

PRICKLY-PEAR (AMENDMENT) ACT.

Act No. 13, 1930.

George V.
No. 13, 1930.

An Act to make further provision for the eradication of prickly-pear; to amend the Prickly-pear Act, 1924, and certain other Acts; and for purposes connected therewith. [Assented to, 14th May, 1930.]

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. (1) This Act may be cited as the "Prickly-pear (Amendment) Act, 1930," and shall be read and construed with the Prickly-pear Act, 1924, as amended by the Prickly-pear (Amendment) Act, 1925.

(2) The Prickly-pear Act, 1924, as so amended, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Prickly-pear Acts, 1924–1930.

Amendment of
Act No. 31, 1924.
Sec. 6.
(Prickly-
pear zones.)

2. The Principal Act is amended—

- (a) by omitting from subsection four of section six the words: "In classifying lands the Commissioner may classify into the different classes specified in the last preceding subsection different parts of a holding owned or occupied by the same person; and" and by inserting in lieu thereof the following words: "In classifying lands owned or occupied by the same person in accordance with the provisions of

of subsection three of this section the Commissioner may classify a holding or any part of such holding as being within Classes III or IV, notwithstanding the fact that portions of the holding may embrace lands suitable to be classified within Classes I or II."

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3. The Principal Act is further amended by inserting next after section twelve the following new section:—

Further amendment of Act No. 31, 1924, New s. 12A.

12A Where a give and take fence has been erected either under statutory permission or by private arrangement such give and take fence for the purpose of this Act shall be deemed to be a boundary fence.

Give and take fence.

4. The Principal Act is further amended by inserting at the end of section fourteen the following new subsections:—

Further amendment of Act No. 31, 1924, s. 14.

(2) Where a surrender of part of any holding under the Crown Lands Consolidation Act, 1913, the Closer Settlement Acts, or the Returned Soldiers Settlement Act, 1916, has been accepted under the provisions of this section, the Minister, notwithstanding any provision to the contrary, may require the capital value or rent of the part remaining to be determined by the local land board, and such capital value or rent shall be determined as at the date of acceptance of such surrender.

The capital value or rent so determined shall in the case of a holding which is divided into periods be the capital value or rent for the unexpired portion of the period then current, or if the unexpired portion of the period then current does not exceed five years, until the termination of the period next succeeding.

Subject to this section any holding reduced in area by surrender as aforesaid shall be subject to the general provisions of the Crown Lands Consolidation Act, 1913, the Closer Settlement Acts, or the Returned Soldiers Settlement Act, 1916, as the case may be, and to any special conditions which the Minister may impose.

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(3) The determination of the capital value of any land under this section shall be upon the same basis as that for fixing the capital value in the first instance.

(4) Where the amount appropriated as purchase money in respect of any holding under the said Acts, part of which has been surrendered under the provisions of this section, exceeds the value of the balance of such holding, no refund shall be made.

Further amend-
ment of Act No.
31, 1924.

Sec. 15.
(Existing
holdings.)

5. The Principal Act is further amended—

(a) (i) by inserting next after subsection three of section fifteen the following new subsection :—

(3A) The Minister may refer such report to the local land board for recommendation so far as it relates to the matters referred to in subparagraphs (i) (ii) and (iv) of paragraph (d) of subsection two of this section.

The Minister shall refer to the local land board for determination any question of reduction in the rent price or capital value of a holding.

In determining such rent, price, or capital value due allowance shall be made for the amount spent in effective pear destruction since the passing of this Act.

The rent, price, or capital value of any land determined in accordance with the provisions of this section shall be determined as at the date of receipt of notice from the holder under subsection one of this section, and the determination of such rent, price, or capital value shall take effect as from that date.

(ii) by omitting subsection four of the same section and by inserting in lieu thereof the following new subsection :—

(4) Where the holder elects in the prescribed manner to accept the holding upon terms and conditions approved by the Minister, the Minister may proceed to
take

take all such steps as are necessary to give effect to such acceptance. Where the Minister does not approve of the determination of the rent price or capital value he may within twenty-eight days after the determination by the local land board refer such determination to the Land and Valuation Court, and in such case the decision of the Land and Valuation Court shall be final.

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(iii) by omitting subsection five of the same section and by inserting in lieu thereof the following new subsection :—

(5) Notwithstanding anything contained to the contrary in any Act, but subject to the provisions of section fourteen of this Act, the price or capital value of any purchase homestead selection or lease or the rent of any homestead selection or lease determined under this section shall not be subject to any redetermination.

6. The Principal Act is further amended by omitting section seventeen and by inserting in lieu thereof the following new section :—

Further amendment of Act No. 31, 1924, s. 17.

17. Any Crown land within a zone classified under section six of this Act as being within Class III or IV, or both, may, upon the recommendation of the Commissioner, be leased by the Minister by tender or upon application as prescribed for any term not exceeding fifty years in such areas at such rent and upon such conditions as he may determine.

(Leasing infested land.)

A notification shall be published in the Gazette and in a local newspaper giving particulars of the area available for lease, the capital value of the land to be leased, and the conditions which will apply to the lease. Where the land is set apart as available upon application the annual rent shall also be notified.

Any notification under this section may be corrected, amended, modified, or revoked by notice in the Gazette.

Where

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Where such land contains improvements which are the property of the Crown, the rent shall include a rent for the use of such improvements. Where such land contains improvements which are not the property of the Crown, the value of such improvements shall on the application of the lessee or of the owner of such improvements or person having tenant right therein be determined by the local land board in the same manner and on the same basis as is provided in the Crown Lands Consolidation Act, 1913.

Payment of such value shall be made within three months after the determination (in which case no interest shall be charged) or at the option of the incoming lessee by not more than four equal yearly instalments together with interest at the rate of four per cent. per annum.

Upon the Commissioner being satisfied that the pear-clearing conditions attaching to any lease under this section have been duly complied with he shall issue a certificate to that effect in the prescribed form.

The granting of a lease under this section shall withdraw the land from any annual lease or occupation license under which it may be held.

Further amend-
ment of Act No.
31, 1924, s. 18.
(Leasing of
commons or
reserves.)

7. The Principal Act is further amended—

- (a) by inserting in paragraph (d) of section eighteen after the words "may determine" the following words: "and during the said term the reservation or dedication shall be deemed to be suspended";
- (b) by inserting at the end of the same section the following words:—

A notification shall be published in the Gazette and in a local newspaper giving particulars of the area available for lease, the rent, and the conditions which will apply to the lease.

Any notification under this section may be corrected, amended, modified, or revoked by notice in the Gazette.

8.

8. The Principal Act is further amended—

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Further amend-
ment of Act No.
31, 1924.

Administra-
tive and mis-
cellaneous.

Sec. 1 (3).

(Application
of Act.)

- (a) by omitting from subsection three of section one the following words: "In any such case the powers, authorities, duties, and obligations conferred and imposed by those provisions on the Commissioner shall be vested in and exercised and discharged by the Western Land Board of New South Wales";
- (b) (i) by inserting at the end of subsection one of section six the following words: "and may upon a similar recommendation and by the like notification correct, amend, modify, or revoke any such declaration"; Sec. 6. (Prickly-pear zones.)
- (ii) by omitting from subsection three of the same section the word "five" and by inserting in lieu thereof the word "two";
- (iii) by omitting from the same subsection the word "ten" and by inserting in lieu thereof the word "five";
- (iv) by omitting paragraph (b) of subsection five of the same section;
- (v) by inserting next after paragraph (c) of the same subsection the following new paragraphs:—
- (d) the various degrees of infestation of prickly-pear on lands within the zone; and
- (e) in any case where he deems such to be advisable the internal subdivision fences on such holding;
- (c) (i) by omitting from paragraph (b) of subsection one of section ten the words "is taking" and by inserting in lieu thereof the words "during the preceding period of twelve months"; Sec. 10. (Returns.)
- (ii) by inserting in the same paragraph after the words "or intends taking" the words "during the ensuing period of twelve months";
- (d)

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Sec. 14.
(Surrender.)

- (d) (i) by inserting in paragraph (b) of section fourteen before the words "cost of survey" the word "actual" and by adding at the end of the paragraph the words "and the cost of any inspection rendered necessary";
- (ii) by inserting at the end of paragraph (d) of the same section the words "in any case where the Commissioner deems such to be necessary";

Sec. 15.

- (e) by omitting subsection one of section fifteen and by inserting in lieu thereof the following new subsection:—

Existing
holdings.

(1) The holder of a lease under the Act hereby repealed or the holder of any homestead selection purchase or lease under the Crown Lands Consolidation Act, 1913, or the holder of any holding under sections four and 4A of the Returned Soldiers Settlement Act, 1916, within or partly within a zone may give notice in the prescribed form to the Commissioner that he desires to have his holding considered under the provisions of this section.

Sec. 16.
(Agreement
for grant of
Crown land.)

- (f) by inserting in subsection one of section sixteen after the words "with any person" the words "of the full age of twenty-one years";

Sec. 20.
(Leases.)

- (g) by inserting at the end of section twenty the following new subsection:—

(5) A lease shall not be granted to any person who is not of the full age of twenty-one years;

Sec. 23.
(Eradication
by councils.)

- (h) by omitting from section twenty-three the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commissioner";

Sec. 24.
(Pastures
protection
boards.)

- (i) by inserting in subsection three of section twenty-four after the words "the Minister may" the words "if the Commissioner so recommends";

(j)

(j) by inserting at the end of section twenty-six the following new subsection :—

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Sec. 26.

(Grant from Consolidated Revenue Fund.)

(2) After the first day of January one thousand nine hundred and thirty there shall be paid into the said fund such sums as Parliament may from time to time provide. During a period of five years from the said date the Colonial Treasurer may in each year pay out of the Consolidated Revenue Fund without further appropriation than this Act a sum not exceeding thirty thousand pounds as and when required.
