

WESTERN LANDS (AMENDMENT)
ACT.

Act No. 16, 1930.

George V.
No. 16, 1930.

An Act to provide for the extension of the terms of leases of land in the Western Division in certain cases and upon certain conditions; to provide for the surrender of freehold lands in certain cases; to protect the interests of the Crown in the case of the withdrawal of areas from leases enhanced in value by the construction of public works; and for these and other purposes to amend the Western Lands Act of 1901 and certain other Acts; and for purposes connected therewith. [Assented to, 29th May, 1930.]

BE

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:—

No. 16, 1930.

1. This Act may be cited as the "Western Lands (Amendment) Act, 1930," 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.

Short title.

2. The Principal Act is amended—

Amendment of Act No. 70, 1901. New s. 17B.

(a) by inserting next after section 17A the following new section:—

17B. (1) The holder of any lease extended in accordance with the provisions of section fourteen or granted in pursuance of the provisions of this Act shall, upon application as prescribed being made within nine months from the commencement of the Western Lands (Amendment) Act, 1930, be entitled to an extension of the term of such lease to the thirtieth day of June, one thousand nine hundred and sixty-eight, and any lease granted after the said commencement shall terminate on the same date.

Further extension of leases.

(2) Any lease so extended shall be subject to the general conditions and provisions of this Act except as provided in this section.

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

(a) From the area held under lease by any holder the Governor may on the recommendation of the Commissioners from time to time withdraw land for the purpose of providing for settlement.

(b) Except as otherwise provided in this section the portions of the area held under lease which may be so withdrawn and

No. 16, 1930.

and the periods within which such withdrawals may be effected shall be as follows :—

One-eighth of the area in not less than eight years and—

a further one-seventh of the area then remaining in not less than thirteen years and—

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

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

from the date of the commencement of the Western Lands (Amendment) Act, 1930.

(c) the lease or any subdivided portion thereof shall not be transferred without the consent of the Minister being first obtained.

(4) The provisions of paragraph (b) of subsection three of this section shall not apply to leases within the tract described in Schedule C of this Act, but the granting of an extension of a lease within that tract shall be subject to the following condition as to the withdrawal of portions of the area from the lease, for the purposes of settlement :—

One-eighth of the area in not less than one year and—

a further one-seventh of the area then remaining in not less than six years and—

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

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

from the date of the commencement of the Western Lands (Amendment) Act, 1930.

(5)

(5) Every such portion of an area withdrawn shall, unless the lessee otherwise consents, be in one block and no compensation shall be paid in respect of any such withdrawal.

(6) No such withdrawal shall be made which would in the opinion of the Commissioners have the effect of reducing the carrying capacity of the area held, when reasonably improved, below the under-mentioned standards:—

- (a) within the tract described in Schedule C of this Act—four thousand sheep;
- (b) outside the tract described in Schedule C of this Act—six thousand sheep.

(7) If the holder does not within the said period of nine months after the commencement of the Western Lands (Amendment) Act, 1930, apply for an extension of the term of his lease, his existing lease shall remain in full force and effect subject in all respects to the law in force immediately prior to such commencement.

(8) Where two or more leases, whether adjoining or not, are held in the same interest and are, in the opinion of the Commissioners, reasonably capable of being worked as one holding, the total area of such leases shall be the area from which withdrawals may be made under this section, and the withdrawal may be made from any one or more of such leases.

(9) Upon a withdrawal of land from lease under this section, the rent for the remainder of the current period of the lease shall be reduced in proportion to the area withdrawn, and any rent paid in advance shall be adjusted on the same basis.

After any such withdrawal the land so withdrawn, until otherwise disposed of, shall remain

remain under preferential occupation license to the lessee at the same rent per acre as the lease from which the land was withdrawn.

(10) All lands withdrawn from lease under this section may be disposed of under the general provisions of this Act, but no lease thereof shall be granted for a term extending beyond the thirtieth day of June, one thousand nine hundred and sixty-eight.

(11) Where any lease is subject to mortgage the mortgagee's consent to an application under this section shall be obtained prior to the lodgment thereof.

(12) Where the term of any lease has been extended under this section the instrument of lease shall be lodged at the office of the Western Land Board in order that the period of extension and a reference to the conditions under which such extension has been granted may be endorsed thereon.

(13) Upon any such withdrawal of an area the lessee shall be entitled to tenant-right in improvements on the lands so withdrawn.

(14) The holder of any lease extended under the provisions of this section may within the last seven years of the term of his lease request the Minister to notify him whether the Minister is willing to offer him an extended lease of the whole or any part of his land where such whole or part does not, in the opinion of the Commissioners, substantially exceed a home maintenance area, and if so for what term, at what rent, and on what conditions.

When such a request is made the Minister may, on the recommendation of the Commissioners, offer an extended lease of such whole or part for a term not exceeding twenty years from the termination of the existing lease at such rent and upon such conditions as may be deemed proper, and notify the lessee of his determination.

If

If the Minister notifies the applicant that he is willing to offer him an extended lease of the whole or any part of his land, the notification shall be deemed to be an offer of an extended lease on the terms notified, and may be accepted by the applicant at any time before the expiration of the lease, but within one year from the time when the Minister notifies him of the offer.

(15) The provision contained in section seventeen that the Governor shall add to the remainder of the lease such term as may be considered reasonable as compensation for a withdrawal shall not apply where a lease from which one-eighth of the area has been withdrawn under the provisions of that section is extended under the provisions of this section.

(16) This section does not apply to or in respect of any lease granted under the provisions of section 28A or 28B.

- (b) by inserting at the commencement of section eighteen the words " subject to the provisions of section 17B of this Act " ;
- (c) by inserting next after Schedule B the following new Schedule :—

SCHEDULE C.

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

No. 16, 1930.

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.

Further amendment of Act No. 70, 1901.

3. The Principal Act is further amended—

New s. 19A.

- (a) by inserting next after section nineteen the following new section 19A :—

Determination of rentals of leases extended or issued after passing of Western Lands (Amendment) Act, 1930.

19A. (1) The rentals of all leases extended under the provisions of section 17B of this Act, and of leases issued after the commencement of the Western Lands (Amendment) Act, 1930, shall be determined by the Commissioners—

- (a) in the case of extended leases the rent shall be determined for each separate period of ten years commencing from the first day of July, one thousand nine hundred and thirty, and for a final period of eight years ;
- (b) in the cases of leases issued after the commencement of the Western Lands (Amendment) Act, 1930, the rent shall be determined for each period of ten years, or if the term of the lease is less than fifteen years, the rent shall be determined for the full period of the lease :

Provided that where the unexpired portion of any lease from the commencement of any ten-year period is not more than fifteen years the annual rental shall be determined for such unexpired portion.

The provisions contained in paragraph (b) of this subsection shall not apply to leases granted under section 28A or 28B.

(2)

(2) The rent for any period shall not on appraisalment or reappraisalment be increased or decreased more than twenty-five per centum above or below the rent payable immediately prior to such appraisalment or reappraisalment.

No. 16, 1930.

(3) All rentals so determined shall be paid in advance on the prescribed date.

(b) by inserting at the commencement of section nineteen the following words: "Subject to the provisions of section 19A of this Act."

Sec. 19.

4. The Principal Act is further amended—

(a) by inserting next after section forty-four the following new sections:—

Further amendment of Act No. 70, 1901. New s. 44A, 44B.

44A. (1) If during the term or extended term of any lease any public work shall be executed by or on behalf of the Government after the first day of July, one thousand nine hundred and thirty, and by reason thereof the value of such lease becomes enhanced, the lessee upon any withdrawal being effected under section forty-four shall not be entitled to claim and the Commissioners shall not allow any compensation in respect of such enhanced value.

Enhancement due to public works.

(2) For the purpose of this subsection the Lachlan River (Wyangala) Water Conservation Scheme shall be deemed to be a public work executed by or on behalf of the Government after the first day of July, one thousand nine hundred and thirty.

44B. If any lease within or partly within the boundaries of the tracts described in Schedules D and E of this Act is extended in accordance with the provisions of section 17B the Commissioners 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 lessees interest in the lease as if no such extension had been granted.

Special provisions as to Wyangala and Canally areas.

(b)

(b) by inserting next after Schedule C the following new Schedules:—

SCHEDULE D.

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 23, 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 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, the west boundary of that lease 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

No. 16, 1930.

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.

SCHEDULE E.

That portion of the Western Division of the State of New South Wales within the following boundaries:— Commencing at the confluence of the Murray and Murrumbidgee Rivers; and bounded thence by the latter river upwards to the north-west corner of portion 8 (rem.), parish of Windomal, county of Caira; by south-west and south boundaries of that portion, and the south boundary of portion 23, parish of Benongal, to the west boundary of Western Lands Lease 3043; by part of that boundary of the portion to its south-west corner; by lines bearing south 11 minutes east 50 chains 20 links, south 14 minutes west 1 mile 10 chains, south 25 minutes west 30 chains, south 34 minutes west 1 mile 20 chains, and south 43 minutes west 48 chains 64 links to the left bank of Wee Wee Creek; by that creek upwards to the most northern north-east corner of portion W.L. 388, parish of Windomal; by the north boundary of that portion and portion W.L. 276 to the Murray River aforesaid; and thence by the boundary dividing the States of New South Wales and Victoria north-westerly to the point of commencement.

5. The Principal Act is further amended—

- (a) (i) by omitting from section thirteen the words "selection or";
- (ii) by omitting from the same section the words "pastoral, homestead, settlement, residential, special, artesian well, improvement or scrub lease, or a lease of inferior lands";

Further amendment of Act No. 70, 1901.

Sec. 13.

(Land may be brought within this Act.)

(iii)

No. 16, 1930.

Sec. 17.
(Withdrawal for
auction sale and
small holdings.)

Sec. 18.
(Duration of
case.)

Sec. 21.
(Increased
rentals in
certain cases.)

Sec. 25.
(Leases not
applied for.)

Sec. 26.
(Application
of lease.)

Sec. 28A.
(Special
leases.)

Sec. 29.
(Improvements.)

Sec. 29A.
(Correction.)

- (iii) by omitting the third paragraph of the same section and the proviso thereto inserted by the Western Lands (Amendment) Act of 1905 ;
- (b) by omitting the proviso to section seventeen inserted by the Western Lands (Amendment) Act of 1905 ;
- (c) (i) by omitting from section eighteen the words " the preceding section " and by inserting in lieu thereof the words " section seventeen " ;
- (ii) by inserting in paragraph two of the same section after the words " granted under " the words " section fourteen of " ;
- (d) by omitting from section twenty-one the words " a revaluation of such lease or license or any part or parts thereof " and by inserting in lieu thereof the words " a redetermination of the rent of such lease or the fee payable on such license " ;
- (e) by omitting from section twenty-five the words " the previous section " and by inserting in lieu thereof the words " section twenty-four " ;
- (f) by omitting from section twenty-six the words " the two preceding sections " and by inserting in lieu thereof the words " sections twenty-four, 24A, and twenty-five " ;
- (g) (i) by omitting from section 28A the words " In Part VII of this Act " and by inserting in lieu thereof the words " in this Part " ;
- (ii) by omitting from the same section wherever occurring the words " one thousand nine hundred and forty-three " and by inserting in lieu thereof the words " one thousand nine hundred and sixty-eight " ;
- (h) by inserting in section 28B after the words " agriculture and grazing combined " the words " or which has been granted for any such purpose " ;
- (i) by omitting from section twenty-nine the words " new or extended " ;
- (j) by inserting in section 29A after the words " Commissioners and " the word " if " ;
- (k)

- (k) (i) by omitting from section thirty-two the words "selection or"; No. 16, 1930.
Sec. 32.
- (ii) by omitting from the same section the words "conditional, homestead, or other lease" and by inserting in lieu thereof the words "or of any lease"; (Extension
of present
areas.)
- (iii) by omitting paragraphs (a) and (c) of the same section;
- (l) by inserting at the end of section 33A the following new subsection:— Sec. 33A.
(Surrender.)
- (2) The Minister may also accept a surrender from a lessee of any of his freehold lands within the boundaries of or adjoining any lease without compensation.
- When any such freehold has been surrendered, the owner of such freehold at date of surrender shall be entitled to tenant-right in all improvements upon the land so surrendered.
- Any freehold land so surrendered shall become Crown lands subject to the provisions of this Act and shall be deemed to be included in the lease, but no rent shall be payable in respect of such land during the currency of the lease.
- (m) by omitting section thirty-four; Sec. 34.
(Extended area
may be held.)
- (n) (i) by inserting in section 35c after the words "Crown Lands Acts" the words "or Western Lands Acts"; Sec. 35c.
(Forfeited or
surrendered
lands may be
added.)
- (ii) by omitting from the same section the words "selection or" wherever occurring;
- (o) by omitting section 35D; Sec. 35D.
(Withdrawals
from pastoral
lease.)
- (p) by omitting section 35F; Sec. 35F.
(Rent on
homestead
selection.)
- (q) by omitting section 35H; Sec. 35H.
(Appraisement.)
- (r) (i) by omitting from section 35I the words "homestead selection or settlement or homestead lease" and by inserting in lieu thereof the words "or homestead grant"; Sec. 35I.
(Married
women.)
- (ii)

No. 16, 1930.

(ii) by omitting from the same section the words "and it shall be a sufficient compliance with this Act, so far as residence is concerned, if she shall reside upon any conditional purchase, conditional lease, homestead selection, or settlement lease held by her husband; or her husband may fulfil the condition of residence on any conditional purchase, conditional lease, homestead selection, or settlement lease held by himself or any holding held by his wife under this section. In either case notice as prescribed shall be forwarded to the chairman of the local land board of the intention so to reside";

(s) by omitting from section thirty-seven the words "in regard to which the right of withdrawal under section seventeen of this Act has been exercised."

Sec. 37.
(Surrender
of lease.)

Repeals.
Schedule.

6. The Acts mentioned in the Schedule to this Act are to the extent therein indicated hereby repealed.

Sec. 6.

SCHEDULE.

No. of Act.	Short Title.	Extent of Repeal.
1905, No. 38	Western Lands (Amendment) Act of 1905.	Paragraphs (e) and (f) of section eight.
1905, No. 38	Western Lands (Amendment) Act of 1905.	Paragraph (d) of section ten.
1905, No. 38	Western Lands (Amendment) Act of 1905.	Paragraph (c) of section thirty.
1905, No. 38	Western Lands (Amendment) Act of 1905.	The whole of section thirty-five.
1905, No. 38	Western Lands (Amendment) Act of 1905.	The whole of section thirty-seven.
1905, No. 38	Western Lands (Amendment) Act of 1905.	The whole of section thirty-nine.
1927, No. 15	Western Lands (Amendment) Act of 1927.	Paragraph (c) of section three.

REGISTRATION