



ANNO VICESIMO QUINTO ET VICESIMO SEXTO

# VICTORIÆ REGINÆ.

A.D. 1862.

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## No. 24.

*An Act to alter and amend the Laws relating to the Leasing of the Waste Lands of the Crown within the Province of South Australia for Mineral purposes.*

[Assented to, 21st October, 1862.]

**W**HEREAS it is desirable to amend the laws relating to the Leasing of the Waste Lands of the Crown within the Province of South Australia, for Mineral purposes: Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

Preamble.

1. Clause 13 of Act No. 5 of 21st Victoria, is hereby repealed: Provided that the repeal of the said clause shall not thereby invalidate any act heretofore lawfully done under the provisions of the said clause.

Clause 13, of No. 5 of 21st Victoria, repealed. Proviso.

2. It shall be lawful for the Governor to lease for the purposes of mining for any metal or mineral, except gold, to any person applying for the same, any portion of the Waste Lands of the Crown within the said Province, not exceeding three hundred and twenty acres, for any period not exceeding fourteen years, at an annual rent of Ten Shillings per acre with a right of renewal for two further periods of fourteen years, on payment of a fine on each renewal, of not less than One Pound per acre nor more than Twenty Pounds per acre of the land so leased.

Mineral leases may be granted.

3. Any applicant for a lease under this Act shall, after payment

Applicant for leases to have one year's right of search.

of one year's rent, be entitled to a right of search for one year for ores in and on the lands comprised in his claim, from and after the time at which the position and boundaries of the same shall be fixed: Provided that it shall not be lawful for such person to remove, or to permit to be removed from such lands, any ores prior to his being entitled to a lease and his declaration that he will accept the same.

**How leases forfeited.**

4. Any such lease shall be liable to forfeiture, and may be declared void and forfeited accordingly by order of the Supreme Court, which order the said Court is hereby authorized and empowered at any time to make on the *ex parte* application of the Attorney-General, if default be made by the lessee in any or all of the following conditions to be inserted in every such lease, that is to say—If the rent be not paid yearly in advance to the Treasurer; and if a sum, equal to at least Six Pounds per acre, be not expended in every two years on the land so leased for mining purposes, or, at the option of the lessee, if three men be not employed for at least nine months in each year of the term of the demise in working on the land demised by such lease, and in searching for or raising ores; or if the lessee shall permit any portion of the land to be occupied for other than mining purposes, without the permission of the Commissioner of Crown Lands and Immigration in writing.

**Onus probandi to rest on defendant.**

5. In any proceeding under the last preceding clause to obtain any such order of forfeiture, the averment that the defendant has made default in the specific condition mentioned in the application shall be sufficient without proof of such fact, unless the defendant prove the contrary.

**Power to determine lease.**

6. Every lessee shall have power to determine the lease on giving three calendar months' notice in writing, to the Commissioner of Crown Lands and Immigration.

**On forfeiture, lease to be offered for sale.**

7. On the surrender or forfeiture of any lease, a lease of the land therein comprised shall be offered for sale by public auction to the highest bidder, of which sale at least one calendar month's notice shall be given in the *South Australian Government Gazette*, and in case such lease is not sold, the land comprised therein may be treated as Waste Lands of the Crown.

**Renewal of lease.**

8. Any lessee desirous of obtaining a renewal of his lease, shall make application to the Commissioner of Crown Lands and Immigration for renewal, at least twelve calendar months before the expiration of the current term of such lease; and, in default of such application, the right of the lessee to a renewal shall be forfeited.

**When renewal first payable.**

9. The amount of fine hereinbefore made payable on any renewal shall be fixed by the Governor with the advice and consent of the Executive Council at least three calendar months before the expiration of the term of the lease.

10. It

10. It shall be lawful for the Governor from time to time, with the advice and consent of the Executive Council, by Proclamation to be published in the *South Australian Government Gazette*, to make, alter, and vary orders and regulations for making claims for leases, the forms of leases, and the sale of leases, and generally for giving effect to the provisions of this Act: Provided that a copy of all such orders and regulations shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if the Parliament shall then be sitting, and if the Parliament shall not then be sitting then within fourteen days from its next sitting for the dispatch of business, and such orders and regulations shall thereupon have the force of law: Provided also that such orders and regulations shall not affect any rights acquired under and by virtue of any leases granted under any former regulations.

Governor to make regulations.

Regulations to be laid before Parliament.

11. The Orders and Regulations contained in the Schedule hereto shall be the first Orders and Regulations for carrying this Act into effect, subject, however, to be repealed, altered, or varied by any Orders and Regulations to be made under the authority of this Act.

What to be Mineral Regulations.

12. It shall be lawful for the Governor, on the application of any lessee, to resume any portion of the lands comprised in any such lease for the purpose of laying out a township or other purpose of public convenience, and at any sale that may be made of any of the lands so resumed, the right of working for minerals may be reserved to the Crown or to the lessee from whom the land so sold may have been resumed.

Mineral lands may, with the consent of lessee, be resumed for township, &c. At sale minerals may be reserved.

13. This Act may be cited as the Mineral Leases Act of 1862.

Short title.

In Her Majesty's name I assent to this Bill.

D. DALY, Governor.

## SCHEDULE REFERRED TO.

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1. Applications for leases for a term of fourteen years of mineral lands, in blocks not exceeding 320 acres each, are to be accompanied by such local description and any other information as will serve to identify the locality; a statement in writing is also (if required) to be made in each case whether the applicant is the original discoverer of the mineral, or whether he is authorized by the original discoverer to make the application for the lease. A sum of £5, together with a further sum of 1s. per acre for every acre in excess of eighty acres, must be paid at the time of lodging each application, which sums will be allowed out of the deposit of 10s. per acre, to be paid at the time of lodging the plan.

2. No applicant for mineral lands will be allowed to include in his application any improvement that may have been effected on any such lands, unless such applicant, at the time of making his application, states in writing that he is desirous of including such improvements; and the full value of such improvements, as estimated by the Surveyor-General, must, if included in the application, be paid by the applicant into the Treasury within one month after demand, or the claim will be forfeited; and no applicant will be allowed to take possession of any such improvements until payment for the same shall have been made as aforesaid.

3. Within three months from the date of application, the applicant, if he desires to proceed further with any such claim, must give notice at the Crown Lands Office of such his intention, and then within a further period of three months the applicant must lodge a plan with the Surveyor-General, fixing the exact position of the land applied for, with reference to some known trigonometrical point (if such exists within fifteen miles of the claim), and describing the boundaries of the block. A deposit of 10s. per acre must also be paid at the time of lodging this plan.

4. The applicant will be entitled to one year's right of search, from the time at which the position of the block has to be fixed and the plan lodged.

5. The applicant will forfeit his claim to a lease by removing, or causing to be removed, from the land, prior to his having accepted a lease, any ore, excepting for samples, and then not exceeding one ton in the whole.

6. Should the lessee not intimate his desire to obtain a renewed lease twelve months before the date of the expiration of the term of his current lease, the land will then be dealt with by the Government as may be deemed best, in accordance with any law or regulation affecting the waste lands of the Crown for the time being in force.

7. The Government shall have the power of purchasing machinery, pumps, mining materials, ores at grass, if not removed by the lessees within three months from the expiration of his lease, in case the lessee does not take out a renewed lease.

8. The lessee will be allowed three calendar months from the expiration of his lease, to remove machinery, pumps, mining materials, and ores already at grass.

9. The value of all substantial and useful improvements on the surface of the ground will be added to the upset price of the lease of the land when offered for sale, and such value shall be paid by the in-coming tenant within three calendar months, if the land is relet to any other than the original lessee; such valuation to be estimated, at the date of termination of lease, by two valuers, one named by the Government and the other by the lessee; and finally, in case of dispute, by an umpire chosen by the two valuers.

10. Should the lessee become the purchaser of the lease of the land, the sum added to the upset price, as the value of the improvements, will be allowed in abatement of the purchase money.

11. Should any other person than the lessee become the purchaser (or tenant, if the land is relet), the value of the improvements will be paid to the lessee by the Government.

12. In the event of the land not being sold or relet, the lessee will not receive the value of the improvements.

[Clauses 9, 10, 11, and 12 of these Regulations shall be applicable only at the expiration of the first fourteen years' lease.]

13. Whenever

13. Whenever there shall exist on the waste lands applied for and leased by virtue of these regulations, any natural spring of water, or any water obtained by artificial means by the holder of the pastoral lease of such land, a right of access to such water shall be reserved in the lease to the owner of the run on which such mineral block shall be surveyed; and reserves for roads or other purposes of public utility may be made by the Government in any lease.

14. Leases of lands applied for, but not fixed and surveyed, as provided by clause 3 of these regulations, and the leases of land surrendered or forfeited, may be put up to auction by the Government.

15. All mineral lands which have been applied for, but the site of which has not been fixed, may be put up to auction by the Government as mineral lands, and sold to the highest bidder.

16. All mineral lands put up to auction and passed, may at any time be put up to auction again, at the request of any person guaranteeing the upset price.

17. It shall be competent for the Government, in the event of the land remaining unsold or unlet, to abate the value of improvements, at the expiration of every three calendar months after the lease has expired, by one-fourth of their original amount; and to offer the land again at public auction, quarterly, at the reduced price; and, upon sale thereof, to pay the lessee the reduced amount of valuation.

18. In case of simultaneous applications being made for the same land, the persons applying shall decide the matter by lot, to be drawn in the presence of the Surveyor-General, or other person authorized by the Commissioner of Crown Lands and Immigration. Should such applications be made for more than one block, the lot to be drawn for priority of choice—the applicants then choosing alternately.

19. All mineral claims must (except where the boundaries of former claims, peculiarity of situation, or other special circumstances may prevent) be in the shape of a rectangular parallelogram, of which the length on the longest side shall not exceed twice the length of the shortest side.

20. When any claim or lease shall become forfeited from any cause whatever, a notice of such forfeiture shall be published in the *South Australian Government Gazette*, and no fresh application for any such claim or lease shall be allowed until after the expiration of seven clear days from date of the publication of such notice.

21. Should the rent not have been paid and the plan deposited before the expiration of the week mentioned in the last preceding regulation, the lands comprised in such claim may be treated as waste lands of the Crown, and applied for by any person under the regulations for the time being in force relative to mineral land.

22. When any land shall have been applied for as mineral land, and the claim become forfeited, or have lapsed, or been withdrawn, the sum to be paid by any fresh applicant shall be double the amount paid in the case of a first application.

23. The Commissioner of Crown Lands may, if he thinks fit, direct that the right of making application for any mineral land be offered for sale at public auction at the upset price of £5, and such further sum as provided by clause 1 of these regulations, which sum will be allowed out of the sum to be paid at the time of lodging the plan; but any amount offered or bid by any person above the said upset price shall be considered as a premium, and no allowance will be made in respect thereof: Provided that notice of such sale be given in the *Government Gazette* at least twenty-eight days prior to the sale.

24. If a lessee of waste lands for mineral purposes, or any person or company, shall permit any portion of the said lands to be occupied for other than *bonâ fide* mineral purposes, the claim or lease will thereby be liable to be declared forfeited to the Government.

25. The above regulations shall not control or qualify the Act, but where inconsistent therewith shall be controlled and qualified thereby.