
17 GEO. V. No. 6. *Prickly-pear Land Act Amendment Act.*

LAND, CROWN.

<i>Prickly-pear Land Act Amendment Act of 1926</i> ..	17 GEO. V. No. 6.
<i>Sugar Workers' Perpetual Lease Selections Act Amendment Act of 1926</i>	17 GEO. V. No. 15
<i>Commonwealth and State Agreement (War Service Settlers) Ratification Act of 1926</i>	17 GEO. V. No. 16
<i>Discharged Soldiers' Settlement Acts Amendment Act of 1926</i>	17 GEO. V. No. 31

An Act to Amend "The Prickly-Pear Land Act of 1923" and "The Prickly-Pear Destruction Acts, 1912-1913," in certain particulars.

17 Geo. V.
No. 6.
THE
PRICKLY-
PEAR LAND
ACT
AMENDMENT
ACT OF 1926.

[ASSENTED TO 11TH OCTOBER, 1926.]

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

1. This Act may be cited as "*The Prickly-pear Land Act Amendment Act of 1926*," and shall (except section three hereof) be read as one with "*The Prickly-pear Land Act of 1923*."* That Act and this Act may be collectively referred to as "*The Prickly-pear Land Acts, 1923 to 1926*." Short title and construction of Act.

Amendments of "The Prickly-pear Land Act of 1923."

2. The following amendments are made in "*The Prickly-pear Land Act of 1923*"*:—

(1.) (i.) In subsection one of section four, the words "Each member shall devote the whole of his time to his duties under this Act, and shall not engage in any other business" are repealed and the following provisions are inserted in lieu thereof:— Amendment of s. 4.

"The Governor in Council may appoint one of the other members of the Commission to be deputy chairman of the Commission.

The deputy chairman shall preside over the administrative functions of the Commission during the absence of the chairman.

* 14 Geo. V. No. 34, *supra*, page 10605.

Prickly-pear Land Act Amendment Act. 17 GEO. V. No. 6,

Notwithstanding anything contained in any other Act, a member of the Land Court may be appointed a member or chairman of the Commission, and may accordingly exercise from time to time the functions and jurisdiction both as a member of the Land Court and as a member or chairman of the Commission.

The Governor in Council may from time to time appoint or authorise the appointment of any member to be a member of any council or committee or other body created by or in pursuance of any Statute having the force of law in Queensland, which council, committee, or other body has any function or duty conferred or imposed upon it in any wise in relation to the destruction or prevention of prickly-pear.

Save as aforesaid, each member shall devote the whole of his time to his duties under this Act and shall not engage in any other business."

(ii.) Subsection three of section four is repealed and the following subsection is inserted in lieu thereof:—

"(3.) The members of the Commission shall receive such remuneration as the Governor in Council may fix, but such remuneration shall not during continuance in office be less than a clear annual salary as follows:—

Chairman	..	..	..	..	£900
Each of the other members	..	..	..	..	£800

Such remuneration shall be a charge upon and shall be paid out of the Fund:

Provided as follows:—

In the event of a member of the Land Court being appointed a member or chairman of the Commission he shall perform his duties and exercise the functions and jurisdiction under this Act as such member or chairman without salary other than that received by him as a member of the Land Court.

(iii.) In subsection four of section four, before the words "be appointed" the words "(save as is hereinafter provided, in the event of a member of the Land Court being appointed a member of the Commission)" are inserted.

The following provision is added to the said subsection:—

"Provided further that a member of the Land Court who is appointed a member or chairman of the

1926.

Prickly-pear Land Act Amendment Act.

Commission shall be so appointed for such term not exceeding three years as the Governor in Council thinks proper."

(2.) (i.) In subsection seven of section eleven, after the word "remedies" the words "and appropriate penalties" are inserted. Amendment of s. 11.

(ii.) The following provision is added to subsection nine of section eleven:—

"Notwithstanding anything in this Act or in any other Act contained, and notwithstanding any rule of law to the contrary, no action or other remedy shall lie against nor shall any sum of money by way of compensation damages or otherwise be payable by the Commission or the Crown for any loss or injury sustained by any owner or person in possession of any live stock poisoned by eating any plant, grass, or herbage which has been poisoned by the Commission or its servants or agents in the destruction of or endeavour to destroy prickly-pear if the Commission has twice given notice of the use of poison in a locality in some newspaper generally circulating in that locality and has caused public notice of the use of poison to be affixed in a conspicuous manner in the place where the work is being carried out, and has served such notice on each resident occupier of any land abutting on or having a frontage to all places where the work is being carried out."

(3.) The following subsection is added to section twelve:— Amendment of s. 12.

"(3.) Notwithstanding anything contained in the Principal Act, the provisions of section one hundred and thirty-two of the Principal Act shall not apply to land being prickly-pear land held under pastoral lease under the Principal Act or held under prickly-pear lease under this Act, but the provisions of section one hundred and thirty-three of the Principal Act shall apply to all such land, and for that purpose the said section one hundred and thirty-three shall be read and construed as if, after the words "Part V. of this Act," where they occur in the first paragraph of the said section one hundred and thirty-three, the words "or land being

Prickly-pear Land Act Amendment Act. 17 GEO. V. No. 6,

prickly-pear land held under pastoral lease under this Act or held under prickly-pear lease under "*The Prickly-pear Land Acts, 1923 to 1926*" were inserted, and as if in lieu of the word "Commissioner" wherever it occurs in the said section the word "Warden" were inserted, and as if in lieu of the words "Commissioner's Court" wherever they occur in the said section the words "Warden's Court" were inserted."

Amendment
of s. 17.

(4.) After subsection three of section seventeen the following subsection is inserted, and subsection four of the said section is renumbered five accordingly:—

"(4.) Land held under prickly-pear lease shall not be regarded as a pastoral holding or a holding under Part III. of the Principal Act for the purposes of the disqualifications and restrictions in area contained in and imposed by section fifty-three and section 53A of the Principal Act."

Amendment
of s. 19.

(5.) In paragraph (ii.) of subsection six of section nineteen, before the words "rent of the selection" the word "annual" is inserted; also, after the words "capital value so decided" the words "Provided that, in the case of Perpetual Lease Prickly-pear Selections, where such capital value is an amount less than five shillings per acre such annual rent during that period shall be a peppercorn (if demanded)" are inserted.

Amendment
of s. 23.

(6.) Section twenty-three is repealed and the following section is inserted in lieu thereof:—

Compensation for
prickly-pear
clearing.

"[23.] Notwithstanding anything in the Principal Act contained, upon any resumption of a holding which or any part of which has been cleared and kept clear of prickly-pear by the lessee or from a holding of any land comprised therein which has been cleared and kept clear of prickly-pear by the lessee, compensation shall (unless the late lessee or lessee, as the case may be, otherwise agrees, or unless the case is one to which the provision next hereinafter contained is applicable) be payable to such late lessee or lessee in respect of the clearing and keeping clear of such land, and such compensation shall be determined by the Commission.

No compensation shall be payable to the late lessee of any holding on the expiration of his lease in respect of the destruction of prickly-pear which was imposed as a condition of the lease under the Principal Act or under this Act."

1926. *Prickly-pear Land Act Amendment Act.*

(7.) After section twenty-three the following section is inserted:—

“[23A.] Any lessee of a pastoral holding (being prickly-pear land) or of a prickly-pear lease may at any time make an application to the Commission to be allowed to surrender his lease and to obtain in substitution therefor either a lease of the land as a perpetual lease prickly-pear selection or a lease of so much of the land theretofore comprised in his holding as in the opinion of the Commission does not constitute more than a reasonable living area as a perpetual lease prickly-pear selection and a lease of the balance of the said land as a pastoral lease or prickly-pear lease, as the case may be.

Conversion
of pastoral
leaseholds or
prickly-pear
leases to
perpetual
lease
prickly-pear
selections.

The Commission shall consider every such application, and may in its discretion recommend to the Minister that such application be granted.

In such case the Commission may recommend that upon surrender of his existing lease the lessee shall be granted a lease of the whole of the land as a perpetual lease prickly-pear selection, or may recommend that upon such surrender he shall be granted a lease of a part only of the land as a perpetual lease prickly-pear selection and a lease of the balance of the land as a pastoral lease or prickly-pear lease, as the case may be.

If the Commission decides to make the latter recommendation, it shall determine the part which is to be leased as a perpetual lease prickly-pear selection; such part shall be such as in the opinion of the Commission will constitute not more than a reasonable living area.

In every case of a recommendation the Commission shall determine the capital value of the new selection and such other conditions as the case may be deemed to require.

The Minister may in his discretion adopt the recommendation of the Commission.

Upon the surrender of the subsisting lease the late lessee shall be entitled to a lease from the Crown of the land or of that part of the land determined as aforesaid by the Commission, as the case may be, as a perpetual lease prickly-pear selection, on the conditions so determined, and generally the provisions of the Principal Act and of this Act shall apply to every such new perpetual lease prickly-pear selection; and if a

Prickly-pear Land Act Amendment Act. 17 GEO. V. No. 6,

perpetual lease prickly-pear selection is granted for a part only of the land the late lessee shall be entitled to a new pastoral lease from the Crown of the balance of the land under the Principal Act or a new prickly-pear lease of the balance of the land under this Act, as the case may require."

Amendment
of s. 24.

(8.) The following amendments are made in section twenty-four :—

The words "lessee of a grazing selection" are repealed and the words "selector of a grazing selection" are inserted in lieu thereof; also after the words "his lease" the words "or license to occupy" are inserted; also after the words "subsisting lease" the words "or license to occupy" are inserted.

(9.) After section twenty-five the following section is inserted :—

Conversion
of a
perpetual
lease
selection to
a perpetual
lease
prickly-pear
selection.

"[25A.] Any selector of a perpetual lease selection, being prickly-pear land, may at any time after the passing of *The Prickly-pear Land Act Amendment Act of 1926*" apply to the Commission to be allowed to surrender his lease or license to occupy and obtain in substitution therefor a lease of the land as a perpetual lease prickly-pear selection.

The Commission in its discretion may grant such application, in which case the capital value of the new selection and such other terms and conditions as the case may be deemed to require shall be determined by the Commission.

Upon the surrender of the subsisting lease or license to occupy, the selector shall be entitled to a perpetual lease from the Crown of the land as a perpetual lease prickly-pear selection on the conditions so determined, and generally the provisions of the Principal Act and of this Act shall apply to every such new perpetual lease prickly-pear selection."

Repeal of
s. 27.

(10.) Section twenty-seven is repealed.

(11.) After section twenty-eight the following sections are inserted :—

Power to do
clearing on
forfeited
holdings and
recover cost.

"[28A.] Upon the forfeiture of any lease of any holding the forfeited lease whereof contained or was deemed to contain any conditions relating to prickly-pear, the Commission may perform on such land any work of clearing prickly-pear which it deems necessary to

1926.

Prickly-pear Land Act Amendment Act.

perform in the public interests ; and the expenses of such work (as to the amount of which a certificate under the hand of the secretary shall be conclusive evidence) may be deducted from any moneys received by the Crown in respect of the improvements on the forfeited holding from the incoming tenant of the land on which the work was performed (but subject always to any charge thereover in favour of the Corporation of the Agricultural Bank or the Commissioner for Irrigation and Water Supply), and the late lessee shall only be entitled to receive the balance (if any) remaining after the satisfaction of the aforesaid charges and each of them and the expenses of the said work and the amount of any further moneys legally due to the Crown or in respect of local rates in arrear.

[28B.] Notwithstanding any limit whatever imposed or provided in the Principal Act with respect to the area that may be held as grazing selections, perpetual lease selections, or perpetual lease prickly-pear selections, whether singly or in conjunction, land may be acquired under this Act of any of the abovementioned tenures of such an area as, when applied for or held singly or applied for or held to be worked in conjunction, as the case may be, will in the opinion of the Commission constitute not more than a reasonable living area :

Holding
land in
living areas.

Provided, however, that in every case where the limit as aforesaid in respect of area is exceeded, the Commission shall first certify to the Minister that the land applied for or proposed to be held, whether singly or to be worked in conjunction, as the case may be, constitutes not more than a reasonable living area.

[28C.] In any case where the leases of any holdings of a Crown tenant, not being less than two holdings in number, have been declared forfeited at any time after the date of the passing of "*The Prickly-pear Land Act Amendment Act of 1926*" for failure to perform prickly-pear clearing conditions, the Governor in Council, on the recommendation of the Commission, may by an Order in Council declare that the person whose leases have been so forfeited is an undesirable tenant, and thereupon such person shall for such period as shall be fixed by the said Order in Council be and remain disqualified from applying for or otherwise acquiring any holding the lease whereof is subject to prickly-pear clearing conditions."

Undesirable
tenants.

Prickly-pear Land Act Amendment Act. 17 GEO. V. No. 6,

Amendment
of s. 29.

(12.) After subsection one of section twenty-nine the following subsection is inserted, and subsection two of the said section shall be renumbered three accordingly:—

“(2.) Notwithstanding anything contained in the Principal Act, the Commission may recommend the opening of any prickly-pear land as grazing selections or as perpetual lease prickly-pear selections or as special leases to which the provisions of subsection two of section one hundred and seventy-nine of the Principal Act are applicable, subject to the condition that a specified part only of any lot and not the whole area thereof be cleared and kept clear of prickly-pear; and such land may be so opened by the Minister for such selection or lease accordingly.”

Amendment
of s. 30.

(13.) (i.) In section thirty, after the words “in the case of perpetual lease selections” the words “and perpetual lease prickly-pear selections respectively” are inserted.

(ii.) The following provision is added to the said section thirty:—

“Moreover, in all cases where rents have been fixed in accordance with the provisions last aforesaid, each period in respect of which rent shall be fixed after the expiration of the aforesaid periods shall be for the same duration in respect of the several holdings mentioned as such aforesaid periods: Provided that where any such period would extend beyond the term of the lease of any such holding the period in such case shall be equal to the balance of the term of the lease.”

*Amendment of “The Prickly-pear Destruction Acts,
1912-1913.”*

Amendments
of
Prickly-pear
Destruction
Acts.

3. The following amendments are made in “*The Prickly-pear Destruction Acts, 1912-1913*”*:—

(i.) In section two, after the word “Crown,” where it first occurs, the words “on the recommendation of the Prickly-pear Land Commission created by “*The Prickly-pear Land Act of 1923*”† (herein called the Commission),” are inserted.

(ii.) In subsection two of section three, the words “Land Court” are repealed and the word “Commission” is inserted in lieu thereof.

* 3 Geo. V. No. 13 and 4 Geo. V. No. 9, *supra*, pages 5523 and 5906.

† 14 Geo. V. No. 34, *supra*, page 10605.

1926.

Prickly-pear Land Act Amendment Act.

In paragraph (ix.) of subsection four of the said section three, the words "Land Court appointed and acting under *"The Land Act of 1910"* are repealed and the words "Commission in the exercise of its judicial functions" are inserted in lieu thereof; also the words "Land Court as above mentioned" are repealed and the words "Commission in the exercise of its judicial functions" are inserted in lieu thereof.

Paragraph (xA.) of the said subsection is repealed and the following paragraph is inserted in lieu thereof:—

"(xA.) If any question or dispute arises with regard to any matter under or in connection with such agreement, or any matter has to be determined or fixed or proved thereunder, and no express provision is made therein for the manner in which the question dispute or matter shall be determined settled fixed or proved, then and in all such cases the question dispute or matter shall be left to be determined settled or fixed by the Commission or proved to the satisfaction of the Commission, as the case may require.

In this paragraph, and for all the purposes of such agreement, the expression "the Commission" shall mean the Commission in the exercise of its judicial functions under "*The Prickly-pear Land Acts, 1923 to 1926.*"

The decision of the Commission shall in all cases be final and binding upon the parties, and shall be without appeal."

In paragraph (xi.) of the said subsection, the words "Land Court" are repealed and the word "Commission" is inserted in lieu thereof.

(iii.) In section four, the word "Court," where it occurs three times, is repealed and the word "Commission" is respectively inserted in lieu thereof.