

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1912.

A BILL

To make provision for the preferential right of tenants to renew their leases; and for other purposes.

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:—

1. This Act shall come into force on the _____ day of _____, one thousand nine hundred and twelve, and may be cited as the "Renewal of Leases Act, 1912."

2. In this Act, unless the context otherwise requires,—
"Land Appeal Court" means the Land Appeal Court as constituted by the Crown Lands Acts and the Judicial Offices Act of 1892.

"Local Land Board" means the local land board as constituted by the Crown Lands Acts.

“Prescribed” means prescribed by this Act or by any regulation thereunder.

“Private land” means land the fee simple of which is not vested in His Majesty the King, and Crown lands held under any tenure which gives a right to purchase the fee simple.

“Farming land” means private land held or occupied under lease, whether written or verbal, for the purpose of agriculture or grazing or dairy farming or any like purpose, or any combination of such purposes.

3. The lessee or occupier (hereinafter called the tenant) of any farming land who, whether at or after the commencement of this Act, has been or shall have been in occupation of such land for a period of at least one year shall have a preferential right of renewal of his lease or occupation from year to year for the purposes for which it was formerly held.

4. A tenant shall not during the continuance of his tenancy be compelled to pay a higher rent than the rent agreed upon between him and his landlord or as fixed in pursuance of this Act, and shall not be compelled to quit the land of which he is a tenant except in consequence of the breach of some one or more of the conditions following:—

Conditions of tenancy.

- (a) The tenant shall pay his rent at the appointed time, or within such extended time as the local land board may on application allow.
- (b) The tenant shall not, to the prejudice of the interest of the landlord in the holding, commit persistent waste by the dilapidation of buildings, or after notice has been given by the landlord to the tenant not to commit or to desist from the particular waste specified in such notice, by the deterioration of the soil.
- (c) The tenant shall not, without the consent of his landlord in writing, subdivide his holding, or sublet the same or any part thereof, or erect or suffer to be erected thereon, any buildings otherwise than in substitution for those already upon the holding at the time of the granting of the lease, or such as are declared by the local land board to be necessary for the proper occupation and working of the land.

Agistment, or the letting of the land for the purpose of temporary depasturage, shall not be deemed a subletting for the purposes of this Act.

- (d) The tenant shall not do any act whereby his tenancy becomes vested in an official assignee on his bankruptcy.
- (e) The landlord, or any person authorised by him in that behalf, on making reasonable amends and satisfaction for any damage

damage to be done or occasioned thereby, shall have the right to enter upon the holding for any of the purposes following, that is to say,—

- (1) mining, or taking minerals, or digging or searching for minerals;
 - (2) quarrying or taking stone, marble, gravel, sand, brick-clay, fire-clay, or slate;
 - (3) opening or making roads, fences, drains, and water-courses;
 - (4) cutting or taking timber, save timber and other trees planted by the tenant or his predecessors in title, or that may be necessary for ornament or shelter;
 - (5) viewing or examining, at reasonable times, the state of the holding and all buildings or improvements thereon;
- and the tenant shall not persistently obstruct the landlord, or any person authorised by him in that behalf, in the exercise of any right conferred by this subsection :

Provided that the tenant shall be entitled to a reduction of his rent by an amount corresponding with that representing his loss of the proper user of the land by reason of any of the operations referred to in paragraphs one, two, and three of this section. The amount of such reduction, if not agreed to between the tenant and his landlord, shall be that determined by the local land board.

During the continuance of the tenancy, all mines and minerals, coals and coal-pits, shall be exclusively reserved to the landlord.

- (f) The tenant shall not on his holding, without the consent of his landlord, open any house for the sale of intoxicating liquors.

During the continuance of the tenancy, save as hereinafter provided, the local land board may, on the application of the landlord, and upon being satisfied that he is desirous of resuming the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate, including the use of the ground as building ground, or for the purpose of making grants or leases of sites for churches or clergymen's residences, or for any purpose of public or general utility, authorise the resumption thereof by the landlord upon such conditions as the local land board may think fit, and require the tenant to sell his tenancy in the whole or such part to the landlord upon such terms as may be approved by the land board, including full compensation to the tenant :

Provided that the rent of any holding may be increased in respect of capital laid out by the landlord under agreement with the tenant to such amount as may be agreed upon between the landlord and tenant.

Renewal of Leases.

5. A tenant or his landlord may apply to the local land board to appraise the fair rent to be paid during any term, and such board may appraise the rent accordingly, and may appoint the days on which the rent shall be paid; and the tenant or his landlord, at the expiration of every five years from the commencement of the tenancy, may apply to such local land board for a reappraisal of such rent. The rent so appraised shall be the rent payable in respect of the tenancy until a reappraisal is made or the tenancy is determined, whichever event first happens.

Appraisal of fair rent.

6. The tenant of any holding may, with the consent of the local land board, sell his tenancy for the best price that can be got for the same, subject to the following conditions:—

Sale of tenancy.

- (a) Except with the consent of the landlord, the sale shall be made to one person only.
- (b) The tenant shall give the prescribed notice to the landlord of his intention to sell the tenancy.
- (c) Where the tenant agrees to sell his tenancy to a person other than the landlord, he shall, upon informing the landlord of the name of the purchaser, state in writing therewith the consideration agreed to be given for the tenancy.
- (d) The landlord may if he so desires exercise a preference of purchase over the tenancy by giving notice thereof in the prescribed form to the statutory tenant and to the local land board within fourteen days after receipt of notice of the agreement to sell. The local land board shall thereupon, or within a reasonable time after receipt of the notice, settle the conditions of sale of the tenancy to the landlord, and such conditions of sale shall be binding on both parties, and may be enforced by proceeding in any court of competent jurisdiction: Provided that the settlement of the conditions of sale by the local land board shall not be necessary in any case where the statutory tenant and the landlord agree as to such conditions.

7. In all cases of dispute between the landlord and tenant in reference to the lease or any condition therein contained, or in reference to any act done or suffered to be done by the landlord or tenant in connection with the lease or the land leased, the local land board shall, on application as prescribed by either party, determine all questions in dispute and make any order necessary or incident to the settlement thereof, and any such order shall be binding on the parties.

8. The provisions of this Act relating to tenancies created by the holders of private lands shall apply to and in relation to tenancies created by way of sublease by a lessee from any such holder:

Application of Act to subleases.

Provided that the rent which such sublessee may be compelled to pay shall not exceed the rent payable by his immediate landlord by more than twenty per centum.

Renewal of Leases.

9. The Land Appeal Court and the local land board shall respectively have and may exercise under this Act the powers and authorities conferred by the Acts constituting them.

10. The decision of a local land board, given in pursuance of this Act on questions of fact, shall be final; but the decision of the board on any other question may be appealed from to the Land Appeal Court at any time within twenty-eight days after the same has been given, by written notice of such appeal to the chairman of the board and to the other party to the proceeding, and depositing with such chairman the sum of five pounds as security for the costs of the appeal. And every such notice shall state the grounds of appeal. The decision of the Land Appeal Court shall be final. Decision of land board final.

11. This Act shall be administered by the Secretary for Lands, who, for the purposes of administration, or whenever he deems it necessary for his guidance and information, shall have power to refer any matter for inquiry and report to the local land board, and the said board shall, upon such reference, proceed accordingly.

12. The Governor may make regulations—
regulating the making of references to local land boards under this Act; Regulations.
regulating the procedure of land boards exercising any jurisdiction conferred by this Act;
prescribing the forms to be used in pursuance of this Act;
generally for carrying out the provisions of this Act.
All such regulations shall be published in the Gazette, and shall thereupon, but not sooner or otherwise, have the force of law.

