or extended leave and he or his widow or dependents shall be entitled to receive any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1930, or any Act amending or replacing those Acts; and service under this Act shall be deemed to be "Service" under the Public Service Act, 1902, as amended by subsequent Acts.

No. 12, 1934.

7. (1) The Commissioner or a chairman shall be deemed to have vacated his office if he—

Vacation
of office.

- (a) engages during his tenure of office in any live stock transactions for the sake of gain, or any other business or employment outside the duties of his office, except with the approval of the Governor;
- (b) becomes bankrupt, compounds with his creditors or makes any assignment of his estate for their benefit;
- (c) absents himself from duty for a period of fourteen consecutive days, except on account of illness, or on leave granted by the Minister;
- (d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898, or any Act amending or replacing that Act;
- (e) is convicted of any felony or misdemeanour;
- (f) resigns his office by writing under his hand addressed to the Governor.

(2) The Commissioner and the chairmen shall be entitled to such leave of absence as may be prescribed.

Leave of
absence.

8. (1) In case of the illness, suspension or absence of the Commissioner or a chairman, the Governor may appoint a person to be the deputy of such Commissioner or chairman for the period of his illness, suspension or absence, and any person so appointed shall, while so acting, exercise and perform all the powers, authorities, duties and functions of such Commissioner or chairman, as the case may be.

Appoint-
ment of
deputy.
cf. Act No.
31, 1932,
s. 13.

(2) In case of the illness, suspension or absence of a person appointed to be the deputy of the Commissioner or a chairman, the Governor may terminate

terminate

No. 12, 1934.

terminate his appointment as such deputy and appoint some other person to be the deputy of such Commissioner or chairman for the balance of the period of the illness, suspension or absence of the Commissioner or chairman and such other person, whilst so acting, shall exercise and perform all the powers, authorities, duties and functions of such Commissioner or chairman, as the case may be.

Power to establish administrative districts.

9. (1) The Minister may within the Western Division by notification in the Gazette establish and define the boundaries of administrative districts, and may, in like manner, alter, modify or cancel the same.

(2) There shall be a local land board for every administrative district or for several administrative districts.

(3) The members of a local land board shall be two in number, and shall comprise the chairman and a person to be appointed by the Governor.

If such members differ in opinion upon any matter, the matter shall be determined according to the deliberate judgment of the chairman.

cf. Act No. 7, 1913, s. 11.

(4) The person appointed in pursuance of subsection three of this section shall hold office during the pleasure of the Crown, and shall retire on the day on which he attains the age of sixty-five years.

Such person shall be paid such fee for each sitting as may be prescribed.

Such person shall not sit or act in any way as a member of the local land board in any case in which he is or has been directly or indirectly interested, and any violation of this provision shall render such person liable to a penalty not exceeding five hundred pounds.

In case of the illness or absence of such person the Minister may appoint another person to be the deputy of such person for the period of his illness or absence; and such deputy while so acting, shall exercise and perform all the powers, authorities, duties and functions of the person appointed as a member.

The

The resignation or bankruptcy of any such person, or his absence from three consecutive meetings of the local land board without leave of the Minister, shall cause a vacancy in his office, and the Governor may appoint a person in accordance with the provisions of this Act to supply such vacancy or any vacancy caused by the removal of such first-mentioned person from his office.

No. 12, 1934.

(5) (a) The local land board so constituted shall have power to hear and determine all matters coming before it in pursuance of the provisions of this Act.

cf. Act No. 7, 1913, s. 14.

For the purposes of the Crown Lands Acts insofar as holdings under those Acts within the Western Division are concerned the local land board for the administrative district within which any such holding or the greater part thereof is situated shall be deemed to be a local land board constituted under those Acts.

The local land board shall sit in open court at any convenient place within or outside the Western Division, and such board may, and is hereby empowered to, exercise all of the powers conferred upon local land boards constituted under the Crown Lands Consolidation Act, 1913, insofar as such powers relate to the summoning, attendance and examination of witnesses, and to the conduct of proceedings generally before such board.

(b) A chairman shall have power on behalf of the local land board to deal with such matters as may from time to time be prescribed, and while so doing may sit in open court or in chambers at any convenient place as aforesaid; but shall not deal with matters involving—

cf. *Ibid.* s. 15.

- (i) the determination of the capital value or rent of any land, or the value of any improvements, unless an agreement between the parties has been arrived at; or
- (ii) any question as to home maintenance area unless an agreement has been arrived at as aforesaid.

No. 12, 1934.

A chairman while acting in pursuance of the provisions of this paragraph shall have all the powers of the local land board.

(c) The local land board or chairman shall forward its or his determination on any matter to the Commissioner.

cf. Act No.
21, 1916,
s. 5.

(6) (a) Any party to any proceeding before a local land board or chairman shall have the same right of appeal, and the Minister shall have the same right of reference to the Land and Valuation Court as is provided for under the provisions of the Crown Lands Consolidation Act, 1913, and such Court shall have power to hear and determine all such appeals and references.

cf. Act No.
7, 1914, s. 7
(2).

For the purposes of this subsection the references in section nineteen of the said Act to the district surveyor shall be read and construed as references to the Commissioner appointed under this Act.

(b) Where the Minister considers that further consideration of any determination by a local land board or chairman is necessary or desirable, he may return it to the local land board or chairman, as the case may be, for such purpose, and the local land board or chairman, as the case may be, may, with or without taking further evidence, uphold, reverse, alter or amend its or his previous determination as it or he may consider just.

Board, when
authorised,
may deal
with
matters
outside its
district.

cf. Act No.
7, 1913,
s. 13.

10. It shall be lawful for the Minister from time to time to direct any local land board to deal with any matter, question or inquiry that has arisen or shall arise under this Act or any other Act without regard to the administrative district in which the land forming the subject of such matter, question or inquiry may be situated. And the said local land board shall have as full power and jurisdiction to deal with the matter as if the land aforesaid were situated within such board's proper administrative district.

Minister may
refer to boards
for reports.
cf. *Ibid.* s. 17.

10A. Where it appears necessary or advisable for the due administration of the Crown Lands Acts or this Act, that any inquiry or recommendation as to any

any case or matter should be made by a local land board, it shall be lawful for the Minister to refer such case or matter to the local land board; and the local land board shall proceed accordingly, and make a report to the Minister.

No. 12, 1934.

(2) The Principal Act is further amended by inserting next after the definition of "Crown lands" in section three the following new definitions:—

Further amendment of Act No. 70, 1901, s. 3. (Interpretation.)

"Chairman" (except where that expression appears in section 17c of this Act) means a chairman of local land boards appointed under this Act.

"Local land board" means the local land board of the administrative district in question and includes the Land and Valuation Court in any case where an appeal or reference shall have been made.

4. (1) The Western Land Board of New South Wales (in this section referred to as "the Board") is hereby dissolved.

Dissolution of Western Land Board.

(2) The persons who immediately before the commencement of this Act hold office as Commissioners comprising such Board, shall upon such commencement cease to hold such office.

cf. Act No. 62, 1932, s. 3.

Each of such persons shall be eligible for appointment as Commissioner or as a chairman of local land boards under the Principal Act, and if any of such persons is not so appointed he shall receive such compensation as he would have been entitled to had his services been dispensed with otherwise than according to law.

(3) (a) All management and control of any land or thing which immediately before the commencement of this Act was vested in or belonged to the Board, shall vest in and belong to the Commissioner appointed under the Principal Act as amended by this Act.

Savings. cf. *Ibid.* s. 3 (3).

(b) All moneys, liquidated and unliquidated claims which immediately before the commencement of this Act were payable to or recoverable by the Board shall respectively be moneys, liquidated and unliquidated claims payable to or recoverable by such Commissioner.

(c)

No. 12, 1934.

(c) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of the Board in relation to any matter or claim whatsoever shall respectively be suits, actions and proceedings pending at the suit of such Commissioner.

(d) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by, the Board and in force immediately before the commencement of this Act, shall be deemed to be contracts, agreements and undertakings entered into with, and securities given to or by, such Commissioner.

(e) Such Commissioner may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of any such suits actions and proceedings as the Board might have done but for this Act.

(f) Such Commissioner may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Board in respect of any such moneys and claims as if such security or charge were existing in favour of the Commissioner.

(g) All debts due and moneys payable by the Board and all claims liquidated and unliquidated recoverable against the Board shall be debts due and moneys payable by and claims recoverable against such Commissioner.

(h) All orders, consents and conditions made, given or imposed by the Board shall, to the extent to which they have force or effect immediately before the commencement of this Act be deemed to be orders, consents and conditions made, given and imposed by such Commissioner.

(4) A reference in any Act, rule, regulation, by-law, order, proclamation, notification or instrument to the "Western Land Board of New South Wales," "the Western Lands Commissioners" or "the Commissioners" (when used in reference to the Commissioners appointed under the Principal Act) shall be read and construed as a reference to the Commissioner appointed under the Principal Act as amended by this Act.

5. The Principal Act is further amended—

No. 12, 1934.

Further
amendment
of Act No.
79, 1901.

- (a) by inserting at the end of Part IV the following new sections:—

New ss.
17c, 17d.

17c. (1) (a) The term of any lease (other than a lease extended to a lease in perpetuity, or a lease granted under the provisions of section 28A or section 28B of this Act), of an area of land situated within or partly within the tract described in Schedule F to this Act, shall, upon application as prescribed being made by the holder within three months after the commencement of the Western Lands (Amendment) Act, 1934, or such further period as may be prescribed, be extended for a period of twenty years.

Extension
of leases
and with-
drawals of
areas from
leases.

(b) The term of any lease (other than a lease extended to a lease in perpetuity, or a lease granted under the provisions of section 28A or section 28B of this Act) of an area of land situated wholly outside such tract, shall, upon application being made as aforesaid, be extended for a period of twenty-five years.

(c) The term of any lease transferred (except by way of mortgage or discharge of mortgage) during the period between the first day of January one thousand nine hundred and thirty-four, and the date of an application under this section in respect of such lease, shall not be extended in pursuance of this section unless the Minister upon the recommendation of the Commissioner so approves.

(2) (a) An application under this section shall be accompanied by the prescribed fee, and may include any number of leases held in the same interest; but shall include all leases held in the same interest situated within a reasonable working distance of each other and in respect of which the lessee desires to obtain an extension of the term in pursuance of subsection one of this section.

(b)

(b) If any such lease is subject to a mortgage, the unconditional concurrence of the mortgagee shall accompany the application.

(c) With such application the lessee shall furnish a sketch of the lands comprised within the lease or leases included in the application, showing to the best of his knowledge and ability the boundaries and areas of such lands, the mountain ranges, water-courses, lakes or other natural features within such boundaries, and such other information as may be prescribed.

The lessee shall mark on such sketch the position and nature of all improvements upon such lands, and the approximate position and boundaries of such part of such lands as he considers might reasonably comprise the maximum area which may be withdrawn from lease pursuant to this section.

(3) Any lease so extended shall be subject to the general provisions of this Act except as otherwise provided in this Act.

(4) Any lease so extended shall be subject to the following special conditions:—

(a) The Minister may, upon the recommendation of the Commissioner, from time to time, withdraw land from the area held under lease.

(b) Except as otherwise provided in this section, the portions of the area held under lease which may be so withdrawn and the periods within which withdrawals may be effected, shall be as follows:—

One-quarter of the area in not less than six months; and

a further one-sixth of the area then remaining in not less than nine years; and

a further one-fifth of the area then remaining in not less than fourteen years

from

from the date of the commencement of the Western Lands (Amendment) Act, 1934.

- (c) Pending determination, as hereinafter provided, of the boundaries of the maximum area which may be withdrawn pursuant to this section, the lease or any part thereof shall not be transferred, except by way of mortgage or discharge of mortgage, without the consent of the Minister being first obtained.
- (d) Where the lease was transferable immediately before the commencement of the Western Lands (Amendment) Act, 1934, without the consent of the Minister being first obtained, the provisions of paragraph (c) of this subsection shall, in respect of such lease, cease to operate after a period of two years from such commencement:

Provided that where an appeal in pursuance of subsection seven of this section is pending at the expiration of such period such provisions shall continue in operation until such appeal has been disposed of:

Provided, also, that where such boundaries are determined before the expiration of such period such provisions shall cease to operate after the date of such determination.

- (e) The lease shall be liable to be forfeited—
 - (i) if at any time after the determination of such boundaries stock are depastured on the area embraced thereby in numbers which, in the opinion of the local land board, substantially exceed the fair carrying capacity of such area; or
 - (ii) if the improvements which exist on such area at the date of such determination are not reasonably protected or are not kept in reasonable maintenance and repair: Provided that

that the lessee shall not be compelled to make good any damage caused by fire, flood, storm or other inevitable accident which, in the opinion of the local land board, is not due to any act, default or neglect of the lessee.

Such liability shall continue until the termination of the preferential occupation license under which any area withdrawn from lease shall be held pursuant to subsection thirteen of this section.

- (f) Upon expiry of the lease by effluxion of time, the last holder of the lease shall have tenant right in the improvements upon the land effected or paid for by him or his predecessors in title.

(5) The provisions of paragraph (b) of subsection four of this section as to the portions of the area held under lease which may be withdrawn and the period within which such withdrawals may be effected may be varied by agreement between the Minister and the lessee so as to admit of the withdrawal of one or more of such portions, either wholly or in part, at any time prior to the expiration of the periods within which such portions may be withdrawn in accordance with the said provisions.

Where any withdrawal is effected in pursuance of any such agreement, the Minister upon the recommendation of the Commissioner shall add to the remainder of the lease such term as may be considered reasonable, but in no case shall such term exceed five years.

(6) (a) The boundaries of the maximum area which may be withdrawn from the lease shall be determined by the Minister after report by the Commissioner, before withdrawal of any area from the lease is effected.

It shall be sufficient for all purposes whatsoever if such boundaries are defined with reasonable certainty by means of any form of general description.

(b)

(b) In determining such boundaries the following provisions shall apply:—

- (i) The maximum area which may be withdrawn shall, as far as practicable, be in one block.
- (ii) The average qualities and capabilities of such area shall, as far as practicable, be the same as the average qualities and capabilities of the whole of the lease.
- (iii) Where the qualities and capabilities of the lease are not uniform such area shall be increased or diminished accordingly, so as to make the relative values of such area and the remainder of the lease bear, as far as practicable, the relative proportions specified in subsection four of this section.
- (iv) Such boundaries shall not embrace the principal homestead, or principal woolshed, or principal water improvement serving the holding of the lessee:
Provided that where the Minister is of the opinion that withdrawal cannot otherwise be made effectively, having regard to the requirements of the lessee and the interests of settlement generally, such boundaries may embrace the whole or part of any water improvements on the lease.
- (v) The provisions contained in subparagraphs (i) and (iv) of this subsection may be varied, wholly or in part, by agreement between the Minister and the lessee.

(c) Any area withdrawn from the lease shall as far as practicable adjoin any other area withdrawn from the lease in pursuance of this section.

(7) (a) If the lessee be dissatisfied with the boundaries so determined by the Minister, he may, within twenty-eight days after notice as prescribed has been sent by registered post to him at the address stated in the application made in pursuance of subsection one of this section, or
at

at such other address as may have been notified to the Commissioner in that behalf, lodge with the Commissioner a notice of appeal in the prescribed form.

(b) A notice of appeal shall be accompanied by a fee of one hundred pounds as security for the costs of the appeal.

(c) Such appeal shall be heard by a tribunal consisting of a chairman appointed for the purpose by the Minister, and two assessors, one of whom shall be appointed by the Minister and the other by the appellant. Written notice of any such last-mentioned appointment shall be given to the Minister:

Provided that the appellant shall not appoint himself, or any other person holding any interest whatsoever in the lease.

(d) The chairman and the assessors shall be appointed within twenty-eight days after the receipt of the notice of appeal, and shall be paid such fees for each sitting as may be prescribed.

If the appellant fails to appoint an assessor within such period, the appeal shall be deemed to have lapsed.

(e) The tribunal shall have power to determine the boundaries of the maximum area which may be withdrawn, in accordance with the provisions of this section, and for such purposes the references in paragraph (b) of subsection six of this section to the Minister shall be read as references to the tribunal.

(f) The tribunal shall sit in open court, and, for the purpose of this subsection may, and is hereby empowered to exercise all of the powers conferred upon local land boards constituted under the Crown Lands Consolidation Act, 1913, insofar as such powers relate to the summoning, attendance and examination of witnesses, the amendment of notices, declarations and other documents, and the permitting

of notices, declarations and other documents to be supplied, and to the conduct of proceedings generally before such boards.

No. 12, 1934.

The tribunal may make such order as to the costs of, or incidental to, the proceedings before it (not exceeding one hundred pounds in any case) as it may think fit.

(g) The chairman and one assessor shall constitute a quorum, and the chairman shall preside at all meetings of the tribunal.

Matters arising before the tribunal shall be decided by a majority of votes. If there be an equality of votes, the chairman shall have a second or casting vote.

The determination of the tribunal shall be final.

(8) (a) A description of the boundaries as determined in pursuance of this section shall be published in the Gazette; and shall, together with a reference thereto and such references to the extension of the lease as may be prescribed, be endorsed on the instrument of lease, which shall be lodged with the Commissioner not later than two months after notice of such publication has been sent by the Commissioner to the lessee.

If the instrument of lease be not lodged as aforesaid, the lease shall be liable to be forfeited.

For the purposes of this subsection, it shall be sufficient if such description is expressed with reasonable certainty in general terms.

(b) Nothing contained in this Act, or any other Act, or in any instrument of lease, and no transfer, conveyance, assignment, mortgage, devolution, subdivision, or any other dealing or disposition whatsoever, shall defeat the right of the Minister under this section to withdraw from lease the land or any part thereof within such boundaries: Provided that the Minister, with the consent of the lessee, may at any time make any variation in such boundaries.

(9)

(9) (a) No withdrawal shall be made which would, in the opinion of the Minister after report by the Commissioner, have the effect of reducing the total area held by the lessee at the date of the application under subsection one of this section, when reasonably improved, below a home maintenance area.

For the purpose of ascertaining what area constitutes a home maintenance area, the provisions of subsections seven, eight and nine of section 18E of this Act shall be deemed to be incorporated in this section.

(b) Where the Minister, upon the recommendation of the Commissioner, is satisfied that the lease is mainly used for the purpose of breeding sheep or cattle for sale as stud sheep or stud cattle, respectively, and has been so used continuously for a period of at least seven years immediately prior to the commencement of the Western Lands (Amendment) Act, 1934,—

- (i) no withdrawal in excess of one quarter of the lease shall be made of any part of the lease which in the opinion of the Minister, after report by the Commissioner, is best adapted and necessary for the depasturing of the average number of stud sheep or stud cattle owned by the lessee or his predecessors in title and depastured annually on the lease during such period; and
- (ii) no withdrawal shall be made which would have the effect of reducing the carrying capacity of the total area held by the lessee at the date of such application as aforesaid, when reasonably improved below such number of sheep as represents an increase of fifty per centum upon the number of sheep specified in subparagraph (i) to subparagraph (xi), both inclusive, of paragraph (a) of subsection nine of section 18E of this Act.

(10) Where two or more leases, whether adjoining or not, are held in the same interest and are extended in pursuance of this section, and are, in the opinion of the Minister after report by the Commissioner, reasonably capable of being worked as one holding, the total area of such leases may be regarded as the area from which withdrawals may be made under this section, and such withdrawals may be made from any one or more of such leases.

Where two or more leases are held in the same interest and are extended in pursuance of this section and are not, in the opinion of the Minister, after report by the Commissioner, reasonably capable of being worked as one holding, the total area of such leases may, with the consent of the lessee, be regarded as the area from which withdrawals may be made under this section, and such withdrawals may be made from any one or more of such leases.

The provisions of subsections six and seven of this section shall apply to the determination of the boundaries of the maximum area which may be so withdrawn; and, for such purposes, the references in the said subsection six to the lease shall be read as references to such leases.

Any withdrawal so made shall be deemed to be a withdrawal from each and every such lease.

(11) No compensation shall be paid in respect of any withdrawal under this section.

(12) Where the whole of the land within any lease is withdrawn in pursuance of this section, the liability of the lessee for payment of rent shall cease as from the date of such withdrawal.

Where part of the land within any lease is so withdrawn, the rent for the remainder of the current period of the lease shall, as from the date of such withdrawal, be reduced in proportion to the area withdrawn or in proportion to the relative value of the area withdrawn to that of the remainder of the lease where the qualities
and

No. 12, 1934.

and capabilities of the lease are not uniform, and any rent paid in advance shall be adjusted on the same basis.

(13) Any land withdrawn under this section shall, until otherwise disposed of, be held by the lessee under preferential occupation license at a fee equivalent to the difference between the rent payable in respect of the lease after withdrawal and that payable in respect of the lease immediately before such withdrawal.

(14) Upon any such withdrawal, the lessee shall be entitled to tenant right in improvements upon the land withdrawn, which were effected or paid for by him or his predecessors in title.

17D. The term of any lease held by or in trust for any person or society the proceeds whereof are in the opinion of the Minister after report by the Commissioner devoted solely to the support of the aged or infirm clergy or ministers of a religious society or their wives or widows or children, or to religious, charitable or educational purposes shall, if not extended in pursuance of section 17c of this Act, upon application be extended to the thirtieth day of June, one thousand nine hundred and fifty-one.

Except as modified by this section, any lease so extended shall be subject to the conditions attaching to the lease and in force at the date of application under this section, and to such other conditions of improvement including water supply and the destruction of rabbits, wild dogs and other noxious animals as the Minister upon the recommendation of the Commissioner may impose.

If the proceeds of any lease so extended cease to be devoted solely as aforesaid the Minister may, upon the recommendation of the Commissioner, at any time withdraw land from the area held under lease but the land which may be so withdrawn shall not exceed one-eighth of the area of the lease.

(b)

Extension
or leases the
proceeds of
which are
devoted to
religious,
charitable,
or educa-
tional
purposes,
etc.

- (b) by inserting at the end thereof the following new Schedule:—

No. 12, 1934.
New
Schedule F.

SCHEDULE F.

That portion of the Western Division of the State of New South Wales within the following boundaries:—Commencing on the boundary between the States of New South Wales and Queensland at the intersection of the twenty-ninth parallel of south latitude with the Barwon River; and bounded thence by that river and the Darling River downwards to the south-east corner of portion W.L. 434, parish of Briery, county of Narran; by the eastern boundary of that portion and the eastern and northern boundaries of portion W.L. 432 to a west boundary of Boorooma Western Lands Lease 230; by western and northern boundaries of that lease generally northerly and easterly to the Narran River; by that river upwards to the easternmost corner of portion W.L. 522, parish of Wilby, county of Narran, being also a corner of Bangheet Western Lands Lease 8; by south-west, north-west and north-east boundaries of that lease generally north-westerly, north-easterly and south-easterly to the Narran River; again by that river upwards to its intersection with the twenty-ninth parallel of south latitude, being part of the boundary between the States of New South Wales and Queensland; and by that boundary easterly to the Barwon River aforesaid at the point of commencement.

6. The Principal Act is further amended—

- (a) by inserting next before section twenty the following new sections:—

Further
amendment
of Act No.
70, 1901.
New ss. 19B
and 19C.

19B. (1) The rent of any lease extended under the provisions of section 17c of this Act shall be determined by the local land board for each separate period of ten years commencing from the first day of July, one thousand nine hundred and forty-three:

Provided that where the unexpired portion of the term of any lease is, at the commencement of any such period, less than twenty years, the rent shall be determined for such unexpired portion.

(2) (a) The rent of any lease applied for after the commencement of the Western Lands

Lands (Amendment) Act, 1934, in respect of land set apart for grazing shall be as determined by the local land board.

(b) The rent of any lease (other than a lease in perpetuity) applied for after the commencement of the Western Lands (Amendment) Act, 1934, in respect of lands set apart for grazing shall be determined by the local land board for each separate period of ten years:

Provided that where—

- (i) the term of the lease is less than fifteen years, the rent shall be determined for the full period of the lease; or
- (ii) the unexpired portion of the term of the lease is at the commencement of any such period less than twenty years, the rent shall be determined for such unexpired portion.

(3) The rate of rent shall not, in any case, exceed the rate of seven pence per sheep on the fair average carrying capacity of the land when reasonably improved as estimated on a sheep basis by the local land board, and the rent for any period shall not on any determination under this section be increased or decreased more than twenty-five per centum above or below the rent payable immediately prior to such determination.

The provisions of this subsection shall not apply to any determination of rent where the land within the lease has any special value other than for grazing.

(4) The rent of every lease granted or brought under this Act, whether before or after the commencement of the Western Lands (Amendment) Act, 1934, shall be paid annually in advance on the recurring date of the commencement of the lease or on such other date as may be prescribed.

19c. (1) The rent of any lease applied for after the commencement of the Western Lands (Amendment) Act, 1934, in respect of land set apart for agriculture or for agriculture and grazing combined or for mixed farming or for any similar purpose or purposes, shall be two and one-half per centum of the capital value as determined by the local land board. Such capital value shall be the value according to the capabilities and situation of the land and irrespective of any improvements thereon, but such capital value shall include any enhanced value in the land arising from or created by such improvements.

No. 12, 1934.

Rent of leases of land set apart for agriculture, etc.

(2) During the first five years of any such lease the holder may in lieu of paying rent expend a sum not less than the rent for such period in effecting on the land within the lease improvements of a permanent, fixed and substantial character, the same (except boundary fencing) being in addition to the improvements which may be otherwise required to be effected under the conditions attaching to the lease.

cf. Act No. 7, 1913, s. 122.

(3) The provisions of subsection two of this section shall extend and be deemed to have extended to a lease granted before the commencement of the Western Lands (Amendment) Act, 1934, in respect of land which has been declared open for lease for agriculture, or for agriculture and grazing combined, or which has been granted for any such purpose, or for mixed farming or similar purpose or purposes; and any moneys credited as rent in respect of the first five years of such lease shall be applied towards the rent for the succeeding years of the lease.

(b) by inserting at the commencement of section nineteen the following words:—"Except as otherwise provided in this Act."

Sec. 19. Rent: how determined.

7. The Principal Act is further amended—

Further amendment of Act No. 70, 1901.

(a) by inserting next before section forty-five the following new section:—

New s. 44c.

44c. If any lease within or partly within the boundaries of the tract described in Schedule G to

Special provisions as to compensation.

No. 12, 1934.

to this Act is extended in accordance with the provisions of section 17c, the local land board shall, in any case where withdrawal is effected under the provisions of section forty-four prior to the thirtieth day of June, one thousand nine hundred and forty-three, disregard any such extension and determine the market value of the lessee's interest in the lease as if no such extension had been granted.

In any such case the lessee shall also be entitled as compensation to the market value of the interest which he held in any land withdrawn from the lease in pursuance of section 17c of this Act, and the local land board shall disregard any such extension as aforesaid, and determine the market value of the lessee's interest in the land so withdrawn as at the date of withdrawal under section 17c.

New
Schedule G.

- (b) by inserting next after Schedule F the following new Schedule:—

SCHEDULE G.

Sec. 44c.

That portion of the Western Division of the State of New South Wales within the following boundaries:—Commencing in the parish of Uranaway, county of Blaxland, at the confluence of the Lachlan River and Willandra Billabong; and bounded thence by Willandra Billabong downwards to the south-east corner of portion H.L. 88.10, county of Mossgiel; by part of the east boundary of that portion northerly to a point east of the most easterly north-east corner of portion H.L. 85.24; by a line west and a north, an east and another north boundary of that portion westerly, northerly and again westerly to an east boundary of portion W.L. 856; by boundaries of that portion and portion W.L. 857 northerly, north-westerly, south-westerly and southerly to a north-western corner of portion H.L. 85.24 aforesaid; by a west, a north, an east and part of a north boundary of that portion to the south-east corner of Western Lands Lease 1991; by the east boundary of that lease and part of the east boundary of Western Lands Lease 12 north to the south-east corner of portion 9, parish of Gunnagia; by the south boundaries of that portion and portions C.P.L. 29 and 28, and a line west to a west boundary of Western Lands Lease 12 aforesaid; by part of that boundary northerly, a north, a west and another north boundary of that lease east, north and again east and a line east to a point south of the south-east corner of portion 3, parish of Malagadery; by a line north to the north-east corner of that portion; by a line
east

east to the south-eastern side of the surveyed road from Roto to Mount Hope, county of Blaxland; by that side of that road north-easterly to a point south of the south-west corner of Western Lands Lease 760; by a line north to that corner, by western, north-eastern, north-western, again western, south-western and again western boundaries of that lease northerly, south-easterly, north-easterly again northerly, north-westerly and again northerly and part of a west boundary of Western Lands Lease 105 north to the surveyed track from Merri Merriwa Public Watering-place to Gilgunnia; by that track north-easterly to a point east of the north-east corner of portion 3, parish of Merrimerriwa; by a line east to the east boundary of Western Lands Lease 105 aforesaid; by a line south-easterly to a point on a west boundary of portion 4, parish of Coan, 111 chains 75 links from the south-west corner of that portion; by part of a west and the south boundary of that portion south and east and a line south-easterly to the north-west corner of Reserve 388 for temporary common at Mount Hope, notified 8th October, 1883; by the west, south, east and part of the north boundary of that reserve south, east, north and west to the east boundary of Western Lands Lease 1789; by part of that boundary and the north boundary of that lease north and west to the eastern side of the surveyed road from Mount Hope to Gilgunnia; by that side of that road northerly to the north-west corner of portion 16, parish of Mount Allen; by a line partly forming the north boundary of that portion east to the west boundary of portion W.L. 1347; by part of the west and part of the south boundary of that portion southerly and easterly to the north-west corner of Western Lands Lease 2053; by part of the west boundary of that lease southerly, a line partly forming the south-west boundary of portion P.W.P. 570 south-easterly, the south-east boundary of that portion north-easterly and a line east to the road from Nangerybone to Euabalong; by that road generally south-easterly to Booberoi Creek; by that creek south-westerly to its confluence with the Lachlan River; and by that river downwards to the point of commencement.

8. The Principal Act is further amended—

- (a) by omitting sections twenty-three, twenty-four, 24A, twenty-five, twenty-six, twenty-seven and twenty-eight, and by inserting in lieu thereof the following new sections:—

23. (1) It shall be lawful for the Minister to grant leases of Crown lands—

- (a) as leases in perpetuity; or

(b)

Further amendment of Act No. 70, 1901. Secs. 23, 24, 24A, 25, 26, 27 and 28.

Minister's power to grant leases.

(b) for any term expiring not later than the thirtieth day of June, one thousand nine hundred and seventy-three.

Any lease so granted shall except as otherwise provided in this Act be subject to the general provisions of this Act.

(2) Except as otherwise provided in this Act, the Minister shall not grant a lease of any Crown lands unless such lands have been set apart for disposal by notification in pursuance of section twenty-four of this Act.

(3) The Minister shall not grant a lease in perpetuity to an applicant who holds under any tenure (other than annual lease, preferential occupation license, occupation license or permissive occupancy then having not more than one year to run) an area of land which when added to the land applied for would substantially exceed a home maintenance area.

For the purpose of this subsection lands held by the spouse of the applicant shall be deemed to be lands held by the applicant.

The provisions of subsection thirteen of section 18E of this Act shall be deemed to be incorporated in this subsection and shall be read mutatis mutandis so as to extend to an application by a company for a lease in perpetuity under this Act.

(4) (a) Upon the granting of any lease under this Act the name of the lessee, together with particulars of the area leased, the term of the lease, the amount of rent and survey fee payable to the Crown, and such other particulars as the Minister may deem desirable shall be notified in the Gazette.

(b) The amount of the first year's rent, and the amount of the survey fee or the first instalment thereof, and any other amount lawfully due and payable to the Crown by the lessee, shall be paid by the lessee to the Colonial Treasurer within one month after the date of such notification. If such amounts be not so paid the lease shall be liable to be forfeited.

24. (1) The Minister, after such inquiry and report as may be deemed expedient, may declare by notification in the Gazette that the Crown lands comprised within any area to be described in the notification shall be set apart for disposal by way of—

No. 12, 1934.

Power to set apart Crown lands.
cf. Act No. 7, 1913, s. 85 (1).

- (a) lease generally; or
- (b) lease exclusively to holders of land under any tenure situated in the Central Division within a reasonable working distance of such lands; or
- (c) lease exclusively to holders of land under any tenure situated in the Western Division within a reasonable working distance of such lands; or
- (d) lease exclusively to both classes of holders of land as aforesaid.

(2) The Minister shall specify in any such notification that the land is set apart for the purpose of grazing or grazing and agriculture combined or mixed farming, or for any similar purpose or purposes.

(3) (a) Every such notification shall contain particulars of the date on and after which the lands therein described may be applied for, the period within which applications, where conflicting, shall be deemed to be made simultaneously, that the lease is to be a lease in perpetuity or the term for which the lease is to be granted, the situation and areas of such lands, and the estimated values of any improvements thereon, which are or are not the property of the Crown.

(b) Where such lands are set apart for the purpose of grazing, the notification may also contain particulars of the estimated rent to be paid to the Crown.

(c) Where such lands are set apart for the purpose of agriculture or for grazing and agriculture combined, or for mixed farming, or for any similar purpose or purposes, the notification shall contain particulars of the estimated capital value of the land. Such estimated capital value

No. 12, 1934.

value shall be the value according to the capabilities and situation of the land and irrespective of any improvements thereon, but such capital value shall include any enhanced value in the land arising from or created by such improvements.

(4) (a) Crown lands within the area described in any notification in pursuance of this section, and any lands within such area which may thereafter become Crown lands shall be, or become, as the case may be, available for disposal in the manner specified in the notification on and after such dates as may be notified in that behalf.

cf. Act No.
7, 1913,
s. 59 (3).

(b) Such Crown lands may be subdivided into blocks of such areas as the Minister may determine, and the blocks shall be taken according to such subdivision, subject to any adjustment upon survey deemed proper by the Minister.

cf. *Ibid.*
s. 85 (1)
proviso.

(c) Such Crown lands shall be deemed to be Crown lands for the purposes of the Mining Act, 1906, and any Act amending or replacing the same.

cf. *Ibid.*
s. 85 (2).

(5) The areas of land set apart in pursuance of this section may be limited to the surface only of such land or to the surface and to such depth below the surface as may be specified in the notification, and any lease granted in respect of such areas shall also be subject to such conditions, reservations and restrictions as to the Minister may seem necessary in the public interest, and be specified in the notification.

cf. *Ibid.*
s. 85 (4).

(6) Notwithstanding anything to the contrary in this Act or the Mining Act, 1906, or the Forestry Act, 1916-1933, or any Act amending or replacing the same Acts, the setting apart of any land in pursuance of this section shall have the effect of revoking any reserves or parts of reserves or population areas within the boundaries of the land so set apart unless the contrary is expressly declared by the terms of the notification.

Such

Such revocation shall take immediate effect on the expiration of the day next preceding the day on and after which the land may be applied for in pursuance of the notification:

No. 12, 1934.

Provided that the revocation of any reserve for mining or mining purposes or any timber reserve shall not be so effected unless, in the case of a reserve for mining or mining purposes, the consent thereto of the Secretary for Mines, or, in the case of a timber reserve, of the Minister administering the Forestry Act, 1916-1933, has been obtained.

Such setting apart shall also have the effect of revoking any previous setting apart of the same land unless the contrary is expressly declared by the terms of the notification.

(7) Any notification made in pursuance of this section may by like notification be corrected, amended, modified or revoked, whether as to the whole or any part thereof; and it shall be sufficient for the purposes of any such notification if the description of the lands is in any form of general description.

cf. Act No. 7, 1913, s. 86.

25. (1) On or after the date notified for that purpose, any person who is not subject to any disqualification in that behalf specified in this Act, and in any case where the land is set apart for disposal by way of lease exclusively to holders of any specified class or classes, is a holder within such class or classes, may apply for a lease of the land set apart.

Lodgment of applications. cf. *Ibid.* s. 131.

An application for a lease shall be made in the prescribed form and manner.

(2) All applications received by the Commissioner during the period in that behalf specified in the notification shall, where conflicting, be deemed to be and to have been made simultaneously.

(3) The local land board shall deal with all applications and may permit the withdrawal or recommend the disallowance of any application; or may recommend that any application be granted

No. 12, 1934.

granted for the area applied for, or—with the applicant's consent—for an area greater or less than, or in a different position from, the land applied for.

Every such recommendation shall be made to the Minister.

cf. Act No.
7, 1913,
s. 153.

(4) The order of priority of applications made simultaneously shall be determined by the local land board; and where in the opinion of the local land board any such applications have equal claims to priority the order of their priority shall be determined by ballot.

The local land board shall deal with the applications in the order of priority as so determined: Provided that if the local land board shall find that any application or the declaration made in connection therewith contains false or misleading particulars or statements, and that in the absence of such particulars or statements the local land board would not have considered that the application had equal claims to priority the local land board may disallow such application; and thereupon it shall be deemed to have not been included in the ballot.

Applica-
tions for
leases of
land set
apart ex-
clusively.

26. (1) The provisions of this section shall apply only to applications in respect of lands set apart for disposal by way of—

- (a) lease exclusively to holders of land under any tenure situated in the Central Division within a reasonable working distance of such lands; or
- (b) lease exclusively to holders of land under any tenure situated in the Western Division within a reasonable working distance of such lands; or
- (c) lease exclusively to both classes of holders of land as aforesaid.

(2) The local land board shall inquire into the merits of every application.

cf. *Ibid.*
s. 114 (2).

In the case of simultaneous applications, preference shall be given to the applicant who, in the opinion of the local land board, is most in need of additional land, having regard to all the circumstances

circumstances including the proximity of the lands of the applicants to the lands applied for, the respective periods of the ownership of the lands of the applicants and the manner in which such lands have been used: Provided that where the local land board is of the opinion that two or more of the applicants have equal claims to preference, the order of priority may be determined by ballot; and, in any such case, the local land board shall deal with the applications in the order of priority as so determined.

(3) The area allotted to an applicant under this section, together with all lands held by the applicant and his spouse (except lands held under annual lease, preferential occupation license, occupation license, or permissive occupancy then having not more than one year to run) shall not substantially exceed a home-maintenance area.

The provisions of subsection thirteen of section 18E of this Act shall be deemed to be incorporated in this subsection and shall be read mutatis mutandis so as to extend to any application made by a company to which this section applies.

(4) There shall be no appeal to the Land and Valuation Court from any decision of the local land board under this section, except in the case where such appeal if successful would not affect any person who has made a simultaneous conflicting application the granting of which has been recommended by the local land board: Provided that the Minister may, within twenty-eight days after the decision of the local land board has been given, refer it for determination to the Land and Valuation Court, and in such case the decision of the Land and Valuation Court shall be final.

27. No determination of the order of priority, or decision of the local land board as to whether an applicant is or is not entitled to be included in a ballot to determine priority, shall be the subject of an appeal to the Land and Valuation Court.

No appeal in certain cases.

No. 12, 1934.

Sec. 3.

(Interpretation).

(b) by inserting in section three before the definition of "Crown Lands Acts" the following new definition:—

"Central Division" means the Central Division as set forth in the Second Schedule to the Crown Lands Consolidation Act, 1913.

Further amendment of Act No. 70, 1901.

Secs. 29, 29A, 29B, 30, 31 and 31A.

Improvements to become property of the Crown.

9. The Principal Act is further amended by omitting sections twenty-nine, 29A, 29B, thirty, thirty-one and 31A and by inserting in lieu thereof the following new sections:—

29. (1) Upon the expiration, forfeiture, surrender or other determination of any lease granted or extended under the provisions of this Act, whether before or after the commencement of the Western Lands (Amendment) Act, 1934, all improvements thereon shall, except as otherwise provided in this Act, become the property of the Crown.

Tenant right in improvements.

(2) The Minister, after report by the Commissioner, may at any time conditionally or unconditionally assure or grant tenant right in any improvements or in any additions to or extensions of any improvements, irrespective of whether such improvements additions or extensions may have been effected before or after the commencement of the Western Lands (Amendment) Act, 1934.

(3) Where the holder of a lease pays to the owner of any improvements thereon, or to the person having tenant right in such improvements part of the value of such improvements, and the lease becomes forfeited, such share of the value as is represented by the amount paid to such owner or person up to the time of the forfeiture shall vest in the Crown; and the remaining share of the value or, in the case where no such payment has been made then the improvements, shall vest in such owner or person, and shall be subject to tenant right as defined in section thirty of this Act.

If

If, after forfeiture, the land becomes the subject of a lease under this Act, a determination shall thereupon be made of such share of the value of the improvements as is vested in the Crown, and in such owner or person.

No. 12, 1934.

30. (1) Tenant right shall accrue upon the determination of the lease, and, subject to this section, shall have the same effect as is expressed in the Crown Lands Consolidation Act, 1913, in respect of tenant right in improvements created or granted under that Act:

Tenant right: its nature.

Provided that—

- (a) tenant right in respect of improvements upon any land withdrawn in pursuance of section 17c of this Act shall accrue upon the date of such withdrawal;
- (b) upon the forfeiture of any lease, tenant right shall not, except to the extent provided in subsection three of section twenty-nine of this Act, accrue unless the Minister otherwise directs.

(2) Where the improvements are not the property of the Crown, the value determined by the local land board in accordance with section thirty-one of this Act or so much thereof as for the time being remains unpaid, shall be and remain a charge upon the land containing such improvements.

Such charge shall have priority over all mortgages, charges or other encumbrances thereon (whether made before or after the date of such determination) other than debts due to the Crown.

cf. Act No. 35, 1912, s. 3 (4) (a).

Such value or so much thereof as for the time being remains unpaid shall be a debt due to the owner of the improvements, or the person having tenant right therein, as the case may be, and such debt shall be recoverable in any court of competent jurisdiction.

31. (1) The value of all improvements upon any land leased under this Act after the commencement of the Western Lands (Amendment) Act, 1934, shall be determined by the local land board.

Determination of value of improvements.

The

No. 12, 1934.

cf. Act No.
7, 1913,
s. 213.

The value of the improvements shall be—

- (a) their value at the date of the commencement of the title of the incoming tenant; and
- (b) their value to such tenant; and
- (c) exclusive of any value which may be due to the inherent capabilities of the land; and
- (d) not in excess of the cost of making the improvements.

(2) Where the improvements are the property of the Crown the value so determined shall be paid by the incoming tenant to the Colonial Treasurer within such periods and by such amounts (together with interest at the rate of four per centum per annum) as the local land board shall determine.

(3) Where the improvements are not the property of the Crown, the value so determined shall be paid by the incoming tenant to the owner of the improvements or the person having tenant right therein within three months after such determination; or at the option of the incoming tenant, by payment to such owner or person, as the case may be, within one month after such determination of a sum representing not less than twenty per centum of such value, and by payment of the balance of such value by not more than six equal yearly instalments together with interest at the rate of four per centum per annum.

(4) Where the incoming tenant or any successor in title to such tenant fails to make any payment for or in respect of any improvements, which are or are not the property of the Crown, within the period allowed by this Act for making such payment, the lease of the land containing such improvements shall be liable to be forfeited.

31A. Where Crown land containing improvements which are not the property of the Crown becomes the subject of any lease in pursuance of this Act the local land board, before the value
of

Removal
of improve-
ments.
cf. *Ibid.*
s. 221.

Western Lands (Amendment) Act.

197

No. 12, 1934.

of such improvements has been determined, may grant permission to the owner thereof or the person having tenant right therein to remove such of the improvements as are of a removable nature and may fix the period within which such improvements may be removed; and thereupon such owner or person, as the case may be, shall have full power by himself or his agents to enter upon the land within such period and to do all things necessary to effect such removal.

10. The Principal Act is further amended—

Further amend-
ment of Act
No. 70, 1901.

- (a) by omitting from section 18E wherever occurring the words "The Western Land Board of New South Wales" and by inserting in lieu thereof the words "the local land board";
- (b) by omitting from subsection one of the same section the words "The person who at the commencement of the Western Lands (Amendment) Act, 1932, is the holder of a lease may apply in the manner and within the time prescribed" and by inserting in lieu thereof the words "The holder of a lease may apply in the prescribed form and manner";
- (c) by omitting paragraph (b) of subsection two of the same section, and by inserting in lieu thereof the following new paragraph:—
 - (b) where the land comprised in the lease together with all other lands held by the applicant (whether the lands so held are or are not in the Western Division) would, when reasonably improved, substantially exceed a home maintenance area, but would not so exceed two home maintenance areas, the application may be granted for so much of the land comprised in the lease as would not, together with all such other land held as aforesaid, substantially exceed, when reasonably improved,

Sec. 18E.
(Subsisting
leases: ex-
tension.)

improved, a home maintenance area, but where the land comprised in the lease together with all other lands as aforesaid would, when reasonably improved, substantially exceed two home maintenance areas, the application shall not be entertained.

(d) by inserting next after paragraph (c) of the same subsection the following new paragraphs:—

(d) unless the Minister, upon the recommendation of the Commissioner, otherwise directs, an application under this section made after the commencement of the Western Lands (Amendment) Act, 1934, shall not be entertained where the land or any part thereof which is the subject of the application formed part of a lease the term of which has not been extended in pursuance of section 17c of this Act prior to the date of such application.

The provisions of this paragraph shall not apply in any case where in the opinion of the Minister and the Commissioner the total area held by the holder of such lease at the date of such commencement (whether the lands so held are or are not in the Western Division) would not, when reasonably improved, substantially exceed a home maintenance area.

(e) lands held by the spouse of an applicant under this section or of a holder of the class referred to in paragraph (d) of this subsection shall for the purposes of this section, be deemed to be lands held by such applicant or holder, as the case may be.

Lands

Lands held under annual lease, preferential occupation license, occupation license, or permissive occupancy then having not more than one year to run shall not be taken into account for the purpose of ascertaining a home maintenance area.

- (f) an application may be withdrawn with the consent of the Minister and upon payment of the costs incurred in dealing with the application.
- (e) by omitting from subsection three of the same section the words "the Western Land Board" and by inserting in lieu thereof the words "the Commissioner."
- (f) by omitting from subsection eleven of the same section the words "The rent payable in respect of a lease extended to a lease in perpetuity shall be redetermined by The Western Land Board of New South Wales for the period commencing on the date when rent is next payable after the thirty-first day of December one thousand nine hundred and forty-eight" and by inserting in lieu thereof the words "The rent payable in respect of a lease extended to a lease in perpetuity prior to the thirtieth day of June one thousand nine hundred and forty-three shall for the period ending on the day immediately prior to the date when rent is next payable after the thirty-first day of December one thousand nine hundred and forty-eight be the rent payable at the date of the application under subsection one of this section. For the period commencing on the date when rent is next payable as aforesaid, the rent shall be redetermined by the local land board.

The rent payable in respect of a lease extended to a lease in perpetuity after the thirtieth day of June one thousand nine hundred and forty-three shall be determined by the local land board."

(g)

(g) by inserting next after the same subsection the following new subsections:—

(12) Where at the date of forfeiture or abandonment of any lease the Rural Bank of New South Wales is the holder of a mortgage in respect of the lease, the said Bank shall be entitled to exercise the rights of a holder under this section.

The provisions contained in paragraphs (b) and (d) of subsection two, and in subsection six of this section shall not apply to any such application made by the said Bank.

For the purpose of this subsection, a lease shall be deemed to have been abandoned if the said Bank furnishes to the Minister a certificate to that effect.

(13) (a) In this section, the term—

“ Holder ” includes a company.

“ Shareholders ” include all persons on whose behalf a share in the company is held by a trustee or by any other person.

(b) Where it becomes necessary in pursuance of this section to ascertain whether the lands held by a company substantially exceed a home maintenance area, all lands held by any other company which consists substantially of the same shareholders, and all lands held by the shareholders (whether jointly or severally) of both such companies shall be deemed to be lands held by such first-mentioned company.

(c) For the purposes of this subsection—

(i) two companies shall be deemed to consist substantially of the same shareholders if not less than three-fourths of the paid-up capital of one of them is held by or on behalf of shareholders of the other;

(ii)

- (ii) shares in one company held by or on behalf of another company shall be deemed to be held by shareholders of the lastmentioned company; No. 12, 1934.
- (iii) lands held by the spouse of any shareholder shall be deemed to be lands held by such shareholder.

11. The Principal Act is further amended by inserting next after section 18E the following new sections:— Further amendment of Act No. 70, 1901.
New ss. 18F-18J

18F. (1) A condition of residence for a term of five years shall attach to every lease (other than a lease under section 28A) applied for after the commencement of the Western Lands (Amendment) Act, 1934, in respect of land set apart for disposal by way of lease generally and shall be performed by the lessee or some other person approved by the Commissioner. Residence.

Residence shall commence within six months after the commencement of the lease:

Provided that—

- (i) the local land board may suspend the condition of residence for such periods and upon such conditions as it may determine; or
- (ii) the lessee or such other person may with the permission of the local land board perform such condition by residing anywhere within a reasonable working distance of the lease.

(2) (a) A provision in any instrument of lease or a condition attaching to any lease issued or applied for before the commencement of the Western Lands (Amendment) Act, 1934, to the effect that the lessee shall occupy the land within the lease during the whole of the term of the lease by the continuous and bona fide residence of himself or some other person approved by the Commissioners of the Western Land Board of New South Wales in writing shall cease to have effect upon the issue by the local land board of a certificate that continuous residence for a period of

No. 12, 1934.

of five years has been performed upon the lease by or on behalf of the lessee or his predecessors in title.

(b) The provisions of this subsection shall not extend to any instrument of lease issued or to any lease applied for under section 28A of this Act.

Transfers.

18G. (1) Except as otherwise provided in this Act, no transfer, conveyance, assignment or mortgage of, or other such dealing with, a lease applied for after the commencement of the Western Lands (Amendment) Act, 1934, or of any portion thereof, shall be effected unless the consent thereto of the Minister has been first obtained.

Application for such consent shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.

A transfer by way of discharge of mortgage may be effected without such consent.

(2) Where at the commencement of the lease the land comprised within the lease contains improvements which are not the property of the Crown, the Minister shall not give such consent unless the application for his consent is accompanied by a certificate from the owner of the improvements or the person having tenant right therein, as the case may be, to the effect that such owner or person has received the value of the improvements, or that arrangements to the satisfaction of such owner or person have been made for payment of such value: Provided that where the Minister is of the opinion that the circumstances so warrant, he may dispense with such certificate and, in any such case, the application for such consent may be dealt with without recourse to this subsection.

(3) Where at the commencement of the lease the land comprised within the lease does not contain such improvements, or where the whole of the value of such improvements has been paid to the owner thereof or to the person having tenant right therein a mortgage may be effected without the consent of the Minister.

(4)

(4) No transfer, conveyance, assignment, mortgage or other such dealing in contravention of this section shall be valid for any purpose whatsoever.

No. 12, 1934.

(5) A transfer of any lease under this Act, whether granted before or after the commencement of the Western Lands (Amendment) Act, 1934, shall be made in the prescribed form and manner.

18H. (1) Where a lease applied for after the commencement of the Western Lands (Amendment) Act, 1934, or a lease extended to a lease in perpetuity (whether before or after such commencement) is mortgaged, and the mortgagee enters into possession of the lease under his mortgage, he may hold the lease for a period of three years after the date of his entering into possession as aforesaid, or for such further period as the Minister, after report by the Commissioner, may permit.

Mortgages
and
devolutions.

The mortgagee shall not foreclose the mortgage or transfer the lease, except by way of discharge of mortgage, without the consent of the Minister.

If within such period the mortgagee does not foreclose the mortgage, or does not transfer the lease, the lease shall be liable to be forfeited.

The fact that the mortgagee, or some person by his authority, occupies or uses any part of the mortgaged land, shall be prima facie evidence that the mortgagee has entered into possession of the land under the mortgage.

(2) Where a lease applied for after the commencement of the Western Lands (Amendment) Act, 1934, or a lease extended to a lease in perpetuity (whether before or after such commencement), devolves under a will or intestacy upon a person, he may hold the lease for a period of three years after the death of the testator or intestate, or for such further period as the Minister may permit.

Within any such period such person may, upon application to the Minister, obtain a certificate from

No. 12, 1934.

from the Minister that he is entitled to hold the lease or such person may, subject to this Act, sell and transfer the lease.

If by the provisions of the will, or by law, such person has power to sell the land, the sale may be effected under such power; in any other case the sale may be effected with the consent of all persons beneficially entitled to the land, or by order of the Supreme Court in its equitable jurisdiction, which may be obtained in the manner prescribed by rules of court, or until such rules are made by summons at chambers.

If such person does not within any such period become the registered holder of the lease, or does not transfer the lease as aforesaid, the same shall be liable to be forfeited.

Survey fee.

18i. A survey fee in accordance with the prescribed scale shall be paid by the lessee in respect of every lease applied for after the commencement of the Western Lands (Amendment) Act, 1934, and shall be so paid within such periods and by such amounts (together with interest at the rate of four per centum per annum) as may be determined by the Minister.

Conditions attaching to leases: alteration by consent.

18j. Any covenant, condition or provision of a lease granted or brought under this Act whether before or after the commencement of the Western Lands (Amendment) Act, 1934, may on the recommendation of the local land board and with the consent of the lessee be varied modified or revoked or added to by the Minister to such extent and on such terms as he may deem desirable, and the instrument of lease if issued shall be lodged with the Commissioner for the purpose of being indorsed with a memorandum of any such variation modification revocation or addition as aforesaid.

New s. 18k.
(Competency of minor to contract otherwise than with Crown.)
cf. s. 240, Act No. 7, 1913.

18k. Any person between the ages of sixteen and twenty-one years who, being the holder of a lease under this Act enters into any agreement, either personally or by an agent, for or in relation to the performance of any work or rendering of any services on such lease or in relation thereto or to the loan of money whether secured

No. 12, 1934.

secured on such lease or otherwise, or the sale or purchase of goods and chattels of any description whatsoever, or who in like manner mortgages or transfers by way of mortgage such lease, or enters into any agreement connected with the occupation, management or general purposes of such lease—not being in violation of the provisions of this Act—shall be subject to the same liabilities and have the same rights in respect of such agreement, mortgage or transfer as if he were of the full age of twenty-one years: Provided, however, that no mortgage or transfer by way of mortgage by any such person shall be valid unless the consent in writing of the Public Trustee thereto has been first obtained. Application for such consent shall be made as prescribed.

Any such person may be sued for any moneys due to the Crown or to any other person as if he were of the full age of twenty-one years.

12. The Principal Act is further amended—

(a) by omitting from section twelve the words “the Commissioners, or any of them” and by inserting in lieu thereof the words “the Commissioner, or a chairman”;

Further amendment of Act No. 70, 1901.

Sec. 12. (Right to enter on Crown lands.)

(b) by inserting next after section twelve the following new section:—

New s. 12A.

12A. The Commissioner and any other prescribed person shall have power on behalf of the Minister to deal with such classes of matters arising under this Act or the regulations thereunder as may from time to time be prescribed.

Delegation of Minister's powers.

(c) by omitting from section thirteen the words “the board constituted under section four hereof shall be the Local Land Board referred to” and by inserting in lieu thereof the words “such words shall be deemed to refer to the local land board for the administrative district within which such holding or the greater part thereof is situated.

Sec. 13. (Land may be brought under the Act.)

(d)

No. 12, 1934.

Sec. 14.
(Grant of
lease.)

(d) (i) by omitting from section fourteen the words "the Commissioners" wherever occurring and by inserting in lieu thereof the words "the Commissioner";

(ii) by omitting from paragraph (a) of the same section the word "their" and by inserting in lieu thereof the word "his";

Sec. 16.
(Particulars
of extension
granted and
of new lease
to be laid
before Par-
liament.)

(e) by omitting section sixteen;

Sec. 17.
(Withdrawal
for the purpose
of providing
for settlement.)

(f) (i) by omitting from section seventeen the words "the Commissioners" wherever occurring and by inserting in lieu thereof the words "the Commissioner";

(ii) by inserting in subsection one of the same section after the word "perpetuity" the words and figures "or a lease extended in pursuance of section 17c";

Sec. 17A.
(With-
drawal
from lease
for special
purposes.)

(g) (i) by omitting from section 17A the words "the Commissioners, and after report by them" and by inserting in lieu thereof the words "the Commissioner";

(ii) by omitting from the same section the words "the Commissioners" wherever occurring and by inserting in lieu thereof the words "the Commissioner";

(iii) by omitting from the same section the word "they" and by inserting in lieu thereof the word "he";

Sec. 18.
(Duration
of lease.)

(h) (i) by omitting from section eighteen the words "the Governor" wherever occurring and by inserting in lieu thereof the words "the Minister";

(ii) by omitting from the same section the words "the Commissioners" where firstly occurring and by inserting in lieu thereof the words "the Minister";

(iii) by omitting from the same section the words "the Commissioners" where secondly and thirdly occurring and by inserting in lieu thereof the words "the Commissioner";

(i)

- (i) by omitting from section 18A the words “ the Commissioners ” wherever occurring and by inserting in lieu thereof the words “ the Commissioner ”; No. 12, 1934.
Sec. 13A.
(Condition of fencing.)
- (j) (i) by omitting from section 18B the words “ the Commissioners ” and by inserting in lieu thereof the words “ the local land board ”; Sec. 18B.
(Contribution towards fencing.)
 (ii) by omitting from the same section the words “ the said Commissioners ” and by inserting in lieu thereof the words “ the local land board ”;
- (k) by omitting from section 18c the words “ The Minister after report by the Commissioners ” and by inserting in lieu thereof the words “ The local land board ”; Sec. 15c.
(Minister's decision as to fencing.)
- (l) (i) by omitting from section nineteen the words “ the Commissioners ” where firstly, secondly and thirdly occurring and by inserting in lieu thereof the words “ the local land board ”; Sec. 19.
(Rents how determined.)
 (ii) by omitting paragraphs (d), (e) and (f) of the same section.
- (m) by omitting from section twenty the words “ the Commissioners ” and by inserting in lieu thereof the words “ the Commissioner ”; Sec. 20.
(Power to remit rent.)
- (n) (i) by omitting from section twenty-one the words “ after report by the Commissioners ”; Sec. 21.
(Increased rentals in certain cases.)
 (ii) by inserting in the same section after the words “ shall be made ” the words “ by the local land board ”;
 (iii) by inserting at the end of the same section the words “ Provided that where the rent is subject to redetermination under the provisions of this Act, the rent so increased under this section shall thereafter be payable yearly until the end of the period of the lease then current ”;
- (o) by omitting from section twenty-two the word “ subsection ” and by inserting in lieu thereof the word “ paragraph ”; Sec. 22.
(Special values.)

(p)

No 12, 1934.

Sec. 28A.

(Special
leases may
be granted.)

- (p) (i) by omitting from section 28A the word "Governor" wherever occurring and by inserting in lieu thereof the word "Minister";
- (ii) by omitting from the same section the words "the Commissioners" wherever occurring, and by inserting in lieu thereof the words "the Commissioner";
- (iii) by omitting from the same section the words "forty-three" wherever occurring and by inserting in lieu thereof the words "seventy-three";
- (iv) by omitting from the same section the word "proclamation" and by inserting in lieu thereof the word "notification";
- (v) by omitting from the same section the words "of such area";
- (vi) by inserting in the same section after the words "at such annual rental" the words "as may be determined by the local land board";
- (vii) by omitting from the same section the word "recommend" and by inserting in lieu thereof the words "think fit";
- (viii) by inserting in the same section after the words "Crown Lands Acts" where secondly occurring the words "or of any lease granted under this section whether before or after the commencement of the Western Lands (Amendment) Act, 1934";
- (ix) by omitting from the same section the words "under the provisions of this Act" and by inserting in lieu thereof the words "either as to the whole or any part of the lease";
- (x) by omitting from the same section the words "Where such extension has been granted, the lessee shall surrender his present lease, if any, and a new lease shall be issued to him from the date of such surrender upon such terms and conditions and for such period and for such rental, the provisions of section nineteen notwithstanding, as the Minister may, after report by the Commissioners, think fit" and by inserting in lieu thereof the words

words "Such extension shall be subject to such terms and conditions as the Minister, after report by the Commissioner, thinks fit, and to payment of such rent as the local land board shall determine";

No. 12, 1934.

- (xi) by omitting from the same section the words "any special lease" where secondly occurring and by inserting in lieu thereof the words "any lease granted or extended under this section";
- (q) (i) by omitting from section 28B the words "the Western Land Board" wherever occurring and by inserting in lieu thereof the words "the local land board";
- (ii) by omitting from subsection two of the same section the words "so far as they are modified" and by inserting in lieu thereof the words "as modified";
- (iii) by omitting from subsection three of the same section the figures and letter "18E" and by inserting in lieu thereof the figures and letter "35r";
- (iv) by omitting from the same subsection the words "forty-three" and by inserting in lieu thereof the words "seventy-three: Provided that if the lease which has been converted under this section was a lease in perpetuity, the title to the conditional lease shall be a lease in perpetuity";
- (v) by inserting in the same subsection after the word "or" the words "the price at which land comprised in a conditional lease shall be convertible into an additional conditional purchase or";
- (vi) by inserting in the same subsection after the words "section shall be" the words "the capital value of the land as";
- (vii) by omitting from the same subsection the words "at the time of conversion" and by inserting in lieu thereof the words "The capital value as so determined shall be the capital value of the land as at the date of the

Sec. 28B,
(Conversion
of lease.)

No. 12, 1934.

the commencement of the lease converted under this section, and irrespective of any improvements thereon";

(viii) by omitting from subsection four of the same section the words " be also determined by the Western Land Board " and by inserting in lieu thereof the words " be at the same rate per acre as was payable in respect of such lastmentioned lease ";

(ix) by omitting from subsection five of the same section the words " the capital value " and by inserting in lieu thereof the words " the price or capital value ";

(r) by omitting section thirty-two;

(s) by omitting section thirty-three;

Sec. 32.
(Extension
of present
areas.)
Sec. 33.
(Lands need
not adjoin.)

Sec. 33A.
(Surrender.)

(t) (i) by omitting from subsection one of section 33A the words " the Commissioners " and by inserting in lieu thereof the words " the Commissioner ";

(ii) by inserting in the same subsection after the words " surrender of " the words " the whole or ";

(iii) by omitting from subsection two of the same section the words " a lessee " and by inserting in lieu thereof the words " an owner ";

(iv) by omitting from the same subsection the words " of his ";

(v) by omitting from the same subsection the words " the boundaries of or adjoining any lease " and by inserting in lieu thereof the words " the Western Division ";

(vi) by inserting in the same subsection after the word " compensation " the words " or the Governor may, in exchange for such lands grant to such owner an area of Crown land which shall be, as nearly as practicable, of equal value to the surrendered land.

The

The value of the surrendered land and the value of the Crown land to be exchanged therefor shall be determined by the local land board as at the date of such surrender and irrespective of any improvements on such land.

If the Crown land to be exchanged be of greater value, the difference in value shall be paid by such owner before any grant is issued.

The value of any improvements on such Crown land which are not the property of such owner shall be determined by the local land board in the manner provided in this Act, and such value shall also be paid by such owner before any grant is issued.

Such owner shall pay all costs and fees incurred in respect of any such surrender and exchange."

(vii) by inserting in the same subsection after the words " and shall " the words " where such land is within the external boundaries of, or adjoins any lease ";

(viii) by omitting from the same subsection the words " but no rent shall be payable in respect of such land during the currency of the lease " and by inserting in lieu thereof the words " as from a date to be appointed by the Minister; and the rent for the unexpired portion of the period of the lease then current shall be increased in proportion to the area so included in the lease ";

(ix) by inserting at the end of the same section the following new subsection:—

(3) For the purpose of providing additional areas to holders whose lands do not constitute a reasonable home maintenance area, it shall be lawful for the Minister, upon the recommendation of the Commissioner and with the consent of the lessee and the mortgagee (if any) to forfeit or to accept a surrender of any lease and to grant to

No. 12, 1934.

to such lessee a lease of other Crown lands. Such lastmentioned lease shall, except as modified by this section, be subject to the general provisions of this Act.

The area within any lease forfeited or surrendered in pursuance of this subsection may be disposed of under section 28A, or under the general provisions of this Act.

Sec. 35A.
(Permission to
enclose roads.)

- (u) (i) by omitting from section 35A the words "the Commissioners" and by inserting in lieu thereof the words "the local land board";
- (ii) by omitting from the same section the word "they" and by inserting in lieu thereof the word "it";

Sec. 35B.
(Termination of
annual lease
or license.)

- (v) by omitting from section 35B the word "issue" and by inserting in lieu thereof the word "granting";

Sec. 35C.
(Forfeited
or surren-
dered lands
may be
added.)

- (w) (i) by omitting from section 35c the words "the Commissioners" and by inserting in lieu thereof the words "the local land board";
- (ii) by inserting in the same section after the word "revoked" where firstly occurring the words "or any other vacant Crown lands";
- (iii) by inserting in the same section after the word "determined" the words "by the local land board";

New ss. 35J,
35K, 35L.

Extensions
of con-
ditional
lease.

- (x) by inserting next after section 35I the following new sections:—

35J. (1) The holder of a conditional lease may in the prescribed form and manner apply to have the term of such lease extended to a lease in perpetuity.

(2) The provisions of section fifty-two of the Crown Lands Consolidation Act, 1913, as modified by the Western Lands (Amendment) Act, 1934, shall, mutatis mutandis, apply to applications, and to leases extended, under this section.

35K.

35K. (1) Any sale, transfer or other disposition whatsoever of the estate, right, title or interest of the holder of any lease under this Act by an official assignee or other lawful authority upon the bankruptcy of such holder, or by the sheriff, or by a registrar of a district court, or any other person by virtue of or under the authority of any writ of execution or other process of any court or by the trustees of any deed of assignment for the benefit of creditors, or by any person under any decree or order of any court shall pass to a purchaser or to any other person only such estate, right, title or interest as such holder was entitled to at the date of sequestration, writ, process, decree, order or assignment, respectively, and subject to all conditions remaining to be performed at such date.

No. 12, 1934.

Transfers
under
legal
process, etc.
cf. Act No.
7, 1913,
s. 270.

Upon any such sale, transfer or disposition of the estate or interest of such holder, the lease may be transferred to the purchaser.

(2) Any mortgagee who has under the powers of the mortgage submitted a lease under this Act, in respect of which the condition of residence remains unfulfilled, for sale by public auction, and any execution creditor who has seized under process of any court any such lease, if the mortgagor's or debtor's interest in the land is not then sold to a bona fide purchaser, may, in the prescribed manner, go into possession of the land and the condition of residence shall for a period of twelve months after the commencement of such possession or for such further period as may be approved by the Minister be deemed to be performed, if a deputy of such mortgagee or execution creditor, to be approved by the Commissioner, resides upon the land.

The mortgagee or execution creditor shall, within such period or further period as aforesaid, sell the mortgagor's or debtor's interest in the land to a bona fide purchaser, who thereafter shall be subject to all conditions which
affected

No. 12, 1934,

affected the original holder, and in default of such sale the lease shall be liable to be forfeited:

Provided however that—

- (a) any mortgagee or execution creditor before proceeding under this subsection shall register at the office of the Commissioner the total amount of his mortgage or judgment debt and other particulars as prescribed, and thereafter any person may before such forfeiture as aforesaid apply to the Commissioner to purchase the said lease for the amount of such debt; and the Commissioner may grant such application, and upon payment to the mortgagee or execution creditor of the amount then due the applicant shall become the holder of the lease of such land free of such debt, but subject to all conditions attaching to such land which remain to be performed;
- (b) any mortgagee or execution creditor shall not take proceedings under this subsection unless the mortgagor has been in default for one year, or in the case of such creditor until one year after judgment has been signed.

35L. Where it is deemed necessary in the interests of justice, the Commissioner or local land board may permit any error, uncertainty, misdescription, defect or omission in, of, or from any notice, application, declaration, consent, particulars of other proceedings before him or it to be amended or supplied, or may, where any declaration, consent, or other document has not been lodged with an application, permit the omission, if not wilful, to be supplied.

Any exercise of the powers conferred by this section shall be evidenced by the initials of the Commissioner or Chairman, as the case may be.

- (y) by omitting from section thirty-seven the words “expressed to be issued for Pastoral Purposes”;

(z)

Amendment
of applica-
tions, etc.
cf. Act No.
7, 1913,
s 14 (b).

Sec. 37.
(Surrender
of lease.)

- (z) (i) by inserting in section thirty-eight after the word " areas " the words " and subject to such conditions "; No. 12, 1934.
Sec. 38.
(Subdi-
vision of
lease.)
- (ii) by omitting from the same section the words " on the recommendation of the Commissioners " and by inserting in lieu thereof the words " after report by the Commissioner ";
- (aa) (i) by omitting from subsection one of section thirty-nine the words " The Governor " and by inserting in lieu thereof the words " The Minister "; Sec. 39.
(Lease of
subdivided
area.)
- (ii) by inserting at the end of the same subsection the words " Where any withdrawal in pursuance of section seventeen of this Act was made or deemed to have been made from the surrendered lease and the term of such lease was not extended in accordance with that section, the term of the lease of each subdivided portion shall, if not extended to a lease in perpetuity under the provisions of section 18E of this Act, be extended by the Governor in the manner provided in subsection five of section seventeen of this Act, irrespective of whether the term of the lease of each subdivided portion has or has not been extended in pursuance of section 17c of this Act ";
- (bb) by omitting from section forty the words " The Commissioners " and by inserting in lieu thereof the words " The Commissioner "; Sec. 40.
(Determination
of rentals.)
- (cc) by omitting from subsection two of section forty-one the words " The Governor " and by inserting in lieu thereof the words " The Minister "; Sec. 41.
(Conditions
of leases.)
- (dd) (i) by omitting from section forty-three the words " The Governor " and by inserting in lieu thereof the words " The Minister "; Sec. 43.
(Special
leases.)
- (ii) by omitting from the same section the words " the Commissioners " where firstly occurring and by inserting in lieu thereof the words " the Commissioner ";
- (iii)

No. 12, 1934.

(iii) by omitting from the same section the words "the Commissioners" where secondly occurring and by inserting in lieu thereof the words "the local land board";

New s. 43A.

(ee) by inserting next after section forty-three the following new section: —

Leases of subdivided portions—consent to transfers, etc.

43A. Where the lease which has been surrendered was transferable immediately before the date of the surrender without the consent of the Minister being first obtained, any lease granted in pursuance of section thirty-nine or section forty-three of this Act shall, unless extended to a lease in perpetuity, be transferable without such consent.

Where the lease which has been surrendered was subject to the provisions of section 18G or section 18H of this Act immediately before the date of the surrender, any lease granted as aforesaid shall likewise be subject to the provisions of those sections.

Sec. 44.
(Power to withdraw.)

(ff) by omitting from section forty-four the words "the Commissioners" and by inserting in lieu thereof the words "the local land board";

Sec. 44A.
(Enhancement due to public works.)

(gg) by omitting from subsection one of section 44A the words "the Commissioners" and by inserting in lieu thereof the words "the local land board";

Sec. 45.
(Appeal.)

(hh) by omitting from section forty-five the words "the Commissioners" and by inserting in lieu thereof the words "the local land board";

Schedule A.

(ii) (i) by omitting from Schedule A the words "the Commissioners" wherever occurring and by inserting in lieu thereof the words "the Commissioner";

(ii) by omitting from paragraph (b) of the same Schedule the words "such Commissioners" and by inserting in lieu thereof the words "the Commissioner";

(iii) by omitting from paragraph (m) of the same Schedule the words "authorised by him

him or them ” and by inserting in lieu thereof the words “ duly authorised in that behalf ”;

No. 12, 1934.

(jj) by omitting Schedule B.

Schedule B.

13. The Wild Dog Destruction Act, 1921, is amended—

Amendment of Act No. 17, 1921

- (a) by omitting from section twenty-four the words “ as they think proper ” and by inserting in lieu thereof the words “ as the Minister may from time to time determine ”;
- (b) by inserting in paragraph (a) of section twenty after the words “ South Australian border ” the words “ and of the fence known as the ‘ South Australian Border Fence ’ erected on or near the western border of New South Wales.”

14. (1) Any alteration of the law by this Act, whether by the repeal of an enactment or otherwise, shall not, unless otherwise provided by this Act, affect—

Saving cf. Act No. 14, 1925, s. 4.

- (a) any right accrued or obligation incurred before the commencement of this Act under the law so altered;
- (b) the validity or invalidity, or any operation, effect or consequence, of any instrument executed or made, or of anything done or suffered before the commencement of this Act;
- (c) any action, proceeding or thing pending or uncompleted at the commencement of this Act.

(2) Every such action, proceeding and thing may be carried on and completed as if the enactment had not been repealed or the law otherwise altered.

(3) The generality of this section shall not be affected by any saving in any other section of this Act nor shall this section limit any saving in the Interpretation Act of 1897.

(4) All notifications declaring Crown lands in the Western Division open for lease made under the enactments repealed by this Act, the operation of which is not exhausted at the commencement of this Act, shall be deemed to have been made under the corresponding provisions enacted by this Act, and shall have and take effect accordingly.

(5)

No. 12, 1934.

(5) All regulations and forms made or prescribed under the Principal Act pursuant to any of the enactments repealed by this Act, and in force at the commencement of this Act, shall continue in force so far as they are not inconsistent with this Act until repealed or replaced by regulations made under the Principal Act.
