

**AGRICULTURAL LESSEES
RELIEF ACT.**

Act No. 42, 1931.

An Act to provide for the reduction of rents of agricultural lands in certain cases; to provide for the renewal of leases of agricultural lands in certain cases; to amend the Rural Tenants Improvements Act, 1916: and for purposes connected therewith. [Assented to, 2nd October, 1931.]

George V.
No. 42, 1931.

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:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Agricultural Lessees Relief Act, 1931."
(2) Short title.

No. 42, 1931.

Commence-
ment.

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

Division into
Parts.

(3) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 1, 2.

PART II.—AGRICULTURAL LESSEES RELIEF—*ss.* 3-12.

PART III.—RENEWAL OF AGRICULTURAL LEASES—*ss.* 13-16.

PART IV.—MISCELLANEOUS—*ss.* 17-26.

Definition.

2. In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Agricultural land” means land leased substantially for agricultural purposes and includes any buildings erected thereon.

“Agricultural purposes” means grazing, dairying, poultry farming, viticulture, orcharding, bee-keeping, horticulture, the growing of crops of any kind, vegetable growing, and any other purpose declared by the Governor by proclamation published in the Gazette to be an agricultural purpose for the purposes of this Act.

“Lease” includes every letting of agricultural land whether oral, in writing, or by deed, and “leased” has a corresponding meaning.

“Lessor” and “Lessee” mean the parties to a lease, and respectively include a mesne lessor and a mesne lessee, and also any person from time to time deriving title under the original lessor or lessee, but lessee does not include a lessee of the Crown.

“Local Land Board” means the local land board constituted under the provisions of the Crown Lands Consolidation Act, 1913, for the district within which the agricultural land or the larger part thereof is situated.

“Prescribed”

“Prescribed” means prescribed by this Act or by the regulations made thereunder. No. 42, 1931.

“Termination of lease” means termination by effluxion of time, determination by notice to quit, by forfeiture or in any other way whatsoever, and “terminates” has a corresponding meaning.

PART II.

AGRICULTURAL LESSEES RELIEF.

3. (1) Any lessee may apply to the local land board for a reduction of the rent payable under the lease. Application to fix reduced rent.

(2) The application shall be made to the chairman of the local land board for the district in which the land is situate, and shall be in the form prescribed.

(3) The local land board shall hear the application and may reduce the rent payable under the lease to such rent as it considers equitable in the circumstances of the case. A reduction may be made for a period of not more than three years, but in no case shall extend beyond the term of the lease subsisting at the date of the determination. Determination of reduced rent.

(4) In determining whether a reduction of rent is equitable, and the amount of such reduced rent, the local land board shall take into consideration all the surrounding circumstances, including the following matters:—

- (i) the interests of all parties who may be affected by its determination;
 - (ii) the net profit which the lessee obtains or with prudent and capable management may obtain from his occupation on the agricultural land held by him under the lease;
 - (iii) the unimproved capital value of the land;
- (iv)

No. 42, 1931.

- (iv) the improvements on the land leased and the improvements effected thereon—
 - (a) by the lessor,
 - (b) by the lessee;
- (v) the period for which the lessee has been in occupation under the lease or any prior lease;
- (vi) the rent paid by the lessee under any prior lease;
- (vii) the general conduct of the lessee during his tenancy;
- (viii) any bonus paid or to be paid by the lessee to his lessor;
- (ix) the value to the lessor of any covenants or conditions in or relating to the lease to be performed by the lessee other than usual covenants and conditions;
- (x) any rates and taxes payable in respect of the land;
- (xi) the rents payable for similar agricultural land in the local land board district.

Date of commencement of reduced rent.

4. Any reduction made by the local land board shall commence from a date to be specified in the determination which date shall not be earlier than the time of the receipt of the application by the chairman of the local land board and not later than the time of the determination.

Lessee may apply for continuation of reduced rent.

5. At any time not earlier than one month before the date of expiry of the determination of a reduced rent the lessee may apply to the local land board for the reduction during a further period of the rent which would be otherwise payable under the lease, and if the application is made before such date of expiry the new determination shall commence as from that date.

All persons affected to be parties.

6. The lessor, any mortgagee or other person whose rights may be affected by a determination shall be entitled to notice of the application and to be a party to the proceedings.

Term of reduced rent when determined by agreement.

7. In any case where all the parties affected are before the local land board, the board may determine as the amount of the reduced rent any sum agreed upon

upon by them, but in any such case the determination shall cease to apply when the then lessee shall cease to be the person liable for the rent.

No. 42. 1931.

8. (1) The lessee may not apply for any further reduction of rent for any part of any period for which a reduced rent has been determined, but the lessor may apply to have the amount of the rent increased, and, if he shall prove any altered circumstances warranting it, the local land board shall increase the rent for the remainder of the period of determination.

Lessor may in certain circumstances apply for increase of reduced rent.

(2) The local land board may vary any determination of a reduced rent where it is satisfied that an injustice has been occasioned by an error or omission.

Correction of errors.

9. While any determination under this Act of the rent of any agricultural land is in force the rent paid by any lessee for such land shall not exceed the rent so determined notwithstanding any term or covenant in any lease current at the time of the application or made at any time thereafter during the period to which such determination applies, and any sum paid as rent for the whole or any part of such period by any lessee in excess of such reduced rent may be recovered by such lessee from the lessor to whom it was paid in an action of debt in any competent court or may be deducted from any rent payable to the lessor by such lessee.

Reduced rent to be as determined.

10. While any determination under this Act of the rent of any agricultural land is in force the legal remedies for enforcing any covenant or agreement—

Covenants to pay rent in excess of that determined to be void.

- (a) to pay rent for such land in excess of that fixed by such determination; or
- (b) which directly or indirectly would secure to any person the payment of rent or of money in respect of the occupation of such agricultural land so that the amount received by such person would exceed the rent fixed by such determination,

shall be limited to enforcing the rent so determined.

11. The local land board may make such apportionment as seems just in any case in which it thinks an apportionment is necessary to carry out its powers under this Act.

(Apportionment.)

12.

No. 42, 1981.

Inspection
of rate books.

12. The clerk or other officer having custody of the rate books of a municipality or shire shall allow any officer authorised by a local land board so to do to inspect and take copies of or extracts from such rate books, and shall not charge any fees in respect of such inspection, copies, or extracts.

PART III.

RENEWAL OF AGRICULTURAL LEASES.

Application
for renewal of
leases.

13. (1) Any lessee who has been in possession of agricultural land for a period of not less than six months under a lease which terminates after the commencement of this Act may apply to the local land board for an order for a renewal of his lease.

(2) The application shall be made to the chairman of the local land board for the district in which the land is situate and shall be in the form prescribed.

Application
to be first
made to
lessor.

(3) The local land board shall not entertain the application unless the lessee has not less than two months before the termination of the lease applied in writing to the lessor for a renewal of the lease and the lessor has within fourteen days after the receipt of such application for a renewal refused or failed to give such renewal or refused to give such renewal except for a period and/or at a rent not acceptable to the lessee.

Board may
order
renewal of
lease.

(4) The local land board may refuse the application or may make an order for the renewal of the lease for such period and at a rent which it considers equitable in all circumstances of the case, but in no case shall an order be made for the renewal of the lease for more than three years :

Provided that if the lessor and the lessee have agreed upon the term or rent of such renewed lease the board shall make an order for a renewal for such term or at such rent.

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In determining any application under this section the local land board shall take into consideration the matters referred to in subsection four of section three of this Act.

(5) Where it appears that the lessor has entered into an agreement to lease the land to a person other than the lessee as from the date of termination of the lease of the lessee, such other person shall be entitled to appear and be heard before the local land board, and if the local land board makes an order for the renewal of the lease of the lessee, the agreement to lease to such other person shall be deemed to be subject to the statutory tenancy created by the order or at the election of such person notified to the lessor within a time fixed by the local land board to be null and of no effect.

14. (1) The local land board shall not refuse to make an order for the renewal of a lease unless one of the following reasonable causes is first proved:—

Board shall make order for renewal except in certain cases.

- (a) rent for a period of not less than twelve months lawfully due from the lessee has not been paid or tendered prior to the application for renewal; or
- (b) some other obligation of the lease so far as the same is consistent with this Act has been broken or not performed; or
- (c) the lessee has failed to take full and proper care of the land leased or has been guilty of conduct detrimental or injurious to such land, or any stock or other property leased therewith; or
- (d) the lessee has given notice in writing of his intention to quit and in consequence of that notice the lessor has contracted to lease or sell the land or has taken any other steps as a result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession; or
- (e) the land is reasonably required for occupation by the lessor for his own use or for the use of any parent, grandparent, spouse, child, grandchild, stepson, stepdaughter, daughter-in-law or son-in-law of the lessor; or

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(f)

No. 42, 1931.

- (f) the lessor has contracted to sell the land to a person who requires it for occupation by himself for his own use or for the use of any parent, grandparent, spouse, child, grandchild, stepson, stepdaughter, daughter-in-law or son-in-law of such person; or
- (g) the lessee was in the employment of the lessor or a former lessor and the land was leased to him in consequence of that employment and he has ceased to be in that employment.

(2) Where by reason of the misrepresentation or concealment of material facts by the lessor the local land board refuses to make an order for the renewal of the lease of the lessee the local land board may, upon the prescribed application in that behalf, order the lessor to pay to the former lessee such sum as appears sufficient as compensation for loss sustained by the lessee as the result of the refusal of the board to make an order for the renewal.

Statutory tenancy.

15. Where an order for the renewal of a lease has been made by a local land board, and such order is duly registered, the lessee shall upon the termination of his lease have a statutory tenancy under this Act for the term and at the rent determined by the said board, and shall in all other respects observe and be entitled to the benefit of all the terms and conditions of the lease in respect of which the order is made.

Registration of orders.

16. An order for the renewal of a lease made under this Part of this Act may be registered in the Register of Causes, Writs, and Orders affecting land.

No such order shall take effect until it is so registered.

Where the land affected is under the provisions of the Real Property Act, 1900, the Registrar-General may of his own motion, and on application in accordance with regulations made under the Conveyancing Act, 1919-1930, shall make appropriate entries in the register-book of such order in respect of all grants, certificates of title, and other instruments affected thereby and the duplicates thereof, if or when available.

For the purposes of this section a duplicate grant, certificate of title, or other instrument which is not in the possession of the Registrar-General shall be deemed to be wrongfully retained within the meaning of section

one hundred and thirty-six of the Real Property Act, 1900, and the provisions of that Act applicable in respect of a grant, certificate of title, or instrument wrongfully retained shall apply in respect of such duplicate.

No. 42, 1931.

In any other case the local land board may direct that a memorandum of the order shall be endorsed on any instrument evidencing the title of the lessor.

PART IV.

MISCELLANEOUS.

17. (1) The local land board shall have and may exercise under this Act the powers and authorities conferred on local land boards by sections twelve and fourteen of the Crown Lands Consolidation Act, 1913, and the regulations made thereunder relating to such powers and authorities and such other powers and authorities necessary for carrying out its functions under this Act as are prescribed.

Powers of local land board.

(2) Every decision, determination, and order of the local land board under the provisions of this Act shall be final.

Decision of local land board to be final.

18. (1) The costs of proceedings before the local land board under this Act shall be in the discretion of the board.

Costs.

(2) Any order for costs under this Act shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

Such order may for such purpose be entered in the prescribed manner in the records of the small debts court exercising jurisdiction in the petty sessions district where such order was made.

19.

No. 42, 1931.

Service of
notice, &c.

19. Any notice, application, or other instrument under this Act may be served on the person to whom it is to be given, either personally or by leaving it for him at his last-known place of abode in New South Wales, or by sending it through the post by prepaid registered letter addressed to him there, and in the case of a notice or application to a lessor "the person to whom it is to be given" shall include any agent of the lessor duly authorised in that behalf.

Threats
against
lessees.

20. Any person who by any threat endeavours to dissuade or prevent a lessee from making or prosecuting any application under this Act shall be liable to a penalty not exceeding one hundred pounds.

Acts to the
detriment of
lessees.

21. Any person who unlawfully does or procures any act or thing to be done for the purpose of imposing any detriment or disadvantage upon a lessee by reason of his having made an application under this Act shall be liable to a penalty not exceeding one hundred pounds.

Contracts
limiting right
to proceed
under this
Act to be
void.

22. No covenant or agreement whether made before or after the commencement of this Act, and whether contained in any lease or otherwise, shall operate to limit the right of any person to proceed under this Act for the determination of the reduced rent of any agricultural land or to apply for an order for the renewal of his lease of any agricultural land or to affect any right to which he would be entitled under this Act.

Amendment of
Rural Tenants
Improvements
Act, 1916, No. 57.

23. The Rural Tenants Improvements Act, 1916, is hereby amended—

Sec. 4.

(a) by omitting section four ;

(Consent of
landlord.)

Sec. 5.

(b) by omitting section five and inserting in lieu thereof the following new section :—

Notice to
landlord.

5. (1) Compensation under this Act shall not be payable in respect of any improvement comprised in the First Schedule to this Act unless the tenant of the holding has not less than two months before beginning to execute the improvement given to the landlord in writing notice of his intention so to do and of the manner in which he proposes to do the intended

intended work, and, upon such notice being given, the landlord and the tenant may agree on the terms as to compensation or otherwise on which the improvement is to be executed.

(2) If any such agreement is made any compensation payable under the agreement shall be substituted for compensation under this Act.

(3) In default of any such agreement the tenant may, subject to subsection four of this section, execute such improvement, and shall in respect thereof be entitled to compensation under this Act.

(4) The landlord may within two months of the receipt of the notice under subsection one of this section apply to the local land board to determine whether in the circumstances the improvement is necessary.

Pending the determination of the board the tenant shall not, provided that he has received notice from the landlord of his intention to apply to the local land board, proceed with the execution of the improvement except at his own expense.

If the board determines that the improvement is not necessary the tenant shall not be entitled to compensation under this Act in respect of such improvement.

(c) by omitting section twelve.

Sec. 12.
(Restrictions.)
Regulations.

24. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to the provisions of this Act, and in particular, but without limitation of the foregoing power for—

regulating the making of applications to local land boards under this Act and the fees to be paid in respect thereof and prescribing the notice to be given of such application;

regulating

No. 43, 1931.

regulating the procedure of local land boards exercising any jurisdiction conferred by this Act;

prescribing the forms to be used for the purposes of this Act.

(2) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in such regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Recovery of penalties.

25. Penalties imposed by this Act may be recovered before two justices in a summary way under the Justices Act, 1902, and in such cases costs and expenses may be allowed as provided in that Act.

Perjury.

26. Any person who wilfully and corruptly gives false evidence before the local land board in any matter referred to it under this Act shall be guilty of perjury, and may be dealt with, prosecuted, and punished accordingly.