

VICTORIA.



ANNO DECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 6746.

An Act to make Provision with respect to the Granting of Purchase Leases of Lands demised under Division Three of Part II. of the *Land Act 1958* and for other purposes.

[18th April, 1961.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title.

1. (1) This Act may be cited as the *Land (North-West Mallee Settlement Areas) Act 1961*.

Principal Act.
No. 6284 as
amended by
Nos. 6505, 6517
s. 11, 6521, 6612.

(2) The *Land Act 1958* as amended is in this Act referred to as the Principal Act.

Amendment of
No. 6284 s. 1.

2. In section one of the Principal Act after the expression—

Parts and
Divisions of
Principal Act.

“Division 3.—North-West Mallee Settlement Areas
ss. 250–264”

there shall be inserted the expression—

“Division 3A.—Conversion of Perpetual Leases into Purchase Leases and Grants of Lands comprised therein.”

3. After

3. After Division three of Part II. of the Principal Act there shall be inserted the following Division :—

Insertion of new
Division 3A
in Part II.
of No. 6284.

‘ Division 3A.—Conversion of Perpetual Leases into Purchase Leases and Grants of Lands comprised therein.

264A. In this Division unless inconsistent with the context or subject-matter—

Interpretation.

“ Lessee ” includes the transferee assignee and personal representative of a lessee and any person to whom the interest of a lessee comes by operation of law.

“ Lessee.”

“ Perpetual lease ” means perpetual lease under Division Three of Part II. of this Act.

“ Perpetual
lease.”

264B. (1) Upon application made in writing by any person holding a perpetual lease and upon the recommendation of the Board the Governor in Council notwithstanding anything in Division Three of Part II. of this Act but subject to this Division may upon the surrender by the applicant of his perpetual lease and with the consent in writing of any mortgagee thereof grant to the applicant a purchase lease of the land comprised therein or any part thereof at a rental determined by the Board or may grant the said land or any part thereof to the applicant in fee simple at a price determined by the Board.

Power to grant
purchase leases
or issue Crown
grants of lands
comprised in
perpetual
leases

(2) The Board shall not make a recommendation pursuant to this section in respect of any land which in its opinion is required for any public purpose.

264C. (1) The purchase price of land to be demised or granted pursuant to section two hundred and sixty-four B of this Act shall be the value of the land and the value of any improvements thereon (other than clearing) belonging to the Crown :

Purchase price.

Provided that—

- (a) Where any part of the land was before the commencing date of the perpetual lease subject to a closer settlement lease or selection purchase lease and was surrendered to the Crown by the applicant in order that it might be included in the perpetual lease the price for that part of the land shall be the amount which the applicant would have had to pay at the date of such surrender to become entitled to a grant in fee simple of that part ;
- (b) Where any land comprised in the perpetual lease was before the commencing date of that lease freehold land or land which the applicant having fully paid for was entitled to have granted to him in fee simple and that land was surrendered to the Crown

by

by the applicant in order that it might be included in the perpetual lease no amount for the value of that land shall be included in the price ;

- (c) Where the applicant has after the commencing date of the perpetual lease cleared the land or any part thereof or made any other improvements thereon no amount for the value of such clearing or improvements shall be included in the price ;
- (d) Where the applicant has pursuant to sub-section five of section two hundred and fifty-nine of this Act purchased and fully paid for any improvements on the land belonging to the Crown no amount for the value of those improvements shall be included in the price ;
- (e) Where the applicant has pursuant to the said sub-section purchased any improvements belonging to the Crown and has partly paid therefor the amount paid by him shall be deducted from the value of the improvements which are on such part of the land as before the commencing date of the perpetual lease was not held under a closer settlement or selection purchase lease.

No. 4597.

(2) In this section—

- “applicant” includes any predecessor in title ;
- “closer settlement lease” means closer settlement lease under the *Closer Settlement Act* 1938 ;
- “selection purchase lease” means selection purchase lease under Division one of Part II. of this Act.

Term and
conditions of
purchase leases

264D. Every purchase lease under this Division—

- (a) shall be for a term of not more than twenty years ;
- (b) shall show the total amount of purchase money payable thereunder and what part thereof is payable in respect of the land and what part thereof is payable in respect of improvements belonging to the Crown ;
- (c) shall contain—
 - (i) a covenant that the lessee will pay the purchase money together with interest at the rate of Four pounds five shillings per centum per annum on so much thereof as is payable in respect of improvements belonging to the Crown by annual instalments ;
 - (ii) a covenant that the lessee will pay and discharge all existing and future rates taxes assessments

duties

duties impositions and outgoings whatsoever imposed or charged on the land or on the owner or occupier in respect thereof ;

- (iii) a covenant that the lessee will forthwith from time to time comply with any written notice from the Board requiring him to enclose the whole or any part or parts of the land with a fence ;
- (iv) a covenant that the lessee will at all times during the term of the lease comply with the requirements of the *Vermin and Noxious Weeds Act* 1958 and of all regulations made thereunder ;
- (v) a covenant that the lessee will erect and maintain on the land such substantial and permanent improvements for the adequate and efficient working thereof as the Board may by notice in writing require to be erected and at all times during the term of the lease keep in good order and repair all buildings fences and other permanent improvements for the time being situated on the land fair wear and tear and damage by fire storm and tempest alone excepted and will not destroy pull down or remove them or any part of them without the consent in writing of the Board first had and obtained ;
- (vi) a covenant that the lessee will if required by the Board so to do insure and keep insured with the Board against loss or damage by fire storm or tempest all buildings and against loss or damage by fire all fences for the time being on the land for such amount as the Board may determine ;
- (vii) a covenant that the lessee will not assign mortgage sublet or part with the possession of the whole or any part of the land without the consent of the Board under its seal first had and obtained ;
- (viii) a condition that except in the case of an assignment to give effect to a gift by will the Board will consent to an assignment of the lease only upon payment of not less than one-fifth of the total amount of purchase money payable under the lease ;

(ix) a

- (ix) a covenant that the lessee will not subdivide the land or any part thereof without the consent of the Board under its seal first had and obtained ;
- (x) a covenant that the lessee will allow any bailiff of Crown lands and any person or persons appointed in that behalf by the Board at any time to enter upon the land to ascertain whether the covenants and conditions of the lease are being performed and observed by the lessee ;
- (xi) a covenant that if any annual instalment payable under the lease is not paid on the due date or within thirty days thereafter the lessee will pay interest on the amount of the instalment (less any amount included therein for interest) at the rate of Five pounds per centum per annum from the date on which it became due to the date on which it is paid ;
- (xii) a condition that upon payment of the total amount of purchase money the lessee shall be entitled to a grant of the land in fee simple ;
- (xiii) such other covenants terms and conditions not inconsistent with this Division as are prescribed by regulations made under this Division.

One lease only to be held by any one person.

264E. (1) A person shall not hold as beneficial owner either in his own name or in the name of any other person more than one purchase lease under this Act.

Power to Governor in Council to forfeit leases.

(2) The Governor in Council may, if the Minister (after a public hearing as provided by section thirty-four of this Act in relation to leases under Part I. thereof) is satisfied that the lessee has become the lessee contrary to this section or that the lessee has broken any of the covenants or conditions of his lease, declare the lease to be forfeited.

(3) Upon the publication in the *Government Gazette* of such declaration the interest created by the lease shall cease and determine and the right and title of the lessee in and to the lease and the land described therein and all moneys paid thereunder shall be absolutely forfeited.

Power to lessee to remove certain improvements on forfeiture of lease.

(4) Where any purchase lease under this Division is so forfeited by the Governor in Council the lessee may unless prohibited by the terms of the declaration forfeiting the lease within thirty days

after

after the publication of such declaration remove any structural improvements (other than boundary fences) erected by him but shall have no other claim whatsoever in respect of or arising out of the forfeiture.

(5) If any person by or under any will or as one of the next of kin of any deceased person or by reason of any estate or interest in expectancy falling into possession or by the foreclosure of any mortgage becomes the beneficial owner of more than one purchase lease such person shall not be deemed to hold such leases contrary to the provisions of this section until the expiration of three years from the death of the testator or intestate or the falling of such estate or interest into possession or the foreclosure of such mortgage (as the case may be).

Leases accruing under will &c. not forfeitable for three years.

264F. (1) The lessee under a purchase lease under this Division may during the currency of the lease pay to the Board in respect of such part of the purchase money as is payable under the lease for improvements belonging to the Crown any amount in excess of any instalment then due under the lease.

Provision for lessees to be credited with payments in excess of instalments due.

(2) All amounts so paid shall be placed to the credit of an account to be kept for the lessee by the Board and shall be applied in such manner as the Board determines in reduction of the lessee's liability under the lease.

(3) Interest at the rate of Four pounds five shillings per centum per annum shall be allowed on all amounts so paid and shall be applied in part payment of the annual instalments payable under the lease.

264G. If at any time the lessee under a purchase lease under this Division pays the total amount of purchase money and any other moneys payable under the lease and the Board is satisfied that he has complied with the covenants and conditions of the lease he shall be entitled to a grant in fee simple of the land demised.

Purchase by lessee.

264H. Every grant in fee simple pursuant to this Division shall be subject to the condition that the land granted shall not be subdivided without the consent of the Board under its seal first had and obtained and to such other conditions and such covenants exceptions and reservations as the Governor in Council directs.

Grants in fee simple subject to certain conditions.

264I. (1) The Governor in Council may make regulations for or with respect to—

Regulations.

- (a) applications under this Division ;
- (b) forms and conditions of leases under this Division ;
- (c) other forms to be used for the purposes of this Division.

(2) All

Publication.

(2) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting, and if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament, and a copy of all such regulations shall be posted to each Member of Parliament.'
