

Southland Waste Lands Amendment Act 1867

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An Act to amend “The Southland Waste Lands Act 1865.”

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1 Short Title.

The Short Title of this Act shall be “The Southland Waste Lands Amendment Act 1867.”

2 How to be read.

This Act shall be taken to be part of “The Southland Waste Lands Act 1865” hereinafter referred to as the said Act and construed accordingly.

3 Repeal clauses.

The sections numbered from seventy-six to eighty-three of the said Act both inclusive are hereby repealed save and except as to any right title or interest acquired under the said sections or any of them and existing at the time of the coming into operation of this Act and except also as to any penalties or forfeitures incurred or any fees payable under any of the said sections.

APPEAL FROM WASTE LANDS BOARD

4 Decision of Board to be final.

The decision of the Board on all matters to be by it heard and determined shall subject to right of appeal to the Supreme Court as hereinafter provided be final and conclusive Provided always that the Board may on the application of any person grant a rehearing of any case decided by it if it shall think that justice requires it and on such rehearing may reverse alter modify or confirm any previous decision in the same case.

5 Appeal to a Judge of the Supreme Court.

Any person considering himself aggrieved by any decision of the Board may within one calendar month after such decision and upon giving security for the costs of the appeal either by deposit or otherwise to the satisfaction of the Registrar of the Supreme Court appeal to a Judge of the Supreme Court upon a case in writing to be stated or settled by the Board a copy of which case may be taken by the appellant upon which case and after hearing the parties the Judge or Judges shall certify his or their opinion in writing to the Board and the Board shall be bound to follow such and shall reverse alter modify or confirm their decision in accordance therewith.

6 Question of law may be submitted by the Board for the opinion of a Judge.

The Board may either at the instance of a party or of their own motion in case of doubt upon a question of law submit a case thereon in writing to a Judge or Judges of the Supreme Court who shall certify his or their opinion thereon in writing to the Board and the Board shall follow such opinion.

*SALES TO RELIGIOUS BODIES OF SITES FOR CHURCHES ETC.***7 Sale of town sites at upset price to trustees of religious bodies.**

The Waste Lands Board may with the consent of the Superintendent and Executive Council of the Province sell to the trustees of any religious denomination congregation or society or body of persons associated for religious purposes any piece of town land not exceeding one acre to be appropriated to the special objects or purposes of such religious denomination congregation or society or body of persons without exposing the same to auction provided that the price shall be such as would have formed the upset price if sold at auction and not more than one piece in the same town shall be sold under this provision to any trustees of the same denomination congregation society or body.

*SURVEYS***8 Costs of surreys.**

It is hereby declared and enacted that all persons who have applied for or agreed to take or who apply for or agree to take land under the thirty-sixth section of the said Act are and shall be liable to pay such survey fees and costs of survey as such persons would be liable to pay if they had purchased or applied for land under the said Act as ordinary purchasers for cash.

*DEPASTURING LICENSES***9 Conditions for renewal of license.**

Any holder of a depasturing license who shall not have given notice to the Board in the manner provided in section seventy-four of "The Southland Waste Lands Act 1865" that he is desirous of holding his run subject to the provisions

of the said Act may at any time within three months after this Act shall have come into operation give such notice as provided in the said section seventy-four and if before the expiration of the said period of three months he shall pay to the Receiver of Land Revenue such sum for rent as he would have been bound to pay under the fifty-seventh section of the said Act if he had given such first-mentioned notice and received a new license as provided by the said seventy-fourth section shall be entitled to receive a new license under the provisions of the said Act but for a term of years equal to the unexpired term of the former license and ten years added.

*OCCUPATION LICENSES FOR CUTTING TIMBER AND OTHER
PURPOSES*

10 Occupation licenses for other purposes stated.

It shall be lawful for the Board to issue licenses in forms to be by the Board prescribed authorizing the holders to occupy for any period not exceeding one year from the granting thereof so much of the Waste Lands of the Crown as shall be specified therein for any of the undermentioned purposes namely—

- Cutting and felling of timber
- Raising of lignite or coal.

11 Fee.

Every such license shall be drawn so as to expire on the last day in each year and the annual fee chargeable in respect thereof shall be fixed by the Board Provided always that for licenses granted after the first day of July in any year one-half only of the annual fee so fixed shall be charged.

12 Right of occupancy how defined.

The Board shall determine the extent of land to which such license shall give a right of occupancy and the licenses shall have effect only within the district specified in them.

13 Penalty on unlicensed persons.

Any unlicensed person occupying or using any Waste Lands for any of the before-named purposes shall on conviction thereof be liable to a penalty not exceeding twenty pounds to be recovered in a summary way.

14 Disputes &c. how to be decided.

No such license shall preclude the Board from selling or reserving or the Governor from including within a hundred or reserving or shall in any way affect the rights of the Crown to the land occupied in virtue of such license All disputes between holders of such licenses shall be heard and decided by the Board.

15 Transfer of licenses.

Such licenses may be transferred from one person to another with the consent of the Board on payment of a fee to be fixed by the Board.

16 The Board may make bye-laws for management of timber land.

Subject to the provisions in this Act and the said Act contained it shall be lawful for the Board from time to time to make alter and repeal bye-laws for the more efficient management of timber land with such penalties for the breach thereof not exceeding five pounds for any single breach thereof as shall be fixed by the Board and every such bye-law shall be so framed as to allow the Justices before whom any penalty may be sought to be recovered to order a part only of such penalty to be paid if such Justice think fit No such bye-laws shall take effect until after the publication thereof in the *General Government Gazette* and the *Government Gazette* of the Province of Southland.

*LEASES OF MINERAL LANDS***17 Mineral leases upon what terms to be granted.**

It shall be lawful for the Board with the consent of the Superintendent to grant to any person applying for the same a lease of land containing or supposed to contain minerals upon the following terms and conditions and upon such other terms and conditions as the Board shall deem necessary—

- (1.) That the lease shall comprise so much land not being more than eighty acres as shall in the opinion of the Board be necessary for the efficient working of the minerals.
- (2.) The term to be granted shall be any number of years not to exceed twenty-one at the option of the lessee.
- (3.) That a money rent be reserved.
- (4.) That the lease may contain any or all of the following provisions—(a.) For securing payment of the rent (b.) For enabling some person on behalf of the lessor to enter and examine the mine (c.) For securing the regular proper and efficient mining and working of the minerals (d.) For making void the lease on breach by the lessee of the covenants therein contained (e.) For delivering up the property at the termination of the lease in good tenantable repair (f.) For enabling the lessee to abandon the working of the minerals whenever he shall find the same unprofitable to work and to surrender the lease.

18 Board may grant lease or refuse and put the lease of the land up to auction.

Every application for any such lease shall be sent in by the applicant to the Land Office in Invercargill in a form to be prescribed by the Board and it shall be lawful for the Board either to grant or refuse the lease or to put the lease of the land up to auction at a rent to be fixed by the Board.

19 Land on any lease after three years may at the request of the lessee be put up to auction.

The land comprised in any such lease may at the request of the lessee at any time after an occupation of three years be put up to sale by auction subject to the lease thereof already granted at an upset price to be fixed by the Board with the concurrence of the Superintendent.

20 Applicants to furnish plans &c. to the Board.

Every applicant for any such lease shall furnish to the Board within a time to be fixed by the Board after the application shall have been agreed to a description of the land to be leased with a plan which shall be made and prepared by a surveyor to be approved of by the Board at the expense of the applicant.

21 Notice to be given of auctions of land or leases to be published in *Gazette*.

The Board shall give such notice of the time and place at which any auction of any lease of mineral lands or of any mineral lands under lease is intended to be held as shall be by it determined in which notice the allotments of land which shall then be offered for sale or of which leases shall be offered for sale shall be specified and such notice shall be published in the Government *Gazette* of the said Province or a local newspaper not more than three months nor less than one month before such auction shall take place.

22 No land shall be included in such notice unless duly surveyed and distinguished on a map.

No land shall be included in any such notice unless the same shall have been previously surveyed and have been distinguished by an appropriate mark on a map to be exhibited in the office in Invercargill for public inspection during the usual office hours.

23 The land to be offered for sale either in Invercargill or elsewhere.

The land or leases as the case may be shall be offered for sale by auction by some person to be appointed for that purpose by the Board and at such place in Invercargill or elsewhere as the Board may deem most convenient.

24 Condition of every sale by auction.

Immediate payment of one-tenth part of the purchase money shall be a condition of every sale by auction of mineral lands or leases thereof and the remaining nine-tenths of the purchase money shall be paid by the purchaser within one calendar month next after the time of such sale otherwise the part of the money so paid by way of deposit as aforesaid shall be forfeited and the contract for the sale of the land shall thenceforth be null and void.

25 Original applicant to be refunded cost of survey if an unsuccessful bidder.

If any mineral land surveyed at the expense of any applicant for a lease thereof be afterwards put up for sale by auction and be sold to some other person than the original applicant the purchaser shall in addition to the amount bid for the same at the sale pay to the Board for the purpose of being paid over to the original applicant as the cost of the survey such sum as the Board may determine and before the auction shall commence such sum shall be publicly declared.

26 Issues of leases of mineral lands &c.

As soon as conveniently may be after it has been determined to grant any application made under any of the provisions hereinbefore contained for a lease of mineral lands and as soon as conveniently may be after any person has been declared the purchaser of any such lease of mineral lands the Board shall if payment has been duly made of all such sums of money as are hereinbefore made payable as deposit money purchase money or rent in advance issue and deliver to the applicant or purchaser as the case may be a lease in form to be by the Board prescribed and on the delivery of such lease there shall be paid to the Receiver of Land Revenue by the applicant or purchaser a fee of five pounds for the cost of preparation thereof.

*PRE-EMPTIVE RIGHTS IN STEWART'S ISLAND***27 Right of pre-emption given to occupants of Waste Lands in Stewart's Island.**

Every person who before and up to the thirtieth day of November one thousand eight hundred and sixty-six settled upon any unsold Waste Land of the Crown in Stewart's Island and made improvements upon the same shall be entitled to a right of pre-emption at the upset price of the land so occupied and improved and of land circumjacent or adjacent thereto to an extent not exceeding in the whole five acres inclusive of the land so occupied and improved Provided that in case of any conflicting claims as to sites or boundaries the differences arising thereout shall be determined and the relative boundaries fixed by the Waste Lands Board and the Board shall also alone decide whether any person has so settled and has made such improvements as to entitle him to such right of pre-emption Provided further that nothing herein contained shall affect the rights of any land claimants given by "The Land Claims Settlement Act 1856" and "Land Claims Settlement Amendment Act 1858" unless they shall have taken advantage of the provisions of this section in which case their claims shall be and he deemed to be finally settled and disposed of Provided lastly that no such rights of pre-emption shall be granted if in the opinion of the Board such grant would be prejudicial to the public interests and all such rights must be exercised within two years from the passing of this Act.

*MISCELLANEOUS***28 Southland Provincial Debt Acts not affected hereby.**

Nothing herein contained shall be deemed to alter or affect “The Southland Provincial Debt Act 1865” or “The Southland Provincial Debt Act Amendment Act 1866.”

29 No land to be selected so as to render less available for sale other Waste Lands.

Notwithstanding anything in the said Act to the contrary no section or block of land shall be selected or taken so as in the opinion of the Board to render less available for sale or other disposal or injuriously to affect in value any other portion of the Waste Lands in the Province Provided always that in all cases wherein the Board may deem it advisable to withdraw from sale any block or section of land or refuse to grant any application for such land the reason or reasons for such withdrawal or refusal shall be recorded in the minutes of their proceedings.