

New Zealand.

ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

No. 51.

AN ACT to authorize the Leasing of Crown Lands within the Province of Nelson. Title.
[10th October 1867.]

WHEREAS it is expedient to amend the law now in force for letting Waste Lands of the Crown in the Province of Nelson Preamble.

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

1. The Short Title of this Act shall be “The Crown Lands (Nelson) Leasing Act 1867.” Short Title.

2. The word “Board” in this Act shall mean the Waste Lands Board established pursuant to “The Nelson Waste Lands Act 1863” and the word “Commissioner” shall mean Commissioner of Crown Lands for the Province of Nelson. Interpretation.

3. “The Crown Lands Nelson Leasing Act 1865” and sections forty-seven forty-eight forty-nine fifty fifty-one fifty-two fifty-three fifty-four fifty-five fifty-six fifty-seven fifty-eight and fifty-nine of “The Nelson Waste Lands Act 1863” and also so much and such other parts of “The Nelson Waste Lands Act 1863” as are inconsistent with the provisions of this Act and in so far only as they would prevent the operation of this Act are hereby repealed. Repeal of certain Acts and clauses.

4. Provided always that nothing herein contained shall affect any contract promise or engagement made with by or on behalf of Her Majesty or of the Government previous to this Act coming into operation and then incomplete and unfulfilled. Not to affect previous engagements.

5. All persons desiring leases of unoccupied portions of Crown Lands not suitable for agricultural purposes shall lodge with the Commissioner an application and description thereof in the form or to the effect of Schedule A. hereto and shall at the time of lodging such application pay to the Commissioner a fee of five pounds for any quantity not exceeding one thousand acres and a further fee of five pounds for each additional one thousand acres or fractional part of one thousand acres and shall also pay a deposit of sixpence an acre towards the expense of the survey for every acre of the land so applied for The amount of such deposit to be placed to the credit of the applicant towards the payment of his rent in the event of the issue of a lease. Application for leases to be made to Commissioner.

6. In the event of the application for a lease not being acceded to by the Board the amount of fee and deposit paid in respect of such application shall be repaid to the applicant Provided also that if any applicant for a lease shall decline to accept such lease the deposit for the survey expenses shall be repaid. License fee and deposit to be returned in certain cases.

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- Application for leases to be published.** 7. Before any lease shall be granted by the Board the Commissioner shall publish in the *Government Gazette* of the Province at least one month previously and at least one local newspaper the particulars of such application.
- Board to decide on applications.** 8. The Board shall have power to hear and decide on all applications and also all objections thereto as well as all disputes in respect of conflicting applications and all disputes between holders of leases regarding boundaries in open court.
- When lease to be issued.** 9. No lease under this Act shall be issued unless approved of by the Board nor until the expiration of one month from the notification of the application provided for in section seven.
- Amount of land to be comprised in lease.** 10. No application shall be received for any such lease of less than fifty acres of land or more than ten thousand acres.
- Board to assess land.** 11. In the event of the application being acceded to the Board shall as soon as possible proceed to ascertain and declare the assessment of the land applied for.
- Rent to be £5 per cent. upon value of land.** 12. The rent to be reserved upon every lease under this Act shall be at the rate of five pounds for every hundred pounds of the value so to be declared.
- Decision of Board to be final.** 13. 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 application of any person grant a re-hearing of any case decided by it if it shall think that justice requires it and on such re-hearing may reverse alter modify or confirm any previous decision in the same case.
- Appeal to a Judge of the Supreme Court.** 14. 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.
- Question of law may be submitted by the Board for the opinion of a Judge.** 15. The Board may either at the instance of a party or of their own motion in case of a 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.
- How lease to be executed.** 16. As soon as conveniently may be after the determination of the rent a lease in the form set forth in Schedule B. hereto executed on behalf of Her Majesty by the Commissioner shall be issued to the applicant upon his executing a counterpart thereof and paying for such lease the sum of thirty shillings.
- Lease to be forfeited if not executed within three months.** 17. If any applicant shall fail to sign and execute the counterpart of his lease for the space of three calendar months after notice shall have been given that the same is ready for signature he shall forfeit his right to such lease. Any such notice may be delivered personally or sent by post addressed to the place of abode of the applicant.
- Terms of lease.** 18. Every such lease shall be for the term of fourteen years and shall reserve the annual rent to be fixed by the Board and shall contain a proviso enabling the lessee to determine the same at the end of any current year thereof upon delivering a written notice of intention so to determine the same at the Crown Lands Office at Nelson six months previously.

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19. Every such lessee shall at any time before the expiration of the first lease granted to him under this Act be entitled to one renewal as hereinafter mentioned of the lease of the said land and on the request in writing made by the said lessee his executors administrators or assigns and at his or their own proper costs and charges a new and fresh lease of the lands by the said first lease demised shall be executed unto him or them for the further term of fourteen years to commence from the expiration of the said former lease granted at a yearly rent amounting to double the rent by such former lease reserved but subject to the like covenants conditions and agreements (except as to the right of renewal) as in the said former lease may have been contained or implied the said lessee his executors administrators or assigns executing a counterpart thereof.

Lease may be renewed.

20. In every such lease there shall be a proviso reserving to Her Majesty the Queen her heirs and successors all mines and minerals in or under the land comprised in such lease with the right to and for Her Majesty her heirs and successors her or their lessees or licensees to search for work and vend such mines and minerals and to make roads for access to the same through the land comprised in such lease paying or allowing to the lessee compensation for any injury to which he may be subjected by the exercise of such right.

Mines and minerals to be reserved.

21. It shall be lawful for every holder of a pastoral license in the said Province within the space of one year after this Act shall have come into force to apply for and obtain subject to the conditions and restrictions imposed by this Act except as to maximum of acreage a lease under this Act of the land held under such license or any portion of the same subject to the approval of the Board as to position and shape in exchange for the license held by him which so far as relates to the land included in the lease shall become void Provided that all licenses which would cease and determine by lapse of time before the first day of July one thousand eight hundred and sixty-eight shall be taken for all purposes to be extended to that date together with all the terms and conditions upon which such licenses were originally issued.

Holder of pastoral license may take lease in lieu thereof.

22. It shall be lawful for any holder of a lease issued under "The Crown Lands (Nelson) Leasing Act 1865" to apply for and obtain in exchange for the same a lease under this Act for the unexpired portion of the term of the lease surrendered and any rent that may have been paid by such lessee on account of the year during the currency of which the new lease may be issued shall be equally applicable to the new lease The provisions of this section shall also apply to applicants for leases under the said "Crown Lands (Nelson) Leasing Act 1865."

Holder of lease under repealed Act may take lease under this Act.

23. Provided always that it shall be lawful for the Waste Lands Board at any time before the execution of any such lease to exclude from the land proposed to be comprised therein any land which to them may appear suitable for any of the purposes whether temporary or permanent for which Crown Lands may from time to time be reservable according to any Act or Acts in force at the time of granting such lease.

Board may exclude land from lease.

24. It shall be lawful for the Governor in Council at any time by proclamation in the Government Gazette of the Province to proclaim any land included in a lease (except the homestead not exceeding eighty acres) to be a reserve for any such purpose as Crown Lands may at the time of issuing of the proclamation be lawfully reserved and the estate of the lessee in the land so reserved shall at the expiration of two years from the date of such proclamation cease and determine on payment to the lessee of the amount of any injury he may have sustained by the exercise of such right such amount to be ascertained by two indifferent persons one to be appointed by the Commissioner of Crown Lands and the other by the lessee or by an umpire to be appointed by such two appraisers.

Governor may resume land in certain cases.

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Lease may be transferred.

25. The beneficial interest in any lease of land granted under this Act may at any time after the issue of such lease be transferred by the holder thereof. In order to render such transfer valid it shall be necessary that all the conditions upon which the original lease was granted shall have been complied with as to the payment of rent or otherwise and that notice shall be given to the Commissioner within one month of the transfer having been effected who shall thereupon record the same in the Land Office. It shall also be lawful for the lessee with the sanction of the Commissioner to transfer any portion or portions of the land held by him under lease as aforesaid.

Fees to be paid on transfer.

26. There shall be payable on such record of transfer a fee of ten shillings for the first one hundred acres or fractional part of one hundred acres and one shilling additional for each additional hundred acres so recorded.

Rents to be paid in advance.

27. All rents or moneys payable under or in respect of any lease issued under this Act shall be due and paid annually in advance on the first day of January in each year of the term of lease. Provided always that one full year's rent shall be paid at the time of issue on all leases issued prior to the thirtieth day of June in any year and one half year's rent shall be paid on leases issued subsequent to the thirtieth day of June in any year.

Lease to be void if rent in arrear.

28. If at any time during the currency of any lease granted under this Act the annual rent payable in respect thereof shall be in arrear for six months the amount of rent due shall be doubled and if within three months after notice of such raising of the rent and if the same shall not be paid such lease shall be *ipso facto* void and shall be sold by auction as soon as practicable after such default. Provided always that in case of the death of the lessee the six months may be extended by the Board to twelve months.

Notice of sale of lease to be given.

29. No sale of any lease under section twenty-eight of this Act shall take place unless the time and place of sale shall have been approved by the Board and notified by the Commissioner in the *Gazette* of the Province and some newspaper or newspapers circulating in the Province not less than three months before such sale.

Purchase money of lease how to be paid.

30. At every sale by auction of a lease forfeited by reason of non-fulfilment of conditions or made void by non-payment of rent there shall be paid by the purchaser a deposit of ten pounds per centum of the annual rent reserved and of the premium if any and the remaining nine-tenths shall be paid within one month after the day of sale or the one-tenth deposit will be forfeited and the sale null and void in which case it shall be lawful for the Board again to put up such lease for sale by auction for such a term of years not exceeding fourteen as the Board shall determine.

Leascholders to have pre-emptive right of purchase.

31. It shall be lawful for the holder of a lease under this Act at any time during the term of occupancy to purchase the entire block of land comprised therein at a price per acre to be fixed by the Waste Lands Board and assessed in accordance with such regulations as may at the time be in force for the sale of Crown Lands in the Province. Provided always that such price shall be fixed by the Board irrespective of all industrial improvements. Provided also that such right of purchase shall not extend to any land included in any proclamation which shall have been issued under the twenty-fourth section of this Act.

Powers and authorities how vested.

32. All the powers and authorities of "The Waste Lands Act 1858" vested in the Governor shall continue to be vested in the Governor as if this Act was included in the Schedule of the said "Waste Lands Act 1858"

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SCHEDULE A.

APPLICATION FOR LEASE OF CROWN LANDS FOR AGRICULTURAL OR DEPASTURAGE.

District of
 Boundaries
 Estimated extent
 Deposit
 Signature of Applicant

SCHEDULE B.

THIS Deed made day in the year of our Lord one thousand eight hundred and Between Her most gracious Majesty Victoria of the United Kingdom of Great Britain and Ireland Queen of the one part and of the other part Whereas the lands hereinafter described being Crown lands in the Province of Nelson in the Colony of New Zealand have been duly notified by the Waste Lands Board of the said Province to be of the estimated value of And whereas the said made application to the said Waste Lands Board for a lease of the said lands under and by virtue of and subject to the terms and conditions imposed by "The Crown Lands (Nelson) Leasing Act 1867" And whereas the said complied with the regulations and conditions and paid the deposit by the said Act required Now this deed witnesseth that Her Majesty the Queen doth hereby demise and lease unto the said [hereinafter called the lessee] executors administrators and assigns all that to hold the same unto the said lessee executors administrators and assigns (subject to the terms and conditions by the said Act imposed and other the terms and conditions applicable to leases by any law or ordinance of New Zealand implied) for the term of fourteen years from the day of the date of these presents rendering and paying therefor yearly and every year during the said term the annual rent or sum of sterling payable in advance as in the said Act provided except and always reserved out of this lease unto Her Majesty her heirs successors and assigns all mines and minerals that are or shall or may be found in or upon the said premises with full liberty and power for Her Majesty her heirs and successors their and her lessees and licensees to search for work vend dig take and carry away the same and to make convenient roads for access thereto but upon the terms of paying or allowing to the said lessee compensation in the manner and of the nature provided by Section No. 46 of "The Nelson Waste Lands Act 1863" for any injury to which he may be subjected by the exercise of such right And also excepted and always reserved out of this lease unto Her Majesty her heirs and successors the right to lay out and construct through and over the said lands hereby demised such roads other than the roads before mentioned as by the Government for the time being in the Province of Nelson aforesaid of Her Majesty her heirs or successors may be deemed necessary for the public benefit without any compensation being made therefor other than the reduction of the rent hereinafter mentioned except in the case hereinafter provided for Provided always that the land taken for the purposes of such roads other than the roads for access to mines before mentioned shall not exceed the portion of acres for every hundred acres herein comprised Provided also that the rent hereby reserved shall whenever any part of the said land shall be taken for roads or otherwise be reduced at the rate of for every acre or part of an acre so taken Provided further that if the right thus reserved shall not be exercised within three years from the delivery at the office of the Waste Lands Board aforesaid of a request in writing from the lessee executors and administrators or assigns he shall be entitled to compensation in the manner and of the nature by Section No. 46 of "Nelson Waste Lands Act 1863" provided for the damage done by the construction of such roads to any improvements effected on the said land subsequently to the expiration of the said period Provided always and it is hereby agreed and declared that if the said lessee executors administrators or assigns shall be desirous of putting an end to this demise at the expiration of any year of the said term hereby granted and of such his or their desire shall give not less than six calendar months' notice in writing to the Waste Lands Board aforesaid at the Crown Lands Office in Nelson aforesaid then and in such case upon payment of all arrears of rent and performance of all the covenants herein reserved contained or implied on the part of the lessee to be paid kept or performed then and in such case at the expiration of the current year aforesaid this deed and every article clause matter and thing herein contained shall cease and be void.

In testimony whereof the said parties have hereunto set their hands the day and year first within written.

WELLINGTON, NEW ZEALAND:

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